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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

SC Court of Appeals

Charles B. Simmons, Jr., Circuit Court Judge

Case No. 2014-000701

Townes at Pelham Owners' Association Inc., Respondent,

v.

Donna Boyd, Bank of America, N.A. by Assignment from Mortgage Electronic Registration Systems,
Defendants,

And

Donna Boyd, Third Party Plaintiff

v.

Eric Hendrick, in his Individual and Official Capacity as Owner or President of Cornerstone Realty, Inc and
Cornerstone Realty Inc., Third Party Defendants,
Of whom Donna Boyd is the Appellant.

RECORD ON APPEAL

s/ 
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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
2012-CP-23-3686

Townes at Pelham Owners)
Association, Inc.,)
)
)
Plaintiff,)

vs.)

TRANSCRIPT OF TESTIMONY

Donna Boyd, Bank of America, N.A.,)
By Assignment from Mortgage)
Electronic Registration Systems,)
)
Defendants.)

AND)

Donna Boyd,)
)
Third Party Plaintiff,)

vs.)

Eric Hedrick, in his Individual)
and Official Capacity as Owner)
or President of Cornerstone Realty,)
Inc. and Cornerstone Realty, Inc.,)
)
Third Party Defendants,)

January 10, 2014
Greenville, South Carolina

B E F O R E:

HONORABLE CHARLES B. SIMMONS, JR., MASTER IN EQUITY

A P P E A R A N C E S:

J. Chris Brown, Esquire
Attorney for the Plaintiff
And Third Party Defendants

Michanna Talley, Esquire
Michael F. Talley, Sr., Esquire
Attorneys for the Defendant
Donna Boyd

Wanda E. Fudge, CCR
Court Reporter

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EXHIBITS

(Per Judge Simmons' instructions, all exhibits were marked for identification prior to the commencement of the hearing)

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1 (Whereupon, the hearing commenced at 9:05 a.m.)

2 BY THE COURT: Keep your seat, please. All right. Are we
3 ready to go on record?

4 MR. BROWN: Yes, sir.

5 BY THE COURT: For the record, this is 2012-3686, Townes at
6 Pelham Owners Association versus Boyd and also Boyd versus
7 Hedrick in a third-party action.

8 Mr. Brown, initially, if you could state for the record -- I
9 understand from a pretrial discussion in chambers this morning
10 with all counsel that one of the board members, apparently the
11 law firm that I was with some years ago when I was out in private
12 practice, had represented one of your board members -- if you
13 could just state that for the record.

14 MR. BROWN: Your Honor, it had just recently come to our
15 attention that Ms. Marilyn Heath, currently Marilyn Heath,
16 formerly Marilyn Whited, W-h-i-t-e-d, had been represented by a
17 member of your firm approximately 1987 during the course of a
18 divorce proceeding. She had indicated that you were a member of
19 that firm and may have assisted with that case to some degree.
20 We wanted to bring that to the Court's attention and just make
21 sure there was no objection. Ms. Marilyn Heath does currently
22 serve on the Board of Directors but we did not intend to call her
23 as a witness today. She is here so that we could have a majority
24 of the board members present in case any decisions or offers were
25 presented to them at any time.

1 BY THE COURT: Okay. And I understand from counsel for the
2 defense, there's no objection or no issue?

3 MS. TALLEY: Since she is not being called as a witness, we
4 have no objection.

5 BY THE COURT: Okay. All right. And you can call your first
6 witness then.

7 MS. TALLEY: Your Honor, we would move to sequester all
8 witnesses.

9 BY THE COURT: Any objection?

10 MR. BROWN: We do -- I will state, Your Honor, we have one
11 potential witness Eric Rodman with Ryan Homes that is not here
12 yet this morning but no.

13 BY THE COURT: Okay. Then the primary representative for
14 Townes may stay in the courtroom. Any other witnesses -- and
15 also Ms. Boyd -- but any other potential witnesses need to be
16 waiting out in the hall then. If there are board members here
17 who will not be testifying, then I have no problem with them
18 staying in the courtroom.

19 MR. BROWN: Okay.

20 BY THE COURT: So, Mr. Brown, all witnesses you anticipate
21 calling have now been removed from the courtroom?

22 MR. BROWN: Yes, the President, the current presiding
23 President of the Townes at Pelham Association, Ms. Charlotte
24 Tashman is the one that has exited the courtroom, and she's the
25 only other witness here this morning thus far that we would be

1 calling.

2 BY THE COURT: Okay. And other than Ms. Boyd, all of the
3 potential Defendants' witnesses are now removed from the
4 courtroom?

5 MS. TALLEY: Yes, Your Honor.

6 MR. TALLEY: Yes.

7 BY THE COURT: Okay. All right. Mr. Brown, be glad to hear
8 from you with your first witness.

9 MR. BROWN: Your Honor, we would call Mr. Eric Hedrick to
10 the stand.

11 BY THE COURT: All right, if you would come around, please,
12 sir. (complies)

13 **VERNON ERIC HEDRICK, BEING FIRST DULY SWORN, TESTIFIED AS**
14 **FOLLOWS:**

15 BY THE COURT: Thank you. Come around and have a seat,
16 please, sir. (complies) If you'll state your full name, please.

17 THE WITNESS: Vernon Eric Hedrick.

18 THE COURT REPORTER: Spell your last name, please.

19 THE WITNESS: H-e-d-r-i-c-k.

20 BY THE COURT: All right.

21 **DIRECT EXAMINATION BY MR. BROWN:**

22 Q Mr. Hedrick, what's your current address?

23 A 102 Cape Charles Drive, Greenville, South Carolina.

24 Q And were you individually named as a third-party Defendant
25 in this case?

1 A Yes.

2 Q Was Cornerstone Realty, Inc. named as a third-party
3 Defendant in this case as well?

4 A Yes.

5 Q Do you have any interest in Cornerstone Realty, Inc.?

6 A Yes.

7 Q What would your interest be in that company?

8 A I'm the President of that company.

9 Q Are you a shareholder within the company?

10 A Yes.

11 Q Are you the sole shareholder of the company?

12 A Yes.

13 Q Are there any other shareholders or officers in the company?

14 A No.

15 Q What type of company is Cornerstone Realty, Inc.?

16 A It's a real estate company.

17 Q What type of real estate business does the company conduct?

18 A Currently it's mainly property management; although, we have
19 done sales listings and selling of properties in the past.

20 Q And how many communities do you serve as property manager?

21 A Currently, four.

22 Q Is the Townes at Pelham Property Owners Association, Inc.
23 one of those associations?

24 A Yes.

25 Q For purposes of my questions this morning, if I refer to the

1 Townes at Pelham Property Owners Association, Inc. as Townes at
2 Pelham, would that be acceptable?

3 A Yeah, that's fine.

4 Q Okay. How long has Cornerstone Realty, Inc. been serving as
5 property manager for the Townes at Pelham?

6 A Since the inception of the community. We were the property
7 management company for the development firm and then, I believe,
8 in 2007 when it was turned over to the homeowners association,
9 they got bids and chose to keep me on.

10 Q You mentioned the development firm. Who was the developer
11 of the Townes at Pelham community?

12 A Townes at Pelham, LLC.

13 Q Okay. Who were the members of Townes at Pelham, LLC?

14 A Carpenter Investors, I believe it was LLC, and Cornerstone
15 Contractors, Inc.

16 Q What percentage ownership did they have in Townes at Pelham,
17 LLC?

18 A Cornerstone had 30 percent and Carpenter Investors had 70
19 percent.

20 Q When you reference Cornerstone, is that Cornerstone
21 Contractors, Inc.?

22 A Correct, Cornerstone Contractors, Inc.

23 Q So, who had the controlling interest in the LLC as
24 developer?

25 A Carpenter Investors.

1 Q Who is the registered agent for Townes at Pelham, LLC?

2 A I was personally.

3 Q Who was the general contractor for the development?

4 A A company called Deshields Grading, I believe it was Inc.

5 Q Did you individually serve in any of those roles during the
6 development of the community?

7 A Not in any contracting sense, no.

8 Q Did your company that's named in this action today,
9 Cornerstone Realty, Inc., serve in any capacity during the
10 development of the community?

11 A Only as property manager, just collecting dues and paying
12 the bills for the HOA.

13 Q Thank you. If you will, Mr. Hedrick, share for the Court
14 what your primary role and responsibilities are as property
15 manager for the Townes at Pelham?

16 A Some of the main things are collecting dues and paying the
17 bills -- got a p.o. box where all of those bills come -- for the
18 different communities, also get bids for different things like
19 gutter cleaning, landscape maintenance. Any type of contractor,
20 I would have to supervise them on behalf of the board and do
21 anything else the board asks me to do.

22 Q Do you have firsthand knowledge of facts that led the Townes
23 at Pelham to filing this action for foreclosure today?

24 A Yes, I do.

25 Q Are you prepared to testify to those facts on behalf of

1 Townes at Pelham this morning?

2 A Yes.

3 Q To the best of your knowledge, is the Plaintiff a nonprofit
4 corporation chartered in South Carolina?

5 A Yes, it is.

6 Q Are they in good standing?

7 A Yes.

8 Q Who is the registered agent for the Plaintiff?

9 A For the Townes at Pelham, it would be myself.

10 Q Okay. To the best of your knowledge, is Defendant Boyd,
11 Donna Boyd, is she a resident of Greenville County, South
12 Carolina?

13 A To the best of my knowledge, yes.

14 Q And to the best of your knowledge is Defendant Donna Boyd,
15 Ms. Boyd, an owner of property subject to the action today?

16 A Yes.

17 Q Was -- I'm going to have you identify some documents that we
18 have reviewed and submitted as exhibits for the hearing this
19 morning, Mr. Hedrick. The first one I'll ask for you to verify
20 for the Court at this time.

21 A This is a Title to Real Estate or a deed.

22 Q And who would be listed as the grantor, or the grantee or
23 what would commonly be referred to as the buyer or the new owner
24 subject to that deed?

25 A NVR, Inc. would be grantor and Donna Boyd was the grantee.

1 Q What was the sales price of this property?

2 A \$222,792.00.

3 Q What property is identified on the deed?

4 A It's lot 1 and the deed's recorded in Plat Book 1029 at Page
5 25.

6 Q What subdivision is referenced on the legal description?

7 A Townes at Pelham.

8 Q What is the property address identified---

9 BY THE COURT: Can we stipulate this deed goes to this
10 property or that Ms. Boyd owns this?

11 MS. TALLEY: Yes, Your Honor.

12 MR. BROWN: Yes. This may make this go along a little
13 quicker, Your Honor. We're happy to do that.

14 Q Thank you, Mr. Hedrick.

15 A Sure.

16 BY THE COURT: What's the exhibit number, please?

17 MR. BROWN: Number 1.

18 BY THE COURT: All right. Thank you.

19 (Title to Real Estate entered into evidence as Plaintiff's
20 Exhibit No. 1)

21 Q Mr. Hedrick, if you'll identify this for the Court.

22 A This is a closing survey for Donna Boyd.

23 MR. BROWN: And, Your Honor, we're happy to stipulate,
24 having been reviewed by Defendant's counsel, that this is the
25 current plat for Ms. Boyd's property.

1 BY THE COURT: Can we stipulate?

2 MS. TALLEY: Yes, Your Honor.

3 BY THE COURT: All right. Thank you. Exhibit number?

4 MR. BROWN: Exhibit No. 2.

5 BY THE COURT: All right.

6 (Plat entered into evidence as Plaintiff's Exhibit No. 2)

7 Q Mr. Hedrick, was Bank of America named as a Defendant in
8 this action?

9 A To the best of my knowledge, they were. Yes.

10 Q What was the reason for naming them as a Defendant in this
11 action?

12 A They were the first mortgage holder.

13 Q The first mortgage holder against Ms. Boyd's property?

14 A Yes.

15 Q And will you identify those next two documents for the
16 Court?

17 A The one I'm holding is a Mortgage dated January 7, 2008;
18 borrower is Donna Boyd.

19 Q And the second document?

20 A It's the Assignment of Mortgage to Bank of America from, it
21 looks like, or to Countrywide.

22 Q Okay. And is the Plaintiff aware that there is a first
23 Mortgage -- this first Mortgage is still against the property?

24 A Yes.

25 Q Are you aware that your action today, your foreclosure

1 action, is being filed subject to this first Mortgage?

2 A Yes.

3 MR. BROWN: Your Honor, we would request that there be a
4 stipulation made that based on what is of public record right now
5 that that is the first Mortgage and the only Assignment of Record
6 in the Register of Deeds Office.

7 BY THE COURT: Any objection?

8 MS. TALLEY: No, Your Honor.

9 (Mortgage entered into evidence as Plaintiff's Exhibit No.
10 3)

11 (Assignment of Mortgage entered into evidence as Plaintiff's
12 Exhibit No. 4)

13 BY THE COURT: What are the exhibit numbers?

14 MR. BROWN: 3 and 4, the Mortgage being 3, the Assignment
15 being number 4.

16 BY THE COURT: All right. Thank you.

17 Q Mr. Hedrick, if you'll identify the next document for the
18 Court.

19 A These are the Declaration of Covenants, Conditions and
20 Restrictions for the Townes at Pelham.

21 Q And I'm going to actually trade with you, Mr. Hedrick, and
22 let you have the Court's marked exhibit to review it, if you'll
23 restate the title of that exhibit again.

24 A Declaration of Covenants, Conditions and Restrictions for
25 the Townes at Pelham.

1 Q Will you please state the book and page that they were
2 recorded in?

3 A Book 2178, Page 1617.

4 Q The date filed with the Court?

5 A December 6th of 2005.

6 Q We have submitted these Covenants as one exhibit at this
7 time, Mr. Hedrick, but there are -- if you will flip through,
8 there are actually a couple of little dog-eared pages to help you
9 reference them that are the two -- I want you to identify if
10 there's any supplements to these amendments attached to that
11 exhibit as well, dog-eared at the top right hand corner.

12 A I don't see the supplements attached. Okay. Yes, I do see
13 there are supplements here.

14 Q Would you identify that first supplement for the Court?

15 A It says Supplement to the Declaration of Covenants,
16 Conditions and Restrictions applicable to a subdivision known as
17 the Townes at Pelham.

18 BY THE COURT: Can we stipulate to the Covenants and any
19 addendum to it?

20 MS. TALLEY: Yes, Your Honor.

21 BY THE COURT: All right.

22 (Covenants, Conditions and Restrictions for the Townes at
23 Pelham entered into evidence as Plaintiff's Exhibit No. 5)

24 BY THE COURT: And what exhibit is that number, please, sir?

25 Q Would you recite the exhibit number on the top of page 1,

1 Mr. Hedrick?

2 A Exhibit No. 5

3 BY THE COURT: All right.

4 Q Hold on to that just for the moment, Mr. Hedrick.

5 A Okay.

6 Q To the best of your knowledge, Mr. Hedrick, does the exhibit
7 that you have in your hand represent all of the recorded
8 Restrictive Covenants for the Townes at Pelham's Association?

9 A Yes.

10 Q Would those Covenants also be the Covenants that would be
11 applicable to Lot No. 1 owned by Ms. Donna Boyd?

12 A Yes.

13 Q I would like for you, if you would, to turn to Article IV,
14 Section 1.

15 A Okay.

16 Q If you would recite that first portion of that section into
17 the record.

18 A Article IV is "Membership and Voting Rights" and Section 1
19 is: "Every Owner of a Lot that is subject to assessment shall be
20 a Member of the Association. Membership shall be appurtenant to
21 and may not be separated from ownership of any Lot that is
22 subject to assessment."

23 Q To the best of your knowledge, would Ms. Boyd have become a
24 member of the Townes at Pelham Association the day that she
25 purchased her property?

1 A Yes.

2 Q I'm going to have you turn to one other section, Article V,
3 Section 1, if you would recite that into the record, please.

4 A All right. Article V is "Covenant For Maintenance
5 Assessments." Section 1 is "Creation of the Lien and Personal
6 Obligation of Assessments." It states: "Each Owner of any Lot
7 by acceptance of a deed therefore, whether or not it shall be so
8 expressed in such deed, is deemed to covenant and agree to pay to
9 the Association: (1) annual assessments or charges, and (2)
10 special assessments for capital improvements, such assessments to
11 be established and collected as herein provided. The annual and
12 special assessments, together with interest, costs, and
13 reasonable attorney's fees, shall be a charge on the land and
14 shall be a continuing lien upon the property against which such
15 assessment is made."

16 Q And one final brief section I would like for you to recite
17 is Article V, Section 8, if you'll read that into the record, Mr.
18 Hedrick.

19 A All right. Section 8 is "Effect of nonpayment of
20 assessments: Remedies of the Association." And it states, "A
21 late charge of Fifteen and no/100 Dollars (\$15.00) shall be added
22 to any assessment not paid within fifteen (15) days after its due
23 date. Any assessment not paid within thirty (30) days after the
24 due date shall bear interest from the date due (sic) at the rate
25 of eighteen (18%) percent per annum. The Association may bring

1 an action at law against the Owner personally obligated to pay
2 the same, or foreclose the lien against the property in the same
3 manner that a real estate mortgage is foreclosed and interests,
4 costs and attorneys' fees shall be added to the amount of such
5 assessment. The lien of the Association against the property
6 must be established by, and shall be effective from the time of
7 filing of a Notice of Lien in the Office of the Clerk of Court of
8 Greenville County."

9 Q Thank you, Mr. Hedrick. Let's put this right here for the
10 moment.

11 A All right.

12 Q When is the last time that the Association received and
13 deposited a payment for assessments paid by Ms. Boyd?

14 A I don't remember the exact date it was received, but the
15 last payments were credited to the June of 2009 assessment.

16 Q And the Defendant in their pleadings has alleged that Ms.
17 Boyd made a payment of \$660.00 on or about December 10, 2009. Is
18 that correct?

19 A Her attorney mailed a check to the current president of the
20 Association. The payment was for a partial amount of what was
21 due. It was---

22 Q Was -- I'm sorry.

23 A Like I said, it was mailed to the president.

24 MR. TALLEY: Your Honor, we can't hear him.

25 BY THE COURT: Go ahead. If you'll just speak up a little.

1 Q Just speak up a little---

2 A You want me to say that again?

3 Q If you would, Mr. Hedrick, just speak up a little closer
4 into the microphone so everyone in the courtroom can hear your
5 responses.

6 A All right.

7 Q Thank you. The payment that you were just referring to -- a
8 \$660.00 payment made by Ms. Boyd on or about December 10th, 2009
9 -- was that payment accepted and deposited by the board?

10 A No. The board did not accept that payment.

11 Q Why was that payment not accepted?

12 A It was not accepted because it was not in the full amount
13 that was due.

14 Q Had Ms. Boyd previously received notice of the total amount
15 that was due at that time?

16 A Yes. She had received notice from the Association as well
17 as from the Association's attorney at the time that placed the
18 lien on the property.

19 Q Was the check returned to Ms. Boyd or her attorney?

20 A The check was returned to her attorney at the board's
21 direction.

22 Q Did the Townes at Pelham Board of Directors make that
23 decision to not accept the check?

24 A Yes. I believe they actually spoke with counsel prior to
25 returning it as well.

1 Q And who returned the check?

2 A I did. I typed a letter at their direction to -- her
3 attorney at the time was Dan Yarborough and stated in the letter
4 why it was being returned and returned the check in the same
5 envelope.

6 Q Has Ms. Boyd made any other payments toward her account
7 since that time?

8 A No.

9 Q Has the Association been calculating late fees and interest
10 accruing on this account since June of 2009?

11 A Yes.

12 Q Has the Association been accurately accounting for any legal
13 fees or costs they have incurred for collection of these
14 assessments?

15 A Yes.

16 Q Mr. Hedrick, if you will identify the next document for the
17 Court.

18 A It's a Notice of Lien.

19 Q And the date of that Notice of Lien?

20 A It was dated November 10, 2009.

21 Q And who is listed as the lienholder?

22 A Townes at Pelham Owners Association.

23 Q And the amount of the lien?

24 A \$805.54.

25 Q Is anything else identified as a portion of the lien along

1 with the \$805.54?

2 A "Together with all accruing assessments both regular and
3 special, any and all allowable interest, delinquent charges, as
4 applicable, attorney's fees and costs until the date of payment."

5 Q And that amount as of today, January 10, 2014, is that
6 amount still outstanding?

7 A Yes.

8 Q Who is identified as the property owner?

9 A Donna Boyd.

10 MR. BROWN: Your Honor, we are happy to stipulate that this
11 is the only Notice of Lien currently against the property, Ms.
12 Boyd's property.

13 BY THE COURT: Can we stipulate that?

14 MS. TALLEY: Yes, Your Honor.

15 (Notice of Lien entered into evidence as Plaintiff's Exhibit
16 No. 6)

17 BY THE COURT: Okay. What's the exhibit number?

18 MR. BROWN: No. 6.

19 BY THE COURT: Thank you.

20 Q Mr. Hedrick, to the best of your knowledge, did the
21 presiding Board of Directors at that time for the Townes at
22 Pelham authorize this Notice of Lien to be filed?

23 A Yes.

24 Q And was it, in fact, an attempt to collect the outstanding
25 assessments pursuant to their authority under the Restrictive

1 Covenants?

2 A Yes.

3 Q One final exhibit, at this time, Mr. Hedrick, that I would
4 like for you to identify for the Court and I would like for you
5 to read the content of page 1 into the record and for the Judge's
6 benefit?

7 A Okay. This is a Summary of Total Assessments Due From
8 07/01/09 through 01/10/14 (includes all assessments, late fees,
9 finance charges, or interest (sic), attorney fees, and all other
10 related costs) Assessments due of \$6,050.00; late fees, \$810.00;
11 interest, \$9,688.94; attorney fees, \$20,191.67; costs, \$559.84,
12 and the total is \$37,300.45.

13 Q Mr. Hedrick, have there been more than one attorney that's
14 represented the Association in their attempts to collect these
15 assessments against Ms. Boyd?

16 A Yes.

17 Q Would you identify who those attorneys are listed on page 1?

18 A Bruce Campbell, David Wilson and Chris Brown.

19 Q Would you turn over to page 2 and just identify for the
20 Court the next document or the next portion of that exhibit?

21 A It's a Customer Open Balance report.

22 Q Who generated this Customer Open Balance report?

23 A I generate those from my software, the accounting software,
24 we use for the associations.

25 Q Is this a balance worksheet you would have personally been

1 calculating since 2009?

2 A Yes.

3 Q And what is the total amount on your Customer Open Balance
4 sheet?

5 A \$37,300.45.

6 Q Would that include the summation of charges you just recited
7 into the record?

8 A Yes.

9 Q What else do we have as supporting documentation to that
10 exhibit?

11 A It looks like you have backup invoices from all of the
12 attorneys that have been involved.

13 Q Are there Affidavits in Support of Attorney's Fees signed by
14 each attorney?

15 A Yes, that's correct. Yes.

16 Q On behalf of the Association, Mr. Hedrick, it would be --
17 would it be the Plaintiff's position that you would like the
18 Court to grant the foreclosure in this amount against the
19 property?

20 A Yes.

21 Q Mr. Hedrick, I don't have any further questions for you at
22 this time, but please answer -- be prepared to answer any
23 questions the defense or the Court will have for you.

24 A Okay. Thank you.

25 BY THE COURT: All right. Your witness.

1 CROSS-EXAMINATION BY MS. TALLEY:

2 Q Mr. Hedrick, I am Michanna Talley, one of the attorneys
3 representing Ms. Boyd, and I will be asking you some questions.
4 If you don't understand it, please ask me and I will rephrase it
5 if necessary.

6 A Okay.

7 Q If you could, look at Exhibit 7 that you were just
8 reviewing. You stated for the Court this is a balance sheet that
9 you created; is that correct?

10 A My accounting software created it, yes.

11 Q And the figures on this sheet, is that numbers that you
12 input into the software?

13 A The numbers I input would be the -- there are invoices that
14 are created automatically for the monthly assessments. The \$15.00
15 late charge assessments I had to create those each month, and the
16 finance charges are calculated by the software program as well.

17 Q Okay. Is there anyone who reviews this account balance sheet
18 after it is created?

19 A I review it. These same balances are provided to the board
20 at every monthly meeting. It's in a different format. It's
21 actually in an Open Balance report that shows all customers or
22 all -- excuse me -- all owners in the community instead of an
23 individual report as this one is.

24 Q In regards to the balance sheet for Ms. Boyd, has the board
25 ever sat down to review these numbers to make sure and verify

1 that they are correct?

2 A Every month we go over each individual owner who is
3 delinquent in their dues. So, yes, every month we go over this.

4 Q Also on this balance sheet it does reference attorney's
5 fees. If you could turn -- the page numbers are not numbered,
6 but Bruce Campbell, could you turn to his account activity?

7 A Okay.

8 Q The first one on here is February 3rd of 2010. Can you read
9 for the Court the description of services on that date?

10 A "Open file, review correspondence from South Carolina
11 Department of Human Affairs, letter to investigator."

12 Q And is that in reference to a discrimination claim filed by
13 Ms. Boyd?

14 A To the best of my knowledge, yes.

15 Q So, you would agree that that amount has nothing to do with
16 nonpayment of HOA dues?

17 A I don't think I could answer that question. I'm not sure --
18 this all started with the nonpayment of dues. I think it is
19 related to the collection of dues.

20 Q Okay. Now, this correspondence was to the Department of
21 Human Affairs. It's not to this Court, correct?

22 A That's correct.

23 Q If you could read further down, February 15th of 2010, could
24 you read the description of services on that date, please?

25 A "Complete Answer, organize, overnight to South Carolina

1 Department of Human Affairs; telephone call to Eric."

2 Q And you would agree that was going to the South Carolina
3 Department of Human Affairs, not to this Court, correct?

4 A Yes. That's correct.

5 Q Could you turn to the next page, please?

6 A Okay.

7 Q Could you read the description for April 16th, 2010?

8 A "Telephone conference with South Carolina Department of
9 Health and Human Services investigator; schedule conferences;
10 email to and from clients."

11 Q And you would agree the South Carolina Department of Health
12 and Human Services is not this Court, correct?

13 A I would agree with that, yes.

14 Q Can you look down further at the page where it says
15 "Costs Advanced," March 1st, 2010? Can you read that description,
16 please?

17 A The UPS charge? Is that the one?

18 Q Yes.

19 A "UPS Charge, State of South Carolina, Human Affairs
20 Commission."

21 Q And the Human Affairs Commission is not this Court, correct?

22 A That's correct.

23 Q At the bottom of that page, there is handwriting. Are you
24 aware who wrote that? Did you write those figures?

25 A That appears to be my writing, but I can't confirm that.

1 Q Can you verify for the Court that that was attempting to
2 calculate what was -- the money that was owed for the Human
3 Affairs case versus the money that was owed for this Court in
4 attorney's fees?

5 A Actually, I do not know what that number is.

6 Q Okay. And we're done with that. You can put that down.

7 A Okay.

8 Q You stated that you are the registered agent for the Townes
9 at Pelham; is that correct?

10 A That's correct.

11 Q And are you also the property manager for the Townes at
12 Pelham?

13 A Yes.

14 Q And is one of your duties as property manager to handle
15 contractors for exterior maintenance of the property?

16 A Yes.

17 Q And when you are told that there is an issue, any issue,
18 whether it's irrigation, drainage, any other issue, that is
19 brought to your attention; is that correct?

20 A Yes.

21 Q And when that is brought to your attention, you contact a
22 contractor or some company to rectify those problems, correct?

23 A Yes. Sometimes it's at the board's direction as well. It's
24 according to what the problem is.

25 Q In regards to Ms. Boyd's property, have you ever been told

1 of any irrigation or drainage issues that she has had?

2 A Yes.

3 Q To the best of your knowledge, have you been told about
4 these -- in 2010 were you told about any issues?

5 A 2009.

6 Q Not 2010?

7 A Probably in 2010 as well.

8 Q Were you told about any issues in 2011?

9 A No.

10 Q And in 2012?

11 A No.

12 Q 2013?

13 A No.

14 Q You also have a company called Cornerstone Contractors; is
15 that correct?

16 A Yes.

17 Q They have done some work on the property? They have done
18 some irrigation repairs; is that correct?

19 A Yes.

20 Q And some of those irrigation repairs were adjacent to Ms.
21 Boyd's property?

22 A Yes.

23 Q I have some paperwork I want you to look at for me. If you
24 could review this and just let me know in the affirmative if you
25 agree. This is a letter from Ms. Boyd to you on October 6th, 2010

1 where she mailed you pictures and told you about drainage and
2 irrigation issues that she was having?

3 A Yeah. This looks familiar.

4 Q And so you did receive this letter, correct?

5 A Yes.

6 Q Was anything -- did you do anything to repair those issues?

7 A All of these issues that she had were previously addressed
8 in 2009. There were no issues at this point.

9 Q So, would you be saying that this letter that was dated
10 October 6th, 2010 that when this was written it was incorrect?

11 A No. I didn't say that. I just said all of the drainage and
12 irrigation issues or problems that had been identified had been
13 rectified by this time.

14 Q If you look further down on that letter -- I believe it is
15 the second paragraph -- does that not state that she received a
16 proposal in 2010 in regards to the issues that she was having?

17 A Yes. I've seen that proposal.

18 Q And did that proposal not state improvements that needed to
19 be made for drainage purposes?

20 A No. It was just her proposal to do work, drainage work.

21 Q Is it common for a company to submit proposals and put in
22 their proposal work that needs to be done that is unnecessary
23 based on your knowledge with Cornerstone Contractors?

24 A I'm not sure why that proposal was submitted. All of the
25 work that they submitted and all of the work that was proposed

1 was in common areas which were outside of Ms. Boyd's property.

2 Q This case is about HOA dues which are necessary to maintain
3 common areas, correct?

4 A Yes.

5 Q And that proposal was to do work in common areas, correct?

6 A From what I remember, yes. I would need to see it to verify
7 that, but I believe so.

8 MS. TALLEY: Your Honor, this was Exhibit -- Defendant's
9 Exhibit 2.

10 BY THE COURT: Are you offering to introduce it?

11 MS. TALLEY: Yes, Your Honor.

12 BY THE COURT: Any objections?

13 MR. BROWN: No objection, Your Honor.

14 BY THE COURT: All right. Thank you.

15 (Letter dated October 6, 2010 entered into evidence as
16 Defendant's Exhibit No. 2)

17 Q If I could have you look at this email, and if you could
18 verify if this is actually a forwarded email. The original email
19 was written from you to Luke Drevets, Charlotte Faulk, Iva
20 McGrath, Sunil Varghese and Jason Winbourn?

21 A Yes.

22 Q Can you please verify for the Court that on June -- the date
23 of this is June 2009?

24 A Yes, it is.

25 Q And in this email you wrote that there were wet areas around

1 Ms. Boyd's residence; is that correct?

2 A That is correct.

3 Q And it does state that you were the one who made the repairs
4 that you felt needed to be made?

5 A I didn't personally make the repairs, but probably
6 individuals that work for Cornerstone Contractors made these
7 repairs.

8 Q And Cornerstone Contractors, that is your company, correct?

9 A Yes.

10 MS. TALLEY: Your Honor, I would like to enter this into
11 evidence as Defendant's Exhibit 3.

12 BY THE COURT: Any objection?

13 MR. BROWN: No, Your Honor.

14 BY THE COURT: All right. Thank you.

15 (Email Dated June 15, 2009 entered into evidence as
16 Defendant's Exhibit No. 3)

17 Q If I could have you look at this email, please. Can you
18 confirm for the Court that that is an email from Luke Drevets to
19 Ms. Boyd and several people are carbon copied on this email
20 including you?

21 A Yes.

22 Q And the date of this email is May 26, 2009?

23 A Yes.

24 Q In this email does Mr. Drevets write about several problems
25 that Ms. Boyd is having with her drainage on the side of her

1 house?

2 A Yes.

3 Q And does it not state that after assessing the property with
4 her and one other person they got confirmation from you about
5 what was wrong with the property regarding water spouts?

6 A Well, it states that I was asked to have a pipe run from the
7 downspout on the front right of Ms. Boyd's townhome towards the
8 street, and that was done.

9 Q So, that was completed by you?

10 A By Cornerstone Contractors' employees.

11 Q And you are the owner of that company, correct?

12 A Yes.

13 MS. TALLEY: Your Honor, I would like to enter this into
14 evidence as Defendant's Exhibit 4.

15 BY THE COURT: All right. Thank you.

16 (Email dated May 26, 2009 entered into evidence as
17 Defendant's Exhibit No. 4)

18 Q If I could have you look at this document, please. Can you
19 read for the Court what the title of that document is?

20 A Would you like me to read---

21 Q Yes, this right here.

22 A It says "Pre-Submittal Registry."

23 Q And would you -- the project that's on this registry is at
24 the Townes at Pelham; is that correct?

25 A It says project name, Townes at Pelham.

1 Q And if you look further down, it says "Developer: Hedrick;"
2 is that correct?

3 A That's what it says.

4 Q And that would be you, correct?

5 A Yes. That's what it -- that would be my name, yes.

6 Q So, you are on this paperwork as the developer of Townes at
7 Pelham; is that correct?

8 A Yes. I didn't fill this out or anything. I don't know who
9 did but that is my name.

10 Q As developer.

11 MS. TALLEY: I would like to enter this into evidence as
12 Defendant's Exhibit 5.

13 MR. BROWN: No objection, Your Honor.

14 BY THE COURT: All right.

15 (Pre-Submittal Registry entered into evidence as Defendant's
16 Exhibit No. 5)

17 Q Would you please read the title of that form for the Court,
18 please?

19 A The title is "Permit Purchase Form."

20 Q And right below that is written "Eric Hedrick;" is that
21 correct?

22 A Yeah. My name is written there.

23 Q On box 2, it says, "Owner's Name: Townes at Pelham, LLC;"
24 is that correct?

25 A That's correct.

1 Q And the address right next to that would be 102 Cape Charles
2 Drive. Is that your residence?

3 A That is correct.

4 Q At the bottom who signed for this permit?

5 A I did.

6 MS. TALLEY: Your Honor, I would like to enter that into
7 evidence as Defendant's Exhibit 6.

8 MR. BROWN: No objection.

9 BY THE COURT: All right.

10 (Permit Purchase Form entered into evidence as Defendant's
11 Exhibit No. 6)

12 Q If I could have you look at the form you were just looking
13 at, Exhibit 6. Can you read at the top what entity this form is
14 for, at the very top?

15 A It says "Greenville County Soil & Water Conservation
16 District."

17 Q Thank you. If I could have you look at this form, please.
18 Can you read for the Court the title of this form?

19 A "Stormwater, Notice of Termination."

20 Q And at the bottom of this form is your name located there?

21 A Yes.

22 Q Right next to that where it states, "Title:
23 Owner/Developer;" is that correct?

24 A That's what's written there, yes.

25 Q And you signed this form; is that correct?

1 A I signed this form, yes.

2 Q Would you agree that this is a form -- a DHEC form?

3 A Yes. It's a DHEC form. You asked if I signed it. It does
4 say Owner/Developer, but it also says "Governing Partner of
5 Townes at Pelham, LLC."

6 Q Correct but it does say Owner/Developer?

7 A It does say that.

8 MS. TALLEY: Your Honor, I would like to introduce into
9 evidence Defendant's Exhibit 7.

10 BY THE COURT: All right. Thank you.

11 (DHEC Stormwater, Notice of Termination entered into
12 evidence as Defendant's Exhibit No. 7)

13 Q You stated before that you are the registered agent for
14 Townes at Pelham, LLC; is that correct?

15 A I don't know if I did before, but I am, yes, or I was.

16 Q "Was." So, are you currently the registered agent?

17 A It's been dissolved.

18 Q You are currently the property manager for Townes at Pelham,
19 LLC; is that correct?

20 A For Townes at Pelham Owners Association, I'm the property
21 manager.

22 Q Even though it has been dissolved, are you still working in
23 the capacity of what a property owner would do -- property
24 manager, I'm sorry -- at Townes at Pelham?

25 A I believe you're confused on the two different companies.

1 Q No. I understand. You are the property manager, correct?

2 A For the Townes at Pelham Owners Association, correct.

3 Q Okay. And you are still working in that capacity?

4 A In that capacity. That company has not been dissolved.

5 Q Okay. So, based on your duties, you do -- you are
6 responsible for maintaining the grounds. If someone were to tell
7 you there was a problem with any of the property, the grounds,
8 the common areas, that would be your responsibility to have that
9 repaired; is that correct?

10 A Mine or the board's discretion if it's over a certain
11 amount, yes.

12 Q Based on this paperwork that we have seen, it's safe to say
13 that normally the board, under their discretion, it's you who
14 handles most of these tasks; is that correct?

15 A Unless it's over \$300.00 and out of the ordinary course of
16 business. If it's, you know, landscaping, irrigation problems,
17 simple stuff, I get it taken care of, a mailbox getting hit. I
18 always make the board aware of these items and then take care of
19 it.

20 Q So, is it safe to say that you do have a responsibility to
21 make sure that you pay attention to what's going on around the
22 property, make sure if there are any issues you do alert the
23 board if you see them yourself?

24 A Yes.

25 Q Is it true that there are currently drainage issues at

1 Townes at Pelham?

2 A No.

3 Q So, based on your knowledge, there are no drainage issues?

4 A None that I'm aware of.

5 Q And have there been any drainage issues since 2009 according
6 to your recollection?

7 A None that I know of.

8 Q Previously, we discussed a proposal from 2010; is that
9 correct?

10 A Yes.

11 Q And 2010 is more present than 2009; is that correct?

12 A Yes.

13 Q So, would you agree that a proposal has been submitted for
14 drainage issues since 2009?

15 A A proposal was submitted for supposed drainage issues.

16 Q But it was submitted. If there was one, it was created that
17 you saw, correct?

18 A That I saw, yes.

19 MS. TALLEY: If I could have a minute to confer with counsel.

20 BY THE COURT: Yes, ma'am.

21 Q If we could go back to this balance sheet, please.

22 BY THE COURT: If you could identify the exhibit number,
23 please, ma'am.

24 MS. TALLEY: Your Honor, it's exhibit -- Plaintiff's Exhibit
25 7.

1 BY THE COURT: All right. Thank you.

2 Q Now, you read for the Court the assessments are in the
3 amount of \$6,050.00; is that correct?

4 A That's correct.

5 Q Late fees in the amount of \$810.00; is that correct?

6 A That's correct.

7 Q Finance charges in the amount of \$9,688.94; is that correct?

8 A Correct.

9 Q Attorney's fees in the amount of \$20,191.67?

10 A Correct.

11 Q And costs in the amount of \$559.84?

12 A Correct.

13 Q Have any of these amounts been approved by a court of law?

14 A Not that I'm aware of.

15 Q Based on your knowledge, are you aware that there was a
16 declaratory judgment against Ms. Boyd that was filed on December
17 23, 2010?

18 A Yes.

19 Q Would you agree that the amount of that judgment was
20 approximately \$6,700.00?

21 A Close, yes. I would need to see it to verify it but yes.

22 Q I understand. Based on your knowledge, would you -- that
23 was filed in 2010, correct?

24 A I would need to see the document to be able to tell you
25 that.

1 MS. TALLEY: One second, Your Honor.

2 BY THE COURT: All right. Now, is this the magistrate's
3 court action?

4 MS. TALLEY: Yes.

5 BY THE COURT: All right. And was it a suit or a
6 declaratory judgment action?

7 MS. TALLEY: It was a default judgment, Your Honor.

8 MR. TALLEY: Default judgment.

9 BY THE COURT: Okay.

10 MR. BROWN: Your Honor, it's my understanding -- I did not
11 represent the Association -- but it was an action for a personal
12 judgment.

13 BY THE COURT: All right. Thank you. Mr. Brown, can you
14 stipulate what year it was filed?

15 MR. BROWN: Yes, Your Honor. We have record of -- December
16 15, 2010 is the date of the default judgment that we have in our
17 records.

18 BY THE COURT: All right. Thank you.

19 MS. TALLEY: We want to put this into evidence, Your Honor.

20 THE COURT REPORTER: This will be Defendant's Exhibit No. 8.

21 (Magistrate's Court Action 2010CV2310801261 entered into
22 evidence as Defendant's Exhibit No. 8)

23 Q If I could have you look at that, please, Mr. Hedrick. If
24 you look at the bottom of that, the file date is December 23,
25 2010; is that correct? I'm sorry, it is December 15, 2010; is

1 that correct?

2 A December 15, 2010, yes.

3 Q Okay. And this paperwork does say that it was served on
4 October 27, 2010; is that correct?

5 A That's what it states.

6 Q In your balance sheet which was in Plaintiff's Exhibit 7, if
7 you could turn to page 2.

8 A Page---

9 Q Page 2, the Customer Open Balance.

10 A Okay.

11 Q The date of this Open Balance it starts July 1, 2009; is
12 that correct?

13 A That's correct.

14 Q So, this balance sheet includes fees, finance charges and
15 other HOA dues that are due but prior to that action being filed;
16 is that correct? Let me rephrase that.

17 A Yeah, please rephrase.

18 Q The Open Balance sheet starts on July 1, 2009, correct?

19 A Yes.

20 Q This default magistrate's judgment was originally served on
21 October 27, 2010, correct?

22 A Correct.

23 Q So, it would make sense that the judgment amount is actually
24 still included in this Open Balance; is that correct?

25 A That would be correct.

1 Q You stated previously that you and the board sit down and
2 verify these numbers. Are you aware that if the total from July
3 1, 2009 up until October, or even up until December, if you add
4 up those figures they are in excess of the amount awarded by the
5 court in that default judgment?

6 A I've never added those to verify that, no.

7 Q Okay.

8 MS. TALLEY: Your Honor, we have no more questions for this
9 witness.

10 BY THE COURT: All right. Any other questions?

11 MR. BROWN: I have a few redirect questions, Your Honor.

12 **REDIRECT EXAMINATION BY MR. BROWN:**

13 Q Mr. Hedrick, I'm going to ask you to just briefly comment on
14 a couple of the exhibits that have been entered into the record
15 by the Defendant during your cross-examination testimony.

16 Again, this is Exhibit No. 5 and it does have noted as
17 Developer Hedrick; is that correct?

18 A Yes.

19 Q If your name is noted as developer, I would like for you to
20 just restate for the Court who was the actual developer of the
21 community, Townes at Pelham?

22 A It was Townes at Pelham, LLC.

23 Q Did you individually have any interest in that LLC?

24 A No.

25 Q Were you ever named of record as the developer individually?

1 A No.

2 Q And has your company Cornerstone Realty, Inc., that is named
3 as a third-party Defendant today, have they ever been named as
4 the developer of this community?

5 A No.

6 Q I'm going to next ask you a question regarding Defendant's
7 Exhibit No. 6 and you have testified earlier that that is your
8 signature at the bottom of the page; is that correct?

9 A Yeah. That's correct.

10 Q Would you have been signing in your individual capacity when
11 you signed that form?

12 A No.

13 Q What capacity would you have been signing in?

14 A As owner of Cornerstone Contractors which was a member of
15 the Townes at Pelham, LLC.

16 Q Thank you. And then I have now just handed you again
17 Exhibit 7 and is your signature -- is your name contained on this
18 form as well?

19 A Yes.

20 Q How are you identified on this exhibit?

21 A Which location, here or---

22 Q On the signature line.

23 A The signature line, it says Eric Hedrick, member.

24 Q And how is it identifying you as a member?

25 A As the owner of Cornerstone Contractors which is a member of

1 Townes at Pelham, LLC.

2 Q Is it identifying you individually?

3 A No.

4 Q Is it identifying your company Cornerstone Contractors, Inc.
5 as the developer?

6 A Yes. No, not as the developer but as a 30 percent owner of
7 the development company Townes at Pelham, LLC.

8 Q Okay. Thank you, Mr. Hedrick, for clarifying that. The
9 defense has also brought to your attention a proposal.

10 A It hasn't been submitted.

11 MR. BROWN: And I have no objection to admitting that if the
12 defense wants to admit it as an exhibit.

13 MS. TALLEY: Yes, Your Honor.

14 (Proposal entered into evidence as Defendant's Exhibit No.
15 9)

16 Q And is it your testimony that the Townes at Pelham Board of
17 Directors had an opportunity to review this proposal?

18 A Yes.

19 Q Did the Townes at Pelham Board of Directors or certain
20 members of the board ever inspect the drainage issues surrounding
21 Ms. Boyd's unit?

22 A Yes.

23 Q Could you explain to the Court a little more about that
24 inspection?

25 A Some of the board members asked -- I think the President at

1 the time was Mr. Drevets. He asked myself to -- and maybe a
2 couple other board members -- to meet, and we did look at the
3 drainage issues and, I think I mentioned before, we extended a
4 four inch black corrugated pipe that comes off the end of the
5 gutter out along the driveway towards the street to divert that
6 water further towards the street.

7 Q Is there any other remedial action the board has taken in
8 regards to the drainage issue around Ms. Boyd's unit?

9 A Not to the drainage, no.

10 Q Is there any remedial action the board has taken or
11 authorized you as property manager to take regarding irrigation
12 problems?

13 A Yes. There were several irrigation repairs that were made
14 there. I think one head might have been taken out, maybe nozzles
15 replaced. I do know the drip line that is adjacent to that
16 property in the common area that's on a slope that has junipers
17 had been damaged by an auto accident and could have been rodents
18 as well. It had leaked on several occasions and it was fixed as
19 well on at least two different occasions.

20 Q And these remedial actions were taken at the Townes at
21 Pelham's Association's expense?

22 A Yes.

23 Q Is it your testimony that the Association has taken all
24 remedial action, in regards to the drainage or irrigation issues
25 before the Court, has taken all remedial action that they are

1 responsible for taking?

2 A Yes.

3 Q To the best of your knowledge, is there any current drainage
4 or irrigation issues in regards to the community?

5 A None that I'm aware of.

6 Q Any issues specifically to Ms. Boyd's property?

7 A No.

8 Q Are you aware of what the standard would be within the
9 Greenville community for standing water or normal drainage within
10 a community?

11 A I've always been told that it's -- as long as there's no
12 standing water after 48 hours, then it's acceptable. That's a
13 Greenville County guideline. It may be a DHEC guideline. I'm not
14 sure.

15 Q Are you aware of Greenville County ever inspecting the
16 drainage issue at Unit 1?

17 A I was told that Greenville County did.

18 Q But you were not personally present at an inspection with
19 the County?

20 A No. I was not personally there.

21 Q Okay. We've identified the personal judgment that was
22 entered as of October -- excuse me -- December 2010. And is it
23 your testimony, Mr. Hedrick, that that personal judgment would
24 contain a portion, if not all, of the assessments due by Ms. Boyd
25 in 2009 and 2010?

1 A Yes. It was a judgment to collect the dues that were owed
2 up to that point.

3 Q And since the date of that judgment, have there been any
4 attempts by Ms. Boyd to make any payments on her assessments that
5 began accruing as of January 2011?

6 A No.

7 Q Any attempts during the year 2012?

8 A No.

9 Q Any attempts during the year 2013?

10 A No.

11 Q So, since the personal judgment there is a minimum of three
12 years of outstanding assessments due?

13 A That's correct.

14 Q And that would -- pursuant to how you have calculated the
15 amounts due based on the Restrictive Covenants, that would
16 include late fees; is that correct?

17 A That's correct.

18 Q It would include interest?

19 A Yes.

20 Q And would it include attorney's fees?

21 A Yes.

22 MR. BROWN: I have no further questions.

23 **EXAMINATION BY THE COURT:**

24 Q All right. Let me ask a question. If you will look at
25 Plaintiff's -- I think it's 7. Is that the summary of costs?

1 A Yes.

2 Q All right. And also look at Defendant's 8 which is the
3 magistrate's court judgment.

4 A Yes.

5 Q I understand that the Plaintiff is maintaining that there
6 are now currently outstanding \$6,050.00 in assessments in
7 Plaintiff's 7, correct?

8 A In Plaintiff's 7, yeah, it does -- it's \$6,044.00 and then
9 down below it's actually got \$6,699.36.

10 Q Okay. What I'm trying to find out is the judgment that was
11 entered by the magistrate's court in December of 2010, are any of
12 those assessments included in Plaintiff's 7, in the \$6,000.00
13 that's due in Plaintiff's 7?

14 A Yes.

15 Q All right. Help me understand what.

16 A All outstanding dues from July of 2009 are included in
17 Exhibit 7 in those assessments. So, anything between July of 2009
18 and somewhere around October of 2010 would be included in the
19 personal judgment.

20 BY THE COURT: Let -- and I'm probably just missing
21 something, and I apologize -- but if some portion of what
22 Plaintiff is seeking today is included in the magistrate court's
23 judgment, why would that not be a double recovery?

24 MR. BROWN: Your Honor, it could be deemed by the Court that
25 it is based on the summation of the account history today. In

1 part, we were certainly -- as has been put into the record, we
 2 acknowledge the personal judgment, the amount that was entered in
 3 December 2010. We wanted to distinguish even on our summation
 4 sheet the amount of attorney's fees for the discrimination action
 5 so that the Court could look at those separately if it so chooses
 6 to, but we wanted to give the Court an entire account history.
 7 That is listed here. If the Court deems that as a double
 8 recovery, then we would argue we could begin looking as of -- we
 9 could recalculate or reassess as of January 2011 the actual
 10 amount that was owed and we could make that recalculation for its
 11 benefit.

12 BY THE COURT: All right. In the magistrate's court action
 13 that resulted in the judgment of December 15, 2010 some, if not
 14 all of that, was for homeowner's assessments that were not paid?

15 MR. BROWN: Correct.

16 BY THE COURT: And that is the same basis, unpaid homeowner's
 17 assessments, that is here being litigated today?

18 MR. BROWN: From the standpoint that when the board elected
 19 in 2010 to pursue a personal judgment, the Notice of Lien was
 20 still on record. It had not been foreclosed upon, but they did
 21 elect for the outstanding dues for 2009 and 2010 to pursue a
 22 personal judgment. Therefore, if the Court deems that as the
 23 recovery of those assessments, then the Notice of Lien -- our
 24 foreclosure on the Notice of Lien would be any and all
 25 outstanding assessments, costs and attorney's fees accrued as of

1 January 2011.

2 BY THE COURT: Which would be what?

3 MR. BROWN: I would have to break out my -- if we could take
4 a short recess, I think we could present testimony and come very
5 close to---

6 BY THE COURT: All right. Let me see counsel back in
7 chambers.

8 MR. BROWN: Okay.

9 (Whereupon, an in camera conference was held at 10:15 a.m.)

10 (Whereupon, the hearing resumed at 10:45 a.m.)

11 BY THE COURT: Y'all have not been able to resolve the
12 matter?

13 MR. BROWN: No, sir.

14 BY THE COURT: All right. You can go ahead.

15 MR. BROWN: Your Honor, based upon your request before our --
16 before we briefly recessed, we have -- I have conferred with the
17 Association board members that are here present today and I would
18 be happy, through the testimony of Mr. Hedrick, just to recite
19 these revised figures from our statement of the account for the
20 record.

21 BY THE COURT: All right.

22 **CONTINUED REDIRECT EXAMINATION BY MR. BROWN:**

23 Q Mr. Hedrick, I'm going to ask you at this time to testify
24 for the record the recalculation of the assessments, and late
25 fees, costs that would now be owed on this account. The dates

1 the assessments have been calculated has changed. What dates are
2 now reflected on the revised account sheet?

3 A It's actually -- I don't think those dates were written in,
4 but I believe it's going to be from January of 2010 through
5 January of 2014.

6 Q Let's revisit that. The judgment, personal judgment, was
7 entered in December of 2010.

8 A So, it would be January of 2011 through January of 2014.

9 Q So, this calculation would now begin the month after the
10 personal judgment was entered of record?

11 A That's correct.

12 Q Okay and then if you'll recite these amounts.

13 A Assessments, \$4,070.00; late fees, \$540.00; attorney fees,
14 \$12,173.51; costs, \$559.84; and interest, \$4,512.84. Total,
15 \$21,856.19.

16 Q Would you please, for my benefit as well, Mr. Hedrick,
17 restate that total again?

18 A \$21,856.19.

19 Q This calculation has not been run on the same software
20 program that you use for the Association; is that correct?

21 A That's correct.

22 Q If the Court so requested a final statement to be submitted
23 based on the accounting program used by the Association, would
24 you be willing to do that for the Court?

25 A Yes. I could do that.

1 Q Would it be your testimony on behalf of the Association that
2 the amount, the total amount, that you just put into the record
3 would be the final amount that they are foreclosing on today?

4 A Yes.

5 BY THE COURT: And I understand that the two other law firms
6 or attorneys, their fees have now been redacted or taken out?

7 MR. BROWN: Yes, Your Honor.

8 BY THE COURT: Okay. All right.

9 MR. BROWN: I have no further questions of Mr. Hedrick.

10 BY THE COURT: Any other questions of Mr. Hedrick?

11 MS. TALLEY: Just a few.

12 BY THE COURT: All right.

13 MR. BROWN: Your Honor, not to interrupt Ms. Talley, if they
14 do not object, we can mark that revised summary sheet as an
15 additional exhibit for the Plaintiff.

16 BY THE COURT: All right. What exhibit would that be, Wanda?

17 THE COURT REPORTER: This is Defendant's Exhibit 9.

18 BY THE COURT: The new exhibit?

19 THE COURT REPORTER: That would be Plaintiff's Exhibit No.
20 8.

21 BY THE COURT: All right. Thank you.

22 (Revised Summary Sheet entered into evidence as Plaintiff's
23 Exhibit No. 8)

24 **RECROSS EXAMINATION BY MS. TALLEY:**

25 Q If I could have you look at this proposal again for me,

1 please. Previously you stated that the proposal was regarding
2 common areas in the community; is that correct?

3 A Yes.

4 Q Could you read right under that -- this line, could you read
5 for the Court what that line states?

6 A It says "Install a Drainage System at Unit 6 and behind the
7 Entire Area of Units 10, 14, 20 & 22."

8 Q And Ms. Boyd would be Unit 6?

9 A Ms. Boyd is address number 6.

10 Q Could you also read the third one down, please, for the
11 Court?

12 A Begins with install?

13 Q Yes.

14 A "Install a 6" French drain line across the entire back of
15 Units 22, 20, 14, 10 & 6, ending and discharging at the storm
16 drain behind Unit 102 on Heavenly Way."

17 Q Thank you. If I could have you look at this, Defendant's
18 Exhibit 5 once again for me. Before we said this was a Pre-
19 Submittal Registry; is that correct?

20 A That's the title on it, yes.

21 Q And you stated that you did not fill this out, however,
22 under "Present at Meeting: Developer," it has the name Hedrick;
23 is that correct?

24 A It has my name there, yes.

25 Q Thank you. If I could have you look at that one, please,

1 Permit Purchase Form, under box 2 Owner's Name it says "Townes at
2 Pelham, LLC," correct?

3 A That's correct.

4 Q And the address given there, 102 Cape Charles Drive, that is
5 your personal residence, correct?

6 A That is correct.

7 Q Thank you. If I could have you look at Defendant's Exhibit
8 7, at the bottom of the form the name printed there is Eric
9 Hedrick, correct?

10 A Correct.

11 Q And that is your signature, correct?

12 A Correct.

13 Q And under Title, it states "Owner/Developer" as well as
14 "Governing Partner of Townes at Pelham," correct?

15 A I didn't write that but that's -- somebody wrote that in
16 there.

17 Q Okay. So, the form does state "Owner/Developer, Governing
18 Partner of Townes at Pelham" under Title, correct?

19 A Townes at Pelham, LLC, yes.

20 Q The LLC got cut off. Thank you. Previously in your
21 testimony you stated that according to Greenville County they do
22 not allow standing water, that is considered a drainage issue; is
23 that correct?

24 A No. That was not my testimony.

25 Q When you were asked regarding what Greenville County allowed

1 in terms of irrigation and drainage, did you reference standing
2 water being something that needs to be corrected?

3 A Yeah. Well, we were discussing drainage. Yes.

4 Q Okay. So, standing water is something -- if there is a
5 problem and you see standing water, you would address it; is that
6 correct?

7 A Yes.

8 MS. TALLEY: Your Honor, this is Defendant's Exhibit 1.

9 Q If I could have you look through some of those pictures and
10 just let me know if that -- are those pictures of the Townes at
11 Pelham community?

12 A Yes. They appear to be.

13 Q Okay. In any of those pictures do you see standing water?

14 A I see there's standing or running water.

15 Q Okay. So, you do see puddles of water?

16 A I see water, yes.

17 Q Okay. Now, you being the property manager of Townes at
18 Pelham, you stated previously that you do go around the property
19 and kind of look for and make sure that nothing is out of the
20 ordinary, that there's not anything that needs to be repaired,
21 correct?

22 A Yes. I do that occasionally.

23 Q Occasionally. So, assuming you have been doing that
24 occasionally, if there was standing water in this area, that is
25 something that you would have seen, correct?

1 A Possibly.

2 Q So, would it be your testimony that you have not seen
3 standing water in the community?

4 A I have seen standing water at times in the community. Yes.

5 Q Okay. And when you have seen that standing water, have you,
6 yourself, or Cornerstone Contractors done any work or have you
7 called any other company to come out and look and figure out what
8 the problem is?

9 A Yes.

10 Q And have you done that since 2009?

11 A Not that I remember, no.

12 Q Okay. If you could look at the bottom of those pictures --
13 they do have dates on them -- can you let the Court know,
14 especially at the bottom of the stack, were some of those
15 pictures taken after 2009?

16 A Yeah. They -- some are taken in 2013, but there's also some
17 taken in 2004 and the community wasn't there in 2004. So---

18 Q Okay.

19 A But, yes, to answer your question.

20 Q But you did state that those pictures do show what the
21 community looks like?

22 A Looks like during a rain event, yes.

23 Q So, you would say that those pictures, maybe not the first
24 photo but the other ones, that does correctly depict what the
25 Townes at Pelham looks like and there is standing water in those

1 pictures, correct?

2 A During a rain event, yes. There is standing water during
3 rain events quite often, yes.

4 Q And is that not a problem that you have addressed or felt
5 that needed to be addressed?

6 A As long as the water is moving and drains within 48 hours,
7 there's nothing to address.

8 Q Okay.

9 MS. TALLEY: One minute to confer with counsel.

10 Q I just have a few more questions. Prior to Ms. Boyd
11 purchasing her home, Number 6, Lot number 1, did you have any
12 prior business dealings with Ms. Boyd in regards to the purchase
13 of another home within the community?

14 A No.

15 Q To your knowledge, is there a HUD complaint that has been
16 filed against you by Ms. Boyd?

17 A Not to my knowledge.

18 Q To your knowledge, was there a previous settlement between
19 you and Ms. Boyd in regards to a home that was sold from under
20 her and the settlement amount was \$18,000.00?

21 A It had nothing to do with me. I have no knowledge of that
22 whatsoever.

23 Q So you did not personally settle with Ms. Boyd?

24 A I have no idea what you're talking about.

25 MR. BROWN: Your Honor, I'm going to object. I just don't

1 see the relevancy to the pending---

2 BY THE COURT: What's the relevancy?

3 MS. TALLEY: Your Honor, we would like to show there is
4 previous dealings between Ms. Boyd and Mr. Hedrick, and there may
5 be some personal reasons why her drainage was not fixed or why
6 this action was---

7 BY THE COURT: Well, if you have something to establish that
8 this gentleman was, in fact, part and parcel of a settlement, now
9 is the time to show it. If not, then I'm going to sustain the
10 objection.

11 MS. TALLEY: We don't have any, Your Honor.

12 BY THE COURT: All right. Sustain the objection.

13 MR. BROWN: Thank you.

14 MS. TALLEY: That's all of my questions.

15 BY THE COURT: All right. Thank you, sir. You can step
16 down.

17 (witness excused)

18 BY THE COURT: Anything else from Plaintiff?

19 MR. BROWN: No, Your Honor.

20 BY THE COURT: All right. Ms. Talley, you can present your
21 case.

22 MS. TALLEY: Okay. Your Honor, we would like to call Ms.
23 Donna Boyd to the stand.

24 BY THE COURT: All right. If you would come around, please,
25 ma'am.

1 THE WITNESS: I don't swear on the Bible.

2 BY THE COURT: All right. Then if you'll raise your right
3 hand and affirm for me.

4 **DONNA C. BOYD**, BEING FIRST DULY AFFIRMED, TESTIFIED AS
5 FOLLOWS:

6 BY THE COURT: Thank you. If you would come around and have
7 a seat, please. (complies)

8 If you'll state your full name, please.

9 THE WITNESS: Yes. My name is Donna Caralena (phonetic) Boyd.

10 **DIRECT EXAMINATION BY MS. TALLEY:**

11 Q Ms. Boyd, can you tell us for the Court what is the address
12 of your home?

13 A It's 6 Pelham Townes Drive, Greenville, South Carolina
14 29615.

15 Q Is that located in the Townes at Pelham community?

16 A Yes, it is.

17 Q When did you purchase your home?

18 A I closed on that home on January 7th of 2008.

19 Q When you purchased the home, were you aware that there were
20 Restrictive Covenants and there were HOA dues that were due?

21 A Yes.

22 Q When you first purchased your home, were you paying your HOA
23 dues?

24 A Yes.

25 Q Why did you stop paying your HOA dues?

1 A I started noticing drainage issues and -- almost immediately
2 after purchasing my home, I started noticing drainage issues. I
3 tried to resolve the issue. I called around. I called the
4 warranty company and they told me that what I needed to do is
5 write a Right to Cure letter to the builder, and also I called
6 Greenville County. Greenville County stated the same thing, that
7 I needed to write a Right to Cure letter and I said, "Well, I'm
8 in the process of doing that now." And they said, "Well, and the
9 builder is," and when she told me who the builder -- builder's
10 name, I said, "No. That's not my builder. That's my property
11 manager." She said -- I'll never forget it -- she said, "Ma'am,"
12 she said, "he is your builder. His name is on everything." And
13 so, I sent a letter to Ryan Homes/NVR Mortgage, whom I thought to
14 be the builder, and I also forwarded a letter to Eric Hedrick
15 with pictures, and I never received a response from them.

16 Q So, you submitted letters to them shortly after you first
17 bought the home?

18 A Yes.

19 Q Did you submit any letters from then until now? Have you
20 submitted any additional letters or given any additional notice
21 that there were still drainage issues?

22 A Yes. As a matter of fact, I even sent a letter to the
23 Builder's -- South Carolina Builder's Association whom Mr.
24 Hedrick is a part of. I sent a letter to the South Carolina
25 Attorney General's Office, LLR and I sent several letters to the

1 board. My attorney at the time, Mr. Daniel Yarborough, also sent
2 several letters to the board and Mr. Hedrick.

3 Q Based on your knowledge, they were well aware that there
4 were drainage issues?

5 A Oh, most definitely. When Mr. Yarborough sent a letter, he
6 -- basically, he raised the concerns that I had. He said that I
7 never had any issue paying my HOA dues, had always been current
8 on my HOA dues. I've never had an issue with it, but what I was
9 concerned about is that the money that I'm paying to Mr. Hedrick
10 -- I was concerned about, you know, how that money was being used
11 because they weren't being used to remedy, you know, the
12 deficiencies in the community and there was, you know, no
13 accountability. We didn't know how much money we had in the
14 account, no audit. Even until this day, there's been no audit
15 conducted. So, I was very concerned about it. Mr. Daniel
16 Yarborough was very concerned about it. And so, he sent a letter
17 to the board. Mr. Hedrick responded. He would never allow an
18 attorney to respond. He responded.

19 And I remember that one -- that last letter he stated in the
20 letter that he had been contracted with the Townes at Pelham for
21 several years. Now, the community -- I think the beginning date
22 of the inception of the community was probably -- I think the
23 first house probably was built in 2006, but he said that he had
24 been the manager -- had been contracted to be the manager for
25 several years, and I knew that to be false because I know the

1 community was supposed to be turned over in 2007 and at that time
2 there was no contract for Mr. Hedrick. As a matter of fact, I
3 inspected the book and there was no contract whatsoever.

4 Q Through testimony that we've heard here today, we know that
5 Mr. Hedrick, he is the property manager for the Townes at Pelham.
6 He has stated that there were some repairs done in 2009. Were
7 you aware of any of those repairs that he did?

8 A I am aware of Mr. Hedrick and attorney Luke Drevets coming
9 onto my property and redirecting or adding a spout -- I think
10 it's in one of those pictures -- adding that spout to divert the
11 water across my driveway. That was the only repairs, and that
12 was in -- I want to say that was in 2009.

13 Q So, they redirected the water. Has anything ever been done,
14 to your knowledge, to rectify any standing water?

15 A Absolutely not.

16 Q Have you seen any standing water that has lasted for longer
17 than 48 hours?

18 A Yes.

19 Q Could you estimate for the Court about how long standing
20 water -- that you've seen it?

21 A There have been times where I've seen water all week. The
22 water just sits there. It's to the point where it develops like
23 an algae or something like that, and also in the summertime I get
24 the yellow jackets. They're attracted to the water for whatever
25 reason. I have not been able to enjoy my home, my yard. The yard

1 was always wet, standing water, especially in the front near the
2 driveway, in the corner, standing water right there and as you go
3 to the side of the house, there's standing water there also.

4 Q If I could have you look at these pictures. Now, are these
5 pictures that you personally took with your own camera?

6 A Yes.

7 Q You would agree that these pictures actually do show what
8 the Townes at Pelham currently looks like?

9 A Yes. This particular picture is in the back of Majesty
10 Court.

11 Q Let's just make sure we're looking at the same picture.
12 Okay. And in this picture, for the Court could you describe what
13 you see in that particular picture there?

14 A Well, you have a culvert that is propped up on top of
15 bricks.

16 Q Right. Okay.

17 A So, it's easily removable. A child could get into it. And
18 there is -- actually, I think there are about two like this in
19 the community.

20 Q If you could look at that picture for me and let me know
21 what you see there.

22 A Yes. This is standing water and this is actually in the
23 back of -- I want to say Cherub. Actually, a board member, Ms.
24 Charlotte Tashman -- I believe she is the president now. I'm not
25 sure -- but before she became a member of the board, she is the

1 one that informed me of this particular---

2 Q Area?

3 A Yes.

4 Q I'm going to have you look at that picture and tell me where
5 is that located in the community?

6 A This is in the back of my home, 6 Pelham Townes Drive.

7 Q And that is standing water in the picture?

8 A That's standing water.

9 Q What is the date on that picture?

10 A That is December 18th of 2009.

11 Q Could you let us know where that picture---

12 A Yes. This is my backyard. I have a swimming pool.

13 Q And the date on that picture?

14 A Is May the 30th of 2010.

15 Q Okay. This picture, is there standing water?

16 A Yes. This is the back of my home and adjacent properties.

17 This standing water goes all of the way to the back of the homes
18 on -- what is that? I forget the name of this -- I think this is
19 Cherub. It goes all of the way back to Cherub.

20 Q And based on your knowledge regarding the proposal that
21 Forever Green Irrigation did, did they not propose something to
22 fix this in the back of the yard?

23 A Yes, the installation of French drains.

24 Q I'm going to go through a few other ones. Can you tell us
25 if there is standing water in that picture?

1 A Yes.

2 Q What is the date on that picture?

3 A February 5th of 2010.

4 Q Can you tell me what that is in that picture based on your
5 knowledge?

6 A That is the handiwork of Mr. Hedrick and Luke Drevets. That
7 was an attempt to divert the water across my driveway. So -- I
8 don't know what you call this; I'm not quite sure -- but it comes
9 from the spout and it's supposed to divert water across my
10 driveway.

11 Q Okay. If I could have you look at that picture and let me
12 know what is in that picture?

13 A This is my side yard near the driveway.

14 Q What is the date on that picture?

15 A This is May 4th of 2013.

16 Q Can you tell me what is that picture, please?

17 A Yes. This is in the back of my yard, the back of my yard,
18 and I'm basically putting my shoe in it to show how deep it is.

19 Q So, that is you in that picture, your foot?

20 A Yes.

21 Q And the date on that picture?

22 A May 4th, 2013.

23 MS. TALLEY: Your Honor, we would like to introduce these as
24 a group. They are Defendant's Exhibit 1.

25 BY THE COURT: All right. Thank you.

1 (Group of Pictures entered into evidence as Defendant's
2 Exhibit No. 1)

3 MS. TALLEY: One minute to confer with---

4 BY THE COURT: Certainly.

5 Q Ms. Boyd, when you purchased your home, what was the
6 purchase price to the best of your recollection?

7 A I think it was \$222,---

8 Q And have you made any efforts to sell your home or talk to
9 any realtors about potentially selling your home or the value of
10 your home?

11 A Yes, I have.

12 Q What have you been told would be the value of your home if
13 you attempted to sell it today?

14 A Well, I've been told that if I were to sell my home, I would
15 have to disclose the fact that I have a serious drainage issue.
16 I've been told that the drainage water issue could impact the
17 value of my home anywhere between \$40,000.00 and \$70,000.00.

18 Q And that was relayed to you from an experienced real estate
19 agent?

20 A Yes.

21 Q Regarding the HOA dues, you stated previously that you
22 stopped paying them because you had issues with drainage and
23 other things; is that correct?

24 A Yes.

25 Q Do you feel that there is any amount that you owe in regards

1 to your HOA dues?

2 A Let me be clear on something. I have no issue whatsoever
3 paying my HOA dues. I don't want anyone to think that I'm the
4 type of person that would shuck my responsibility. I'm very
5 responsible. I pay my bills on time and have always, even if you
6 look at -- I'm sure Mr. Hedrick can attest to this -- even if you
7 look at the prior, I guess, statements of homeowner dues that I
8 was always current. If I did not pay my regime fees by the first,
9 it was because it probably fell on the weekend or something like
10 that. But I have always -- and Mr. Hedrick even stated such --
11 that I was always current on my HOA dues. I never had an issue
12 with that. All I ever wanted was my drainage issue to be
13 addressed, and I want it to be remedied.

14 Q The drainage issue has not been addressed or remedied to
15 your satisfaction, correct?

16 A No.

17 MS. TALLEY: Your Honor, we have no more questions.

18 MR. BROWN: Just a few questions, Your Honor.

19 **CROSS-EXAMINATION BY MR. BROWN:**

20 Q Good morning, Ms. Boyd.

21 A Good morning. How are you?

22 Q I'm doing well. Thank you. My name is Chris Brown. I'm
23 with the law offices of Babb & Brown, and I represent the Townes
24 at Pelham Property Owners Association.

25 A Yes.

1 Q Nice to meet you.

2 A Pleasure meeting you.

3 Q Ms. Boyd, you have not made any payments towards your
4 assessments since January 2011; is that correct?

5 A Absolutely.

6 Q If I understood your testimony correctly, you did cite
7 several reasons for not paying, but I just want you to affirm
8 that I understood you correctly. Is one of the reasons for not
9 paying the drainage issues you allegedly have experienced?

10 A That is one issue.

11 Q Okay.

12 A But also Mr. Daniel -- attorney Daniel Yarborough forwarded
13 a check in the amount of \$660.00 for -- to your office, Babb &
14 Brown. The notice stated that I owed \$805.00. Okay. The \$300.00
15 was for attorney fees. I actually owed \$505.00. The \$300.00 was
16 for attorney fees. I paid \$660.00, and I sent those -- Daniel
17 Yarborough, Mr. Yarborough, sent those fees to Darlene Miller who
18 was the president at the time. She's the newly appointed
19 president. Ms. Miller forwarded the check to Eric Hedrick. Mr.
20 Hedrick held on to the check for about a month and then returned
21 it -- returned the check. I then received a letter from Daniel
22 Yarborough with the certified check. He gave no reason as to why
23 the check was being returned. He basically just asserted and
24 said, "Well, allow me to introduce myself and my company is" --
25 "with the association. I've been contracted with the homeowners

1 association for several years" or whatever and just went through
2 this little whatever, on, and on, and on, and on, and on but he
3 never gave a definitive reason as to why he was sending it back.

4 Q Okay. If I understood your testimony just a moment ago,
5 though, you did receive notice of the total amount due prior to
6 submitting that check for \$660.00 to the association?

7 A \$805.00.

8 Q And the amount of your check was less than the amount listed
9 on that notice?

10 A It was \$660.00 because Mr. Yarborough deemed that was
11 appropriate.

12 Q But for purposes of the record, \$660.00 is less than the
13 \$805.00 that was listed in the letter?

14 A Less than \$200.00.

15 Q It is less than the total amount that was listed on the
16 letter?

17 A Yes.

18 Q Regarding the pictures that were being discussed -- I didn't
19 jump up to come up so forgive me just for looking at them -- but
20 this one we did cite a picture of May 30, 2010. To the best of
21 your knowledge, is it still raining in that picture? And by
22 that, I'm looking to the drops on the top of the actual standing
23 water, and it appears that it is still raining during that period
24 of time.

25 A I'm not sure. I don't think it was raining -- it was still

1 raining. I honestly don't. I just think the water looks that
2 way. I don't think it was still raining because I'm not going to
3 be standing outside in the rain holding a camera. That's very
4 dangerous.

5 Q So, you don't recall taking any picture during an actual
6 period of rain?

7 A Excuse me?

8 Q You don't recall taking any of those pictures when it was
9 actually raining?

10 A No, it wasn't.

11 Q Okay. As far as the value -- the testimony you just
12 provided regards the possible depreciation of value, do you have
13 any written market analysis or documentation for that
14 depreciation in your home value?

15 A I don't have anything with me today.

16 Q Okay. That's my question. Are you aware of any county or
17 state agency citing the builder or any party for violating any
18 county or state code for how the property was graded or how the
19 water currently drains off the property?

20 A I'm not aware of that, but let me clarify something. I do
21 note in the records that Greenville County noted that there were
22 existing drainage problems in our backyards. They noted that in
23 the documents that there were existing drainage issues. That was
24 noted.

25 Q And so---

1 A Before they started developing homes out there, Mr. Hedrick
2 had notice that there were existing drainage issues in our
3 backyards.

4 Q I may have overlooked something. Has your attorney
5 presented any documentation that has that documentation in it?

6 MS. TALLEY: Not from Greenville County, Your Honor.

7 A Yes, because I did provide that to them and I think that was
8 one of the first things they actually sent.

9 Q I know you did -- if I understood your testimony correctly,
10 you mentioned the LLR, the state Labor, Licensing and Regulation.

11 A Yes.

12 Q I would like for you to identify this document for the
13 Court.

14 A That is LLR, Office of Investigation and Enforcement.

15 Q Okay. Is it an inspection report?

16 A Yes, it is.

17 Q Okay. Who is the complainant listed on there?

18 A I am the complainant.

19 Q Did you make a complaint to LLR?

20 A Yes, I did.

21 Q Was your -- did your complaint involve the drainage issue
22 you were allegedly having?

23 A Yes.

24 Q Okay. In the lower portion of the page, what is the report's
25 notation on the drainage issue after the inspection was

1 completed?

2 A He stated that the investigator's observation: No
3 violation. Grade at foundation is within the IRC tolerance. But
4 let me be clear on something. I spoke with him at great length,
5 and he stated that, "We can't go after the builder. You would
6 have to sue him."

7 Q In terms of the content of the actual report, in the
8 inspection report, what you stated is the only report regarding
9 drainage?

10 A The Better Business Bureau also came out too and took a look
11 at it.

12 MR. BROWN: Your Honor, if there's no objection to the
13 inspection report, I would like to enter that as a Plaintiff's
14 exhibit.

15 MS. TALLEY: No objection, Your Honor.

16 BY THE COURT: What exhibit is that going to be, Wanda?

17 THE COURT REPORTER: This will be Exhibit No. 9.

18 BY THE COURT: All right. Thank you.

19 (LLR Inspection Report dated April 12, 2010 entered into
20 evidence as Plaintiff's Exhibit No. 9)

21 Q Just one final question, Ms. Boyd. Are you aware of any
22 provision within the Restrictive Covenants for the Townes at
23 Pelham Property Owners Association that would give you the right
24 to withhold your assessments for any reason?

25 A I don't understand your question.

1 Q Is there anything within the Covenants, any rule, exemption,
2 waiver granted a property owner for not paying their assessments
3 for any reason?

4 A I'm not aware of that, but I'm also aware in the Covenants
5 where it states that when you have an issue to avoid protracted
6 litigation we are supposed to meet and try to come together and
7 resolve the issue. I have been trying to come together and meet
8 with the Homeowners Association since 2009 and, unfortunately,
9 that has not been the case. As a matter of fact, Ms. Darlene
10 Miller even brought up to the board, "Why don't we just sit down
11 and speak with her? Let's resolve this. We shouldn't," you
12 know, "incur anymore expenses. Let's do it." And she was
13 advised -- she said she would come and meet with me and they
14 said, "Well, we're not going to do it unless one of us are
15 willing to come along and we don't want to do it."

16 Q Thank you. You have answered my question, Ms. Boyd. Thank
17 you.

18 A Thank you, sir.

19 BY THE COURT: All right. Any other questions, Ms. Talley?

20 MS. TALLEY: Yes, just two more.

21 **REDIRECT EXAMINATION BY MS. TALLEY:**

22 Q Ms. Boyd, look through the pictures and look at the standing
23 water and I just want to clarify, have you seen standing water
24 around your property and behind your property that has lasted for
25 longer than 48 hours?

1 A Yes, definitely.

2 Q It is your understanding HOA dues take care of a lot of the
3 common areas, correct?

4 A Uh-huh (affirmative).

5 Q Isn't it true that your---

6 THE COURT REPORTER: Is that a yes or a no?

7 A Yes. I apologize.

8 Q Are you now receiving bills that were previously to be paid
9 for HOA dues directly? Are you now receiving those?

10 A Yes, I am.

11 Q Are you current on those as far as the ones that you have
12 received?

13 A Well, I haven't been here. I haven't been here, but I did
14 receive something last week regarding trash pick up.

15 Q So, they are now sending those bills directly to you?

16 A Yes.

17 MS. TALLEY: No more questions.

18 BY THE COURT: All right. Thank you, ma'am. You can step
19 down.

20 THE WITNESS: Thank you, sir.

21 (witness excused)

22 BY THE COURT: Ms. Talley, you can call your next witness.

23 MS. TALLEY: We would call Luke Drevets to the stand,
24 please.

25 BY THE COURT: Sir, if you would come around to the witness

1 stand, please.

2 **LUKE A. DREVETS**, BEING FIRST DULY SWORN, TESTIFIED AS
3 FOLLOWS:

4 BY THE COURT: Thank you. Come around and have a seat,
5 please.

6 If you'll state your full name and spell your last name.

7 THE WITNESS: Luke Anders Drevets, last name is spelled D-r-
8 e-v-e-t-s.

9 BY THE COURT: All right. Your witness.

10 **DIRECT EXAMINATION BY MS. TALLEY:**

11 Q Mr. Drevets, I'm Michanna Talley, one of Ms. Donna Boyd's
12 attorneys, and I have just a few questions for you.

13 A Sure.

14 Q If you need me to rephrase them, just let me know.

15 A Sure.

16 Q What is your relationship to the Townes at Pelham?

17 A I am a current resident, and I was a former president of the
18 HOA.

19 Q When were you president?

20 A I was in the first inaugural board which, I think, was in
21 '07. It was either '06 or '07. And then I was elected again a
22 second term, but I cut that off and resigned in July of '09.

23 Q Okay. During your time as president, even after you had
24 gotten off the board, has Ms. Boyd ever brought to your attention
25 any drainage issue that she was having on her property?

1 A After I was on the board, no, there was no more
2 communications. There were a couple emails regarding posts.
3 There was a late email but I think it came late by delivery
4 through the email service. I'm not exactly sure.

5 Q Look at Defendant's Exhibit 3, please. Is that an email
6 that you wrote to Ms. Boyd and you cc'd several persons including
7 Eric Hedrick?

8 A Yes. That's from my email address. That's correct.

9 Q And the date on that email?

10 A Yes, June 15, 2009.

11 Q Okay. Did you send that email that you received from Mr.
12 Hedrick, you then forwarded that to Ms. Boyd; is that correct?

13 A That is correct.

14 Q The topic of that email is regarding the drainage issue that
15 she was having on her property; is that correct?

16 A Let me read it real fast.

17 Q Okay.

18 A Yes.

19 Q If you could look at Defendant's Exhibit 4.

20 A Okay.

21 Q Is that an email that you, yourself, wrote?

22 A That is.

23 Q Okay. What does this email relate to?

24 A I had talked to -- either we had talked over the phone, in
25 person or through email where she had addressed her issues that

1 she had with the drainage and then whenever we're in contact with
2 the resident, we're then in contact with the property manager.
3 So, if the property manager receives something, he then sent it
4 to the board and vice versa so that everybody was on the same
5 page.

6 Q So, this email states her issues. Did you bring that to Mr.
7 Hedrick's attention?

8 A Yes.

9 Q Then based on your recollection, what was done to correct
10 that?

11 A Well, she sent multiple, some different issues. There was --
12 the first one I recall is I went with her when it was actually
13 storming out and it was raining. We were witnessing to see all
14 of the rain because her property slopes with another slope
15 abutting it and then the common property would get wet and the
16 question is: How much of that water was standing would be an
17 issue? But we also noticed the roof next to her, her neighbor,
18 some of the upper, either the second or third story roof's water
19 would collect and drain onto hers which would then put more than
20 was necessary for her house. So, that was one of the issues.
21 So, then I believe Eric came through and created a little pipe to
22 get it away from the house and get it towards the front so it
23 wouldn't collect on the side because you already had the issues
24 with that berm there where the water would drain off there.

25 The other things that, if I recall this correctly, there

1 was, I don't remember how many drip lines because there's
 2 shrubbery that goes above that as well and then the drip lines
 3 would keep those going. Eric removed a couple of the drain lines
 4 so that she would have less chance of that water draining down
 5 towards that side. I think they've added sand in that area. I
 6 don't know if there's any other major area of things that were
 7 done that I can recall.

8 Q Based on your personal knowledge, have those issues actually
 9 been corrected? I know you stated some of the work that he did
 10 to try to address them, but have they actually been corrected
 11 based on your personal knowledge?

12 A To my understanding the HOA and the property manager
 13 corrected what they are required to take care of. Now, that's
 14 still an outstanding drainage issue, but that's coming down more
 15 to the grading of the property and how it's settled and that.
 16 So, that's probably still going on. After I resigned I didn't go
 17 over there. I no longer had a right to be on that property
 18 looking at it. So, I stayed away from it.

19 Q I understand. The property manager, do they have anything
 20 to do with whether or not potential regrading needs to be done?

21 A That would be -- if it's on common property -- see, the
 22 issue was there was no standing water according to the Code. If
 23 I understand this correctly, it has to be there for 48 hours for
 24 them to act, but the problem is it would soak but it would no
 25 longer be standing. So, it would be very, very soggy. So, every

1 time you mowed the lawn or something, the wheels are going to dig
2 holes or whatever, but it was on more of the common property.
3 So, I think that the property manager did what they were supposed
4 to do. The HOA cooperated with that. The problem is that
5 nothing else as far as grading would be done because of the cost
6 that that would do and then that would also be doing something
7 above and beyond for one property owner versus everyone else.
8 So, financially, I don't even see how that was feasible.

9 Q Okay.

10 A Maybe if the builder came back and did that, since they did
11 the original grading, that would have been helpful.

12 Q While you were president, was there ever a contract between
13 the board and Mr. Hedrick to be the property manager?

14 A He was already the property manager when the -- when we were
15 first appointed and then it was up to the first board whether we
16 wanted to retain him. So, that was one of the first issues we
17 had to resolve. We had no issue with him maintaining and being
18 that. He also was a landscaper. So, that also would determine
19 whether we would keep his services or not. All of the board
20 voted unanimously to keep him in those positions.

21 Q So, prior to that, based on your knowledge, there was no
22 written contract between the board and Mr. Hedrick.

23 A The board wasn't in existence yet. So, he was in that
24 position based on the original developers and the Declaration and
25 Protective Covenants and who they assigned as the property

1 manager at that point in time.

2 Q Okay.

3 A It's my understanding that's also consistent with
4 subdivisions in South Carolina.

5 Q Okay. I just want to make sure he was there before the
6 board and y'all---

7 A That's correct. He's the one that gathered everybody to do
8 the annual meeting, to do the first one. You have to have -- for
9 your first annual meeting you have to have a certain percentage
10 of the units to be filled by property owners because at that
11 point the builders or developers, I don't understand the proper
12 -- who owns what -- but they own a majority vote over the
13 homeowners up until they get to a certain ownership. So, until
14 that's met, then they exist up to that point and then the HOA
15 takes over once enough homeowners are now in ownership.

16 Q Just to verify something you said previously, you stated
17 that after 48 hours there was no more standing water but the area
18 would still be soggy, correct?

19 A It would be soggy but it's not defined as standing water
20 according to the Code.

21 Q But if you tried to cut the grass or something like that---

22 A Because it was soggy, you would then take a divot out
23 because of the weight. So, it was -- it could have used more
24 land but again this is hitting that common property though.

25 Because of the townhomes and how they are -- do we have a map, a

1 survey or anything to look at? Here's something. No. Well, I'll
2 try -- actually, it might be in the Protective Covenants in the
3 back. No, it's not.

4 Q I have a plat that was introduced but I'm not sure.

5 A Well, anyway, if you're on an end unit in the subdivision,
6 you only get so many square feet going out away from the property
7 and then everything else is common property. So, her edge would
8 still be sloping down but then the berms come in there. So, you
9 have that flat level but the flat level would be on the common
10 property is my understanding but because it's at an angle, if
11 that lawn mower clips that, that's going to create a little divot
12 there which then sand would have to fill or something else like
13 that.

14 Q So, the soggy areas were in the common areas?

15 A To my understanding, yes.

16 Q And HOA dues, from your understanding, are to maintain
17 common areas; is that correct?

18 A Well, it's to -- yeah, everything involved in the property,
19 common property, maintenance, landscape, everything involved on
20 the property.

21 Q Okay.

22 MS. TALLEY: We have no more questions for this witness.

23 BY THE COURT: Your witness.

24 **CROSS-EXAMINATION BY MR. BROWN:**

25 Q Good morning. Mr. Devets, I'm Chris Brown. I'm with the

1 Babb & Brown Law Firm. I currently represent the Townes at
2 Pelham Property Owners Association. I just have a couple
3 questions. Nice to meet you.

4 A Yes, sir.

5 Q I understood you served as president in 2007 to 2009, a
6 portion of 2009?

7 A Yes. I resigned on July 8th of 2009.

8 Q Did I understand you to testify, you have not been back to
9 Ms. Boyd's property or on her property since you resigned as
10 president?

11 A That is correct. Yes.

12 Q So, you don't have any firsthand knowledge of any drainage
13 issues or irrigation issues with her unit since that time?

14 A No. I have no personal knowledge of that, no.

15 Q During your term as president -- let me rephrase that.
16 During the period of time you were on the Board of Directors for
17 the Association--

18 A Yes, sir.

19 Q --Mr. Eric Hedrick served as the -- or his company served as
20 the property manager for that entire period of time?

21 A That's correct.

22 Q To the best of your knowledge, did he always act on the
23 board's authorization as their agent during that period of time?

24 A Yes, he did.

25 Q Would he have acted within his scope of authority during

1 that period of time?

2 A Yes, he did.

3 Q You mentioned the fact that you received or communicated
4 with Ms. Boyd as a board on several occasions?

5 A Yes.

6 Q As a board, as with any homeowner, did you make an effort to
7 respond to any problems or issues presented to you by property
8 owners within the Association?

9 A Yes, sir.

10 Q Did you respond in that same manner as to Ms. Boyd as a
11 property owner?

12 A Yes.

13 Q We've talked about the standing water and the drainage
14 around her unit. During your period of time, 2007 to 2009, do
15 you feel like the board took all remedial actions they were
16 required to take?

17 A I think they went above and beyond what's typical in this
18 situation. Yes.

19 Q I have no further questions. Thank you, Mr. Drevets.

20 BY THE COURT: Any other questions?

21 MS. TALLEY: No, Your Honor.

22 BY THE COURT: All right. May this gentleman be excused?

23 MS. TALLEY: Yes, Your Honor.

24 BY THE COURT: All right. Any objection?

25 MR. BROWN: No.

1 BY THE COURT: All right. Thank you, sir.

2 THE WITNESS: We get to go or do we need to---

3 BY THE COURT: You can go or you can stay.

4 THE WITNESS: I'm going to go.

5 BY THE COURT: All right.

6 (witness excused)

7 BY THE COURT: You can call your next witness.

8 MS. TALLEY: We would like to call Ms. Miller to the stand.

9 BY THE COURT: Is that a witness that's outside?

10 MS. TALLEY: Yes. She should be outside.

11 BY THE COURT: All right. Mr. Bond, will you go find that
12 witness, please, sir?

13 THE BAILIFF: What's her name?

14 BY THE COURT: It's Ms. Miller?

15 MR. TALLEY: Darlene Miller.

16 BY THE COURT: If you would come around over this way,
17 please.

18 **DARLENE DENT**, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 BY THE COURT: Thank you. Come around and have a seat,
20 please. (complies)

21 And if you'll state your full name.

22 THE WITNESS: Darlene Dent.

23 BY THE COURT: I'm sorry. Last name?

24 THE WITNESS: Dent, D-e-n-t.

25 BY THE COURT: Okay. Thank you.

1 All right. Your witness.

2 **DIRECT EXAMINATION BY MS. TALLEY:**

3 Q Ms. Dent, my name is Michanna Talley, one of Ms. Boyd's
4 attorneys. Just a couple questions for you. If I need to
5 rephrase them, please let me know.

6 A Okay.

7 Q What is your relationship with Townes at Pelham?

8 A I actually live in Townes at Pelham.

9 Q Did you have any previous dealings with the board or any
10 positions on the board previously?

11 A Yes. I was on the board. Maybe -- I think it was maybe
12 four years ago.

13 Q And what was your position?

14 A As president.

15 Q According to your knowledge and while you were on the board
16 was Mr. Hedrick ever contracted to be the property manager at
17 Townes at Pelham?

18 A He was the property manager. I'm not sure what you're
19 asking.

20 Q During your time on the board, was Mr. Hedrick the property
21 manager at Townes at Pelham?

22 A Yes, he was.

23 Q Was there a written contract for him to be the property
24 manager of Townes at Pelham?

25 A Yes. I think I remember there being one. I was on the

1 board a short period of time.

2 Q Okay. What time was that if you can -- to the best of your
3 recollection?

4 A I'm going to tell you, I can't remember exactly. I think it
5 was about four years ago.

6 Q So, roughly 2009, 2010 or would it be more than that?

7 A Maybe 2009. I'm not exactly sure, maybe for a few months.

8 Q During that time were you ever aware of any nonpayment of
9 HOA dues by Ms. Boyd?

10 A Yes, I was.

11 Q At any time did you receive a check from Ms. Boyd that was
12 supposed to go towards her HOA dues that were due?

13 A A check?

14 Q Did you ever receive a check from Ms. Boyd but through her
15 attorney, Mr. Yarborough?

16 A That's been a long -- I don't remember. If I did, I don't --
17 I mean, I don't remember exactly.

18 Q Okay. When you were president, was there any time that you
19 personally received the HOA dues and then would turn them over to
20 Mr. Hedrick?

21 A No.

22 Q So, the HOA dues while you were president went directly to
23 him; is that correct?

24 A It went to the P.O. box and then to Mr. Hedrick and into the
25 bank. We all monitored that.

1 Q Okay. During your time on the board was there ever an audit
2 that was done regarding the board and its contract?

3 A Now, I remember hearing about it, but I wasn't on there at
4 that time. No. I don't -- I might have been gone when that all
5 took place. This has been four years ago. I can't really
6 remember what all took place because it was for a short period of
7 time that I was on the board.

8 Q So, you're saying that during your time on the board, when
9 you were president, you don't recall any time there being an
10 audit?

11 A I remember hearing about it, but I don't know if it actually
12 -- when it took place or anything like that.

13 Q So, when you heard about it, you were no longer president of
14 the board?

15 A No. I heard about it when I was still on the board, but I
16 don't know if it took place -- if it was something that took
17 place before I came on or if it was after I left off. I do
18 remember hearing that they were asking for an audit or they had
19 just did an audit. It's been a long time.

20 Q Okay. So, just to clarify, while you were on the board, you
21 never took part in an audit?

22 A Did not, no.

23 Q Just a couple more questions. Regarding this audit -- I
24 know you say you don't remember when it happened, you didn't take
25 part in it as far as you can recollect -- did you ever receive a

1 copy of any audit after it was done, any paperwork that was
2 generated during the audit?

3 A Not that I can recall.

4 Q So, you do not recall giving a copy of that to Ms. Boyd?

5 A I don't remember. I can't say for sure no and I can't say
6 yes.

7 Q Okay.

8 A It's been a while. I mean, that's all I can tell you. It's
9 been years ago.

10 MS. TALLEY: We have no more questions for this witness.

11 BY THE COURT: Any questions?

12 MR. BROWN: None, Your Honor.

13 BY THE COURT: All right. Can this nice lady be excused?

14 MS. TALLEY: Yes, Your Honor.

15 BY THE COURT: You are free to go or you can stay.

16 THE WITNESS: Thank you.

17 BY THE COURT: Yes, ma'am.

18 (witness excused)

19 BY THE COURT: You can call your next witness.

20 MS. TALLEY: We have no more witnesses, Your Honor.

21 BY THE COURT: Anything else from Plaintiff?

22 MR. BROWN: Your Honor, due to the fact that we did have the
23 cross-claim and those allegations pending and what has been
24 raised during Ms. Boyd's testimony, I would ask the Court's
25 permission just to call the current board president and ask just

1 a few questions.

2 BY THE COURT: All right.

3 MR. BROWN: That's Ms. Charlotte Tashman. I'll need to go
4 get her.

5 BY THE COURT: Yes, sir. If you would come around over here,
6 please, ma'am.

7 **CHARLOTTE TASHMAN, BEING FIRST DULY SWORN, TESTIFIED AS**
8 **FOLLOWS:**

9 BY THE COURT: Thank you. If you would come around and have
10 a seat, please. (complies)

11 If you'll state your full name.

12 THE WITNESS: Charlotte Tashman.

13 BY THE COURT: Last name?

14 THE WITNESS: Tashman, T-a-s-h-m-a-n.

15 BY THE COURT: All right. Your witness.

16 **DIRECT EXAMINATION BY MR. BROWN:**

17 Q Thank you. Ms. Tashman, I know we have met but I'm Chris
18 Brown and I'm going to ask a few questions of you. Are you
19 currently serving as a member of the Board of Directors for the
20 Townes at Pelham Homeowners Association?

21 A Yes.

22 Q How long have you been serving on the board?

23 A Since 2008.

24 Q Do you currently hold an office for the board?

25 A President.

1 Q How long have you been serving as President?

2 A About four years.

3 Q Has Cornerstone Realty, owned and operated by Mr. Eric
4 Hedrick, served as your property manager during that period of
5 time?

6 A Yes.

7 Q To the best of your knowledge, has he always acted within
8 his scope of authority on the board's behalf?

9 A Yes, he has.

10 Q Are you aware of Ms. Donna Boyd having made a complaint to
11 the board regarding drainage for her property?

12 A Yes.

13 Q To the best of your knowledge, did the board members address
14 that issue at that time?

15 A Yes, we did.

16 Q And how did you address that issue?

17 A We gave it to Eric and Eric took care of it.

18 Q To the best of your knowledge did the board feel like that
19 they -- let me retract that partial question. Were you aware of
20 an estimate for work that Ms. Boyd had -- a proposal that she had
21 from an independent company about work to be done for the
22 property?

23 A Yes.

24 Q Did the board feel it was their responsibility to do that
25 work?

1 A No.

2 Q You have an opportunity -- does Mr. Hedrick normally attend
3 the board meetings that you have?

4 A Yes.

5 Q Does he present the financials to the board?

6 A Yes, he does.

7 Q Do you have an opportunity as board members to review those?

8 A Yes. The secretary takes care of it. She reviews it. I
9 mean, the treasurer. I'm sorry.

10 Q Are you aware of an audit having been completed at some
11 point in the past?

12 A Yes.

13 Q Do you recall approximately when that was done?

14 A I really don't remember the exact date when it was done.
15 No.

16 Q Do you recall any irregularities with that audit report?

17 A No.

18 Q None at all?

19 A I don't recall any.

20 Q Are you aware of Eric Hedrick ever acting unethical as an
21 agent for the Association?

22 A Never.

23 Q Are you aware of any board member breaching its fiduciary
24 duty to the Association?

25 A Pardon me?

1 Q Are you aware of a board member ever doing something outside
2 of what they were charged or responsible for doing under the
3 Covenants?

4 A No, I don't.

5 Q Have the board members you've served with, including
6 yourself, always represented the Association and its interests to
7 the best of your ability?

8 A Yes.

9 MR. BROWN: I have no further questions.

10 BY THE COURT: All right. Your witness.

11 **CROSS-EXAMINATION BY MS. TALLEY:**

12 Q Your name is Ms. Tashman; is that correct?

13 A Yes.

14 Q I just wanted to make sure I'm pronouncing it correctly. I
15 am Michanna Talley, one of Ms. Boyd's attorneys. I just have a
16 few questions for you.

17 A Uh-huh (affirmative).

18 Q You said that you've been the president for approximately
19 four years?

20 A Yeah, about that.

21 Q And during that time, were you -- you being on the board,
22 did you ever become aware of any drainage or irrigation issues in
23 Townes at Pelham?

24 A Well, I knew there were drainage issues. Donna had drainage
25 issues, but I know that it was taken care of as far as I know.

1 Q When you say "taken care of", the board told Mr. Hedrick
2 about it, correct?

3 A Yes.

4 Q And have you personally seen any drainage issues since then
5 in the community?

6 A No.

7 Q You were asked about a proposal that was submitted by Ms.
8 Boyd, and you stated that -- is this that proposal that you saw?

9 A For the drainage?

10 Q Yes.

11 A Yes.

12 BY THE COURT: What's the exhibit number for the record?

13 MS. TALLEY: That is Defendant's Exhibit 9.

14 BY THE COURT: All right.

15 Q And did the board take the time to look at that proposal?

16 A Yes, we did.

17 Q I believe you stated that you did not feel that was work
18 that needed to be done?

19 A Right.

20 Q And that was a decision made by a quorum of the board?

21 A Yes.

22 Q When the board looked at that proposal and decided that no
23 work needed to be done, how did you get that information? Did
24 Mr. Hedrick tell you he didn't feel that that was work that
25 needed to be done?

1 A No, not outright he didn't. We just all thought that it
2 wasn't necessary to have it done.

3 Q Okay. Do any persons on the board, do they have any
4 expertise in drainage or irrigation?

5 A I don't know.

6 Q But you do not; is that correct?

7 A No, I don't.

8 Q So, as a board you decided that it didn't need to be done
9 but you didn't get any other opinions on it from any expert?

10 A No.

11 MS. TALLEY: We have no more questions.

12 BY THE COURT: Any other questions?

13 MR. BROWN: One second, Your Honor. Your Honor, I do not
14 have any other questions for Ms. Tashman.

15 BY THE COURT: All right. Thank you, ma'am. You can step
16 down.

17 (witness excused)

18 MR. BROWN: It has been brought to my attention that the
19 witness that was not here earlier, Mr. Eric Rodman -- which I
20 think due to the fact the allegations raised about the drainage
21 -- he is with Ryan Homes -- and just has a few brief questions I
22 would like to put on the record. I mean, very brief, even less
23 than Ms. Tashman. I would like the Court's permission to do so.
24 He is right outside.

25 BY THE COURT: All right. Any objection?

1 MS. TALLEY: . No, Your Honor.

2 BY THE COURT: All right.

3 **ERIC TRENT RODMAN**, BEING FIRST DULY SWORN, TESTIFIED AS
4 FOLLOWS:

5 BY THE COURT: Thank you. Come around and have a seat,
6 please. (complies)

7 THE WITNESS: Okay.

8 BY THE COURT: If you'll state your full name.

9 THE WITNESS: Eric Trent Rodman.

10 BY THE COURT: Will you spell your last name for the record,
11 please?

12 THE WITNESS: R-o-d-m-a-n.

13 BY THE COURT: All right. Thank you.

14 **DIRECT EXAMINATION BY MR. BROWN:**

15 Q Mr. Rodman, I'm Chris Brown with the Babb & Brown Law Firm.
16 I represent the Townes at Pelham Property Owners Association, and
17 I have a couple questions for you this morning. Currently,
18 though, if you would ask -- if you would state for the record
19 where are you currently employed?

20 A NVR which is Ryan Homes.

21 Q How long have you been employed with NVR or Ryan Homes?

22 A 16½ years.

23 Q Were you employed with Ryan Homes when the Townes at Pelham
24 Community was being built?

25 A I was.

1 Q The subject property of today's hearing is property owned by
2 Ms. Donna Boyd, lot 1 of that community. Are you familiar with
3 that property?

4 A I am.

5 Q I would like to hand you, Mr. Rodman, if you would identify
6 that document for the Court.

7 A It looks like it's some pages from our homeowner's manual.

8 Q Okay. Specifically, what pages -- and I'm not sure that
9 they are numbered.

10 A They are. It looks like it's 26, 27, and 28, and 29 and the
11 coversheet.

12 Q There has been testimony this morning, Mr. Rodman, that
13 there is a potential or an alleged drainage issue with Ms. -- on
14 or surrounding Ms. Boyd's property. Are you aware of any
15 drainage issues with her property?

16 A We don't think so. No. She's had some concerns about it
17 and addressed with us, but we do not believe there's any drainage
18 issues.

19 Q Have you or any -- to the best of your knowledge, have you
20 or any member of your company inspected the property regarding
21 this issue?

22 A Yeah, I have. I've been out there several times just to
23 observe it.

24 Q Could you state for the Court what your -- just briefly,
25 what your observations were when you observed the property?

1 A Yeah. It was draining correctly. The state has a standard
2 for, you know, how quickly it should drain. It was following
3 those standards that the state has established.

4 Q Did -- at any point did you or Ryan Homes make a
5 determination that you needed to take remedial action to correct
6 any problem?

7 A No. We never made any -- there were no actions ever needed.
8 We never did anything.

9 Q Are you aware of any complaints being filed against Ryan
10 Homes regarding this issue?

11 A Yeah. We had been notified by the LLR -- the Labor,
12 Licensing and Registration Board out of Columbia. It's kind of
13 the portion of the state that kind of watches over homeowner
14 concerns -- and they asked us to come out and take a look at it.
15 She had asked them. So, they notified us as well and asked us to
16 come out to the property just to review it altogether.

17 Q So, you actually -- did you meet on the property with
18 representatives of LLR?

19 A It was very briefly but we did.

20 Q Were you cited for any violations during that inspection?

21 A We were not.

22 Q Have you ever been cited for any violations of county or
23 state Code regarding the drainage on this property?

24 A We have not.

25 Q I have no further questions.

1 A Okay.

2 Q But if you will, just remain on the stand and answer any
3 questions the defense or the Judge has for you. Thank you.

4 A Okay.

5 BY THE COURT: All right. Your witness.

6 **CROSS-EXAMINATION BY MS. TALLEY:**

7 Q My name is Michanna Talley. I am one of the attorneys for
8 Ms. Donna Boyd.

9 A Good morning.

10 Q I understand that you have been employed by Ryan Homes for
11 approximately 16 years; is that correct?

12 A That's right.

13 Q And you stated that you came out to Ms. Boyd's property at
14 Townes at Pelham and did an inspection?

15 A That's right.

16 Q You said you spent a very small amount of time there.
17 Approximately how long did it take for you to do your inspection?

18 A The time I was referring to was when the LLR had come out.
19 We were there a brief period of time. The times I had come out
20 before was maybe 5, 10 minutes just to walk around the property
21 and just observe the drainage areas.

22 Q When you came out, did you ever see any standing water?

23 A I didn't. You know, I would snap some pictures that I had.
24 At the times that I was out there, we had -- I had never observed
25 any standing water myself.

1 MS. TALLEY: I want to enter into evidence, a letter from
2 Ryan Homes that I'll have the witness to verify.

3 THE COURT REPORTER: This will be Defendant's No. 10.

4 (Ryan Homes Letter dated March 30, 2010 entered into
5 evidence as Defendant's Exhibit No. 10)

6 A Okay.

7 Q If you will get that letter and let me know is that -- Ryan
8 Homes, is that their letterhead?

9 A Yeah, it is.

10 Q And who is that letter from?

11 A It's from Steve Berling, the former Division Manager for
12 Ryan Homes.

13 Q So, he's not there now but he was?

14 A Correct.

15 Q Okay. And that letter was to the LLR; is that correct?

16 A That's correct. That was, I believe, the investigator who
17 was sent out by the LLR.

18 Q Okay. If you could for me--

19 A Yeah.

20 Q --this paragraph, if you could start reading from there
21 until the end of the paragraph, please.

22 A "The common area is owned"?

23 Q Right there.

24 A "Ryan Homes did not grade or landscape the common area.

25 Ryan Homes does not maintain this common area or the irrigation

1 system that serves it. Ryan Homes has no responsibility for the
2 common area."

3 Q So, that letter states that y'all are not responsible for
4 maintaining the property, that it's somebody else's
5 responsibility. Y'all did not do the grading, correct?

6 A Right.

7 Q So, none of that is your responsibility?

8 A Correct.

9 Q That falls on someone else?

10 A The common -- yeah, the HOA common area, that's right.

11 Q Thank you.

12 BY THE COURT: I may have just missed something. Was Ryan
13 Homes the general contractor on the project?

14 THE WITNESS: We were. We built the homes. The developer
15 develops the site and then we buy lots from the developer.

16 BY THE COURT: Okay. All right. Any other questions?

17 MR. BROWN: Your Honor, I think I may have failed to ask
18 that that portion of the home warranty be entered as a
19 Plaintiff's exhibit. If there's no objection, I would like to
20 put that in.

21 MS. TALLEY: No objection.

22 (Ryan Homes Homeowner's Manual entered into evidence as
23 Plaintiff's Exhibit No. 10)

24 BY THE COURT: All right. Let me go back -- good lawyers, as
25 we certainly have here -- sometimes raise even more interesting

1 questions. Are you saying that based on your inspection there
2 was not an issue with the drainage or that it was irrelevant to
3 Ryan whether or not there was an issue because Ryan wasn't
4 responsible for it? You understand the distinction?

5 THE WITNESS: I do. There's property and there's stuff
6 that's off the property that we were responsible for. So, I guess
7 I'm saying both. I didn't see any problems there, but I believe
8 the problems that she had concerns about were off of her
9 property. Her property that I was responsible for, that Ryan
10 Homes was responsible for, didn't have any problems. In my
11 opinion, the area is slightly off the property. I didn't -- they
12 fell within the same state guidelines. They were draining within
13 the guidelines of the state. So, I didn't see any problems there
14 either.

15 There was one issue earlier on where the HOA, there was an
16 irrigation head that was accidently broken probably at some point
17 and we just notified them of that because we had been called out
18 and said, "Hey, there's a broken sprinkler head. You might want
19 to take a look at that." They got it fixed. But that was -- I
20 wasn't personally involved in that. The service department was.
21 But that was the only time that we saw that there was any issue.

22 BY THE COURT: Okay. All right. Thank you.

23 MR. BROWN: No further questions, Your Honor.

24 BY THE COURT: Any other questions?

25 MS. TALLEY: No further questions, Your Honor.

1 BY THE COURT: All right. Thank you, sir. May this
2 gentleman be excused?

3 MR. BROWN: Yes, Your Honor.

4 (witness excused)

5 BY THE COURT: Anything else then from Plaintiff?

6 MR. BROWN: No, Your Honor.

7 BY THE COURT: Anything else on behalf of the Defendant?

8 MS. TALLEY: No, Your Honor.

9 BY THE COURT: All right. Then what -- first, let me go over
10 a couple things. I appreciate both sides being here. I
11 understand lawsuits, they take a lot of time. They take a lot of
12 money, and they have a lot of emotional strings attached to it.
13 So, my job and responsibility now becomes to take the facts based
14 upon the evidence that was presented during the trial and apply
15 the law in the State of South Carolina to them which I will do.
16 And I hope to have a written Order out within 30 days at the
17 outside, and then the respective attorneys can certainly discuss
18 with the clients what the options are at that point. I do
19 appreciate the fine job done by the lawyers on both sides.

20 If I could have all of counsel go through the exhibits with
21 my court reporter just to make sure they are, in fact, staying a
22 part of the record as opposed to inadvertently going home in a
23 briefcase or a satchel.

24 All right. Thank you very much.

25 MR. BROWN: Thank you, Your Honor.

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(Whereupon, the hearing was concluded at 12:03 p.m.)

-----END OF TRANSCRIPT OF RECORD-----

1 The undersigned, Wanda E. Fudge, Court Reporter, Office of
2 Master in Equity for Greenville County, South Carolina do hereby
3 certify that the foregoing is a true, accurate and complete
4 Transcript of Record of all of the proceedings had and evidence
5 introduced in the hearing of the captioned case, relative to
6 appeal, before The Honorable Charles B. Simmons, Jr., as Master
7 in Equity for Greenville County, South Carolina on the 10th day of
8 January 2014.

9 I do further certify that I am neither of kin, counsel, nor
10 interest to any parties hereto.

11 May 6, 2014

12
13
14 Wanda E. Fudge

15 Wanda E. Fudge, CCR

16 Certified Court Reporter
17
18
19
20
21
22
23
24
25

103

2014-000701

103

WRITTEN ORDER

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF GREENVILLE

CASE NO: 2012CP2303686

IN THE COURT OF COMMON PLEAS

Townes At Pelham Owners Association Inc vs. Donna Boyd**CHECK ONE:**

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:☐ See attached order;☐ Statement of Judgment by the Court:**NOTICE**

This is a notice to you that an Order of Foreclosure in this case has been filed in the Clerk of Court's Office. To obtain a certified copy, you may contact our office by phone (864) 467-8551 or email a request to cnoblitt@greenvillecounty.org. If you would like a copy via email, please provide a valid email address.

Dated at Greenville, South Carolina, this 28th day of February, 2014.

Court Reporter:

PRESIDING JUDGE -*Bank of America*

J. Chris Brown Babb & Brown, P.C. 505 W. Butler Road Greenville, SC 29607

Genevieve Speese Johnson Butler and Hosch, P.A.
1201 Main Street, Ste. 1110 Columbia, SC 29201
Michael F. Talley Sr. 206 Green Avenue
Greenville, SC 29601

ATTORNEY(S) FOR THE PLAINTIFF(S)**ATTORNEY(S) FOR THE DEFENDANT(S)**

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

* Not Defendant Attorney *
* Bank of America sold *
Property to new Bank
(M + F) August 02 2013

STATE OF SOUTH CAROLINA
COUNTY OF
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2012- CP-23-3686

Townes at Pelham Owners' Association, Inc.

Donna Boyd

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: J. Chris Brown

Attorney for : ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order.

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the 28 day of Feb, 2014 and a copy mailed first class or placed in the appropriate attorney's box on this 28 day of Feb 2014 to attorneys of record or to parties (when appearing pro se) as follows:

J. Chris Brown

505 W. Butler Road

Greenville, SC 29601

ATTORNEY(S) FOR THE PLAINTIFF(S)

Michael F. Talley

206 Green Avenue

Greenville, SC 29601

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Townes at Pelham Owners'
Association, Inc.,
Plaintiff,

vs.

Donna Boyd, Bank of America, N.A.,
By Assignment from Mortgage
Electronic Registration Systems,
Defendants,

AND

Donna Boyd,
Third Party Plaintiff,
Vs.
Eric Hedrick, in his Individual and
Official Capacity as Owner or President
Of Cornerstone Realty, Inc. and
Cornerstone Realty, Inc.,
Third Party Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT
CASE NO.: 2012-CP-23-3686 ✓

**MASTER'S ORDER AND JUDGMENT
OF FORECLOSURE AND SALE**

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER
2014 FEB 28 PM 3 59

MASTER IN EQUITY'S ORDER AND JUDGMENT OF FORECLOSURE AND SALE

TO: J. Chris Brown
BABB & BROWN, P.C.
Attorneys for the Plaintiff and Third Party Defendants

INTRODUCTION

This action was originally filed by Plaintiff as a foreclosure of a Notice of Lien for non-payment of homeowners' assessments. The Defendant subsequently responded by filing an Answer and Counterclaim against the named Third Party Defendants. Pursuant to Rule 53, SCRCF, the matter was referred to the Master-in-Equity to make appropriate findings of fact and conclusions of law with authority to enter final judgment in the case.

ENTERED COMPUTER



Pursuant to the Order of Reference, a hearing was held on January 10, 2014. The Plaintiff was represented by its counsel, J. Chris Brown. ~~Property Manager, Eric Hedrick of Cornerstone Realty, Inc.~~ appeared on behalf of Townes at Pelham Owners' Association, Inc. The Defendant was present at the hearing and represented by her attorneys, Michael Talley and Michanna Talley. The Third Party Defendants, Eric Hedrick and Cornerstone Realty, Inc. were present and represented by their counsel, J. Chris Brown. At the hearing, testimony was taken on all the issues contained in the foreclosure action and Counterclaim. From the testimony and evidence presented at the hearing, I make the following findings of fact and conclusions of law:

FINDINGS OF FACT AS TO FORECLOSURE ACTION

1. This Court has jurisdiction and venue over this matter. The real property which is the subject of this litigation is located in Greenville County, South Carolina. The issue before the Court is the foreclosure of a lien against real property, a matter which is a matter of equity.
2. The Declaration of Covenants, Conditions and Restrictions for The Townes at Pelham allow for the foreclosure of liens for unpaid monthly assessments. The evidence clearly showed that assessments have not been paid by Defendant, Donna Boyd, allowing for the foreclosure.
- * 3. ~~The lien was filed on November 11, 2009.~~
- * 4. ~~The Summons and Complaint and Lis Pendens were filed on June 5, 2012.~~
~~Service was made upon the Defendants named in this report, as shown by the Affidavits of Service filed herein.~~ ? Intentionally Omitted
6. The Defendant, Bank of America, N.A., filed an Answer on December 6, 2012 but did not attend the hearing. What hearing?
7. The Defendant, Donna Boyd, filed an Answer and Counterclaim and Third Party Complaint against Defendants, Eric Hedrick and Cornerstone Realty, Inc. on December 31, 2012.

* no date of service

House sold to New Bank on Aug 02, 2013
 New Bank not given notice

8. The Third Party Defendants, ~~Eric Hedrick, Individually and as President of Cornerstone Realty, Inc.~~ filed an Answer to the Third Party Claims and Counterclaim on March 15, 2013.

9. ~~All parties herein and/or all attorneys of record were notified of the time, date, and place of the hearing in this matter.~~

10. According to the Affidavits filed herein, the Defendants are not in the military service of the United States of America, as contemplated under the Soldiers' and Sailors' Civil Relief Act of 1940, and any amendments thereto.

11. The titleholder of record in and to the subject property as of the filing of the Lis Pendens in this action is Donna Boyd.

12. ~~Based upon the testimony of Eric Hedrick as Manager of the Townes at Pelham Owners' Association, Inc.,~~ I find that payments due to the Townes at Pelham Owners' Association, Inc. have not been made since 2009 and the Defendant, Donna Boyd, is delinquent in the payments of her ~~homeowners' dues in the amount of \$4,070.00.~~

13. I find from the Declaration of Covenants, Conditions, and Restrictions for The Townes at Pelham which were admitted as evidence without objection that every owner is required to pay monthly dues and there are no provisions contained therein which allow an owner to unilaterally withhold payment.

14. I find based upon the testimony presented and the evidence submitted that Defendant, Donna Boyd, is delinquent in the payment of her monthly assessments and the Plaintiff has the right to foreclose its lien.

15. I find that since the inception of this action, ~~Plaintiff's attorney has assumed responsibility for the institution of this action and has searched and updated the title on the subject property from the date the current owner received the property to the date of the filing of the Lis Pendens.~~ He has been responsible for the preparation of the following pleadings in this contested matter:

- a. Lis Pendens;
- b. Summons and Complaint for Foreclosure of Lien;
- c. Affidavit of Non-Military Service;
- d. Responsive pleadings;
- e. Discovery;

* False
Bank
not notified
of Jan 10, 2014
hearing

FALSE
no title
search
IF title search
was conducted
that BOA was
not superior
title holder

- 109
- f. Order of Reference;
 - g. Preparation for and court appearance before Master in Equity;
 - h. Proposed Final Decree;
 - i. Other documents as applicable pertaining to service and finalization of this action.

Additionally, he has ~~arranged for service of process on the Defendants~~, has scheduled and attended a deposition and the hearing in this matter. Future duties include forwarding copies of the Decree to the Defendants, advising the Defendants of the date that the property will be sold, arranging and coordinating the amount to be bid by Plaintiff, representation of Plaintiff at sale and preparation of after sale documentation as required. In light of the potential liabilities inherent in a property matter and the attendant responsibilities, I find that the ~~attorney's fees~~ requested by the Plaintiff in the amount of ~~\$12,173.51~~ are reasonable given the contested issues which have been litigated in this action for over a year. *since 2009*

False

16. The amount due and owing to the homeowners' association, with interest at the rate provided in the Restrictive Covenants, and other costs and expenses of collection, including an attorney's fee, is as follows:

Principal balance and late fees due:	\$ 4,610.00
Interest:	4,512.84
~~Attorney's fees~~	~~12,173.51~~
Costs:	559.84

TOTAL DEBT

~~\$21,856.19~~

*Different in K
or Greater
what is pro*

After the date of judgment, interest at the rate of 18% on the total judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's debt secured by lien.

17. That the Plaintiff hereby specifically waives its right to a deficiency judgment in the event the sale of the real estate herein does not yield a sum sufficient to satisfy all indebtedness due unto the Plaintiff, including costs and attorneys' fees.

18. Since a personal deficiency judgment is being waived, the bidding will not remain open but compliance with the bid may be made immediately.

19. Defendant, Bank of America, N.A., by assignment from Mortgage Electronic Registration Systems holds a valid first mortgage on the property and the Plaintiff's lien is second and subsequent to the mortgage of Bank of America, N.A.

FINDINGS OF FACT AS TO THIRD PARTY COMPLAINT AND

COUNTERCLAIM

1. I find in regards to the Third Party Claims and Counterclaim filed against Plaintiff and Third Party Defendants the following:
 - a. There is a lack of sufficient evidence to prove the drainage issue was located on Defendant Boyd's property; thereby giving her standing to file the legal action against the property owners' association or either Third Party Defendant.
 - b. There is a lack of sufficient evidence to prove any amount of water consistently stood on her property for more than 48 hours.
 - c. There is a lack of sufficient evidence as to the proximate cause of drainage issues or to reasoning why the property owners' association and/or either Third Party Defendant would be responsible for the drainage issue.
 - d. There is lack of sufficient evidence that the property owners' Association or either Third Party Defendant was negligent in any manner.
 - e. Furthermore, I find even if the Plaintiff or either Third Party Defendant had been found liable for the drainage issue, there is insufficient proof of any damages.
2. As to the Defendant's, Donna Boyd, Counterclaim and Third Party Complaint, the Defendant, Donna Boyd, has failed to present credible evidence to this Court to support the Counterclaim or the Third Party Complaint. The burden of proof is upon the Defendant, Donna Boyd, as to the allegations set forth in the Counterclaim and Third Party Complaint. Donna Boyd failed to prove the elements of liability necessary for this Court to find in her favor on the Counterclaim or the Third Party Complaint as a matter of law.

FALSE
BOA
not superior
lien holder
at this
time

CONCLUSIONS OF LAW

I, therefore, conclude as a matter of law as follows:

1. The Plaintiff should have judgment of foreclosure of the lien and the property should be ordered sold at public auction after due advertisement.
2. The Defendant and Third Party Plaintiff did not meet the requisite burden of proof on any of the Third Party Claims or Counterclaim and, therefore, the Plaintiff and Third Party Defendants are not liable for any of the claims or damages alleged in the Third Party Complaint and Counterclaim.

IT IS THEREFORE ORDERED:

1. There is due to the Plaintiff on the obligation set forth in the Complaint, the sum of \$21,856.19 representing the "Total Debt" due Plaintiff, as set forth supra, together with interest at the rate provided therein from the date aforesaid to the date hereof.
2. The amount due in the preceding paragraph (the "Total Debt" as set forth supra and later accrued interest on the principal) shall constitute the total judgment debt due the Plaintiff and shall accrue interest hereafter at the rate of eighteen percent (18%) per annum.
3. That the Defendant is liable for the aforesaid homeowners assessment debt shall, on or before the date of sale of the property hereinafter described, pay to the Plaintiff, or Plaintiff's attorney, the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.
4. That on default of payment at or before the time herein indicated, the premises described in the Complaint, as hereinafter set forth, be sold by the Master in Equity at public auction at the Master's Courtroom, Greenville County Courthouse, Greenville,

6 

South Carolina, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on Tuesday next succeeding such holiday) on the following terms, that is to say:

- A. FOR CASH: The Master in Equity will require a deposit of 5% on the amount of the bid (in cash or equivalent), same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within twenty (20) days same to be forfeited and applied to the costs and Plaintiff's debt.
- B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 18%.
- C. The sale shall be subject to taxes and assessments, existing easements and easements and restrictions of record.
- D. Purchaser to pay for papers and costs of recording the Deed.
- 5. If Plaintiff be the successful bidder at the said sale, for a sum not exceeding the amount of costs, disbursements and expenses and the indebtedness of the Plaintiff in full, Plaintiff may pay to the Master In Equity only the amount of the costs, disbursements and expenses crediting the balance of the bid on Plaintiff's indebtedness.
- 6. Personal or deficiency judgment having been waived, the bidding will not remain open after the date of sale but compliance with the bid may be made immediately.
- 7. That the Master In Equity will, by advertisement according to law, give notice of the time, date, place of sale, and the terms thereof, and will execute to the Purchaser, or Purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and that if, upon such sale being made, the Purchaser or Purchasers should fail to comply with the terms thereof within twenty

7 

(20) days after date of sale, then the Master In Equity may advertise the said premises for sale on the next, or some other subsequent sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.

8. That should the Plaintiff, Plaintiff's attorney or agent, fail to appear on sales day, the property shall not be sold, and in that event, any such sale shall be null and void and of no force and effect; the property shall be re-advertised and sold at some convenient sales day thereafter when the Plaintiff, Plaintiff's attorney, or agent is present.

9. That the Master in Equity will apply the proceeds of the sale as follows:

FIRST: To payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court.

NEXT: To the payment of the balance due on the lien held by Plaintiff.

NEXT: Any surplus will be held pending further order of the Court.

10. IT IS FURTHER ORDERED that in the event the successful bidder is other than the Defendants in possession herein, the Sheriff of Greenville County is ordered and directed to eject and remove from the premises the occupants of the property sold, together with all personal property located thereon, and put the successful bidder or his assigns in full, quiet and peaceable possession of said premises, without delay, and to keep said successful bidder or his assigns in such peaceable possession.

11. IT IS FURTHER ORDERED that each Defendant and all persons whomsoever claiming under him, her, or them, be forever barred and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.

8



12. IT IS FURTHER ORDERED that the Deed of conveyances made pursuant to said sale shall contain the names of only the first named Plaintiff and the first named Defendant and the Defendant who was the titleholder of the property at the time of filing of this action, and the name of the Grantee, and the Register of Deeds or Master In Equity is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said Deed.
13. The Master in Equity will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance.
14. The Master in Equity shall direct the Register of Deeds to release of record the lien being foreclosed, after the Order Confirming Sale and Disbursements has been executed and filed, which lien is described as follows:

ALL that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Greenville, being shown and designated as Lot No. 1 of The Townes at Pelham as shown on a plat thereof being recorded in the Plat Book 1029 at Page 25 and being shown and designated on a new plat prepared by Sinclair & Associates, LLC for Donna Boyd, being recorded in Plat Book 67 at Page 8 and having, according to said plat, metes and bounds as shown thereon.

This being the same property conveyed to Donna Boyd by deed of NVR, Inc. dated January 7, 2008 and recorded January 9, 2008 in the Register of Deeds Office for Greenville County in Book 2308 at Page 734.

This being the same property conveyed to Donna Boyd by deed of NVR, Inc. dated January 7, 2008, and recorded January 9, 2008 in the Register of Deeds Office for Greenville County in Book 2308 at Page 734.

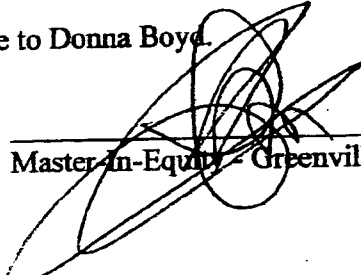
Tax Map #0540.45-01-028.00.

15. IT IS FURTHER ORDERED that if the Plaintiff or the Plaintiff's representative does not appear at the scheduled sale of the above-described property, then the sale of the property will be null, void, and of no force and



effect. In such event, the sale will be rescheduled for the next available sales day.

16. IT IS FURTHER ORDERED that since the Third Party Plaintiff failed to meet its burden of proof on all causes of actions raised in the Counterclaim and in the Third Party Complaint, the Counterclaim and all Third Party claims shall be dismissed with prejudice to Donna Boyd.


Master-In-Equity - Greenville County

Greenville, South Carolina

 2/10/2014

Date 

"Oral Ruling"

~~email~~ letter

From Attorney

dated February 10, 2014 

STATE OF SOUTH CAROLINA

COMPLAINT

P116.1

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

FILED-CLERK OF COURT

GREENVILLE CO. S.C.

Townes at Pelham Owners' Association, Incorporated, et al. vs. Donna Boyd, Bank of America, N.A., by Assignment from Mortgage Electronic Registration Systems, Inc.

PAUL B. WICKENS

CIVIL ACTION COVERSHEET

Plaintiff(s)

2012 JUN - 5 A 9 06

2012-CP-23-3686

vs.

Donna Boyd, Bank of America, N.A., by Assignment
from Mortgage Electronic Registration Systems,

Defendant(s)

(Please Print)

Submitted By:

Address: 505 W. Butler Road, Greenville, SC 29607

SC Bar #:

Telephone #: 864-422-0022

Fax #: 864-277-4007

Other:

E-mail:

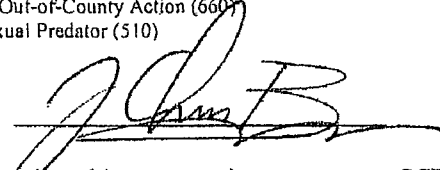
NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 ____-CP-_____
☐ Notice/ Fils Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☒ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (450)
☐ Other (499) Quiet Title
Action |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured
Settlement Payment Rights
Application (760)
☐ Other (799) | Administrative Law/Relief
☐ Reinstate Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Commission
(990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in
an Out-of-County Action (660)
☐ Sexual Predator (510) | | |

Submitting Party Signature: 

Date: 5/23/12

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FG MANDATED ADR COUNTIES ON

Allendale, Anderson, Beaufort, Colleton, Florence, Greenville, Hampton, Horry,
Jasper, Lexington, Pickens (Family Court Only), Richland, Union and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CASE NO. 2012-CP-23- 3686

Townes at Pelham Owners' Association, Inc.,
Plaintiff,)

2012 JUN -5) A 9 06

vs.)

SUMMONS AND NOTICE

Donna Boyd, Bank of America, NA, by
Assignment from Mortgage Electronic
Registration Systems,)

Defendants.)

TO THE RESPONDENTS ABOVE NAMED:

You are hereby summoned and required to answer the Petition, in this action a copy of which is herewith served upon you, and to serve a copy of your answer to the Petition, upon the subscriber at 505 West Butler Road, Greenville, South Carolina within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer the Complaint within that time, the Plaintiff(s) will apply to the Court for the relief demanded in the Complaint and a judgement by default will be rendered against you for the relief demanded in the Petition.

TO INFANT(S) OVER FOURTEEN YEARS OF AGE (AN IMPRISONED PERSON):

You are further summoned and notified to apply for the appointment of a guardian ad litem to represent you in this action within thirty (30) days after the service of the Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiff(s) herein.

TO INFANT(S) UNDER FOURTEEN YEARS OF AGE (INCOMPETENT OR INSANE AND TO GENERAL OR TESTAMENTARY GUARDIAN)

You are further summoned and notified to apply for the appointment of a guardian ad litem to represent said infant(s) under fourteen years of age (said incompetent or insane) person within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiff(s) herein.

BABB & BROWN, P.C.

J. Chris Brown

Attorney for Plaintiff

S. C. Bar No 007114

505 W. Butler Rd.

Greenville, South Carolina 29607

(864) 422-0022

May 23, 2012

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER

2012 JUN -5 A 9:06

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	CASE NO.: 2012-CP-23- <u>3686</u>
Townes at Pelham Owners'	)	
Association, Inc.	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Donna Boyd, Bank of America, NA, by	)	
Assignment from Mortgage Electronic	)	
Registration Systems,	)	
Defendants.	)	

COMPLAINT
Foreclosure of Lien

The Plaintiff, complaining of the above-named Defendants, would respectfully show unto the Court as follows:

1. The Plaintiff is a non-profit corporation, chartered under the laws of the State of South Carolina.
2. The Defendant, Donna Boyd, is a resident of the County of Greenville, State of South Carolina. Said Defendant is the owner of the real property hereinafter described which is located in Greenville County, South Carolina.
3. The Defendant, Bank of America, is a lending institution doing business in Greenville County, South Carolina and the holder of a mortgage on the real estate which is the subject of this action.
4. The Defendant, Donna Boyd, purchased Lot 1 of The Townes at Pelham on January 7, 2008. The deed to said property was recorded in the Register of Deeds Office for Greenville County on January 9, 2008 in Deed Book 2308 at Page 734.
5. The property was purchased subject to the Declaration of Covenants and Restrictions for The Townes at Pelham which was recorded in the Register of Deeds Office for Greenville County on December 6, 2005 in Book 2178 at Page 1617.

6. Article IV, Section 1 provides that "every Owner of a lot that is subject to assessment shall be a Member of the Association".
7. Article V, Section 1, states, "Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as herein provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due."
8. Article V, Section 8, provides that "the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property in the same manner that a real estate mortgage is foreclosed and interests, costs and attorneys' fees shall be added to the amount of such assessment."
9. Dues and late fees were assessed against Lot No.1 for the years 2009-2012 in the amount of \$14,453.93 including an attorney's fee of \$450.00 and filing fee of \$150.00 for the filing of this foreclosure were added, leaving a balance due of \$15,113.93.
10. Demand for payment has been made upon the lot owner and she has neglected and refused to pay the yearly assessment. The Plaintiff is informed and believes that it is entitled to foreclose on the lot in the same manner as the foreclosure of a mortgage, and collect in addition to the past due assessment, interest on the unpaid balance at the rate of 18% per annum, plus attorney's fees and court costs. The Plaintiff believes an attorney's fee of \$450.00 to be a reasonable attorney's fee for this action.
11. The foreclosure of the lot shall be subject to the mortgage to the Defendant, Bank of America.
12. The property which is the subject of this action is described as follows:

ALL that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Greenville, being shown and designated as Lot No. 1 of The Townes at Pelham as shown on a plat thereof being recorded in the Plat Book 1029 at Page 25 and being shown and designated on a new plat prepared by Sinclair & Associates, LLC for Donna Boyd, being recorded in Plat Book 67 at Page 8 and having, according to said plat, metes and bounds as shown thereon.

This being the same property conveyed to Donna Boyd by deed of NVR, Inc. dated January 7, 2008 and recorded January 9, 2008 in the Register of Deeds Office for Greenville County in Book 2308 at Page 734.

Tax Map #0540.45-01-028.00.

13. The total amount due by the Defendant, Donna Boyd, is \$15,113.93:

Past due assessment and late charges:	\$14,453.93
Attorney fee for foreclosure:	\$ 450.00
Service fees:	\$ 60.00
Court costs:	\$ 150.00
Total:	\$15,113.93

*

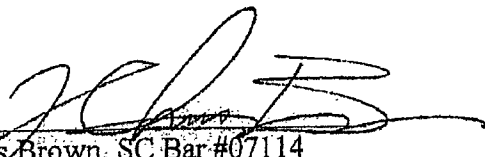
*

This is a foreclosure of a homeowner association lien and the Home Affordable Modification Program (HMP) is inapplicable to foreclosures of homeowner association lien assessments. The association has provided the property owner the opportunity to make payments to avoid the lien foreclosure.

WHEREFORE, having fully set forth its Complaint, the Plaintiff prays that this court inquire into the matters set forth herein:

1. That the amount due by the Defendant for unpaid assessments be ascertained and determined under the direction of this Court, together with attorney's fees and costs of this action.
2. That the Plaintiff have judgment of foreclosure for the amount so found to be due and ~~owing thereon, together with reasonable attorney's fees and for costs of this action.~~
3. That the premises be sold under the direction of the Court, subject to the existing mortgage and any taxes which may be due, and the proceeds of the sale applied as follows:
 - (a) to the cost and expenses of the within action and sale;
 - (b) to the payment due, and discharge of the Plaintiff's lien for assessment of homeowner's dues together with attorney's fees as aforesaid;
 - (c) the surplus, if any, be distributed according to law, and

(d) for such other and further relief as the Court deems just and proper.


J. Chris Brown, SC Bar #07114
BABB AND BROWN, P.C.
Attorney for Plaintiff
505 West Butler Road
Greenville, South Carolina 29607
Telephone: (864) 422-0022
Facsimile: (864) 422-0001

May 23, 2012
Greenville, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

VERIFICATION

PERSONALLY appeared before me, Eric Hedrick, who, on oath, deposes and states: he is the duly authorized agent for The Townes at Pelham Owner's Association, Inc., Plaintiff in the foregoing action; that he has read the Complaint attached hereto and all matters alleged therein are true and correct of his own knowledge, with the exception of matters alleged upon information and belief, and as to those he believes them to be true.

THE TOWNES AT PELHAM OWNER'S
 ASSOCIATION, INC.

* By Eric Hedrick, Assoc. Mgr. *
 Eric Hedrick
 Duly Authorized Agent

* SWORN TO BEFORE ME THIS
30th day of May, 2012. *

Cynthia A. Wilcox
 Notary Public for South Carolina
 My Commission Expires: 4/21/28

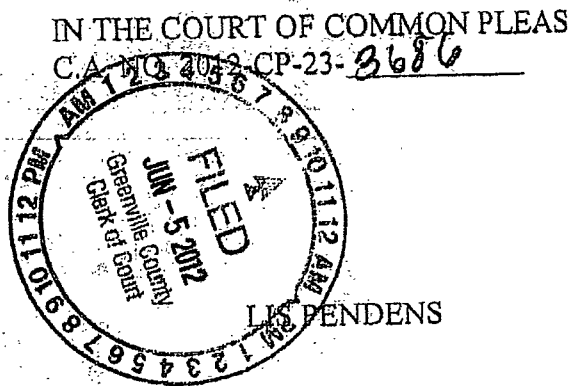
STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

The Townes at Pelham Owners
Association, Inc.,

Plaintiff,

Donna Boyd, Bank of America, NA, by
Assignment from Mortgage Electronic
Registration Systems,
Defendants.



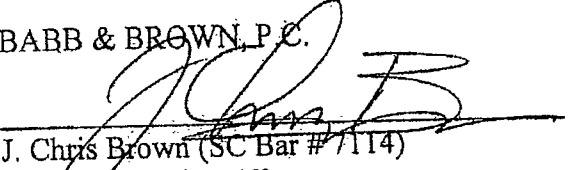
NOTICE IS HEREBY GIVEN that an action has been or will be commenced in this Court upon Complaint of the above-named Plaintiff against the above-named Defendant, Donna Boyd, for the nonpayment of homeowner dues. The premises covered and affected by this Master Deed were, at the time of the making thereof and at the time of the filing of this notice, described as follows:

ALL that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Greenville, being shown and designated as Lot No. 1 of The Townes at Pelham as shown on a plat thereof being recorded in the Plat Book 1029 at Page 25 and being shown and designated on a new plat prepared by Sinclair & Associates, LLC for Donna Boyd, being recorded in Plat Book 67 at Page 8 and having, according to said plat, metes and bounds as shown thereon.

This being the same property conveyed to Donna Boyd by deed of NVR, Inc. dated January 7, 2008 and recorded January 9, 2008 in the Register of Deeds Office for Greenville County in Book 2308 at Page 734.

Tax Map #0540.45-01-028.00.

BARB & BROWN, P.C.


J. Chris Brown (SC Bar #7114)
Attorney for Plaintiff
505 W. Butler Road
Greenville, South Carolina 29607
Telephone: (864) 422-0022

* June 5, 2012
Greenville, South Carolina

ORDERED IN BOOK 852 PAGE 034

ANSWER

125

20

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

Townes at Pelham Owners')
Association, Inc.,)
Plaintiff,)
vs.)

SUMMONS

Donna Boyd, Bank of America,)
N. A., by Assignment from Mortgage)
Electronic Registrations Systems,)
Defendants.)

2012-CP-23-3686

AND

Donna Boyd.)
Third Party Plaintiff,)
vs.)
Eric Hedrick, in his individual and)
official capacity as Owner or President)
of Cornerstone Realty, Inc., and)
Cornerstone Realty, Inc.,)
Third Party Defendants..)

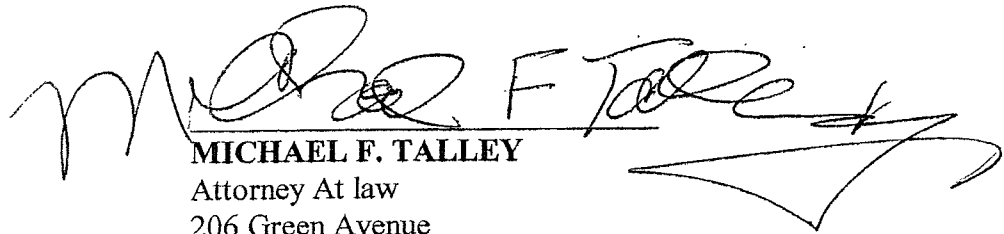
FILED
CLERK OF COURT
GREENVILLE, SC
2012 DEC 31 PM 1:39

2012 DEC 31 PM 1:39

TO THE Plaintiff and Third Party Defendants ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Counterclaim/Petition and/or Third Party Complaint in this action for damages, (the original(s) which has been filed in the Clerk of Court for Greenville County and you are directed to serve a copy of your Reply to the said Counterclaim/Petition and/or Answer to the Third Party Complaint on the Subscriber(s), at his office at 206 Green Avenue, Greenville, South Carolina, 29601, within thirty (30) days after the service thereof, exclusive of the date of such service, and if you fail to Reply to the Counterclaim and/or Answer the Third Party Complaint within the time aforesaid, the Plaintiff (or Defendant if this is a Counterclaim) and Third Party Plaintiff in this action

will apply to the Court for the relief demanded in the Petition/Counterclaim/Third Party
Complaint

A large, stylized handwritten signature in black ink, appearing to read 'MICHAEL F. TALLEY', is written over the printed name and extends to the right with a long, sweeping flourish.

MICHAEL F. TALLEY

Attorney At law

206 Green Avenue

Greenville, S.C. 29601

(864) 233-6229

(864) 370-0071 (fax)

**ATTORNEY FOR Defendant and
Third Party Plaintiff Donna Boyd**

Greenville, S. C.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE)

Townes at Pelham Owners')
Association, Inc.,)
Plaintiff,)
vs.)
Donna Boyd, Bank of America, NA.,)
by Assignment from Mortgage)
Electronic Registrations Systems,)
Defendants.)

**ANSWER
AND
COUNTERCLAIM
OF
DEFENDANT DONNA BOYD
2012-CP-23-3686**

AND

Donna Boyd,)
Third Party Plaintiff,)
vs.)
Eric Hedrick, in his Individual and)
Official capacity as Owner or President)
of Cornerstone Realty, Inc. and)
Cornerstone Realty, Inc.,)
Third Party Defendants.)

**THIRD PARTY COMPLAINT
AGAINST THE
DEFENDANTS, ERIC HEDRICK
AND CORNERSTONE REALTY
INC.**

FILED-CLERK OF COURT
GREENVILLE CO S.C.
2012 DEC 31 PM 1:39

COMES NOW the defendant **Donna Boyd** and hereby submit and allege her
Answer and Counterclaim as follows:

FOR A FIRST DEFENSE

I.

That upon information and belief, this within action for the Foreclosure of
plaintiff's alleged within Lien, which is tantamount to a Second Mortgage, and
subordinate to the Defendant Donna Boyd's First Mortgage held by Defendant Bank of
America cannot be maintained and pursued in this action due to the fact that this

Honorable Court does not have jurisdiction over the above plaintiff's within action because the within defendant Donna Boyd is in arrears on her First Mortgage with Defendant Bank of America and until this defendant's Superior First Mortgage with Bank of America has been brought current, the above plaintiff cannot maintain this within Foreclosure action against this defendant on its alleged subordinate "**Lien,**" which is tantamount to a second mortgage, and, accordingly, this action must be dismissed;

FOR A SECOND DEFENSE

II.

That this defendant denies each and every allegation of the within complaint not hereinafter specifically admitted, denied or otherwise pleaded to;

FOR A THIRD DEFENSE

III.

That upon information belief, this defendant admits Paragraphs 1 through 8; That however, any attorney fees and/or costs assessed against this said defendant property owner by the above Plaintiff to collect annual or special assessments, **must be reasonable and cannot be so outrageous as to be unlawful and the attorney fees and costs assessed against this defendant to collect these alleged annual and/or special assessments have ballooned from a Default Judgment for \$6,699.36** awarded the plaintiff against this defendant by Greenville Magistrate Court on **December 15, 2010** until the present lawsuit which demands an incorrect and outrageous amount of **\$15,113.93 and, accordingly, this lawsuit is unconscionable and amounts to Unfair**

Trade Practices which is this defendant's Counterclaim down below against this above plaintiff;

IV

That **Paragraph 9 is emphatically denied and strict proof is demanded thereof; Further**, this defendant's response in Paragraph III above is realleged and submitted as an additional response **and denial** to this outrageous and false **Paragraph 9** of plaintiff's within complaint;

V.

That in answering Paragraph 10, this defendant would inform this court that, initially, she offered to pay the HOA dues of about \$660.00 with a cashier's check but the Plaintiff unlawfully refused to accept same and began to harass her and make all outrageous demands for her to pay outrageous fees and eventually **secured a Default Judgment against her for \$6,699.36 in Greenville Magistrate Court on December 15, 2010 without her knowledge as the plaintiff served her by publication** and this defendant emphatically denies that the plaintiff has a right to foreclose against her on this outrageous amount of \$15,113.95 which is composed of nothing but outrageous and highly excessive and unlawful fees, such as attorney fees, and demands strict proof thereof;

VI.

That paragraph 11 is emphatically denied and strict proof is demanded thereof because, since this defendant's First Purchase mortgage in favor of Bank of America is in

arrears **and not current**, this Plaintiff above is not legally entitled to maintain and pursue this Foreclosure action on its questionable lien for HOA dues as this action is tantamount to pursuing the Foreclosure of a Second Mortgage, **which is subordinate to a First and Superior Mortgage on the defendant's property which is in arrears**, and, accordingly, the Foreclosure of Plaintiff's questionable lien against this defendant cannot be pursued and maintained until and unless the defendant's first mortgage with Bank of America is current;

VII.

That upon information and belief, Paragraph 12 is admitted;

VIII.

That Paragraph 13 is **emphatically denied and strict proof is demanded thereof**;

**FOR A THIRD DEFENSE
AND BY WAY OF A COUNTERCLAIM
(Unfair Trade Practices)**

IX.

That Paragraphs I through VIII are realleged and incorporated herein as a part hereof as if set forth verbatim;

X.

That the plaintiff, upon information and belief, is organized under the laws of the State of South Carolina as a Home Owners Association and it is engaged and operated in the County of Greenville, State of South Carolina and it is subject to the jurisdiction of

this Court; That this defendant is also a citizen and resident of the County of Greenville, State of South Carolina and she is subject to the jurisdiction of this Court;

XI.

That upon information and belief, the original Plaintiff herein, the Townes at Pelham Owners' Association, as a part of its structure and/or duties and functions, requires Home Owners in the Townes at Pelham Subdivision, like the within defendant, Donna Boyd, who purchased a Condominium in the Townes at Pelham Subdivision on January 7, 2008 by deed recorded January 9, 2008 in the Office of the Register of Deeds for Greenville County, S. C. in Deed Book **2308**, at Page **67**, to pay approximately \$600.00 a year in Home Owners' Association (HOA) Dues;

XII.

That in becoming a Home Owner in the "Townes at Pelham Subdivision," this defendant, like all home owners in the "Townes at Pelham Subdivision," are automatically enrolled as members of the above plaintiff's Home Owners' Association and these said Home Owners like this defendant, are assessed Home Owners' Association Dues or Regime fees (HOA); That after becoming a Home Owners in the Plaintiff's HOA, the plaintiff began to assess the defendant Home Owners Association (HOA) Dues or Regime fees and, on November 11, 2009, it filed a lien against the defendant's real property, to-wit: **Lot 1 of the Townes at Pelham Subdivision**; for \$805.54 for Home Owners Association (HOA) Dues or Regime fees and recorded same in the Office of the Register of Deeds for Greenville County in Mortgage Book **5062**, at Page **18** and, although the

defendant attempted to pay her said Regime fees of \$660.00 to the Plaintiff by a Cashier's check on November 23, 2009, the Plaintiff unlawfully and maliciously refused to accept same; (Copies of said lien and Cashier's check are attached hereto as Defendant's **Exhibit A (1) and (2)** and incorporates same herein as a part of her within Counterclaim;

XIII.

That thereafter, the Plaintiff sued the defendant in Greenville Magistrate Court and, after serving the defendant by publication in the local Newspaper, obtained a Default Judgment against the defendant for \$6,699.36 on December 15, 2010 and, since that time, the plaintiff, on its own, has unlawfully and maliciously increased and ballooned this aforesaid judgment with unlawful and illegal exorbitant assessments and attorney fees to the present **outrageous amount of \$15,113.93** and, **through its Property manager, Eric Hedrick who is listed as a Third party Defendant along with his Realty and/or development company, Cornerstone Realty, Inc. herein in this defendant's Third party Complaint, has continuously and systematically personally bombarded this defendant and her attorneys with statements of plaintiff's within outrageous demand of \$15,113.93;**

XIV.

That upon information and belief, the plaintiff's illegal, unfair and deceptive act(s) and practice(s) in its trade of assessing the aforesaid outrageous, exorbitant, unlawful, illegal and deceptive fees against the within defendant in the form of Regime fees or Home Owners' Association (HOA) Dues, all in an apparent attempt to take advantage of

this defendant are violative of Section 39-5-10 et. seq. of the S. C. Code of Laws of South Carolina, 1976, as amended; because said acts affect the public interest, such as this defendant, and these acts have the potential for repetition;

XV.

That as a direct and proximate result of the Plaintiff's above wilful, malicious, illegal, deceptive and unfair use and employment of trade practices in operating a Home Owners Association (HOA) in its business trade at "Townes at Pelham Subdivision" which are violative of the S. C. Unfair Trade Practices Act, Section 39-5-10 et. seq. of the Code of Laws, 1976, as amended, this defendant as been damaged in an amount of actual damages to be determined by this court, plus legal costs; That due to the Plaintiff's willful violations under the South Carolina Unfair Trade Practices Act, this defendant is informed and believes that she should be awarded **treble damages or three (3) times her actual damages,** as determined by this court;

**FOR A FOURTH DEFENSE
AND BY A THIRD PARTY COMPLAINT
AGAINST ERIC HEDRICK AND
CORNERSTONE REALTY, INC.**

(NEGLIGENCE)

XVI.

That Paragraphs I through XV are realleged and incorporated herein and made a part of this within Fourth Defense and Third Party Complaint as if set forth verbatim;

XVII.

That this Third Party plaintiff, Donna Boyd, is a citizen and resident of the County and State aforesaid and she is subject to the jurisdiction of this court; That further, this Third Party Plaintiff is a **Home Owner in the "Townes at Pelham Subdivision "** in the **County of Greenville, State of South Carolina whose Owner, Property Manager(s) and Developer, upon information and belief, are the Third Party Defendants, Eric Hedrick and Cornerstone Realty, Inc.;**

XVIII.

That as the **Owner and Developer of the "Townes at Pelham Subdivision," Third Party Defendants Eric Hedrick and/or Cornerstone Realty, Inc.,** submitted and/or obtained a **Plan/Permit No. 05-6134 and a Plan entitled "Pre-Submittal Registry on 4/14/05 and paid a bond of \$7,500.00 to Greenville County to build and or develop the "Townes at Pelham Subdivision."**(copies of said Permit Purchase Form, Bond Check Form for Project Permit #R-05-6134 and The Pre-Submittal Registry are attached hereto as **Third Party Plaintiff's Exhibit B;**"

XIX.

That further, as the Owner and Developer of **"The Townes at Pelham Subdivision,"** the Third Party Defendants, **Eric Hedrick and his Company, Cornerstone Realty, Inc.,** had a legal duty to build and develop said Subdivision in a correct, safe, workmanlike, and professional efficient project **absent of and**

without any defects therein with an efficient and workable drainage and irrigation system and had a legal Statutory duty to ensure that "the Townes at Pelham Subdivision" was not built or constructed in a negligent manner and is and/or was free from any defective conditions;"

XX.

That however, in violation of their legal statutory duties as Owners and/or developers and/or Property Managers, the Third Party Defendants, **Eric Hedrick, in his individual and official capacity as Owner of Co-Defendant Cornerstone Realty, Inc. and Cornerstone Realty, Inc.**, negligently, carelessly, recklessly built and/or constructed "The Townes at Pelham Subdivision" in such a negligent, careless and defective manner that the said Subdivision contained numerous irrigation and drainage problems and they refused and continued to refuse and fail to correct said defects in **violation of State Statutes and being Negligent Per Se**; That as a direct and immediate consequence of these Third Party Defendants' negligence, carelessness, and recklessness in building and/or constructing **a defective Subdivision**, this Third party Plaintiff's Condominium or house has been damaged by a continuous drainage and/or irrigation problems to the point where this Third Party Plaintiff's home's value has been decreased or diminished anywhere from \$20,000.00 to \$45,000.00 or more;

XXI.

That the damage to this Third Party Plaintiff's home or real property was caused by the direct and proximate cause of the carelessness, grossly negligent, reckless, careless,

willful and wanton act and/or omissions on the part of these Third Party Defendants, **Eric Hedrick and Cornerstone, Realty, Inc.**, jointly and/or severally, in one or more of the following particulars:

1. In constructing and/or building the **Townes at Pelham Subdivision** in such a defective manner;
2. In failing to build and/or construct a proper and efficient drainage and irrigation manner at **"The Townes at Pelham Subdivision."**;
3. In failing to correct and/or repair the drainage and/or irrigation problems or defects at **"The Townes at Pelham Subdivision."**
4. In failing to properly supervise and/or maintain an efficient drainage and irrigation system; and,
5. In breaching their legal duty to this Third Party Plaintiff to use care to ensure that the **"Townes at Pelham Subdivision"** did not have any defects in its **construction which** damaged this Third Party Plaintiff's home or Condominium;
6. In constructing the **"Townes at Pelham Subdivision"** and especially drainage and irrigation system in utter disregard for this Third Party Plaintiff and others owning homes and/or Condominiums in this said Subdivision;

All of which are contrary to the common and statutory laws of the State of South Carolina as promulgated by the State of South Carolina and being **Negligent per Se**;

XXII.

That by reason of the aforesaid joint negligent acts and/or omissions on the part of both Third Party defendants, jointly and/or severally, this Third Party Plaintiff incurred or suffered damages to her home anywhere from \$20,000.00 to \$45,000.00 or more and inconvenience as actual damages, the exact amount to be determined by a court, plus legal costs as actual damages;

XXIII.

That due to the Third Party defendants' willful, wanton, reckless, careless acts and/or omissions on the part of both Third Party Defendants, jointly and severally, this Third Party Plaintiff is entitled to an appropriate amount of punitive damages;

WHEREFORE, this original Defendant and Third Party Plaintiff, Donna Boyd, respectfully pray as follows:

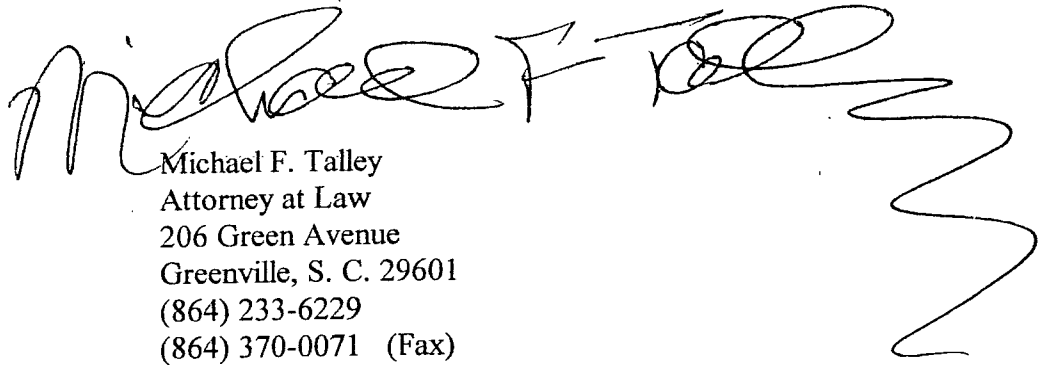
1. That the Plaintiff's complaint of Foreclosure be dismissed in its entirety with prejudice;
2. That this court grant this original defendant, Donna Boyd, a judgment against the original Plaintiff for an award of actual damages **on her Counterclaim**, in an amount to be determined by this court; and an appropriate amount of punitive damages;
4. That this court award this original defendant, Donna Boyd, three (3) times her actual damages as **treble damages as allowed by this court on her Counterclaim**;
5. That this Third party Plaintiff, Donna Boyd, be awarded a judgment against

both Third Party Defendants, jointly and severally, in an amount of actual damages on her Third Party Complaint, to be determined by this Court;

6. An award of legal costs, including attorney fees; and,

7. Grant this Original defendant and Third Party Plaintiff, Donna Boyd,
such other and further relief as is deemed to be just and proper.

Respectfully submitted,



Michael F. Talley
Attorney at Law
206 Green Avenue
Greenville, S. C. 29601
(864) 233-6229
(864) 370-0071 (Fax)

Dated: December 29, 2012
Greenville, S. C.

LIEN

09-829-HOA

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)



2009087926 NOT/LIEN
1 PG
Book: MO 5062 Page: 18-18

November 11, 2009 12:21:07
Rec: \$10.00 Cnty Tax: \$0.00 State Tax: \$0.00

FILED IN GREENVILLE COUNTY, SC
NOTICE OF LIEN

139.

Notice is hereby given pursuant to Article V, Section 8 of the Declaration of Covenants, Conditions, and Restrictions for The Townes at Pelham that a lien is hereby placed upon the property herein described for unpaid assessments as stated below:

Lienholder: The Townes at Pelham Owners' Association, Inc.
Amount of Lien: \$805.54 together with all accruing assessments both regular and special, any and all allowable interest, delinquent charges, as applicable, attorney's fees and costs until the date of payment
Property Owner: Donna Boyd
Property Description: Lot 1 of The Townes at Pelham
Tax Map: 0540.45-01-028.00

WITNESS the hand and seal of the duly appointed agent of The Townes at Pelham Owners' Association, Inc. this the 10th of November, 2009.

Alex B. Hutzel

*

H. Stewart James
H. Stewart James
Attorney for The Townes at Pelham
Owners' Association, Inc.
505 W. Butler Road
Greenville, SC 29607
Telephone (864) 422-0022

Babbt Brown

Cynthia A. Webb
Witness

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

PROBATE

PERSONALLY appeared the undersigned witness and made oath that (s)he saw the within named The Townes at Pelham Owners' Association, Inc. by its duly appointed agent, sign, seal, and as its act and deed, deliver the within written instrument, and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

Cynthia A. Webb
Witness

SWORN to before me this
10th day of November, 2009.

Alex B. Hutzel
Notary Public for South Carolina
My Commission Expires: 9/17/18

FILED FOR RECORD IN GREENVILLE COUNTY, SC ROD
2009087926 Book: MO 5062 Page: 18-18
November 11, 2009 12:21:07

Timothy J. Henney

Defendant Exhibit A(1)

W. Daniel Yarborough, Jr.

ATTORNEY AT LAW
311 MILLS AVENUE
GREENVILLE, SC 29605

Phone: 864-235-3087

Office email: YarboroughSec@aol.com

Fax: 864-242-9355

* December 14, 2009 *

Darlene Miller
President
Townes at Pelham Owners' Association, Inc.
323 Majesty Court
Greenville, SC 29615

RE: Donna Boyd
6 Pelham Townes Drive
Greenville, SC 29615

Dear Ms. Miller:

Enclosed please find Ms. Boyd's cashier's check in the amount of \$660.00 representing full payment of her regime fees from July 1, 2009 until December 1, 2009. Please rescind lien immediately. Any further correspondence to Ms. Boyd would be deemed harassment. Thank you for your assistance.

Yours very truly,

W. Daniel Yarborough Jr.
W. Daniel Yarborough, Jr.

WDYjr/rsm

enclosure

cc: Donna Boyd

Defendant Exhibit A (2)

7315 M 50044P



SC TELCO
FEDERAL CREDIT UNION

P.O. BOX 10708
GREENVILLE, SC 29603



5709
110

ISSUED BY: MONEYGRAM PAYMENT SYSTEMS, INC.
P.O. BOX 9476, MINNEAPOLIS, MN 55480
DRAWEE: BOSTON SAFE DEPOSIT & TRUST CO.
BOSTON, MASSACHUSETTS

No.000017615

OFFICIAL CHECK

*** SIX HUNDRED SIXTY DOLLARS AND 00 CENTS ***

12/10/09

AMOUNT:

EXACTLY 660 dols 00 cts

\$660.00

DRAWER: SC TELCO FCU

PAY TO THE
ORDER OF:

TOWNES @ PELHAM BOARD OF DIRECTOR

Michael A. Owens

AUTHORIZED SIGNATURE

⑈0000176159⑈ ⑆011007092⑆0160011339566⑈

141



County of Greenville

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"...At Your Service"

A.J. Hamam, Chief Inspector
Land Development Division
Phone: (864) 467-7004

BOND CHECK FORMDate Received: 12-28-07This Bond Check is being posted for: THE TOWNES AT PELHAM
(Project Name)Project/ Permit #: R-05-6134 Tax Map #: P/O 540.04-01-006.00Check for the Amount: \$ 7,500.00**This Bond Check was posted by:**First/ Last Name: ERIC HEDRICK

(Please Print)

Company Name: TOWNES AT PELHAM LLC

(864) 228-4959

(Please Print)

Office Phone: _____ Mobile Phone: _____ Fax No.: _____

This Bond Check is being picked up by:* Eric Hedrick

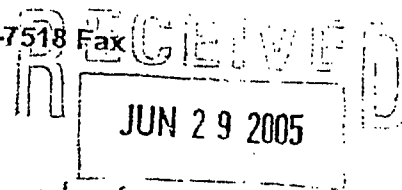
PRINT NAME

Eric Hedrick *

SIGNATURE

On behalf of Townes at Pelham, LLC
(COMPANY NAME PRINT)Pickup Date: 4-21-08

PERMIT PURCHASE FORM - Please Print Clearly



1. Name of Facility/Project: Townes at Pelham Eric Hedrick Plan/Permit No. 05-6134 Date: 6/29/05

2. Owner's Name: Townes at Pelham, LLC 102 Cape Charles Dr.
Office(Day)No. 288-4959 Ext. Greenville, SC 29615
Mobile/Night No. 918-3419 Fax No. 288-4959

3. Engineer Name: Paul Harrison Engineer Firm: Gray Engineering
Office(Day)No. 297-3027 Ext. Mobile/Night No. 421-3202 Fax No. 297-5187

4. Grading Contractor
Company Name: Deshields Grading Inc Contractor's First/Last Name: Larry W. Deshields
Office(Day)No. 864-877-7168 Ext. 101 Mobile/Night No. 864-877-7168 Fax No. 864-433-1313
Res # 9 - For Residence
Email Address:

 Prevention & Sediment Control Inspector Certified? Circle one (Yes) No
Date Attended Class:
SC DHEC Registration No.(shown on your card): 0294

 Clear Water Certified? (Yes) or No
Date Attended Class: Oct. 7, 04

5. Construction
Inspector Name: Larry Deshields Email Address:
Office(Day)No. 864-877-7168 Ext. 102 Mobile/Night No. Fax No.

 Prevention & Sediment Control Inspector Certified? Circle one Yes No
Date Attended Class:
SC DHEC Registration No.(shown on your card): 0294
Expiration Date:

 Clear Water Certified? Yes or No
Date Attended Class:

Name of Person Signing for Permit Purchase: Eric Hedrick

Signature

Eric Hedrick

Please Print Your Name

Third Party Plaintiff Exhibit (B) 143

05-6134 144

**A COPY OF THIS FORM IS TO BE SUBMITTED WITH ANY
PLAN SUBMITTAL OR CORRESPONDENCE
REGARDING THIS PROJECT !**

FL. PL. _____
PRE-SUBMITTAL REGISTRY

DATE: 4/14/05

TM# 546.04-01-006080
5.00
6.01
6.03

PROJECT: TOWNES AT PELHAM

TWO COPIES OF PLANS ARE TO BE SUBMITTED WITH CONCEPT!!

PRESENT AT MEETING:

DEVELOPER: HEDRICK
ENGINEER: Cline
STAFF MEMBER(S): Gillespie

ITEMS TO BE ADDRESSED:

- I. QUALITY: dry pond / sediment pond during construction
1. CONSTRUCTION 80%
2. POST CONSTRUCTION-WQ BMS dry pond
• IS WATER BODY IMPAIRED? N/A
• IDEAL PLAN FOR DRY POND

II. QUANTITY: 2/10/25

(NO WAIVER UNLESS SPECIFICALLY APPROVED BY DISTRICT DIRECTOR)

PRE-POST _____

PLAN

NOTES: MAINTENANCE AGREEMENT

PLAT

NOTES: MAINTENANCE AGREEMENT

Third Party Plaintiff Exhibit (R)

ENGINEER NARRATIVE - (ADDRESS KEY ELEMENTS OF THE ORDINANCE)

Quantity/Quality/Construction & Port

FLOOD PLAIN / WET LAND / ENCROACHMENT PERMITS

NO FLOODPLAIN / ASSESS WETLANDS

ENCROACHMENT TO WORK IN R.O.W. ON SUMMERPLACE CT.

CLUSTER / ZONE DENSITY / SEPTIC OR SEWER

TOWN HOMES / SEWER / R-M

OUTFALL EASEMENTS / FLOW PATTERNS / IMPACT

OUTFALL EASEMENT INTO STREET SPIN DRAIN

PARCEL HISTORY:

- PART OF LARGER COMMON DEVELOPMENT —
- SINGLE PARCEL YES 4 PARCELS
- EXISTING DRAINAGE PROBLEMS — BACKYARDS
- EXISTING DRAINAGE PATTERNS INTO PIPE
- PROPOSED DRAINAGE PATTERNS —

SEQUENCE: (MASS GRADING MAY REQUIRE "BOND")

- GRADING MASS w/ STABILIZATION ASAP
- STABILIZATION TEMPORARY UNTIL UNITS ARE BUILT

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
CASE NO. 2012-CP-23-3686

Townes at Pelham Owners')
Association, Inc.,)
Plaintiff,)
Vs.)
Donna Boyd, Bank of America, NA.,)
By Assignment from Mortgage)
Electronic Registration Systems,)
Defendants.)

**ANSWER TO THIRD PARTY
COMPLAINT AGAINST
DEFENDANT, ERIC HEDRICK
AND CORNERSTONE REALTY, INC.**

AND

Donna Boyd,)
Third Party Plaintiff,)
Vs.)
Eric Hedrick, in his Individual and)
Official Capacity as Owner or President)
Of Cornerstone Realty, Inc. and)
Cornerstone Realty, Inc.,)
Third Party Defendants.)

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
2012 MAR 15 AM 9:56

COMES NOW the Third Party Defendants and hereby submit their Answer to Third Party Complaint as follows:

THIRD PARTY DEFENDANTS' ANSWER

TO THIRD PARTY COMPLAINT

1. Third Party Defendants deny each and every allegation of the Third Party Complaint not hereinafter specifically admitted, modified, or explained.
2. Third Party Defendants deny the allegations contained in Paragraph XVI and strict proof thereof is demanded.
3. Third Party Defendants admit so much of Paragraph XVII as it states that Third Party Plaintiff, Donna Boyd, is a citizen and resident of the County of Greenville, State of South Carolina, and she is subject to the jurisdiction of this Court and that further, the Third Party

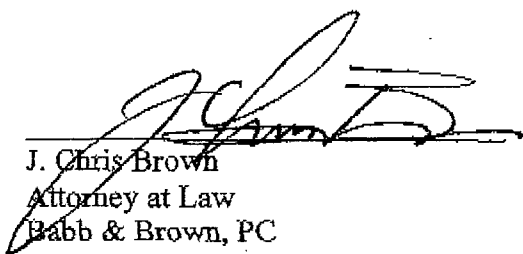
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Plaintiff is a property owner in the "Townes at Pelham Subdivision". Third Party Defendants deny the remaining allegations of Paragraph XVII and demand strict proof thereof.

4. Third Party Defendants deny the allegation contained in Paragraph XVIII and demand strict proof thereof. Third Party Defendants further state that neither Third Party Defendant Eric Hedrick, individually, or Cornerstone Realty, Inc. have ever had any ownership interest in the "Townes at Pelham Subdivision" nor has Third Party Defendant Eric Hedrick, individually, or Cornerstone Realty, Inc. ever developed any portion of the property referred to as "Townes at Pelham Subdivision".

5. Third Party Defendants deny the allegations contained in Paragraphs XIX through XXII and demand strict proof thereof.

WHEREFORE, Third Party Defendants, having fully answered the Third Party Complaint, pray that the Third Party Complaint be dismissed and for other and further relief as this Court may deem just and proper.



J. Chris Brown
Attorney at Law
Babb & Brown, PC
505 W. Butler Road
Greenville, SC 29607
(864) 422-0022
(864) 277-4007 Fax

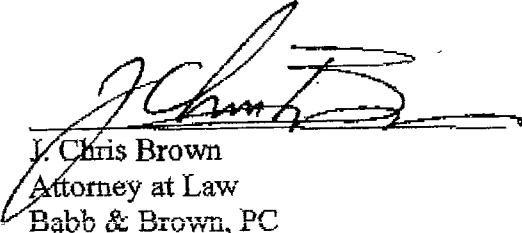
Dated: March 14, 2013
Greenville, SC

for \$805.54 together with all accruing assessments both regular and special, any and all allowable interest, delinquent charges as applicable, attorney's fees and costs until the date of payment and recorded same in the Office of the Register of Deeds for Greenville County in Mortgage Book 5062 at Page 18. Plaintiff denies the remaining allegations of Paragraph XII and demands strict proof thereof.

5. Plaintiff admits Paragraph XIII in so much as it states the Plaintiff obtained a judgment against the Defendant for \$6,699.36 on December 15, 2010, and said judgment has continued to incur interest since the date of the judgment. Plaintiff denies the remaining allegations of Paragraph XIII and demands strict proof thereof.

6. Plaintiff denies the allegations contained in Paragraphs XIV through XV and demands strict proof thereof.

WHEREFORE, Plaintiff, having fully replied to the Counterclaim, prays that the Counterclaim be dismissed and for other and further relief as this Court may deem just and proper.



J. Chris Brown
Attorney at Law
Babb & Brown, PC
505 W. Butler Road
Greenville, SC 29607
(864) 422-0022
(864) 277-4007 Fax

Dated: March 14, 2013
Greenville, SC

Email from
Respondent Cans

From: "[REDACTED]"
To: "Donna Carolina" [REDACTED]
* Date: 12/07/2011 07:10:54 EST
Subject: FW: Legal Fees for Foreclosure Actions
Attachments: Homeowner Assoc. foreclosure fees.doc (33KB)

Please do not let anyone see this email. FYI Use it when you and if you must. It could be Eric, assumes I am speaking to you and is feeding me disinformation.

QC

All:

I spoke with Chris Brown at Babb & Brown last week about something that he was handling for me in another community. While I was speaking with him, I discussed two other issues that I am dealing with in two other communities, and I asked him if he could give me an overview of the foreclosure process for an HOA for non-payment of dues. I then asked him to send me an email with a short description that I could forward to you. That email follows. Chris also attached a cost breakdown for each step in the process that is fairly easy to follow. That fee schedule is attached. Please review this information prior to our next meeting so that we can discuss it. If anyone has questions for the attorney prior to the meeting, please let me know.

I called David Wilson's office prior to sending this email to get an update, and his assistant was not in and he was not available, so I left a message. I then called the Master in Equity's office and spoke with a clerk about this case and was told that a new Order and Rule to Show Cause for Contempt had been filed yesterday, and it was being "clocked in", and would then be forwarded back to the attorney's office (the hearing has been scheduled for Jan. 31, 2012). Once it gets back to the attorney, he will have Ms. Boyd served. Hopefully, she will not know that this is coming, and the service will go quicker this time.

All for now.

Eric,

It was a pleasure speaking with you this morning. I have attached a list of legal fees specifically for foreclosure actions. These fees are incurred incrementally as the work is being done throughout the foreclosure process. All of these fees are not collected for every foreclosure action. For instance, if we prepare a summons and complaint, file it with the court and serve it on the homeowner and then they pay the lien, the HOA would only pay for those services and it would not incur any more legal fees for the particular action.

As we discussed, you may foreclose on HOA liens when there is a mortgage against the property. We always have to name the mortgage company as a defendant and serve them with the complaint. The

8/20/12

mortgage company will either pay the lien (and add the amount of the lien to the principal balance owed them under the terms of the loan) or they may do nothing other than file an answer to the complaint. The mortgage company normally has a superior lien and the HOA would eventually take ownership of the property with the lien attached. Therefore, the HOA needs to be prepared to sell or rent the property quickly to minimize any additional costs. We have found that the majority of homeowners will pay the lien once they are served with the foreclosure complaint. However, if the HOA has to proceed with the foreclosure, the homeowner may want to stay in the home and some HOAs will allow the previous owner to become a tenant at that point.

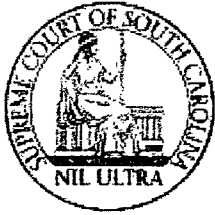
I realize there are many options for HOAs to consider when dealing with assessment collection and a number of special circumstances can affect a HOA's decision to file a foreclosure. I am always willing to assist with evaluating a particular situation or answering your questions.

I hope you and your family have a very happy holiday.

150

Chris

Babb and Brown, P.C.
505 West Butler Road
Greenville, SC 29607
Telephone 864-422-0022
Direct Dial 864-422-2009
Facsimile 864-422-0001



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Greenville County 13th Judicial Circuit Public Index



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[Family Court Public Index](#)

Switch View

Townes At Pelham Owners Association Inc vs. Donna Boyd , defendant, et al

Case Number:	2012CP2303686	Court Agency:	Greenville County Master in Equity	Filed Date:	07/11/2013
Case Type:	Common Pleas	Case Sub Type:	Foreclosure 420	File Type:	Non-Jury
Status:	Judgment	Assigned Judge:	Simmons, Charles B. Jr.		
Disposition:	Judgment	Disposition Date:	02/11/2014	Disposition Judge:	Simmons, Charles B. Jr.
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties Judgments Tax Map Information Associated Cases Actions Financials

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Townes At Pelham Owners Association Inc	Affidavit/Publication	Filing		05/07/2014-09:23		
Townes At Pelham Owners Association Inc	Affidavit/Publication	Filing		05/07/2014-09:23		
Townes At Pelham Owners Association Inc	Filing/Filing Of Master's Taxation of Costs	Filing		05/07/2014-09:13		
Townes At Pelham Owners Association Inc	Filing/Filing Of Master's Taxation of Costs	Filing		05/07/2014-09:13		
Townes At Pelham Owners Association Inc	Master/Advertising Costs County	Action		04/20/2014-09:12		
Townes At Pelham Owners Association Inc	Master/Advertising Costs Publisher	Action		04/20/2014-09:12		
Townes At Pelham Owners	Master/Sale Withdrawn from April sale	Action		04/07/2014-15:10	04/07/2014-15:10	

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Association Inc					
Boyd, Donna	Notice of Appeal	Filing		04/01/2014-15:38	
Boyd, Donna	Notice of Appeal	Filing		04/01/2014-15:38	
Townes At Pelham Owners Association Inc	Verification/Verified	Filing		03/03/2014-10:34	
Townes At Pelham Owners Association Inc	Verification/Verified	Filing		03/03/2014-10:34	
Townes At Pelham Owners Association Inc	Master/Order Of Foreclosure & Sale	Order		02/28/2014-14:22	
Townes At Pelham Owners Association Inc	Master/Order Of Foreclosure & Sale	Order		02/28/2014-14:22	
Townes At Pelham Owners Association Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21	
Townes At Pelham Owners Association Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21	
Cornerstone Realty Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21	
Cornerstone Realty Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21	
Hedrick, Eric	Judgment/Foreclosure	Judgment		02/28/2014-14:21	
Hedrick, Eric	Judgment/Foreclosure	Judgment		02/28/2014-14:21	
Townes At Pelham Owners Association Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21	
Townes At Pelham Owners Association Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21	
Mortgage Electronic Registration Systems	Judgment/Foreclosure	Judgment		02/28/2014-14:21	
Mortgage Electronic Registration Systems	Judgment/Foreclosure	Judgment		02/28/2014-14:21	
Townes At Pelham Owners Association	Judgment/Foreclosure	Judgment		02/28/2014-14:21	

Inc						
Townes At Pelham Owners Association Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Townes At Pelham Owners Association Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Townes At Pelham Owners Association Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Bank Of America NA	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Bank Of America NA	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Townes At Pelham Owners Association Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Townes At Pelham Owners Association Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Boyd, Donna	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Boyd, Donna	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Townes At Pelham Owners Association Inc	Master/Sale before Master April	Action		02/27/2014-08:37	05/20/2014-08:37	
Townes At Pelham Owners Association Inc	Order and file to clerks office	Filing		02/27/2014-08:37		
Townes At Pelham Owners Association Inc	Master/Master's Taxation of Costs	Filing		01/23/2014-11:18	02/11/2014-11:18	
Townes At Pelham Owners Association Inc	Master/Master's Taxation of Costs	Filing		01/23/2014-11:18	02/11/2014-11:18	
Townes At Pelham Owners Association Inc	Master/Court Reporter of Record Wanda Fudge	Action		01/10/2014-13:04	02/11/2014-13:04	
Townes At Pelham Owners Association Inc	Filing Of Pre Trial Brief Of Donna Boyd	Filing		11/15/2013-10:56	02/11/2014-10:56	
Townes At Pelham	Filing Of Pre Trial Brief Of Donna Boyd	Filing		11/15/2013-10:56	02/11/2014-10:56	

Owners Association Inc					
Townes At Pelham Owners Association Inc	Motion/Motion Filing Fee	Filing		11/11/2013-16:03	02/11/2014-16:03
Townes At Pelham Owners Association Inc	Motion/Motion Filing Fee	Filing		11/11/2013-16:03	02/11/2014-16:03
Boyd, Donna	Donna Boyd's Motion/Continuance	Motion		11/11/2013-08:12	02/11/2014-08:12
Boyd, Donna	Donna Boyd's Motion/Continuance	Motion		11/11/2013-08:12	02/11/2014-08:12
Townes At Pelham Owners Association Inc	Master/Master's Filing	Filing		09/09/2013-08:39	02/11/2014-00:00
Townes At Pelham Owners Association Inc	Master/Hearing Before Master-In-Equity--1/2 day trial	Action		09/05/2013-08:22	02/11/2014-08:22
Townes At Pelham Owners Association Inc	Master/Foreclosure Filing (\$125)	Filing		07/29/2013-11:11	02/11/2014-11:11
	Motion/Motion For Order for Reference	Motion		07/11/2013-14:39	02/11/2014-14:39
	Order/Referred to Master	Order		07/11/2013-14:39	02/11/2014-14:39
Townes At Pelham Owners Association Inc	Motion/Motion Filing Fee	Filing		07/02/2013-12:51	07/02/2013-12:51
Townes At Pelham Owners Association Inc	Notice of Case Roster Publication Sent	Action		05/31/2013-16:05	02/11/2014-16:05
Brown, J. Chris	Notice of Case Roster Publication Sent	Action		05/31/2013-16:05	02/11/2014-16:05
Johnson, Genevieve Speese	Notice of Case Roster Publication Sent	Action		05/31/2013-16:05	02/11/2014-16:05
Talley, Michael F. Sr.	Notice of Case Roster Publication Sent	Action		05/31/2013-16:05	02/11/2014-16:05
	Service/Certificate Of Service by mailing	Filing		03/19/2013-00:00	02/11/2014-00:00
	Answer/Answer To Third Party Comp Of Hedrick And Cornerstone	Filing		03/15/2013-00:00	02/11/2014-00:00
	Reply/Plaintiff's Reply To Counterclaim	Filing		03/15/2013-00:00	02/11/2014-00:00
	Service/Acceptance Of Service	Filing		02/08/2013-00:00	02/11/2014-00:00
	Service/Affidavit Of Service on Eric Hedrick	Filing		01/30/2013-00:00	02/11/2014-00:00

	Service/Affidavit Of Service on Eric Hedrick Corner Stone RE	Filing		01/30/2013-00:00	02/11/2014-00:00	
	Ans & Counterclaim And Third Party Complaint & Ser Of Boyd	Filing		12/31/2012-00:00	02/11/2014-00:00	
	Summons To Answer Counterclaim And Third Party Complaint	Filing		12/31/2012-00:00	02/11/2014-00:00	
	Answer/Answer And Service On Behalf Of Bank Of America, NA	Filing		12/07/2012-00:00	02/11/2014-00:00	
	Letter/Letter filing from Michael F Talley LLC	Filing		11/29/2012-00:00	02/11/2014-00:00	
	Service/Affidavit Of Service on Donna Boyd	Filing		11/14/2012-00:00	02/11/2014-00:00	↑ ↓
	Verification/Verified	Filing	06/15/2012	06/11/2012-16:16	02/11/2014-16:16	
Townes At Pelham Owners Association Inc	Summons & Complaint	Filing	Active Date 06/15/2012	06/11/2012-13:24	02/11/2014-13:24	
Townes At Pelham Owners Association Inc	Lis Pendens Filed	Filing		06/11/2012-13:24	02/11/2014-13:24	
Townes At Pelham Owners Association Inc	see lis pendens TMS/0540.45-01-028.00	Filing		06/11/2012-13:21	02/11/2014-13:21	
Townes At Pelham Owners Association Inc	Amount of consideration .00 0/0/0	Filing			02/11/2014-00:00	

Invalid > 60 days
 Summons 2nd Complaint Filed 06/05/2012
 Served on Donna Boyd 11/14/2012
 served Bank of America 12/7/2012
 Bank America sold property on 08/02/2013
 Hearing held Jan 10, 2014 08/02/2013



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Greenville County Home Page South Carolina Judicial Department Home Page

Family Court Public Index

Switch View

Townes At Pelham Owners Association Inc vs. Donna Boyd , defendant, et al

Case Number:	2012CP2303686	Court Agency:	Greenville County Common Pleas	Filed Date:	06/11/2012
Case Type:	Common Pleas	Case Sub Type:	Foreclosure 420	File Type:	Non-Jury
Status:	Judgment	Assigned Judge:			
Disposition:	Ended by Non Jury	Disposition Date:	02/28/2014	Disposition Judge:	Simmons, Charles B. Jr.
Original Source Doc:		Original Case #:			
Judgment Number:	2012CP2303686	Court Roster:			

Case Parties Judgments Tax Map Information Associated Cases Actions Financials

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Townes At Pelham Owners Association Inc	Affidavit/Publication	Filing		05/07/2014-09:23		
Townes At Pelham Owners Association Inc	Filing/Filing Of Master's Taxation of Costs	Filing		05/07/2014-09:13		
Boyd, Donna	Notice of Appeal	Filing		04/01/2014-15:38		
Townes At Pelham Owners Association Inc	Master/Master's Exhibits	Filing		03/27/2014-00:00		
Townes At Pelham Owners Association Inc	Verification/Verified	Filing		03/03/2014-10:34		
Townes At Pelham Owners Association Inc	Master/Order Of Foreclosure & Sale	Order		02/28/2014-14:22		
Townes At Pelham Owners Association Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Mortgage	Judgment/Foreclosure	Judgment		02/28/2014-		

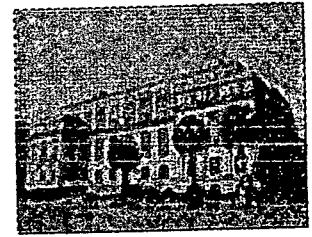
Electronic Registration Systems				14:21	157	
Townes At Pelham Owners Association Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Bank Of America NA	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Boyd, Donna	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Townes At Pelham Owners Association Inc	Judgment/Foreclosure	Judgment		02/28/2014-14:21		
Townes At Pelham Owners Association Inc	Master/Master's Taxation of Costs	Filing		01/23/2014-11:18	02/28/2014-11:18	
Boyd, Donna	Pre-Trial Brief of Donna Boyd	Filing		12/31/2013-00:00	02/28/2014-00:00	
Townes At Pelham Owners Association Inc	Filing Of Pre Trial Brief Of Donna Boyd	Filing		11/15/2013-10:56	02/28/2014-10:56	
Townes At Pelham Owners Association Inc	Motion/Motion Filing Fee	Filing		11/11/2013-16:03	02/28/2014-16:03	
Boyd, Donna	Donna Boyd's Motion/Continuance	Motion		11/11/2013-08:12	02/28/2014-08:12	
	Motion/Motion For Order for Reference	Motion		07/11/2013-14:39	02/28/2014-14:39	
	Order/Referred to Master	Order		07/11/2013-14:39	02/28/2014-14:39	
Townes At Pelham Owners Association Inc	Motion/Motion Filing Fee	Filing		07/02/2013-12:51	02/28/2014-12:51	
Brown, J. Chris	Notice of Case Roster Publication Sent	Action		05/31/2013-16:05	02/28/2014-16:05	
Johnson, Genevieve Speese	Notice of Case Roster Publication Sent	Action		05/31/2013-16:05	02/28/2014-16:05	
Talley, Michael F. Sr.	Notice of Case Roster Publication Sent	Action		05/31/2013-16:05	02/28/2014-16:05	
	Service/Certificate Of Service by mailing	Filing		03/19/2013-00:00	02/28/2014-00:00	
	Reply/Plaintiff's Reply To Counterclaim	Filing		03/15/2013-00:00	02/28/2014-00:00	
	Answer/Answer To Third Party Comp Of Hedrick And Cornerstone	Filing		03/15/2013-00:00	02/28/2014-00:00	
	Service/Acceptance Of Service	Filing		02/08/2013-00:00	02/28/2014-00:00	
	Service/Affidavit Of Service on Eric Hedrick	Filing		01/30/2013-00:00	02/28/2014-00:00	

	Service/Affidavit Of Service on Eric Hedrick Corner Stone RE	Filing		01/30/2013-00:00	02/28/2013-00:00	
	Summons To Answer Counterclaim And Third Party Complaint	Filing		12/31/2012-00:00	02/28/2014-00:00	
	Ans & Counterclaim And Third Party Complaint & Ser Of Boyd	Filing		12/31/2012-00:00	02/28/2014-00:00	
	Answer/Answer And Service On Behalf Of Bank Of America, NA	Filing		12/07/2012-00:00	02/28/2014-00:00	
	Letter/Letter filing from Michael F Talley LLC	Filing		11/29/2012-00:00	02/28/2014-00:00	
	Service/Affidavit Of Service on Donna Boyd	Filing		11/14/2012-00:00	02/28/2014-00:00	
	Verification/Verified	Filing		06/11/2012-16:16	02/28/2014-16:16	
Townes At Pelham Owners Association Inc	Summons & Complaint	Filing	Actual Date 06/15/2012	06/11/2012-13:24	02/28/2014-13:24	
Townes At Pelham Owners Association Inc	Lis Pendens Filed	Filing	Actual Date 06/15/2012	06/11/2012-13:24	02/28/2014-13:24	
Townes At Pelham Owners Association Inc	see lis pendens TMS/0540.45-01-028.00	Filing		06/11/2012-13:21	02/28/2014-13:21	

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Greenville County 13th Judicial Circuit Public Index

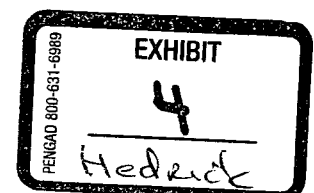

[Greenville County Home Page](#) [South Carolina Judicial Department Home Page](#)
[Family Court Public Index](#)

Switch View

The Townes At Pelham Owners Association, Inc. vs. Donna Boyd					
Case Number:	2010CV2310801261	Court Agency:	Greer Summary Court	Filed Date:	08/18/2010
Case Type:	Civil	Case Sub Type:	Summons & Complaint	File Type:	
Status:	Disposed	Assigned Judge:	Simms, Robert F		
Disposition:	Find for Plaintiff	Disposition Date:	12/15/2010	Disposition Judge:	Simms, Robert F
Original Source Doc:		Original Case #:			
Judgment Number:	2010CV2310801261	Court Roster:			

Case Parties Judgments Tax Map Information Associated Cases Actions Financials							
For:	The Townes At Pelham Owners Association, Inc.	Against:	Boyd, Donna	Judg. Amount:	\$6,699.36	Judgment Date:	12/15/2010
Description:		Disposition:		Disp. Date:	12/15/2010	Date Entered/Last Changed	12/15/2010 -- 12/15/2010
Notes:	None						
Judgment Details							
Claims Code		Detail Desc.		Detail Amount		Detail Date	
JGM		Judgment		\$6,044.36		12/15/2010	
ATY		Attorney Fees		\$655.00		12/15/2010	

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Plaintiff's
Settlement
Offer



BABB & BROWN, P.C.
ATTORNEYS AT LAW

100

ATTORNEYS
EVERETTE H. BABB
J. CHRIS BROWN*
H. STEWART JAMES
*ALSO LICENCED IN GEORGIA

* December 19, 2013 *

Via Facsimile 864-370-0071 and U.S Mail

Mr. Michael F. Talley
206 Green Avenue
Greenville, SC 29601

Re: Townes at Pelham Owners' Association, Inc. vs. Donna Boyd et al
Case No. 2012-CP-23-3686

Dear Michael:

I recently met with the Townes at Pelham board of directors ("Board") and they agreed to make a settlement offer to Ms. Boyd.

The Board offers to reduce the outstanding balance owed by Ms. Boyd to the Association by Five Thousand Dollars (\$5,000.00). This settlement amount would significantly reduce the amount of accrued interest on Ms. Boyd's account over the last three and a half years. The offer is also contingent upon the following:

1. The offer must be accepted in writing no later than 5:00 P.M. on Monday, December 23rd.
2. Ms. Boyd must provide written proof of her ability to immediately pay this settlement in full.
3. The settlement proceeds must be in the form of a cashier's check or certified funds.
4. The settlement proceeds must be paid on or before Friday, January 3, 2014.
5. Ms. Boyd must agree to execute a mutual release in favor of the Plaintiff and Third-Party Defendants regarding any potential claims or legal action alleged in these proceedings.
6. Ms. Boyd must agree to make all future monthly and special assessments in a timely manner beginning January 2014.



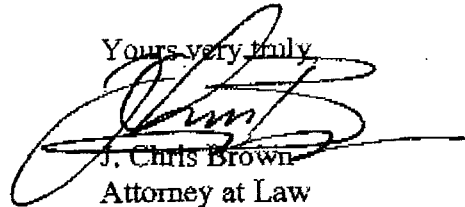
BABB & BROWN, P.C.
ATTORNEYS AT LAW

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If Ms. Boyd accepts this settlement offer, my client agrees to immediately dismiss the pending foreclosure action. My client will then also execute a mutual release in favor of Ms. Boyd regarding any potential claims or legal actions alleged in the proceedings.

I look forward to hearing from you at your earliest convenience.

Yours very truly,



J. Chris Brown
Attorney at Law

JCB:cw

⑤
* ORAL RULING *

MICHAEL F. TALLEY, LLC

Attorney at Law

206 Green Avenue

Greenville, South Carolina 29601

Across from Greenville High School

talleylaw@aol.com

Post Office Box 10081

162

February 10, 2014

Date

Fax: 864-370-0071

Phone: 864-233-6229

Ms. Donna Boyd
P. O. Box 1168
Mauldin S. C. 29662

2014-000701

RE: Your Foreclosure Action in our Office

Dear Ms. Boyd:

The Court has issued an Oral Ruling in your case which will be reduced to writing. However, in reducing its Oral Ruling to a written Order, please be advised that the Court can modify or amend it.

RECEIVED

JUL 24 2014

SC Court of Appeals

Nevertheless, at present, the Court has issued an Oral Judgment of Foreclosure and Sale against you on Townes at Pelham's Foreclosure Claim for \$21, 856.19.

On your Cross-Claim against Eric Hedrick, the Court has ruled against you for the following reasons:

- 1) There was a lack of evidence to prove that the drainage issue was on your property.:
- 2) There was a lack of evidence to prove that the water stood consistently on your property for 48 hours.
- 3) There was a lack of evidence as to the proximate cause of drainage issues or to reasoning why the property owners' Association or either Third Party Defendant (Hedrick) would be responsible for the drainage issues.
- 4) There is a lack of evidence that the owners' Association was negligent in any manner; and.
- 5) That even if the Plaintiff or Third Party defendant had been found liable for the drainage issues, there is lack of evidence of any damage.

I disagree with the Court's ruling because it appears that the Court totally disregarded the evidence that was presented on your behalf.

Nevertheless, if you disagree with the Court's findings, you have the right to Appeal to the South Carolina Court of Appeals within thirty (30) days after the receipt of the Court's written Order.

Our fee for pursuing an Appeal on your behalf to the S. C. Court of Appeals would be \$6,000.00 plus \$1,500.00 for expenses in the form of printing costs and the cost of the Trial Transcript.

On the other hand, you have the right to pay the above Judgment amount of \$21,856.19 which will accrue interest at 18% interest.

However, should you retain another attorney to pursue an Appeal on your behalf, please let us know.

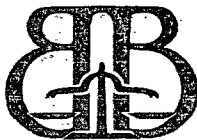
We will forward you the Written Order once we receive it.

Yours truly,

Michael F. Talley

MFT/

Letter from
Respondent
counsel



BABB & BROWN, P.C.
ATTORNEYS AT LAW

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ATTORNEYS
EVERETTE H. BABB
J. CHRIS BROWN*
H. STEWART JAMES
*ALSO LICENCED IN GEORGIA

March 3, 2014

~~_____~~ date

VIA EMAIL AND CERTIFIED MAIL

Mr. Michael Talley
Talley Law Firm
206 Green Avenue
Greenville, SC 29601

RE: Townes at Pelham v. Donna Boyd, et. al .
Case No. 2012-CP-23-3686

Dear Michael:

Please find attached a copy of the Order signed by Judge Simmons in the above-referenced matter. This order was filed with the Clerk of Court on Friday, February 28, 2014. *

[The property is scheduled to be sold at the next foreclosure sale on April 7, 2014.]

Yours very truly,

J. Chris Brown
Attorney at Law

JCB:ah

Enclosure

Letter
From Counsel

MICHAEL F. TALLEY, LLC

Attorney at Law

206 Green Avenue

Greenville, South Carolina 29601

Across from Greenville High School

talleylaw@aol.com

165

Post Office Box 10081

March 4, 2014

Fax: 864-370-0071
Phone: 864-233-6229

Ms. Donna Boyd
P. O. Box 1168
Mauldn, S. C. 29662

RE: Townes at Pelham vs. Donna Boyd et. al.
2012-CP-23-3686

2014-000701
RECEIVED

JUL 24 2014

SC Court of Appeals

Dear Ms. Boyd:

Enclosed please find a Copy of the Court Order in your above case which ends your case on the Trial level.

As I mentioned to you, I feel that the Court committed several reversal errors and you have the right to appeal this Court's decision to the S. C. Court of Appeals.

If you disagree with this Court's Order, you have thirty (30) days to appeal this Order to the South Carolina Court of Appeals, to-wit: on or before April 2, 2014.

Further, this Court Order provides for the public sale of your home after it has been published in the Greenville News for three (3) consecutive weeks but you also have the right to enter a bid on your home to reclaim it.

I have also contacted Magistrate Ford's Court and notified it that you are in Law School outside of the State and that we need to continue your case until sometimes after May.

I will let you know if your case has been continued.

Yours truly,

Michael F. Talley

MFT/
Enclosures:

Letter From
Counsel

MICHAEL F. TALLEY, LLC

Attorney at Law

206 Green Avenue
Greenville, South Carolina 29601
Across from Greenville High School
talleylaw@aol.com

* December 24, 2013 *

Post Office Box 10081

Fax: 864-370-0071
Phone: 864-233-6229

Mr. Donna Boyd
P. O. Box 1168
Mauldin, S. C. 29662

RE: Townes at Pelham vs. Donna Boyd
2012-CP-23-3686

Dear Ms. Boyd:

Upon request of the court, I have been trying to contact you ever since the trial of your case was postponed from the original trial date of **November 12, 2013** to reschedule a new trial date **but I was unable to reach you. Accordingly, your trial has been rescheduled for January 10, 2014 at 9:00 a. m. and the Court said that it will not grant any other continuances.** * Bank not notified *

I need you to notify your witnesses, Ms. Miller and Mr. Drevets, of the new trial date. We tried to subpoena Green Irrigation System but Green Irrigation System does not have an office and the Owner refused to tell us where they can be located. I would appreciate it if you would find where they are located so we can serve them with a subpoena.

I doubt if Green Irrigation System will give us any help in trying to prove your defense even if we could subpoena their presence.

My attorney and Plaintiff Counsel

We had a Pre-Trial Phone Conference with the Court and the Court recommended that we settle this case. Although the court did not pass judgment on our case/defense, I got the impression that we are not going to prevail on our defense and a Judgment of Foreclosure will be issued against you AND YOU WILL most likely LOSE TITLE TO YOUR HOME.

I am therefore of the opinion that we need to try and settle your case since I am convince that we will not prevail at trial.

not approved by
court

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Considering that the Magistrate Court issued almost a \$7,000.00 judgment against you in 2010 and, after the accrual of interest at a statutory rate, it appears that this judgment is now over \$9,000.00. Further, since you owe additional HOA dues for \$109.00 a month since at least 2009 for four (4) more years which now totals over \$5,200.00. This amount does not even include interest and legal costs as provided by the Restrictive Covenants which covers Townes at Pelham.

In adding the Magistrate judgment of \$9,000.00 and the additional HOA dues owed to date of over \$5,200.00, it is clear that you owe at least \$15,000.00.

not approved
by court

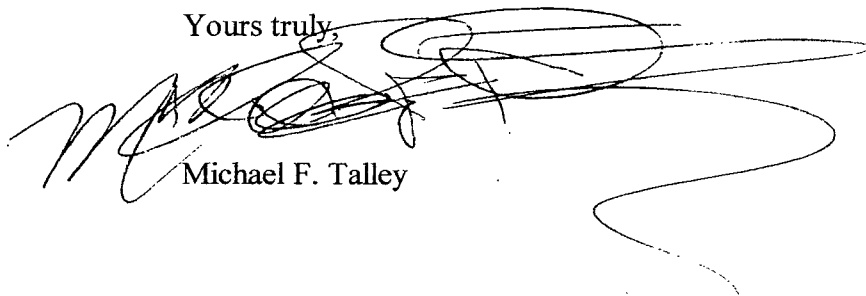
Since I have no doubt that the court will award Townes at Pelham a Foreclosure Judgment of a minimum of \$20,000.00, which would include attorney fees and interest, I think we need to try and settle your case for an amount in this range.

In that vein, I am enclosing a letter from Townes at Pelham's attorney containing a SETTLEMENT OFFER which says that they are willing to reduce their demand in settling this case by \$5,000.00 which, by my calculations, would approximate \$20,000.00.

After you review my letter and review their Settlement Offer, please let me know IMMEDIATELY if you are willing to try and settle this case in the range of \$20,000.00 so we can save your home.

I await your reply.

Yours truly,



Michael F. Talley

MFT/

Enclosures:

cc: Ms. Michanna Talley, Esquire

ORDER OF ARREST

DAVID B. WARD
WALLACE A. MULLINAX, JR.
MICHAEL A. FARRY
THOMAS E. DUGAS
DAVID A. WILSON
BRUCE B. CAMPBELL



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VANCE B. DRAWDY
1928-1997

J. WRIGHT HORTON
RETIRED

OF COUNSEL
JOSEPH M. JENKINS, JR.
RICHARD N. TAPP, P.A.

February 1, 2012

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
US MAIL AND EMAIL

Donna Boyd
6 Pelham Townes Drive
Greenville, SC 29615

RE: The Townes at Pelham Owners Association, Inc. v. Donna Boyd
Case No.: 2010-CP-23-10365

Dear Ms. Boyd:

Enclosed please find the proposed Order of Arrest resulting from your failure to appear at the January 31, 2012 Rule to Show Cause hearing scheduled for 2:00 p.m. Unless I hear from you in writing within ten (10) days of the date of this letter, I will submit the Order to Judge Simmons for the issuance of a Bench Warrant.

Please contact me in writing by February 13, 2012.

Sincerely,

HORTON, DRAWDY, WARD, MULLINAX
& FARRY, P.A.

David A. Wilson

DAW/ccb
Enclosure

ORDER OF ARREST

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

The Townes at Pelham Owners
Association, Inc.,

Plaintiff,

v.

Donna Boyd,

Defendant.

IN THE COURT OF COMMON PLEAS

Case No.: 2010-CP-23-10365

ORDER OF ARREST

**TO: THE SHERIFF OF GREENVILLE COUNTY, AND ANY DULY
AUTHORIZED LAW ENFORCEMENT OFFICER:**

WHEREAS, by Order and Rule to Show Cause dated March 16, 2011, the Defendant Donna Boyd was ordered to appear before me in supplemental proceedings on the 27th day of June, 2011 at 11:30 a.m., and it appears by reference to the Affidavit(s) of Service that the aforesaid Defendant was served with the Order and did appear at the supplemental proceedings hearing; and

WHEREAS, after the hearing, a Supplemental Proceedings Order was filed June 27, 2011 ordering the Defendant Donna Boyd to allow her vehicles to be appraised by the Plaintiff upon forty-eight hours' notice by email; and

WHEREAS, as shown by the Affidavit of David A. Wilson filed with this court along with the exhibits, the Defendant failed to allow the inspection of her two vehicles; and

WHEREAS, by Order and Rule to Show Cause dated December 8, 2011, the aforesaid Defendant Donna Boyd was ordered to appear before me for contempt proceedings on the 31st day of January, 2012 at 2:00 p.m., and it appears by reference to the Affidavit of Service that she was served on January 7, 2012 with the Order and Rule to Show Cause requiring her attendance at the hearing; and

WHEREAS, said Defendant failed to appear as required by the Order and Rule to Show Cause of this Court.

NOW, THEREFORE, IT IS ORDERED that the Sheriff of Greenville County and any duly authorized law enforcement officer is hereby required to forthwith to arrest Donna Boyd and place her in the Greenville County jail or otherwise hold her in custody, there to hold said person until she is brought at the first reasonably available opportunity before this Court.

The Clerk of Court is to issue a Bench Warrant.

IT IS SO ORDERED.

Charles B. Simmons
Master in Equity

February __, 2012
Greenville, South Carolina



**Greenville
County**

Greenville County, S.C.

A Great Place to Live, Work and Play

Lis Pendens

Master in Equity Judge Charles B. Simmons, Jr.

Home Primer for Mortgage Foreclosures Foreclosure Sales

Judicial Policy for Foreclosure Sales

[Click here](#) to read the Judicial Policy for Foreclosure Sales.

Primer for Mortgage Foreclosures in South Carolina

by Judge Charles B. Simmons, Jr.

This article was originally published in the May/June, 1995 issue of the South Carolina Lawyer magazine. It is published here with the permission of the author and the South Carolina Bar.

Whether one likes it or not, sooner or later most lawyers will have clients seeking to foreclose a note and mortgage. The primary purpose, of course, in a mortgage foreclosure suit is to have the mortgaged property sold and the proceeds of sale applied against the debt secured by the property. This article will guide the reader through a fairly typical mortgage foreclosure action.

In counties having Equity Court Judges, also known as Masters in Equity, those courts handle most of the mortgage foreclosure actions. Circuit courts also have jurisdiction to hear foreclosures and do so most often in counties without Equity Judges. In order to foreclose a mortgage efficiently and correctly, a lawyer needs to take the following steps.

1) Review of the Documents. Take a close look at the note, mortgage and any other related documents to ensure that the debtor is, in fact, in default on the note and mortgage. Never fall into the trap of assuming that what the client tells the lawyer is necessarily accurate. Also, the client may not be aware that certain legal requirements in the note and mortgage or the South Carolina Code may be applicable.

2) Title Exam. Have a title exam performed to determine what parties may have mortgages, liens or other claims on the property. The lawyer should name these other parties as defendants. The purpose of the foreclosure suit is, of course, to bring before the court all parties necessary to a complete determination or settlement of the issues.

Caveats. 1) A creditor having a superior lien to the mortgage being foreclosed is a proper party, but not a necessary party. The property may be sold subject to the lien. 2) One who acquires title to the mortgaged property after the proper filing of the lis pendens is not a necessary party. A subsequent purchaser is bound by the foreclosure decree to the same extent as if made a party.

3) Lis Pendens. The plaintiff must file a lis pendens in all mortgage foreclosure suits pursuant to S.C. Code Ann. § 15-11-10 et. seq. (1976). The lis pendens gives constructive notice of the foreclosure action to any subsequent purchasers or creditors. A lis pendens must be filed no more than 20 days before the filing of the complaint and no less than 20 days prior to the entry of a foreclosure decree. §15-11-10. If filed more than 20 days before the filing of the complaint, the lis pendens is automatically invalid. Service of the lis pendens must be made within 60 days after the date of its filing or it will be rendered invalid. §15-11-30.

4) Complaint. The complaint is controlled by the South Carolina Rules of Civil Procedure. All pertinent information should be set forth in the complaint, such as the note and the mortgage, and a description of the real property being foreclosed. The complaint should demand foreclosure of the equity of redemption and a judgment for the sale of the mortgaged property to satisfy the mortgage debt. The complaint should also state whether the plaintiff is seeking or waiving a deficiency judgment. (See paragraph 8.)

5) Receiver. In some foreclosure actions it may be prudent to seek appointment of a receiver to collect rents, etc., from the property during the pendency of the action. Be sure to look at the note and mortgage to determine if appointment of a receiver is authorized. Appointment of receivers is controlled by §§ 14-65-10 and -130.

6) Reference. Most mortgage foreclosure suits are referred to an Equity Court Judge or in counties in which there is no Equity Judge, a Special Referee. See Rule 71, SCRPC. Generally, a reference is made upon consent by all parties not in default. Rule 53(b), SCRPC. But, a compulsory reference is proper in that a mortgage foreclosure action is equitable in nature. Rule 71(a), SCRPC; Collier v. Green, 244 S.C. 267, 137 S.E.2d 277 (1964).

7) Hearing. Be sure to provide notice of the hearing to all parties at least three days before the scheduled hearing. See Rule 55(b) SCRPC. While there appears to be some conflict between court rules, case law and common practice, the better practice is to afford all defendants a notice of hearing. At the hearing itself, general rules of evidence apply. However, in default cases, most practitioners testify on behalf of their clients, without the necessity of having the client present in court. Most lawyers will provide an Affidavit of Debt from their client setting forth all the particulars of the debt, as well as the total amount due. This should also include the per diem rate from the date of the hearing. See Rule 71, SCRPC.

8) Deficiency Judgment. In order to request a deficiency judgment, the better practice is for the plaintiff to specifically request it in the pleadings. If a deficiency is waived, the order will not be a personal judgment against the mortgagor. Absent such a waiver, the decree of foreclosure establishes a personal judgment against the debtor. There are two ways this personal judgment may be entered. First, the court may enter a personal judgment for the total debt after the hearing. The net proceeds of the sale are then applied to reduce the balance due on the judgment debt. Alternatively, the court can order that a deficiency judgment be granted after the sale. After the sale, the court determines the amount of the deficiency and

2014-000701

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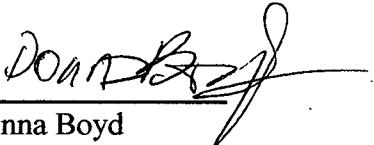
NOV 02 2015

SC Court of Appeals

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

October 30, 2015

/s/ 
Donna Boyd
Post Office Box 1168
Mauldin, South Carolina 29662
Pro Se