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IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2015-CP-10-0939

SC Court of Appeals

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)
 VIVIAN B. CROMWELL, et al.,)
 Plaintiffs,)
 vs.)
 ALBERTHA BRISBANE, et al.,)
 Defendants.)
 ASSOCIATED DEVELOPERS, INC. AND)
 NORDIC GROUP, LLC,)
 Intervenor.)

MASTER'S DECREE
(Clearing Title to Real Property and
Approving Partition By Sale)

FILED
 2016 JUN 16 PM 4:13
 JULIE J. ARMSTRONG
 CLERK OF COURT
 BY _____

This action came to be heard by me on December 17, 2015 and May 3, 2016 at Charleston, South Carolina pursuant to a Consent Order of Reference filed herein on September 25, 2015, which said Order authorized the Court to render a Final Decree. Plaintiffs seek a judicial declaration as to who are the owners of two (2) unimproved tracts of land measuring approximately 7.0 acres located in Charleston County, South Carolina (collectively "Subject Property") as the lawful heirs of the late James Brisbane, deceased, a judicial declaration forever quieting title to the Subject Property in the names of the said lawful heirs free and clear of any adverse claims whatsoever, and the partition by sale of the Subject Property to Associated Developers, Inc. ("Associated") which contracted to purchase the Subject Property from the Plaintiffs in August, 2014 for the sum of \$455,000.00.

Present at the December 17, 2015 hearing were the Plaintiffs, Vivian Cromwell, Susan Prioleau Simmons, Ruth Nelson Gadsden, Blake Brisbane and Mildred Chapman, their attorney, John J. Dodds, III, Esquire, Arthur C. McFarland, Jr., Esquire, attorney for Defendant, Ernestine Brown, the Defendants, Mary Ann Brisbane, Harvey Brisbane, Jr., Samuel Brown and Germaine Brisbane, all appearing pro se, John Elliot, the realtor listing the Subject Property, Chris Phillips, Jr., of Associated Developers, Inc., and J. Chris Lanning, Esquire, attorney for Nordic Group, LLC ("Nordic"), which presented an unsigned offer to purchase the Subject Property for the sum of \$560,000.00. After receiving testimony and exhibits

concerning who are the lawful heirs of the late James Brisbane, deceased, the Court scheduled a second hearing on May 3, 2016 to determine the value of the Subject Property.

After Associated and Nordic were both allowed to intervene in this action, a second hearing was held May 3, 2016. Present at the May 3, 2016 hearing were the Plaintiffs, Attorney Dodds, Attorney McFarland, Attorney Lanning, Attorney John E. Romanosky, Jr. on behalf of Associated, Chris Phillips, Jr., the Defendants, Clarence Brisbane, Jr., Evelyn Brisbane Palmer, Mary Ann Brisbane, Harvey Brisbane, Jr., Samuel Brown and Germaine Brown, all appearing pro se.

After careful consideration of the testimony and evidence presented, the Court finds and concludes as follows:

ONE: That the Summons, Lis Pendens, Notice and Complaint were filed in the Office of the Clerk of Court for Charleston County on February 13, 2015.

TWO: That by Order filed herein on June 29, 2015, Walter R. Kaufmann, Esquire, was appointed as Guardian Ad Litem for the party Defendants identified as "John Doe", adults, and "Richard Roe", infants, insane persons, incompetents, persons in the military service of The United States of America, and any other unknown persons or entities claiming any interest in the Subject Property. The Guardian has filed an Answer requesting that the Court grant the relief sought by Plaintiffs.

THREE: That pursuant to the Order of Publication filed herein on June 23, 2015, service of process upon the above named Defendants identified as "John Doe", adults, and "Richard Roe", infants, insane persons, incompetents, persons in the military service of The United States of America, and any other persons or entities, known and unknown, claiming any interest in the Subject Property, as well as other named Defendants as set forth in the said Order, was authorized via publication of the Summons and Notice of Filing once per week for three (3) consecutive weeks in The Charleston City Paper, a newspaper of general circulation in Charleston County, South Carolina, where the subject real property is located.

FOUR: That in accordance with the above Order of Publication, the Summons and Notice of Filing were published once per week for three (3) consecutive weeks in The Charleston City Paper, as evidenced

by the Affidavit of Publication filed herein on July 30, 2015. Other than the named parties, no persons or entities claiming any interest in the subject real property have filed any responsible pleadings or otherwise come forward in this matter to claim an interest in the Subject Property.

FIVE: That all Defendants in this matter were properly served with a certified copy of the Summons, Lis Pendens, Notice and Complaint, as evidenced by the Affidavits of Service, Acknowledgments of Service, Certificates of Service and/or Affidavit of Publication filed herein.

SIX: That pursuant to the Consent Order of Reference filed on September 25, 2015, the within action was referred to me as Master-In-Equity for purposes of having a hearing and making findings of fact and conclusions of law and to render a final decree with direct appeal to the South Carolina Court of Appeals.

SEVEN: That all parties were duly notified as to the date, time and place of both Hearings in this matter, as well as timely provided a copy of the Standing Order in Partition Actions setting forth the rights of any non-petitioning joint tenants or tenants in common pursuant to Section 15-61-25, Code of Laws of South Carolina, 1976, as amended, all as evidenced by the Notice of Hearing and Certificate of Mailing filed herein.

EIGHT: That none of the Defendants herein are in the military service of the United States of America and, therefore, the "Soldiers' and Sailors' Civil Relief Act of 1940", as amended, has no application in this action.

NINE: That the parcels of real estate which is the subject matter of this action is situated in the County of Charleston, State of South Carolina, and is more fully described as follows:

ALL that piece, parcel, and tract of land situate, lying and being on James Island, Charleston County, and state aforesaid, measuring and containing five and 28/100 acres more or less, and is fully shown on plat thereof made by Simons and Mayrant Company dated March 5, 1908 same being a portion of the tract of land marked division three (3) on a plat made by Frederick J. Smith, surveyor, dated July 1879 and recorded in the RMC Office for Charleston County in Plat Book C, Page 11. Butting and Bounding North on lands of Stephen Forrest; East on lands of Edward Drayton and AME Church; South on public road, West on lands about to be conveyed by William B. Holmes to Robert Simmons and Nellie Gibbs. Said tract

marked division three (3) on plat of Frederick J. Smith, surveyor, having been conveyed by F. F. Whilden to Martha E. Holmes by deed dated July 29, 1879 and re-recorded in the RMC Office for Charleston County in Book U17, Page 129.

TMS # 340-01-00-050 (3.4 acres, more or less)

TMS # 340-01-00-011 (3.6 acres, more or less)

Note: TMS #'s 340-01-00-050 and 340-01-00-011 are shown as Lot B on a Plat by J. O'Hear Sanders, Jr., surveyor, dated February 14, 1957, entitled "Plat showing a tract of land on James Island. Portion with corners lettered A, B, C, D and A containing 4 acres", which Plat is attached to the Title to Real Estate recorded in the RMC Office for Charleston County on October 27, 1959, in Book S-68, Page 585.

Also: TMS#'s 340-01-00-011 and 340-01-00-050 are further depicted on "'A Topical Survey Plan of Parcel 340-01-00-011 and 340-01-00-050 1912 Central Park Road Owned By James Brisbane Estate Located In The Town Of James Island Charleston County, South Carolina" by SWA Surveying LLC, dated October 29, 2014, a copy of which is attached hereto as Exhibit "A" and incorporated herein by express reference.

The above real property referred to herein collectively as the "Subject Property".

TEN: That the Subject Property is the same property owned by the late James Brisbane, deceased, who acquired the property by deed, dated March, 1908, and recorded in the RMC Office for Charleston County, South Carolina in Book Y-24, at Page 194. The said James Brisbane later died intestate on or about 1942 while seized and possessed in fee simple title to the Subject Property and leaving as his sole heirs and distributees-at-law his eight (8) children, James Brisbane, Jr., Rosa Robinson, Henrietta Brisbane Geathers, Estelle Brisbane Nelson, Swackie Brisbane, Susan Brisbane Richardson, Wilhemenia Young and Roxanna Pinckney.

ELEVEN: James Brisbane, Jr. died intestate on or about 1958 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his wife, Ida Brisbane, and six (6) children, James Brisbane, III, Jimmy Brisbane, Albertha Graham, Emily Brown, Harvey Brisbane, and Vivian Cromwell. The said Ida Brown died on or about 1975 leaving as her sole heirs and distributees-at-law her six (6) children.

TWELVE: Rosa Robinson died intestate on or about 1955 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her

siblings, James Brisbane, Jr., Henrietta Brisbane Geathers, Estelle Brisbane Nelson, Swackie Brisbane, Susan Brisbane Richardson, Wilhemenia Young, and Roxanna Pinckney.

THIRTEEN: Henrietta Brisbane Geathers died intestate on or about 1975 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her three (3) children, Laura Geathers, Geneva Grant, and Vida Heyward.

FOURTEEN: Estelle Brisbane Nelson died intestate in 1996 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her five (5) children, Clarence Brisbane, William Nelson, Frederica Coleman, Ruth Gadsden, and Dorothy Boykins.

FIFTEEN: Swackie Brisbane died intestate in 1987 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his five (5) children, Swackie Brisbane, Jr., Carlotta Bickham, George Brisbane, Robert Blake Brisbane, and Elias Brisbane.

SIXTEEN: Susan Brisbane Richardson died intestate in 1968 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her two (2) children, Janie Simmons and Ruby Mitchell.

SEVENTEEN: Wilhemenia Young died intestate in 1985 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her siblings, James Brisbane, Jr., Rosa Robinson, Henrietta Brisbane Geathers, Estelle Brisbane Nelson, Swackie Brisbane, Susan Brisbane Richardson, and Roxanna Pinckney.

EIGHTEEN: Roxanna Pinckney died intestate in 1967 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her siblings, James Brisbane, Jr., Rosa Robinson, Henrietta Brisbane Geathers, Estelle Brisbane Nelson, Swackie Brisbane Richardson, and Wilhemenia Young.



NINETEEN: James Brisbane, III died intestate in 1991 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his five (5) children, Betty B. Manigault, Leroy Brisbane, Rosetta Brisbane, Francena B. Lawton, and James B. Watson.

TWENTY: Jimmy Brisbane died intestate on or about 1953 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his four (4) children, Daniel Simmons, Horace Robinson, Helen Davis, and Elizabeth Williams.

TWENTY-ONE: Albertha Graham died intestate in 1994 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her three (3) children, William Albert Brisbane, Joseph E. Hopkins, and Jerome Hopkins.

TWENTY-TWO: Emily Brown died intestate in 1978 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her husband, Steve Brown, and eleven (11) children, Steve Brown, Jr., Steve Christopher Brown, Alethia Gillian, Roger Brown, James Leroy Brown, Thomas Brown, Harold Brown, Samuel Brown, Jeanette Brown, Wilhemenia Frasier, and Arthur Brown. Steve Brown died in 1978 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his eleven (11) children.

TWENTY-THREE: Harvey Brisbane died intestate in 1973 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his wife, Mary Ann Brisbane, and two (2) children, Harvey Brisbane, Jr., and Georgetta Brisbane.

TWENTY-FOUR: Daniel Simmons died intestate in 1996 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his wife, Rosalee Simmons, and three (3) children, Laverne Hamilton, Minerva Gadsden, and Daniel Simmons, Jr.

TWENTY-FIVE: Horace Robinson died intestate in 1975 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his wife, Mabel Robinson, and seven (7) children, Mary Moseley, Horace Robinson, Jr., James Robinson, Henry Robinson, Avis D. Robinson, Dora Robinson, and Julian Robinson. Mabel Robinson died in 1995, while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her seven (7) children.

TWENTY-SIX: Elizabeth Williams died intestate in 1996 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her eight (8) children, Jamie Williams, Desiree Williams, Mark Williams, Grace Ettison, Dannion Jordan, Ronald Williams, Patricia Williams, and William Drayton.

TWENTY-SEVEN: Joseph E. Hopkins died intestate in 1998 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his wife, Ruth Hopkins, and his two (2) children, Joseph Hopkins, Jr., and Tracy Hopkins.

TWENTY-EIGHT: Steve Brown, Jr. died intestate in 2000 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his wife, Mary Brown, and two (2) children, Antonio Brown, and Dwayne Brown. Mary Brown died intestate in 2002 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her two (2) children, Antonio Brown, and Dwayne Brown.

TWENTY-NINE: Roger Brown died intestate in 1997 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his three (3) children, Keith Brown, Kenny Brown, and Dexter Brown.

THIRTY: James Leroy Brown died intestate in 2001 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his wife, Laura Marie Brown, and three (3) children, Starcia Stewart, James L. Brown, Jr., and Glen Brown.



THIRTY-ONE: Harold Brown died testate in 1999 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heir and distributee-at-law his wife, Ernestine Brown.

THIRTY-TWO: Julian Robinson died intestate in 1995 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his siblings, Mary Moseley, Horace Robinson, Jr., James Robinson, Henry Robinson, Avis D. Robinson, and Dora Robinson.

THIRTY-THREE: Ronald Williams died intestate in 2002 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his four (4) children, Jimez Williams, Ronell Williams, Nashem Williams, and Raliem Williams.

THIRTY-FOUR: William Drayton died intestate in 1991 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his two (2) children, William Drayton, and Keith Drayton.

THIRTY-FIVE: Georgetta Brisbane died intestate in 2000 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heir and distributee-at-law her mother, Mary Ann Brisbane.

THIRTY-SIX: Laura Geathers died intestate after 1977 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her three (3) children, Albertha Brisbane, Jeanie Geathers, and Henrietta Bolds.

THIRTY-SEVEN: Geneva Grant died intestate in 1994 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her husband, Edward Grant, Sr., and seven (7) children, Carolyn Logan, Mary Jane Brown, Muriel Grant, Edward Grant, Jr., Gilbert Grant, Perry Grant, and Junata O'Kieffe.

THIRTY-EIGHT: Viola Heyward died intestate in 1977 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her husband, Theodore Heyward, and fifteen (15) children, Helen Brown Allen, Albertha Lee Richardson, Ertha Lee Elliot, Martha Lions, Louise Heyward, Margie Marine, Gertha Forrest, Gloria Gibbs, Susan Prioleau Simmons, Christopher Gathers, John D. Heyward, Theodore Heyward, Jr., Mary H. Mitchell, Herbert Heyward, and James Heyward. Theodore Heyward died intestate in 1996 while having an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his fifteen (15) children.

THIRTY-NINE: Henrietta Bolds died intestate in 1985 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her four (4) children, Danny Bolds, Raymond Bolds, Michael Bolds and David Bolds.

FORTY: Theodore Heyward, Jr., died intestate in 1981 while having an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his siblings, Helen Brown Allen, Albertha Lee Richardson, Ertha Lee Elliot, Martha Lions, Louise Heyward, Margie Marine, Gertha Forrest, Gloria Gibbs, Susan Prioleau Simmons, Christopher Gathers, John D. Heyward, Mary H. Mitchell, Herbert Heyward, and James Heyward.

FORTY-ONE: Mary H. Mitchell died intestate in 1990 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her husband, Allen Mitchell, Jr., and three (3) children, Tiffany Daley, Michael Mitchell, and Allen Mitchell, III.

FORTY-TWO: James Heyward died intestate on or about 1985 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his siblings, Helen Brown Allen, Albertha Lee Richardson, Ertha Lee Elliot, Martha Lions, Louise Heyward,

Margie Marine, Gertha Forrest, Gloria Gibbs, Susan Prioleau Simmons, Christopher Gathers, John D. Heyward, Mary H. Mitchell, and Herbert Heyward.

FORTY-THREE: Clarence Brisbane died intestate in 2002 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his wife, Lavinia Brisbane, and eight (8) children, Clarence Brisbane, Jr., Loretta Brisbane, Betty Brisbane, Fred Brisbane, Gail Davis, Evelyn Palmer, Mary Brisbane, and Carl Brisbane. Lavinia Brisbane died intestate in 2004 while having an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her eight (8) children.

FORTY-FOUR: William Nelson died intestate in 2003 while having an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his eight (8) children, Barbara Johnson, William Nelson, Jr., Diane B. Samuel, Caffie Nelson, Thelma E. Nelson, Carolyn Singleton, Lamont Q. Nelson, and Rodney A. Nelson.

FORTY-FIVE: Swackie Brisbane, Jr., died intestate in 1987 while having an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his two (2) children, Maxine Brisbane and Evan Brisbane.

FORTY-SIX: Janie Simmons died intestate in 1975 while having an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her husband, Jesse Simmons, and four (4) children, Mildred Chapman, Jesse Simmons, Jr., Odell White, and Christine Hatfield. Jesse Simmons died intestate in 1995 while having an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law his four (4) children, Mildred Chapman, Jesse Simmons, Jr., Odell White, and Christine Hatfield.

FORTY-SEVEN: Ruby Mitchell died intestate in 1996 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her six (6) children,

Sarah Mitchell, Suzanne Mitchell, Olethia Gadsden, Annette Harley, Arthur Albert Mitchell, Jr., and Benjamin Mitchell.

FORTY-EIGHT: Wilhemenia Young died intestate in 1985 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her siblings, James Brisbane, Jr., Rosa Robinson, Henrietta Brisbane Geathers, Estelle Brisbane Nelson, Swackie Brisbane, Susan Brisbane Richardson, and Roxanna Pinckney.

FORTY-NINE: Roxanna Pinckney died intestate in 1967 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her siblings, James Brisbane, Jr., Rosa Robinson, Henrietta Brisbane Geathers, Estelle Brisbane Nelson, Swackie Brisbane, Susan Brisbane Richardson, and Wilhemenia Young.

FIFTY: Betty Manigault died intestate on September 12, 2014 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her five (5) children, Barbara Roper, Chadwick Manigault, Corey Manigault, Alethia Reed, and Herbert Manigault.

FIFTY-ONE: Rosetta Brisbane died intestate sometime after February, 2005 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her two (2) children, Rosetta Brisbane Brown and William A. Brisbane.

FIFTY-TWO: William Albert Brisbane died intestate on March 2, 2009 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his wife, Nancy Brisbane, and five (5) children, William Albert Brisbane, Jr., Bernard Brisbane, Gary Brisbane, Bonnie Brisbane, and Jametta Brisbane.

FIFTY-THREE: Ruth Hopkins died intestate on November 13, 2009 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her three (3) children, Jerome Hopkins, Joseph Hopkins, Jr., and Tracy Hopkins.



FIFTY-FOUR: Steve Christopher Brown died intestate on November 24, 2013 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his two (2) children, Ronald Washington, and Sandra Michelle Lawrence.

FIFTY-FIVE: Ronald Washington died intestate in 2015 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his five (5) children, Ronald Washington, Jr., LaTanya Gathers, Nichole Washington, Conzales Davis, and Laquan Murphy.

FIFTY-SIX: Dwayne Brown died intestate February, 2005 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heir and distributee-at-law his brother, Antonio Brown.

FIFTY-SEVEN: Thomas Brown died intestate after while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heir and distributee-at-law his wife, Lottie Brown.

FIFTY-EIGHT: Wilhemenia Frasier died intestate while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her six (6) children, Sylvia Johnson, Raymon Brown, Ronald Brown, Bernard Frasier, Barry Frasier, and Kelvin Frasier.

FIFTY-NINE: Jeannie Geathers died intestate on March 15, 2014 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her five (5) children, Jennet Geathers, Carolyn Pinckney, Sherry Geathers, Vernon Geathers, and Beatrice Geathers.

SIXTY: Edward Grant, Sr., died intestate in 2006 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his seven (7) children, Carolyn Logan, Mary Jane Brown, Muriel Grant, Edward Grant, Jr., Gilbert Grant, and Juanita O'Kieefe.



SIXTY-ONE: Helen Brown Allen died intestate in 2011 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her siblings; Albertha Lee Richardson; Ertha Lee Elliot, Martha Lions, Louise Heyward, Margie Marine, Gertha Forrest, Gloria Gibbs, Susan Prioleau Simmons, Christopher Gathers, John D. Heyward and Herbert Heyward..

SIXTY-TWO: Albertha Lee Richardson died intestate in 2012 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her three (3) children, Maggie Richardson, Delores Richardson, and William Richardson.

SIXTY-THREE: Ertha Lee Elliot died intestate in 2013 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her eight (8) children, Cynthia Heyward, Jackie Elliot, Patricia Elliot, Joseph Heyward, Rodney Elliot, Debra Elliot, Stephanie Elliot, and Timothy Darryl Elliot.

SIXTY-FOUR: Timothy Darryl Elliot died intestate in 2014 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his three (3) children, Janae Elliot, Porsha Elliot, and Davon Elliot.

SIXTY-FIVE: Louise Heyward died intestate on September 24, 2012 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her two (2) children, Robert Heyward and Katina Heyward.

SIXTY-SIX: Herbert Heyward died intestate on September 8, 2012 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his two (2) children, Valerie Heyward and Karvin Dotson.

SIXTY-SEVEN: Loretta Brisbane died intestate in March of 2012 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her two (2) children, Youlanda Brisbane, and Kermit Brisbane.



SIXTY-EIGHT: Gail Davis died intestate on September 5, 2012 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her two (2) children, Shoneatha Brisbane, and Germaine Brisbane.

SIXTY-NINE: William Nelson, Jr., died intestate in April of 2011 while seized and possessed of an undivided interest in the Subject Property and leaving as his sole heirs and distributees-at-law his wife, Peggy Nelson and four (4) children, Zelda Williams, Erikara Nelson, Samuel Nelson, and Elizabeth Richardson.

SEVENTY: Carlotta Bickham died intestate on June 19, 2014 while seized and possessed of an undivided interest in the Subject Property and leaving as her sole heirs and distributees-at-law her five (5) children, Lynette Bickham, Eddie Bickham, Jewel Bickham, Raylene Powell, and Janet Bickham.

SEVENTY-ONE: The lawful heirs of the late James Brisbane, deceased, and lawful owners of the Subject Property, and their respective undivided interest in the Subject Property, are as set forth in the attached Exhibit "B", which said Exhibit "B" is incorporated herein by express reference as though fully set forth herein.

SEVENTY-TWO: On August 11, 2014, Plaintiffs entered into a written Contract to Purchase wherein they agreed to sell the Subject Property to Associated for the sum of \$455,000.00. A written First Amendment To Contract To Purchase was entered into by and between Plaintiffs and Associated on January 5, 2015.

SEVENTY-THREE: The Subject Property is not capable of being partitioned in kind given the size of the Subject Property and the number of persons having an undivided ownership interest therein as set forth in Exhibit "B". It is in the best interests of all the Owners that a partition by sale of the Subject Property occur.

SEVENTY-FOUR: At the Hearing held on December 17, 2015, an unsigned offer to purchase the Subject Property was presented by Nordic at a purchase price of \$560,000.00, contingent upon and



subject to a 15 day right of inspection and a 15 day period to close. As a result of the offer from Nordic, Associated filed a Motion to Intervene as a party defendant in this action, which motion was granted by the Court on March 2, 2016.

SEVENTY-FIVE: Nordic filed a Motion to Intervene on March 24, 2016, which motion was granted by the Court on April 25, 2016. As a result of the competing offers to purchase the Subject Property, a hearing was scheduled for May 3, 2016, to take testimony and to determine the fair market value of the Subject Property as of the date of the initial Hearing on December 17, 2015.

SEVENTY-SIX: Prior to taking testimony at the valuation hearing on May 3, 2016, counsel for all parties to the litigation stipulated that the fair market value of the Subject Property was \$560,000.00 as of December 17, 2015. This value is consistent with an appraisal previously received by the Court. Associated then presented to the Court a signed Second Amendment to its original contract of August 11, 2014, removing all closing contingencies, raising its offer to purchase to the agreed fair market value of \$560,000.00, and agreeing to close the purchase within 30 days of the date of the issuance of a Final Order by the Court. Counsel for Nordic then stated to the Court that he had authority from his client to raise its offer to purchase by as much as \$100,000.00, but that there was no written offer from Nordic to present at that time.

SEVENTY-SEVEN: The Court solicited testimony to help determine which offer was in the best interest of the Brisbane heirs and owners of the Subject Property. Mr. Chris Phillips, Jr., a member of Associated, offered testimony on behalf of Associated and its efforts to secure the Subject Property over the past 24 months. He testified that Associated has spent more than \$35,000.00 to obtain a boundary survey, topographic survey, tree survey, wetlands survey, and jurisdictional wetland determination of the U. S. Army Corps of Engineers. Thereafter, after preliminary land planning and conceptual planning with the City of Charleston, James Island Public Service District, and South Carolina Department of Transportation, Associated successfully obtained annexation of the property into the City

of Charleston and favorable zoning for single family development. Of significant importance to the Plaintiffs and the Brisbane family heirs is a Written Agreement, dated October 14, 2015, in which Associated and the Plaintiffs have agreed to the preservation of numerous family grave sites on the Subject Property at the sole expense of Associated and with perpetual access afforded to the Brisbane heirs and their families.

SEVENTY-EIGHT: Other than its counsel, no representatives or officers of Nordic appeared at the valuation hearing. Counsel for Nordic was asked whether his client was willing to remove all contingencies and close at a higher price than \$560,000.00, but he was unable to make such a commitment on behalf of Nordic at this time. Further, Nordic's counsel indicated that he did not know whether his client had actually visited or inspected the property.

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SEVENTY-NINE: The Court finds that Associated has acted in good faith under its agreement with the Plaintiffs in the original contract, the subsequent amendments, and the Written Agreement to preserve, protect, and maintain the Brisbane family grave sites located upon the Subject Property. Associated has spent substantial sums of money in reliance upon its agreement with the Plaintiffs, and has agreed to purchase the property at its current fair market value. Although counsel for Nordic indicated that his client would be willing to negotiate a higher price, no such binding offer or agreement was presented on Nordic's behalf. It appears to the Court that the contract between the Plaintiffs and Associated is more likely to close at this time. After considering all of the testimony, evidences, and circumstances surrounding both contracts, the Court finds that Associated's contract, as amended at the higher purchase price of \$560,000.00, should be approved.

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EIGHTY: That over the years, certain of the parties have paid real property taxes levied against the Subject Property, while other parties have paid no taxes whatsoever. Attached as Exhibit "C" and incorporated herein by express reference is an itemization of taxes paid and by whom paid. The real property taxes are a common expense of the Subject Property and the parties who've paid the real

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16 ** This court is convinced of*
← bound by the State of Florida
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property taxes as set forth in Exhibit "C" are entitled to be reimbursed from the sale proceeds prior to the distribution of any funds to any of the Owners set forth in Exhibit "B".

EIGHTY-ONE: That in accordance with Section 15-61-110, Code of Laws of South Carolina, 1976, as amended, the Court may fix attorney fees in all partition proceedings and, as may be equitable, assess such fees against any or all of the parties in interest. Further, Rule 71(d)(3), SCRPC, provides that attorney fees and costs may be awarded the attorney for any party(s) from any common fund generated by the partition to the extent that attorney's efforts benefitted all parties; otherwise his fee shall be paid by the party(s) he represents or from the proceeds of sale of the common property or may equitably assess the costs against shares of the party. The Court specifically finds that Plaintiffs' counsel has been the "driving force" in this action and that his considerable efforts have clearly benefitted all parties. Plaintiffs' counsel has expended 47.5 hours prosecuting this action and has incurred costs totaling \$1,796.36. The amount of time expended by Plaintiffs' counsel is consistent with the services which have been rendered and the hourly rate is reasonable and consistent with the hourly rate charged by other attorneys performing similar services. It is just and proper that Plaintiffs' counsel be paid the sum of \$9,500.00, less \$5,000.00 advanced by Associated, together with costs in the total amount of \$1,796.36, from the sale proceeds prior to the distribution of any funds to any of the Owners set forth in Exhibit "B", saving and excepting funds to reimburse certain parties for real property taxes paid as set forth in Exhibit "C".

NOW, THEREFORE, it is ORDERED, ADJUDGED AND DECREED as follows:

ONE: That fee simple title to the Subject Property shall be, and is hereby, declared to be in the names of those persons set forth in the attached Exhibit "B", which said persons have an undivided interest in the Subject Property in the percentage set forth in Exhibit "B", free and clear of all liens and encumbrances whatsoever, saving and excepting outstanding real property taxes;



TWO: That the Contract from Associated, as amended, to purchase the Subject Property for the sum of \$560,000.00 is hereby approved. Upon payment of the full purchase price of \$560,000.00, this Court shall issue a Master's Deed to Associated conveying the Subject Property. Any judgment or other lien or encumbrance against any of the Owners of the Subject Property as set forth in the attached Exhibit "B" shall not attach to the title to the Subject Property, but shall attach only to that Owner's share of the net sale proceeds;

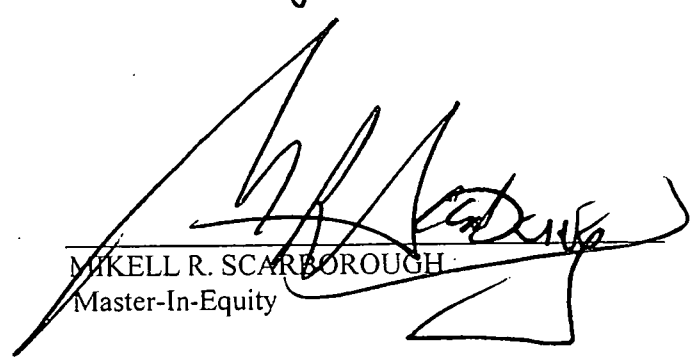
THREE: That the parties who've paid the real property taxes levied against the Subject Property as set forth in Exhibit "C" attached hereto shall be reimbursed from the sale proceeds prior to the distribution of any funds to any of the Owners set forth in Exhibit "B";

FOUR: That Plaintiffs' counsel, John J. Dodds, III, shall be paid the sum of \$6,296.36 from the sale proceeds prior to the distribution of any funds to any of the Owners set forth in Exhibit "B"; and

FIVE: The Court shall reserve jurisdiction to issue such other Orders as may be necessary to effectuate the terms hereof.

AND IT IS SO ORDERED this _____ day of ~~May~~, 2016, at Charleston, South Carolina.

May 16/14, 2016.
Charleston, SC.


MIKELL R. SCARBOROUGH
Master-In-Equity

RECEIVED
JUN 16 2016
SC Court of Appeals

EXHIBIT "B"

Albertha Brisbane	0.0190476
Leroy Brisbane	0.0047619
Francena B. Lawton	0.0047619
James B. Watson	0.0047619
Helen Davis	0.0059523
Rosalee Simmons	0.0029761
Laverne Hamilton	0.000992
Minerva Gadsden	0.000992
Daniel Simmons, Jr.	0.000992
Mary Mosely	0.000992
Horace Robinson, Jr.	0.000992
James Robinson	0.000992
Henry Robinson	0.000992
Avis Robinson	0.000992
Dora Robinson-Johnson	0.000992
Jamie Williams	0.000744
Desiree Williams	0.000744
Mark Williams	0.000744
Grace Ettison	0.000744
Dannion Jordan	0.000744
William Drayton	0.000372
Keith Drayton	0.000372
Jerome Hopkins	0.0079365
Joseph Hopkins, Jr.	0.0019841
Tracy Hopkins	0.0019841

Alethia Gillian	0.0021645
Samuel Brown	0.0021645
Jeannette Brown	0.0021645
Arthur Brown	0.0021645
Antonio Brown	0.0021644
Keith Brown	0.0007215
Kenny Brown	0.0007215
Dexter Brown	0.0007215
Laura Marie Brown	0.0010822
Starcia Stewart	0.0003607
James L. Brown, Jr.	0.0003607
Glen Brown	0.0003607
Ernestine Brown	0.0021645
Mary Ann Brisbane	0.015873
Harvey Brisbane, Jr.	0.0079365
Danny Bolds	0.0047619
Raymond Bolds	0.0047619
Michael Bolds	0.0047619
David Bolds	0.0047619
Carolyn Logan	0.0081632
Mary Jane Brown	0.0081632
Muriel Grant	0.0081632
Edward Grant, Jr.	0.0081632
Gilbert Grant	0.0081632
Perry Grant	0.0081632
Juanita O'Kieffe	0.0081632

Martha Lions	0.0043956
Margie Marine	0.0043956
Gurtha Forrest	0.0043956
Gloria Gibbs	0.0043956
Christopher Gathers	0.0043956
John D. Heyward	0.0043956
Allen Mitchell, Jr.	0.0021978
Tiffany N. Daley	0.0007326
Michael S. Mitchell	0.0007326
Allen Mitchell, III	0.0007326
Frederica Coleman	0.0514285
Dorothy Boykin	0.0514285
Clarence Brisbane, Jr.	0.0064285
Betty Brisbane	0.0064285
Fred Brisbane	0.0064285
Evelyn Palmer	0.0064285
Mary Brisbane	0.0064285
Carl Brisbane	0.0064285
George Brisbane	0.0514285
Elias Brisbane	0.0514285
Maxine Brisbane	0.0257142
Evan Brisbane	0.0257142
Jesse Simmons, Jr.	0.0214285
Odell White	0.0214285
Christina Hartfield	0.0214285
Sarah Mitchell	0.0142857

Arthur Albert Mitchell	0.0142857
Suzanne Mitchell	0.0142857
Olethia Gadsen	0.0142857
Wanda Mitchell Harley	0.0142857
Benjamin Mitchell	0.0142857
Barbara Johnson	0.0064285
Diane B. Samuel	0.0064285
Caffie L. Nelson	0.0064285
Thelma E. Nelson	0.0064285
Carolyn Singleton	0.0064285
Lamotta Q. Nelson	0.0064285
Vivian Cromwell	0.0254639
Patricia Williams	0.000744
Jimez Williams	0.000186
Ronell Williams	0.000186
Nashem Williams	0.000186
Raliem Williams	0.000186
Rodney A. Nelson	0.0064285
Ruth Gadsden	0.0514285
Susan Prioleau Simmons	0.0043956
Robert Blake Brisbane	0.0514285
Mildred Chapman	0.0214285
Jennet Geathers	0.0038095
Carolyn Pinckney	0.0038095
Sherry Geathers	0.0038095
Vernon Geathers	0.0038095

Beatrice Geathers	0.0038095
Margie Richardson	0.0015984
Delores Richardson	0.0015984
William Richardson	0.0015984
Cynthia Heyward	0.0005994
Jackie Elliot	0.0005994
Patricia Elliot	0.0005994
Joseph Heyward	0.0005994
Rodney Elliot	0.0005994
Debra Elliot	0.0005994
Stephanie Elliot	0.0005994
Janae Elliot	0.0001998
Porsha Elliot	0.0001998
Davon Elliot	0.0001998
Robert Heyward	0.0021978
Katina Heyward	0.0021978
Valerie Heyward	0.0021978
Karvin Dotson	0.0021978
Youlanda Brisbane	0.0032142
Kermit Brisbane	0.0032142
Shoneatha Brisbane	0.0032142
Germaine Brisbane	0.0032142
Peggy Nelson	0.0032142
Zelda Williams	0.0008035
Erikara Nelson	0.0008035
Samuel Nelson	0.0008035

Elizabeth Richardson	0.0008035
Lynette Bickham	0.0102857
Eddie Bickham	0.0102857
Jewel Bickham	0.0102857
Raylene Powell	0.0102857
Janet Bickham	0.0102857
Barbara Roper	0.0009523
Chadwick Manigault	0.0009523
Corey Manigault	0.0009523
Alethia Reed	0.0009523
Herbert Manigault	0.0009523
Rosetta Brisbane Brown	0.0023809
William A. Brisbane	0.0023809
Nancy Brisbane	0.0039682
William Albert Brisbane, Jr.	0.0007936
Bernard Brisbane	0.0007936
Gary Brisbane	0.0007936
Bonnie Brisbane	0.0007936
Jametta Brisbane	0.0007936
Jerome Hopkins	0.0013227
Joseph Hopkins, Jr.	0.0013227
Tracy Hopkins	0.0013227
Sandra Michelle Lawrence	0.0010822
Elaine Washington	0.0005411
Ronald Washington, Jr.	0.0001082
LaTanya Gathers	0.0001082

Nichole Washington	0.0001082
Conzales Davis	0.0001082
Laquan Murphy	0.0001082
Lottie Brown	0.0021645
Sylvia Johnson	0.0003607
Raymon Brown	0.0003607
Ronald Brown	0.0003607
Bernard Brown	0.0003607
Barry Frasier	0.0003607
Kelvin Frasier	0.0003607

Exhibit "C"

T.M.S. # 340-01-00-011

Blake Brisbane	\$25,933.27
Ruth N. Gadsden	3,890.00
Gloria Gibbs	400.00
Susan Simmons	300.00
Carlotta Bickham	800.00
Bernice Brisbane	490.00
Mildred Chapman	400.00
Margie Marine	200.00
Nancy Brisbane	80.00
Clarence Brisbane, Jr.	100.00
Mary Brisbane	100.00
Shawn Brisbane	150.00
Barbara Roper	100.00
Martha Lions	100.00
John Heyward	100.00
Patricia Elliot	100.00
Allen Mitchell, III	100.00
Angel Heyward	50.00
Albertha Brisbane	<u>50.00</u>
Total	\$33,443.27

T.M.S. # 340-01-00-050

Arthur Brown	\$ 1,600.00
Horace Robinson	1,600.00
Rosalee Simmons	1,600.00
Mary Ann Brisbane	190.00
Susan Simmons	250.00
Ruthie Gadsden	200.00
Tracey Hopkins	4,138.06
Vivian Cromwell	3,241.71
Nancy G. Brisbane	<u>3,241.71</u>
Total	\$16,061.48