

STATE OF SOUTH CAROLINA FILED-RECEIVED IN THE COURT OF COMMON PLEAS
COUNTY OF YORK 2016 JUL 28 / AM 9:05

Knightsbridge Property Owners Assoc. & GS Case No.: 2014-CP-46-03819
Inc, YORK COUNTY, SC

Plaintiff,

v.

Paul A. Nadeau,

Defendant.

ORDER DENYING DEFENDANT'S
MOTION TO RECONSIDER

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AUG 17 2016

SC Court of Appeals

This matter came before me on April 20, 2016 on Defendant's Motion to Reconsider. Plaintiff was represented by Stephanie C. Trotter. Defendant was represented by Edwin McDonnell. Defendant argues that Plaintiff was not authorized to levy assessments against him because the budget and assessments were not approved thirty days before the start of the calendar year pursuant to the restrictive covenants. Specifically, Defendant argues that such assessments were *ultra vires*, and should not be allowed, based on the case of *Seabrook Island Property Owners' Association v. Pelzer*, 292 S.C. 343, 356 S.E.2d 411 (Ct. App. 1987).

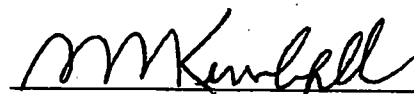
I find *Seabrook* to be distinguishable from the present case. The association in *Seabrook* attempted to levy assessments using a calculation not authorized by the restrictive covenants. In this case, Defendant has not contested Plaintiff's ability to levy assessments, or the assessment calculation used by Plaintiff. Instead Defendant merely contests the timing of the budget approval, which I find not to be an *ultra vires* act.

Defendant is unable to articulate any harm caused by the Board's late adoption of the budget. Additionally, Defendant did not raise any objection to the Board's budget adoption process prior to commencing this action. Due to Defendant's failure to complain about the budget process, he has waived his objection, and is estopped to now assert such an objection.

Other than the foregoing clarification, I find no matter presented that was not addressed expressly, or by clear implication, in the prior order. Therefore, it is ordered that Defendant's Motion pursuant to Rule 59(e), SCRPC, be denied.

AND IT IS SO ORDERED.

July 27, 2016



S. Jackson Kimball
Master in Equity
York County