

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY) IN THE COURT OF COMMON PLEAS
 FIFTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2014-CP-26-4605

Willow Run Condominium Homeowners)
Association, Inc.,)
)
Plaintiff,)
)
v.)
)
Donald Hults,)
)
Defendant.)
_____)

**FINAL ORDER AND
PERMANENT INJUNCTION**

Pursuant to Rule 53 SCRCF, the above-entitled matter was referred to the undersigned to make appropriate findings of fact and conclusions of law with authority to enter a final judgment in the case. Any appeal from this Order is to the Court of Appeals for South Carolina.

This matter was heard before me on January 20, 2016. Present at the hearing were Luther O. McCutchen, III of the law firm of McCutchen, Mumford, Vaught & Geddie, P.A., representing the Plaintiff, and pro se Defendant Donald Hults. This is an action for permanent injunction enjoining Defendant, Donald Hults, from using a grill on the property of Willow Run Horizontal Property Regime. Plaintiff, Willow Run Condominium Homeowners Association, Inc. (hereinafter occasionally referred to as "Association"), is also seeking an award of fines assessed against Defendant for violating the Rules and Regulations concerning using a grill on the property.

FACTUAL BACKGROUND

1. On September 29, 2012, a little over a month after Defendant Donald Hults and his wife bought Dwelling Number 25-A at Willow Run Condominium, a fire occurred at the Willow Run complex as more fully reported by the Myrtle Beach Fire and Rescue for the City of Myrtle Beach, South Carolina. A report stated that the fire originated from a "grill, hibachi, barbecue" grill.

The resulting damages exceeded Two Hundred Forty Thousand and No/100s (\$240,000.00) to Willow Run Building Nos. 37 and 38.

2. The Insurance Company instructed its agent to notify Willow Run management and the Board that because the fire was caused by persons using grills too closely to the Willow Run building, its policy may not be renewed or be offered on the same terms as before.

3. As a result, the Association's insurance agent notified management that the exclusion of grills from the property was essential for obtaining reasonable insurance coverage after the fire. Further, the agent advised that the resumption of grilling in close proximity to the Willow Run buildings may cause difficulty in getting a reasonable rate for insurance coverage in the future.

4. Because of the fire and the possibility of not getting reasonably rated insurance coverage for the complex, the Board of Directors sent a letter to all Willow Run owners and residents informing them that as of October 22, 2012, no grills or any type of grilling would be allowed on the property, except in certain specified areas on the property.

5. The Willow Run Board of Directors met on Saturday, February 25, 2013 and adopted, by resolution, a fine schedule issuing a warning to an individual grilling in close proximity to the buildings of Willow Run for the first offense, and thereafter fining him/her \$500.00 for each additional offense.

6. At the same meeting, the Board of Directors proposed a grill location close to the pools for the use of all residents and owners of the Willow Run complex.

7. Subsequently, Defendant Donald Hults and his wife physically moved into their unit, Apartment 25-A Willow Run, on March 1, 2013.

8. After the implementation of the above-referenced Rules and Regulations, Defendant used his grill ^{CPH} ~~and~~ in close proximity to the building in which he resides. In fact, Defendant Hults

submitted ^{CPH} and exhibit, a letter written to the Association in which he admitted he grilled at his Unit "several times a week" between March and early June, 2013.

9. As a result of the grilling activities by the Defendant, on June 6, 2013, the Association reminded Defendant of the non-grilling requirements in place for the Willow Run project by letter dated June 7, 2013. In this letter, Defendant was also given a warning not to undertake any further grilling activity and that, pursuant to the Rules and Regulations, any further grilling would result in a Five Hundred and No/100s Dollars (\$500.00) assessment being placed against Defendant's unit, Unit 25-A of Willow Run. Defendant was also informed of the location of grills which were installed by the Association ^{CPH} where grilling was permitted.

10. Defendant continued to grill in close proximity to his building on a number of occasions beginning in the spring of 2014. As a result, the Association fined Defendant Hults and sent a number of fine notices to him. Nevertheless, Defendant continued ^{to CPH} grill in open hostility to the Association's rules.

11. Defendant admitted that he and his wife grilled out at least two dozen times in the summer and fall of 2013 but believes that the rules against barbecuing were passed ^{solely CPH} specifically and not as a result of the earlier fire at Willow Run ^{CPH} and an insurance requirement.

12. Additionally, Defendant believed ^{CPH} that the fines were assessed against him to harass him.

CONCLUSION

After carefully reviewing this matter, I conclude that the barbecue rules contained in the Rules and Regulations were passed as a safety issue following the ^{major CPH} fire that had taken place at the Willow Run project. I further conclude that the fines that were imposed upon Defendant for disobeying the rules had nothing to do with harassment.

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CPH

I conclude that Defendant must abide by the Rules and Regulations of the Association and should be enjoined from grilling on the property *near his Building, Unit 25-A. GH*


I conclude that judgment should be rendered in favor of the Association for fines against Mr. Hults in the amount of \$6,000, as well as \$3,751.24 in attorney's fees.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant Donald Hults should be, and hereby is, permanently enjoined from grilling on the Willow Run property except in the designated areas;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Donald Hults must abide by the Rules and Regulations of the Association specifically with regard to grilling or barbecuing;

IT IS STILL FURTHER ORDERED, ADJUDGED AND DECREED that judgment be and is rendered in favor of the Willow Run Condominium Homeowners Association, Inc. for fines against Mr. Hults in the amount of Six Thousand and No/100s Dollars (\$6,000.00) as well as Three Thousand Seven Hundred Fifty-One and 24/100s Dollars (\$3,751.24) in attorney's fees and costs.

AND IT IS SO ORDERED.


Cynthia Graham Howe
Master in Equity for Horry County

Conway, South Carolina
Dated: *December 11, 2018*

*H
GH*

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF Horry
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2014 CP-26-4605

Willow Run Condominium Homeowners Association, Inc.

Donald Hults

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Luther O. McCutchen, III

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. See Page 2 for additional information.
- 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 (format 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 JUDGMENT 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)
Willow Run Condominium Homeowners Association, Inc.	Donald Hults	\$9,751.21
		\$
		\$
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.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.


 Circuit Court Judge
 MPE

3073
 Judge Code

12/11/18
 Date

