

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)
)
JENNIFER MCFARLAND and)
CARLTON HOLCOMBE,)
)
Plaintiffs,)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
Civil Action No. 2012-CP-18-02583

**ORDER GRANTING IN PART
AND DENYING IN PART**

**PLAINTIFFS' MOTION TO ALTER,
AMEND, AND/OR RECONSIDER OR,
ALTERNATIVELY, FOR A NEW TRIAL**

vs.

THOMAS MORRIS and)
DAVID HANNEMANN)
)
Defendants.)

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APR 15 2019

SC Court of Appeals

This matter came before the Court on January 24, 2019 by Plaintiffs' Motion to Alter, Amend, and/or Reconsider or, alternatively, for a New Trial whereby Plaintiffs moved this Court "(1) to amend its findings, and/or make additional finding, and amend the Subject Order to favor Plaintiffs; (2) to reconsider and/or otherwise alter and/or amend the Subject Order to favor Plaintiffs; or (3) to grant Plaintiffs a new trial or, if not a new trial absolute, to open the record, take additional testimony and/or receive additional evidence, amend its findings of fact and conclusions of law or make new findings and conclusions, and enter a new order directing judgment in favor of Plaintiffs." Without the need for an additional hearing, Plaintiffs' Motion is Granted in Part as several of this Court's findings of fact included in its January 14, 2019 Order are now amended as set forth in this Supplemental Order below.

First, this Court's Fourth Finding of Fact is now amended as follows: "As of August 2011, the members of the HOA's Board of Directors were Morris, Hannemann, and McFarland's husband, William McFarland. See Tr. Trans. P. 11:6-9. From August 2011, William McFarland served as President and Treasurer of the Board of Directors and Hanneman served as the Board of

Director's Secretary until October 4, 2012 at the special Board meeting, when Morris and Hannemann no longer recognized William McFarland as President."

Second, this Court's Seventh Finding of Fact is now amended as follows: "Nonetheless, McFarland, who as set forth above was not a duly elected member of the Board of Directors nor an officer of the HOA, unilaterally and without formal Board approval, contacted Kathleen Greene ("Greene") and "asked if [she] would like to be the property manager to oversee violations for the community . . ." See Tr. Trans. P. 302:13-25. Greene's contracts with the HOA provide that "[a]ny job tasks voted on by the Board of Directors that need to be carried out by [Greene] will come to [Greene] from the direction of the President or at the Board of Directors meetings with majority vote." See Exs. 10, 15. Greene reported to and took directives from both McFarland and Mr. McFarland. See Tr. Trans. P. 307:8-11, 20-25; 308:1-4; 309:12-23. Greene assumed that any directive given to her had been voted on by the Board of Directors or came from Mr. McFarland in his capacity as President. See *id.* However, it is evident from the testimony and evidence that the Board of Directors never voted upon Greene's levying of fines against homeowners. See *id.* at 218:22-25; 219:1; 271:7-9; see also Ex. 33.

Third, this Court's Ninth Finding of Fact is now amended as follows: "On April 17, 2012, attorney Brandt Shelbourne, who was representing McFarland, sent a letter to the Board of Directors stating that McFarland "is specifically concerned with what appear to be covenant violations by Mr. and Mrs. Morris. . . . While she is not necessarily opposed to them improving their landscaping, she is concerned that proper procedure was not followed . . ." See Ex. 18. Then, on April 19, 2012, Holcombe sent an email to Greene memorializing their conversation that occurred the day before, in which Holcombe echoed McFarland's complaints. See Ex. 21.



Dorchester Common Pleas

Case Caption: Jennifer Mcfarland , plaintiff, et al VS Thomas Morris , defendant, et al
Case Number: 2012CP1802583
Type: Order/Amend

So Ordered

s/ Maite Murphy 2166