

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-In-Equity

Case No. 2019-000205

The Savannah Homeowners Association, Inc.,

Respondent,

v.

Denise H. Jones and LVNV Funding LLC,
Of Whom Denise H. Jones is the Appellant.

Defendants,

FINAL REPLY BRIEF OF APPELLANT

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AUG 14 2019
SC Court of Appeals

Denise H. Jones
506-D Arlington Drive
Charleston, South Carolina 29414
843-819-5878
Appellant

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ARGUMENTS

- I. BECAUSE ARTICLE X, SECTION 10.6 OF THE BYLAWS OF THE SAVANNAH HOMEOWNERS ASSOCIATION, INC. WAS NOT ENFORCED, THE MASTER-IN-EQUITY COURT ERRED WHEN IT DID NOT RELIEVE APPELLANT OF REGIME FEES BILLED FROM JUNE 17, 2016 THROUGH MAY 12, 2017.

The Savannah Homeowners Association clearly specified its Bylaws as a governing document to be used regarding the dispute between them and Jones (R. p.13). Within said Bylaws it clearly specifies that the stipulation for which an entity is liable for all assessments due is that he, she, or it is the owner (R. p.77) – no other stipulation or condition is specified.

Based on the Register of Deeds for Charleston County, South Carolina, 506-D Arlington Drive, Charleston, South Carolina 29414, TMS# 310-07-00-104, was the property of The Savannah Homeowners Association, Inc. from June 17, 2016 through May 12, 2017 (R. p.84).

Conclusively, Jones is not responsible for assessments from June 17, 2016 through May 12, 2017. Therefore, the Master-In-Equity erred by requiring Jones to pay assessments charged to her from September 1, 2016 through May 12, 2017.

Also, despite the Master's repeated statements regarding the change in property ownership being, "as if it didn't happen," (R. p.43, lines 21-22) Jones was required by the Charleston County Assessor's Office to reapply for the 4% Legal Residence exemption in order to avoid having taxes assessed in 2018 at six percent. Thus, the change in property ownership was recognized as having actually occurred.

- II. BECAUSE CORRESPONDENCE AND COMMUNICATIONS MADE BY RESPONDENT TO APPELLANT WERE INCONSISTENT, AND RESPONDENT EXEMPLIFIED DISCRIMINATORY BEHAVIOR TOWARDS APPELLANT, THE MASTER-IN-EQUITY COURT ERRED WHEN IT DID NOT VINDICATE APPELLANT.

After specifying that Jones' account was current, having a balance of zero, the Homeowners Association haphazardly applied charges to her account reflected from five months prior. This clearly demonstrates unpredictable and inconsistent behavior at will on their part, which is unfair to Jones. Conclusively, the adjustment made to Jones' account on January 31, 2017 should not be permitted (R. p.92).

Also, during the November 6, 2018 hearing, the Master-In-Equity himself noted that the Homeowners Association's policies acted as a catalyst for poor communications which proved to be detrimental to Jones (R. p.44, lines 6-16; p.45, line 25 – p.46, line 3).

Jones' cross-examination of Amanda Barnes, Sentry Management's representative and Community Association Manager for The Savannahs, reveals the discriminatory behavior of the Homeowners Association against Jones (R. p.60, lines 8-20; p.61, lines 6-18). Not only was she denied direct communication from the Homeowners Association as provided to other homeowners of the community, the Homeowners Association did not ensure she received pertinent information pertaining to the community, such as her monthly regime rate and special assessments due, from their legal counsel (R. p.39, lines 17-24).

III. BECAUSE APPELLANT IS NOT RESPONSIBLE FOR LEGAL FEES AND OTHER COSTS WHICH RESULTED FROM RESPONDENT'S NEGLIGENCE.

The Savannah Homeowners Association provided no correspondence to Jones from September 2016 through January 2017 (R. p.37, lines 15-21). She was not informed of her account balance, monthly regime rate, or any special assessments due (R. p.42, lines 14-20). She was also denied access to the community's on-line portal where payments are received (R. p.40, lines 2-4).

By limiting communication through legal counsel, the Homeowners Association failed to properly inform Jones of pertinent information. Unnecessary barriers in communication clearly created a disconnect between the Homeowners Association and Jones (R. p.38, lines 13-20; p.40, lines 2-11; p.41, line 15 – p.42, line 20; p.61, line 19 – p.62, line 13; p.62, line 20 – p.63, line 12).

Also, based on Amanda Barnes' testimony, there was a five-month delay before the Homeowners Association's records properly reflected Jones as being in good standing and eligible to receive direct communications (R. p.61, lines 1-18). After such time, however, she was deemed delinquent and subject to communications only via the Homeowners Association's attorney.

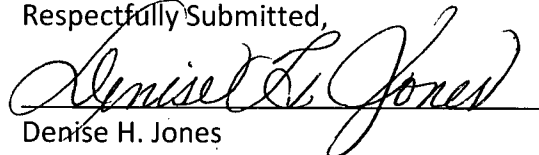
Despite being advised by the Homeowners Association's attorney not to remit payments until a payment agreement had been established between Jones and The Savannah Homeowners Association (R. p.41, lines 16-19), Jones began consistent payments from August 2017 to present. In so doing, she has clearly proved her willingness to be responsible for assessments justly due of her.

CONCLUSION

Although Jones has made full payment of the Master-In-Equity's judgement on November 6, 2018 as a means of avoiding foreclosure actions, based on the arguments she has provided, Jones stands firm on her appeal that this Court should amend the judgement of the Master-In-Equity Court. She should not be charged assessments from September 1, 2016 through May 12, 2017; she should be cleared of all legal charges previously awarded by the Master-In-Equity court, refunded by the Homeowners Association, as well as all charges in association with this appeal; she should be awarded damages for discriminatory behavior. Jones should also be reinstated full privileges as is established for bona fide owners and residents of The Savannah in good standing.

August 12, 2019

Respectfully Submitted,



Denise H. Jones

506-D Arlington Drive

Charleston, South Carolina 29414

843-819-5878

Appellant

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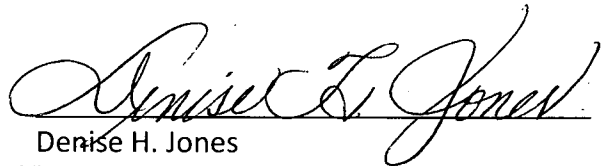
v.

Denise H. Jones and LVNV Funding LLC, Defendants.
Of Whom Denise H. Jones is the Appellant.

CERTIFICATE OF COUNSEL

I certify that the Final Brief of Appellant and the Final Reply Brief of Appellant complies with Rule 211(b), SCACR.

August 12, 2019



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