

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Donald B. Hocker, Circuit Court Judge

Case No. 2019-CP-36-00245

A. Murray Gray, Claude H. Schumpert, and
Melissa B. Schumpert, Respondents

v.

C. Ray Amick, Appellant

EXHIBIT A

RECEIVED

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
AUG 28 2019)
COUNTY OF NEWBERRY) CIVIL ACTION NO.: 2019-CP-36-00245

SC Court of Appeals

A. Murray Gray, Claude H. Schumpert, and)
Melissa B. Schumpert,)

Plaintiffs,)

v.)

C. Ray Amick,)

Defendant.)

**ORDER GRANTING
TEMPORARY INJUNCTION**

This matter came before the Court for a hearing on Plaintiffs' Motion for Temporary Injunction. This Court convened a hearing on this motion on June 19, 2019. Present at the hearing were the parties and their counsel. In considering this motion, the Court reviewed and duly considered the following: the pleadings, the affidavits submitted at or after the hearing by Plaintiffs (affidavits of Murray Gray, Lucia Schumpert Renwick, Young Schumpert, John Summer, Chris Jay, Ferd Summer, Jr., Julia B. McSwain, Julia Rebecca McSwain, Neel McSwain, Chuck Meadows, Claude Schumpert, Joe Rice, Barry Koon, Melissa B. Schumpert, and Plaintiffs' counsel, Thomas H. Pope III), the affidavits submitted by the defendant (affidavits of Doggett Whitaker, Cheryl A. Littlejohn, Ray Amick, and the supplemental affidavit of Ray Amick), the depositions of Ray Amick and Betty Amick, the testimony of Ray Amick, the Plaintiffs' memorandum in support of their motion, the defendant's response in opposition to the motion, and the Plaintiffs' reply memorandum in support of the motion. This Court also considered the arguments of counsel presented at the hearing.

Based on all of the matters considered by this Court, including the longstanding usage of Lions Club Road which runs to and onto the fringelands of Lions Club Point, this Court grants Plaintiffs' Motion for Temporary Injunction.

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The verified complaint in this matter asserts that Lions Club Road has been used and enjoyed by the Plaintiffs, their guests, and their predecessors in interest for over 60 years. Lions Club Road runs from State Park Road and onto the fringelands of Lions Club Point, which fringelands are owned by SCE&G (now Dominion). As depicted on a plat recorded in the Office of the Clerk of Court for Newberry County in Plat Slide D99 at page 6, Lions Club Road is 12 feet wide and mostly paved, but there is a gravel portion of this road that runs to the fringelands and onto the fringelands for several hundred feet. Over the years, this fringeland has been used by the property owners at Lions Club Point to enjoy the lake, including community events, picnics, launching boats at the boat ramp on the fringelands, using the beach area at the tip of Lions Club Point, and other recreational uses such as fishing, go-carts, and swimming. The portion of Lions Club Point over which Lions Club Road traverses is the only means by which these property owners have historically used to access the fringelands, and its use over these past many decades has been both vehicular and pedestrian. The fringelands have been basically utilized as "community recreational property" by the Plaintiffs and other landowners at Lions Club Point. There is nothing in the record to indicate that any complaint was ever made about the Plaintiffs' (or any other property owner at Lions Club Point) use of Lions Club Road to drive or walk onto the fringelands at any time during these many decades. Given the shape and boundaries of the property, there is no way for a vehicle to enter the fringelands except by use of Lions Club Road.

In 1933, the Lions Club of Newberry purchased approximately 10 acres at Lions Club Point. Over the years since, the Lions Club sold lake front lots to its members leaving only approximately 5 acres which comprises Lions Club Point which bottlenecks to the point at which Lions Club Road enters the fringelands. Mr. Amick obtained a deed to the remaining Lions Club

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property in February 2018.¹ Within a short time after obtaining that deed, Mr. Amick placed a rope across Lions Club Road at a point approximately 100 feet before the road runs to the border of the fringeland. He also installed no trespassing signs. Mr. Amick's position is that he obtained title to a portion of Lions Club Road because part of the purchase he had from the Lions Club included the old Lions Club cabin beside Lions Club Road which is adjacent to the fringelands. Mr. Amick contends that because he owns the property underlying the road anyone wishing to use it has to obtain his permission². Mr. Amick contends that when he obtained his deed from the Newberry Lions Club to the property he acquired the rights which the Lions Club allegedly had and presented an affidavit of a Lions Club member (Affidavit of Doggett Whitaker) which asserts that the use of Lions Club Road was by permission. No evidence was presented as to the Lions Club ever being asked permission nor was any evidence presented indicating that permission was ever granted or denied during the last many decades. Almost all of the affidavits submitted by Plaintiffs, including those of two former Lions Club members and one from a former Lions Club resident (John Summer), state that no permission was ever sought, granted, or denied for the adjacent property owners and their guests to use Lions Club road in the last six decades.

I. STANDARD OF REVIEW

The singular purpose of a temporary injunction is to preserve the *status quo ante* and avoid irreparable injury to a plaintiff pending final adjudication of a case. Compton v. SCDOC, 392 S.C. 361, 709 S.E.2d 639 (2011); Helsel v. City of North Myrtle Beach, 307 S.C. 29, 413 S.E.2d 824 (1992). When a court is requested to issue a temporary injunction, it may consider

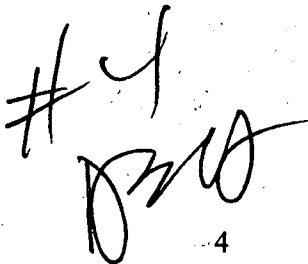
¹ Mr. Amick's deed is contested in the case of Lisa Summer Rice and Joseph F. Rice v. Newberry Lions Club and C. Ray Amick, Case No. 2018 CP 36-0089.

² The record shows that Amick has sought to make this "permission" subject to his whim (Exs. 1-5, Affidavit of Thomas H. Pope, III).

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the merits of a case to the extent necessary to determine whether a temporary injunction is appropriate. Helsel, supra. A temporary injunction is entered without prejudice to the rights of parties pending a hearing on the merits, and where other issues are brought to trial, they are determined without reference to the temporary injunction. Id.

An applicant for a preliminary injunction must allege sufficient facts to state a cause of action for injunction and demonstrate that this relief is reasonably necessary to preserve the rights of the parties during the litigation. Compton, supra. As a result, in order to obtain an injunction, a party must demonstrate (1) irreparable harm; (2) likelihood of success on the merits; and, (3) absence of an adequate remedy at law. Grosshuesch v. Cramer, 367 S.C. 1, 623 S.E.2d 833 (2005). In analyzing the element of "likelihood of success on the merits," the plaintiff is not required to prove an absolute legal right when seeking a preliminary injunction, rather the plaintiff must present only a reasonable question as to the existence of such a right. AJG Holdings, LLC v. Dunn, 382 S.C. 43, 674 S.E.2d 505 (Ct. App. 2009). Moreover, the question of whether a wrong is irreparable, such that equity should intervene, and whether there is an adequate remedy at law, are questions that are not decided with reference to narrow and artificial rules. Peek v. Spartanburg Regional Healthcare System, 367 S.C. 450, 626 S.E.2d 34 (Ct. App. 2005). Instead, the court must balance the benefit of an injunction to the plaintiff against the prejudice to the defendant, and grant an injunction which seems most consistent with justice and equity under the circumstances. Foster Land Co. v. Black, 216 S.C. 255, 57 S.E.2d 420 (1950). And, once a *prima facie* showing has been made entitling the plaintiff to injunctive relief, a temporary injunction will be granted. Peek, supra.

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II. PLAINTIFFS' RIGHT TO RELIEF

The Plaintiffs claim an easement for the use of Lions Club Road as a prescriptive easement, an easement by estoppel, or an easement implied by prior use. The verified Complaint, together with the affidavits filed in support of the instant motion, presents a *prima facie* showing which clearly justifies the issuance temporary injunctive relief.

A. Prescriptive Easement

Our Supreme Court recently clarified the elements for a prescriptive easement in the case of Simmons v. Berkeley Electric Cooperative, Inc., 419 S.C. 223, 797 S.E.2d 387 (2016). There, the Court held that an easement is a right given to a person to use the land of another for a specific purpose, and a prescriptive easement is not implied by law but is established by the conduct of the dominant tenement owner. *Id.* To establish a prescriptive easement, it must be shown that (1) the Plaintiff had the continued and uninterrupted use or enjoyment of the right for a period of 20 years; (2) the identity of the thing enjoyed; and (3) the use was adverse under claim of right. *Id.* When it appears that the Plaintiff has enjoyed such an easement openly, notoriously, continuously, and uninterruptedly, in derogation of another's rights, for the full period of 20 years, the use will be presumed to have been adverse. *Id.*, citing Williams v. Abbott, 107 S.C. 397, 400, 93 S.E. 15, 16 (1917).

With reference to the first two elements, the lot owners, including the Plaintiffs, have clearly presented sufficient evidence for purposes of temporary injunctive relief that they have had use of Lions Club Road for access to the boat ramp and beach area in the fringe lands (which constitutes the "thing enjoyed") continuously and uninterrupted for much more than 20 years.³

³ A party may 'tack' the period of use of prior owners in order to satisfy the 20-year requirement. Morrow v. Dyches, 328 S.C. at 527, 492 S.E.2d at 423 (Ct. App. 1997). Thus, the use of the Plaintiffs' predecessors in title is properly referenced in this proceeding.

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The significance of the Simmons decision is its clarification of the third element of a prescriptive easement under the Williams test. The Simmons Court stated, “we believe the test for a prescriptive easement can be simplified as follows: [i]n order to establish a prescriptive easement, the claimant must identify the thing enjoyed, and show his use has been open, notorious, continuous, uninterrupted, and contrary to the true property owner's rights for a period of twenty years.” Id. at 392. Thus, as the other requirements are encapsulated in the first two elements, in order to show their use was adverse under the Williams test, the Plaintiffs must show the use was “open” and “notorious”.

For a use to be “open”, it must not be “secret or stealthily” but must be “visible or apparent” Id. at 392. Here, the Plaintiffs have submitted affidavits showing that the use of the Lions Club Road for access to the fringelands was made often for the purpose of neighborhood and family gatherings. Use was further routinely made to launch and trailer boats and for swimming at the beach area in the summer months. All of these uses made in broad daylight would have been visible and apparent. It certainly was not in secret. Indeed, a former President of the Lions Club, John Summer, states in his affidavit that the lot owners routinely performed maintenance on the road over the years. Therefore, the Plaintiffs have made the requisite showing that the use was “open” within the meaning of the Williams test.

Finally, the Simmons court explained that for a use to be “notorious”, it must be “known to the owner” or “widely known in the neighborhood.” Id. at 392. Again, the verified complaint and each of the Plaintiffs’ affidavits provide that all of the lot owners used Lions Club Road to access the fringe lands. In other words, the use was not specific to merely the Plaintiffs. It was common to all property owners on Lions Club Point. Even the defendant, who did not own (or have a claim to own) any property there until 2018, acknowledged the use for decades of the lot

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owners to access the fringe lands. Accordingly, the use was "widely known in the neighborhood". Moreover, the use of the lot owners was "acknowledged by all" Lions Club members. (Affidavit of John M. Summer, ¶16). Consequently, the Plaintiffs have likewise shown the use was "known to the owner". Therefore, the Plaintiffs have shown sufficiently for purposes of a temporary injunction that the lot owners use of Lions Club road for these purposes was "notorious" under the Williams test, and in so doing, the Plaintiffs have made a prima facie case for a prescriptive easement.

It should be noted as well that the obtaining of an easement by prescription can arise from the acquiescence of the owner. 8 S.C. Jur., Adverse Possession § 14; *e.g.*, Shia v. Pendergrass, 222 S.C. 342, 72 S.E.2d 699 (1952); see also, Blume v. Southern Ry. Co., 85 S.E. 440, 67 S.E. 546 (1910). There is a sufficient record showing acquiescence for purposes of the instant motion.

B. Easement by Estoppel

The party claiming an easement by estoppel must show the following elements as to the party sought to be estopped: "(1) conduct that amounts to a false representation or concealment of material facts, or, at least, that is calculated to convey the impression that the facts are otherwise than, and inconsistent with, those that the party subsequently attempts to assert; (2) intention, or at least expectation, that such conduct shall be acted on by the other party; and (3) knowledge, actual or constructive, of the real facts." Paine Gayle Properties, LLC v. CSX Trasp., Inc., 400 S.C. 568, 735 S.E.2d 528 (2012). All of the foregoing elements may be satisfied by the silence of the party to be estopped when that party has actual knowledge of the other party's prejudicial change in position. *Id.*, *citing*, O'Cain v. O'Cain, 322 S.C. 551, 557-59, 473 S.E.2d 460, 464-65 (Ct.App.1996) (holding that a landowner was equitably estopped from denying the use of a driveway on his property by an adjoining landowner when the first landowner remained

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silent during the second landowner's construction of the driveway and improvements to land to which the driveway led). Lastly, the following elements must be shown as to the party claiming estoppel: "(1) lack of knowledge and of the means of knowledge of the truth as to the facts in question; (2) reliance on the conduct of the party sought to be estopped; and (3) a prejudicial change in position." Id.

The Plaintiffs presented a *prima facie* showing of an easement by estoppel. In O'Cain, *supra*, the Court of Appeals affirmed the declaration of an easement by estoppel. There, Lever O'Cain knew of and watched as Harold O'Cain used his property to construct a driveway; yet, Lever O'Cain did not voice any objection to this use or construction until after it was completed. Moreover, Lever O'Cain remained silent as the appellant improvements to lands beyond which the driveway led. The O'Cain court held that Harold O'Cain's use and improvements to the land coupled with Lever O'Cain's silence satisfied all of the estoppel requirements with regard to the respondents. Id. at 558. With regard to the estoppel requirements as to Harold O'Cain, the court found the fact that he believed he had the right to use the land for a driveway meant that he did not have knowledge of the truth, i.e., that he did not have such a right. Id. at 558. Given the improvements made by Harold O'Cain both to the driveway and beyond, the Court found that he had a prejudicial change of position. Id. at 558.

Generally, the O'Cain opinion stands for the proposition that one cannot sit idly by, watch as another uses his property and makes improvements both to his own property - in the form of a way - and to the property to which the way leads, and only voice an objection after the other has been prejudiced.

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Here, the Plaintiffs have presented the Schumpert, Rice and Koon affidavits which all clarify that no one with the Lions Club voiced any objection to the lot owners use of Lions Club Road for sixty years, all the while the lot owners were spending their money and providing labor in making improvements to the road and constructing and maintaining the boat ramp and beach area. What is more, John Summer states in his affidavit that the lot owners right to use the road was "acknowledged by all". Plaintiffs presented documentary evidence that they and other Lions Club Point property owners paid \$40,000 to pave the subject road in 2012, that they had maintained the gravel road prior to 2012⁴, and that after 2012 they had maintained the gravel portion of the road at and onto the fringeland. Thus, the lot owners consequently believed they had a right to do so. The verified complaint and each of the Plaintiffs' affidavits make that fact plain.

The Defendant and Lions Club, his alleged predecessor "in title," were aware of Plaintiffs' use of the easement for decades without complaint. They had actual and constructive knowledge that the Rice family was building a \$300,000 home in reliance on access, both vehicle and pedestrian, to the fringeland (Affidavit of Rice, ¶16). Mr. Amick and the Lions Club also had notice of the fact that Plaintiff Schumpert had spent over \$800,000 building his permanent residence at 131 Lions Club Circle and that he was relying on the use of Lions Club Road for launching his boat and accessing the beach as he would otherwise have no vehicular access to launch a boat without using Lions Club Road. (Ex. 2, Affidavit of Murray Gray).

Therefore, just as Lever O'Cain was found to be estopped to deny Harold O'Cain's easement, the Plaintiffs have, again, at a minimum, presented a prima facie showing that the

⁴ Amick only paid \$1,000 of this total. The Lions Club paid nothing.

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defendant is estopped to prevent the Plaintiffs and the lot owners from using Lions Club Road to access the fringe lands.

C. Easement by Prior Use

In South Carolina, a party asserting the right to an easement implied by prior use must establish the following: “(1) unity of title; (2) severance of title; (2) the prior use was in existence at the time of unity of title; (3) the prior use was not merely temporary or casual; (4) the prior use was apparent or known to the parties; (5) the prior use was necessary in that there could be no other reasonable mode of enjoying the dominant tenement without the prior use; and (6) the common grantor indicated an intent to continue the prior use after severance of title.” Boyd v. Bellsouth telephone Telegraph Co., Inc., 369 S.C. 410, 633 S.E.2d 136 (2006). While the “necessity” required of an easement by necessity must be “actual, real, and reasonable as distinguished from convenient”, the “necessity” required for an easement implied by prior use “may be less than required for an easement by necessity.” Id. at 141. “This lesser showing of necessity may stem in part from an often unspoken realization on the part of the fact finder that a prior use [itself] indicates a need for a particular easement.” Id. at 142. Ultimately, the purpose of an implied easement is to give effect to the intentions of the parties to a transaction. Pendarvis v. Cook, 391 S.C. 528, 706 S.E.2d 520 (Ct. App. 2011).

The case at bar also presents a prima facie showing of an easement by prior use. As laid out in the verified Complaint and discussed above, all of the parties to this proceeding trace their claim to title to the Lions Club. The evidence presented by Plaintiffs show that Lions Club Road, the boat ramp and beach area were constructed for the express purpose of providing access to fringe lands to enjoy the same. The use of it for this purpose was, therefore, intended by the Lions Club.

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The Lions Club subdivided portions of the original 10 acres to provide lots to all of the lot owners, including the Plaintiffs' predecessors. The use of Lions Club Road to access the fringe lands was and is the only means of accessing the boat ramp and beach area. As discussed above, this use has been continual and uninterrupted for over sixty years and known by all parties, including the defendant. Accordingly, the use of the road was not casual or temporary, and the evidence shows that the Lions Club clearly intended the continued use after subdividing the lots, as the use, in fact, continued for decades thereafter.

Lastly, the question of the "necessity" can be answered with one rhetorical question: what good would building a boat ramp and beach area on the shores of Lake Murray be if one could not get to it? Given that there is no other means of accessing the fringe lands, the use is necessary as defined by the Boyd court. Therefore, the Plaintiffs have also presented a *prima facie* case for an easement implied by prior use.

III. THE ELEMENTS OF TEMPORARY INJUNCTIVE RELIEF HAVE BEEN ESTABLISHED

1. Irreparable Harm

The Plaintiffs have demonstrated that Defendant's blocking the road has kept them and the entire neighborhood from accessing the fringeland to boat, fish, and swim as they did for over 60 years before 2018. This harm is especially critical during the summer and warm weather months when boating and lake usage is at its peak and access to the fringe land is essential for Plaintiffs and the neighborhood to have full enjoyment of their property. Mr. Amick lives one-half mile from where he blocked the road. His actions have upset the *status quo ante*.

The purpose of the three-acre fringelands owned by SCE&G/Dominion is for the recreational use of the property owners at Lions Club Point. Because Plaintiffs have established a *prima facie* showing that they have a legal or equitable right to use the road and that without such use

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there is no vehicular access to the fringeland for launching boats, driving to the beach, or walking onto the fringeland, this Court finds that Defendant's blocking the road which prevents the Plaintiffs and the other property owners from exercising their right to the use of it has caused, and will cause, irreparable damage in the absence of a temporary injunction. After all, if the Plaintiffs have made a prima facie showing establishing their right to use the road, Mr. Amick's actions which, in effect, prohibits such use without lawful process constitute irreparable harm.

2. Likelihood of Success

As set forth above, Plaintiffs have made a *prima facie* showing of (a) Prescriptive Easement; (b) Easement by Estoppel; and/or, (c) Easement by Prior Use.

This Court has fully considered the Defendant's position in opposition to the motion of Plaintiffs for a temporary injunction wherein he asserts that the Plaintiffs cannot prevail on their claim of a prescriptive easement. The affidavit of Lions Club member Doggett Whitaker asserted that the use of the road prior to the Lions Club deed to Amick was "by permission" from the Lions Club. This is refuted by the affidavits of former Lions Club President John Summer, Lions Club Plaintiff Murray Gray and Chuck Meadows, and by the affidavits of property owners or former property owners, Plaintiff Claude Schumpert, Neel McSwain, Becki McSwain, Young Schumpert, Ferd Summer, Jr., and Chris Jay. Whitaker's affidavit is not specific as to permissions being granted, requested, or denied. It references no dates, documents, or details of any permission. It is but a bald assertion.

There exists in the record before me, at a minimum, "a reasonable question" as to the Plaintiffs and the other property owners right to use of Lions Club Road to access the fringelands. Therefore, Plaintiffs have made a sufficient showing for purposes of a temporary injunction of a likelihood of success on the merits. AJG Holdings, LLC v. Dunn, supra.

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3. No Adequate Remedy at Law

Defendant argues that Plaintiffs have a cause of action for trespass which constitutes an adequate remedy at law if the temporary injunction were to be denied. This is incorrect. The Plaintiff's position is that Amick's trespass commenced in 2018 when he blocked the road. Such an interference with the Plaintiffs and the other property owners right to use of the road continues each day they are denied use of it because these obstructions remain in place. Our Supreme Court has long recognized that "an injunction is a proper remedy for a continuous trespass to land." McClellan v. Taylor, 54 S.C. 430, 32 S.E. 527 (1899). If this were not the case, Plaintiffs would have to sue Mr. Amick for each day's trespass.

In Mack v. Edens, 306 S.C. 433, 412 S.E.2d 431 (1992); reh. denied January 15, 1992, certiorari denied May 6, 1992, the Court of Appeals reversed the denial of an injunction to a downstream landowner. Writing the opinion was Judge Randy Bell, who stated:

"Because of the permanent and recurring nature of the injury, which cannot otherwise be prevented, **the courts should enjoin the continuous trespasser** to protect the landowner's rights from hurt or destruction, Carter v. Lake City Baseball Club, 218 S.C. 255, 62 S.E.2d 470 (1950); Shelley v. Hucks, 282 S.C. 124, 317 S.E.2d 470 (Ct. App. 1984)." Id. at 434. (emphasis added)

Judge Bell's reasoning follows a long held tenet of South Carolina jurisprudence. See McClellan v. Taylor, 54 S.C. 430, 325 S.E. 527 (1899) (an injunction is a proper remedy for a continuous trespass to land.)

Amick's filings cited to this Court the case of Nutt Corp. v. Howell Rd., LLC, 396 S.C. 323, 327, 721 S.E.2d 447, 449 (Ct. App. 2011) for the proposition that a trespass claim is an adequate remedy at law. However, Nutt was not a trespass action, but a breach of contract action for which the plaintiff obtained damages in excess of \$34,000 for its breach. This Court finds

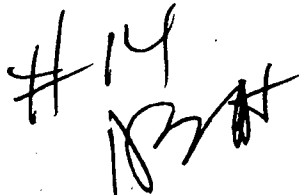
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and concludes that in this case where it is alleged that Amick's actions constitute a continuous, ongoing trespass, Plaintiffs do not have an adequate remedy at law.

Amick has argued that Plaintiffs have not met the requirements for a temporary injunction, citing Flanagan South Carolina Civil Procedure. This authority references the three elements referenced above, which have been discussed. In Flanagan, Civil Procedure (2nd Ed., p.343), there is a discussion that in ruling on a temporary injunction, "the interests of the parties must be balanced." Id. at 344. In point of fact, there is no "separate requirement that a judge perform such a balancing before deciding to issue a preliminary injunction." Poynter Invs., Inc. v. Century Builders of Piedmont, Inc., 387 S.C. 583, 694 S.E.2d 15 (2010). Instead, a preliminary injunction should issue "if necessary to preserve the status quo ante". Id. at 17. The status quo ante as of February 2018 is that plaintiffs and all adjoining property owners at Lions Club Point, and their guests, enjoyed full use of Lions Club Road for access to an onto the fringelands.

Even still, if the equities here are balanced, this Court finds, they favor the Plaintiffs. Defendant Amick lives a half mile from where he blocked the road. He has testified that he knew that Plaintiffs and other neighbors (and their guests) had used and maintained the road to drive and walk onto the fringelands for over 60 years, and never complained. While Amick's desire to exercise control over the fringelands may be temporarily thwarted by a temporary injunction, he appears at this time to be hard pressed to make a rational claim of prejudice.

While Defendant Amick has not asserted how he would be harmed by a temporary injunction, Rule 65(c), SCRCF, provides that the court will direct where such an injunction is issued that a Plaintiff post security (surety bond) to protect defendant's interest if a defendant prevails on the merits and is otherwise able to establish proof of damages after the merits of the case have been ruled upon. Rule 65(c) SCRCF provides that the Court shall set security "...in such sum as the Court

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deems proper for the payment of such costs and damages as may be incurred by any party who is found to have been wrongfully enjoined or restrained." Accordingly, this Court sets a bond/security of \$50,000 which Plaintiffs shall post or file evidence of a surety in such amount with the Clerk of Court. The injunction herein granted shall be in effect immediately upon such posting or filing.

The findings and conclusions herein are not a determination of the merits of this action and are without prejudice to the parties in this proceeding. Helsel, *supra*.

THEREFORE, IT IS ORDERED that Plaintiffs' Motion for Temporary Injunction is GRANTED, and

IT IS FURTHER ORDERED that:

- (a) Defendant Amick shall remove from Lions Club Road all obstructions to vehicular and/or pedestrian travel for a width of 12 feet, including ropes, chains, barricades, parked cars, debris, and the like;
- (b) Defendant Amick is enjoined from blocking Lions Club Road for its full length and width with any obstacles, including ropes, chains, barricades, parked cars, debris, and the like until there is a final determination of the merits of this action (including any appeals) and further Order of the Court;
- (c) Pending a final determination of the merits, Lions Club Road will remain open for the use of the Plaintiffs and the adjacent property owners (and their guests) for access to the fringelands until further Order of the Court.
- (d) The Plaintiffs shall post an injunction bond in the principal amount of \$50,000.00 with the Clerk of Court of Newberry County; and,
- (e) This temporary injunction will go into effect immediately upon the filing of the injunction bond with the Office of the Clerk of Court for Newberry County.

AND IT IS SO ORDERED.



Donald B. Hocker
Judge, Eighth Judicial Circuit

Larned, S.C.
8-5, 2019

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