

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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JAN 13 2020

APPEAL FROM RICHLAND COUNTY
Master-in-Equity

S.C. SUPREME COURT

Joseph M. Strickland, Master-in-Equity

Appellate Case No. 2018-001238

Winrose Homeowners' Association, Inc. and Regime Solutions, LLC,Respondents,

v.

Devery A. Hale and Tina T. Hale,Petitioners.

REPLY OF PETITIONERS IN OPPOSITION TO MOTION FOR LEAVE TO FILE BRIEF OF
PALMETTO ALLIANCE FOR BETTER COMMUNITIES AS *AMICUS CURIAE*

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ATTORNEYS FOR PETITIONERS

Petitioners Devery A. Hale and Tina T. Hale submit this Reply in opposition to Palmetto Alliance for Better Communities' ("Palmetto Alliance") motion for leave to file as *amicus curiae* in support of Winrose Homeowners' Association's petition for rehearing. For the reasons stated below, the Court should deny the motion.

One consideration on a motion for leave to file an *amicus curiae* brief is the interest of the applicant. Rule 213, SCACR. It is not fully stated in Palmetto Alliance's motion. Palmetto Alliance is a non-profit incorporated in 2015. (Exh. 1). Its incorporator and director is M. Jud Smith. *Id.* Winrose Homeowners' Association incorporated on September 2, 1997. (Exh. 2). MJS Management, owned by Jud Smith, manages Winrose Homeowners' Association. (Exh. 3).

Another consideration on a motion for leave to file an *amicus curiae* brief is the reasons why a brief is desirable. Rule 213, SCACR. Palmetto Alliance seeks to file a brief at this late stage of the case "to show how important it is that the remedy of foreclosure remain available to HOAs (even for small amounts) and to show that appropriate safeguards can be ordered to protect both those who have paid their dues and those against whom foreclosure is sought." (Mot. p. 2). This stated reason is moot because a foreclosure remedy remains available to HOAs. The Court stated "the HOA had the legal right to pursue collection of the debt owed, including foreclosure of the Property to satisfy that debt." *Winrose Homeowners' Assoc. v. Hale*, 2019 WL 6885212, *13 (Dec. 18, 2019). There is no ruling as to an amount of debt for foreclosure. The issue in the case is the calculation used to determine whether the foreclosure sale price is grossly inadequate. The Court's concerns about the circumstances of the foreclosure in this case are used to highlight why the equity method is sometimes the appropriate method. The "appropriate safeguards" (Mot. p. 2) are those the Court already stated in its opinion. There is no need to consider further argument in this lengthy and costly action about an issue that does not exist. The Court should deny the motion.

Respectfully submitted,



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January 10, 2020

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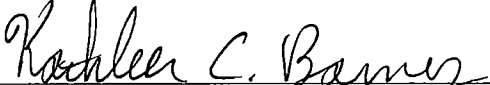
The undersigned certifies that a copy of the foregoing *Reply of Petitioners in Opposition to Motion for Leave to File Brief of Palmetto Alliance for Better Communities as Amicus Curiae*, have been served upon the following counsel of record by mailing one copy by United States Mail, addressed as shown below on January 10, 2020.

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