

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

AUG 27 2020

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

**SC Court of Appeals**

MIKELL R. SCARBOROUGH, Master in Equity

Appellate Case No. 2019-001289

Raven's Run Homeowners Association, Inc., Appellant-Respondent,

v.

Crown Pointe Association, Inc., Lois K. Novak as Trustee of the Lois K. Novak Living Trust dated 10/14/2013; Laurie T. Herron and Mark D. Herron; James B. Kubu and Melissa F. Kubu; Leila June Johnson; Danny Ta and Anita McCauley; Robert E. Luby, Jr., and Barbara Luby; Joshua D. Coonce; Lucius Roy Junevicius; Katherine Kinlaw; Thomas K. Kuyk and Melissa Ward; Roland Franklin Wooten, III, and Teresa Key Wooten; Michael P. Horvath; Timothy E. Moylan and Karen G. Moylan; Carl A. Counasse and Maureen Counasse; David A. Frielinghaus and Holly C. Frielinghaus; Christopher S. Finley and Holly M. Finley; Shirley D. Springer a/k/a Shirly Deanna Springer; Deirdre C. Knight; Robert Shane Johnson; Eric R. Sigman; Lamar R. Graves, Jr. and Terry W. Graves; Mary Elizabeth Gladdedn; Philip Wallace and Naomi Grad; Thomas Edwin Davis and Luis Miguel Gonzalez Melchor; John R. Funkhouser and Jennifer L. Funkhouser; Gregory S. Cooper and Jane B. Cooper; Frank C. Jones, Jr. and Elise Ubele Jones; William P. Topping and Kris B. Topping; LaRhonda S. Ptichko; Kenneth L. Tully and Anna J. Tully, Defendants,

Of Whom James B. Kubu and Melissa F. Kubu and Leila June Johnson are the Respondents.

And Katherine Kinlaw is the Respondent-Appellant.

**RESPONDENT'S FINAL BRIEF OF RESPONDENT-APPELLANT**

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## **STATEMENT OF ISSUES ON APPEAL**

- I. DID THE MASTER ERR IN GRANTING SUMMARY JUDGEMENT AGAINST RAVEN'S RUN?
  - A. DID RAVEN'S RUN DEMONSTRATE THEY OWN THE DISPUTED LAND?
    1. DID THE 1987 DEED RELIED ON BY RAVEN'S RUN CONVEY LAND ACROSS THE BODY OF WATER ON THE CROWN POINTE SIDE? DID THE OTHER PLATS AND DEEDS CONVEY A SUFFICIENT INTEREST TO CROWN POINTE AND KINLAW SUCH THAT RAVEN'S RUN DOES NOT HAVE CONTROL OVER THIS STRIP?
    2. DID THE 1985 DEED CONVEY RAVEN'S RUN THE DISPUTED STRIP OF LAND?
  - B. HAS RAVEN'S RUN SHOWN A REASON WHY EITHER CROWN POINTE OR KINLAW SHOULD NOT BE ABLE TO USE OR MAINTAIN THE STRIP OF LAND BETWEEN THE LOT AND THE WATER?
- II. BECAUSE RAVEN'S RUN DOES NOT HAVE AN OWNERSHIP INTEREST IN THE DISPUTED STRIP OF LAND SUFFICIENT TO EXCLUDE KINLAW, MUST THEIR ACTIONS FOR TRESPASS AND NUISANCE MUST FAIL?

## **STATEMENT OF THE CASE**

Raven's Run Homeowners Association, Inc. ("Raven's Run") Statement of the Case contains contested matters, hence Kinlaw will state undisputed matters here.

In this case, Raven's Run Homeowners Association, Inc. ("Raven's Run") sued Crown Pointe Association, Inc. ("Crown Pointe") and individual lot owners in Crown Pointe claiming ownership of all property up to the individual lot lines of the lot owners. This includes a strip of land and a body of water located between the two neighborhoods and land located on the Crown Pointe

side of this body of water. As shown on the various plats discussed below, Crown Pointe lies to the northwest of this body of water and Raven's Run to the southeast.

Raven's Run commenced this action on January 31, 2017 (R. pp. 24-51). Raven's Run subsequently filed an Amended Complaint on March 9, 2018, in which they sued the defendants seeking a declaratory judgment, an injunction, and damages in trespass and nuisance (R. pp. 89-103). Raven's Run claimed ownership of all the land up to the lot lines of the individual lot owners of Crown Pointe, including a strip of land and bodies of water. Central to this dispute is Raven's Run's right to restrict the property owners of Crown Pointe from maintaining and cutting on the strip of land between their lot property line and the body of water. Raven's Run sued the individual property owners for damages because they ventured onto this strip, removed vegetation, and allegedly created an eyesore (R. pp. 89-103).

Defendants disputed this. Kinlaw answered on March 16, 2017, and disputed Raven's Run's ownership of the disputed lands, sought proof of Raven's Run's ownership, and sought a clarification as to the respective rights of the parties. Defendants also counterclaimed in abuse of process (R. pp. 104-107).

The Master held a hearing on August 28, 2018. The matter was set for a two-day trial. Prior to trial, the Master heard cross-Motions for Summary Judgment.

Immediately prior to the motions, Crown Pointe and Raven's Run reached a settlement agreement, leaving only the dispute between Raven's Run and the remaining individual lot owners of Crown Pointe. Katherine Kinlaw owns Lot 45-E.

The Master granted the individual lot owners' Motion for Summary Judgment by Order filed November 8, 2018 (R. pp. 9-18). In that Order, he specifically found Raven's Run does not own the

disputed strip of land and that Crown Pointe has ownership interests in certain bodies of water and an ownership interest in the strip of land (R. pp. 9-18; R. pp. 17-18). The Master heard Raven's Run Motion for Reconsideration on January 8, 2019. By Order filed July 10, 2019, he kept the bulk of his previous Order intact, but granted Raven's Run ownership of the bodies of water (R. pp. 19-23).

Raven's Run filed their Notice of Appeal on August 1, 2019 and served it on August 1, 2019. They appealed the Orders of November 8, 2018 and July 10, 2019. Kinlaw filed her Notice of Appeal for the same Orders on August 6, 2019 and served it August 6, 2019.

### **FACTS**

Raven's Run and Crown Pointe are neighborhoods separated by a body of water. Raven's Run sued Crown Pointe and some individual lot owners in Crown Pointe. Raven's Run claimed an ownership interest in a thin strip of land across the water from their neighborhood. This strip of land is between the Crown Pointe individual lot owners lots and the body of water. Raven's Run claimed an ownership interest in the land sufficient to prevent any Crown Pointe lot owner from venturing onto this thin strip, from maintaining the strip, or from removing vegetation. Raven's Run sued the individual lot owners for damages, alleging they had committed these acts.

Katherine Kinlaw is an individual lot owner on the Crown Pointe side.

There are several documents determinative of this dispute.

#### **A. Plat BK-2**

Plat BK-2 was recorded on August 21, 1986. It is a plat entitled "Plat Showing Crown Pointe Subdivision Lots 25E-49E, Lots 67E-79E." (R. pp. 345-347) On this plat, lakes and drainage easement are shown immediately to the east of the lots in question. The 60 foot drainage easement extends 20 feet onto the lot owners property and 40 feet into the lake.

RAC Enterprises Inc., the common owner of the two subdivisions, makes the following dedication:

By the recording of this plat, the green areas and lakes shown hereon are dedicated to the use of the East Crossing Subdivision and the Crown Pointe Subdivision Homeowners Association forever.

It further states, “By recording this plat, the easements and rights-of ways shown hereon are dedicated to the use of the public forever.”

RAC subsequently deeded the properties on this plat to Spectra Development, Inc. by deed O161-258 dated January 14, 1987, and recorded January 26, 1987, with reference to this plat (R. pp. 337-338).

**B. Deed into Raven’s Run and Plat**

Raven’s Run claims ownership to the disputed property by deed R163-134 dated January 5, 1987 and recorded April 1, 1987 (R. pp. 118-119). This is a deed from RAC Enterprises, Inc., the common owner, to Raven’s Run Homeowners Association, Inc. This deed references Plat Book BL57 (R. p. 120). The Plat is entitled “Raven’s Run” and “Plat Showing Lots 19-31, Block ‘D’ and Lots 1-5, Block ‘F’ and Lots 14-35, Block ‘E.’ Acreage Shown Hereon 44.507 Acres.”

The plat shows absolutely no land in Crown Pointe Subdivision, and neither the deed nor the plat references Crown Pointe Subdivision, its lands, lakes, or easements. The documents neither implicitly nor explicitly convey the disputed property.<sup>1</sup>

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<sup>1</sup>Raven’s Run tries to call this disputed property a “buffer strip.” The record in this case makes it clear that “disputed property” is the proper way to characterize this land.

**C. Quit Claim Deeds of 2001**

On December 18, 2001, two quit-claim deeds were executed. The first, recorded at C392, page 756 conveyed certain property from RAC Enterprises, by Robert A. Causey, as Liquidating Trustee, to East Crossing-Crown Pointe Association, Inc. Robert Causey had previously signed the deeds out of RAC discussed above as its President/Secretary. The deed conveyed, in pertinent part:

ALL that certain common area, including any "lake" and "green area", located in Crown Pointe Subdivision, Christ Church Parish, Charleston County, S.C., as shown on that certain plat entitled "Plat Showing Crown Pointe Subdivision, Lots 25E - 49-E and Lots 67-E - 79-E, Portion of a 52.98 Acre Tract, Owned by RAC Enterprises, Inc., Christ Church Parish, Charleston, S.C.", dated August 3, 1986, and recorded in the RMC Office for Charleston County on August 21, 1986 in Book BK at Page 2. Such common area having such size, shape, dimensions, buttings and boundings as will by reference to such plat more fully appear. (Abstractor's Note: It the intention of this deed to convey all property set forth on the aforementioned plat, saving and excepting all platted lots and public rights of way depicted thereon). (R. pp. 84-88)

Subsequently, by deed at H394, page 181 and re-recorded at T398, page 815, the same pertinent property was deeded from East Crossing-Crown Pointe Association, Inc. to Crown Pointe Association, Inc. with similar language:

ALL that certain common area, including any "lake" and "green area", located in Crown Pointe Subdivision, Christ Church Parish, Charleston County, S.C., as shown on that certain plat entitled "Plat Showing Crown Pointe Subdivision, Lots 1E-24E & Lots 50E-66E and Lots 25E-49E & Lots 67-E - 79-E, Portion of a 52.98 Acre Tract Owned by RAC Enterprises, Inc., Christ Church Parish, Charleston, S.C.", dated August 3, 1986, and recorded in the RMC Office for Charleston County on August 21, 1986 in Book BK at Pages 1 and 2. Such common area having such size, shape, dimensions, buttings and boundings as will by reference to such plat more fully appear.

(Abstractor's Note: It the intention of this deed to convey all property set forth on the aforementioned plat pages, saving and excepting all platted lots and public rights of way depicted thereon). (R. pp. 332-336)

Both these deeds explicitly convey any lake or green area as shown on the plat. The abstractors' note explicitly states the intention of the deed:

Abstractor's Note: It the intention of this deed to convey all property set forth plat pages, saving and excepting all platted lots and public rights of way depicted thereon." Deed H394, page 181 (R. pp. 84-85; R. p. 332)

All property on the plat is conveyed.

**D. Plat BP 160-161**

Spectra Development, who was deeded the property by RAC, made the following dedication on Plat BP 160-161 (R. pp. 79-83; R. pp. 339-340):

By the recording of this plat, the green areas and lakes shown hereon are dedicated to the use of the Crown Pointe Subdivision Homeowners Association forever. (R. p. 81; R. pp. 339-340)

The easement and road right-of-ways were dedicated to the use of the public forever.

The lakes and drainage easements on BP 161 are the same as on BK 2 (R. pp. 74-78).

This plat was recorded December 18, 1987.

**E. Plat BP 163 (R. p. 341)**

After BP 160-161 was recorded, a plat of Raven's Run was recorded by RAC. RAC dedicates the easements shown on the plat to the Raven's Run Homeowner's Association. The lakes are not referenced. Crown Pointe is not shown.

**F. Plat of Seabrook (R. p. 331)**

The unrecorded Plat of Seabrook dated December 1, 2016 (R. p. 331) depicts the 60 foot drainage easement shown on the plat of Crown Pointe at BP 161 (R. p. 340). It also depicts the 60 foot drainage easement shown on the plat of Raven's Run at BP 163 (R. p. 341). On the plat of Seabrook, those easements do not overlap.

**G. Restrictive Covenants and Tax Map Information**

Raven's Run points to the Restrictive Covenants of Crown Pointe Subdivision recorded October 17, 1986 (R. pp. 38-46).

The covenants state in pertinent part:

No use may be made by any owner, family member or invitee of lake systems of Raven's Run Subdivision which abut Lots 37E through 66E of Crown Pointe; this total prohibition of use shall specifically include boating, swimming and fishing. The portion of land between the rear lot lines of such lots and the water line of the Raven's Run lakes is owned by the Raven's Run Homeowners Association, Inc. (R. p. 44)

The covenants can only be enforced by the developer or lot owners of Crown Pointe.

Paragraph 7 states:

Enforcement shall be by proceedings at law or in equity by the Developer and/or any persons owning a lot shown on the hereinbefore mentioned Plat, either to restrain violation and/or to recover damages, in law or in equity. (R. p. 39)

Additionally, the covenants may be freely amended by the owners of the lots of Crown Pointe under paragraph 6 of the covenants (R. p. 39).

Raven's Run additionally points to the tax maps of Charleston County. All of the extensive common areas of Raven's Run are within the tax map number relied on by Plaintiff including carports, dwellings, health clubs, sheds, hot tubs, tennis courts, pools and the like. Raven's Run pays property taxes for these common areas. The tax map document has a disclaimer that states:

The layers contained in the map service are for information purposes only. The Charleston County makes no warranty, express or implied, nor any guaranty as to the content, sequence, accuracy, timeliness or completeness of any of the information provided. The County explicitly disclaims all representations and warranties. The reader agrees to hold harmless the Charleston County for any cause of action and costs associated with any causes of action which may arise as a consequence of the County providing this information. (R. p. 357)

**H. Deed at Book E150, page 875 and Plat Book BG 52,53,54**

Raven's Run asserts that a deed at Book E150, page 875 (R. pp. 268-271) should be taken into account and was not mentioned in the Master's original order of 11/8/2018.

At oral argument for reconsideration, Raven's Run relied on the following paragraph in the deed at Book E150, page 875:

2. "ALONG the southern right-of-way of Rifle Range Road two irregular strips of land situate to the east and west of the intersection of Omni Boulevard and Rifle Range Road." (R. p. 268)

This deed references Plat Book BG 52, 53 and 54 (R. pp. 342-345) in the paragraph that precedes these two (R. p. 268).

Specifically, because this deed predates the other documents in his previous Order, Raven's Run argued that the strip of land in dispute in this litigation was conveyed to it by paragraph 2.

However, as found by the Master, the disputed strip of land was not conveyed by deed at Book E150, page 875 to Raven's Run.. The language "ALONG the southern right-of-way of Rifle Range Road two irregular strips of land situate to the east and west of the intersection of Omni Boulevard and Rifle Range Road" does not refer to the disputed strips of land. Rather, referring to Plat BG 52 (R. p. 342), on the southern boundary of Rifle Range Road there are in fact two irregular strips: One on the east 294.46 feet in length and one to the west 191+147.44. Those are contained along Rifle Range Road. They are irregular. They do not extend further inland. At most, this is the land conveyed by deed at Book E150, page 875.

#### **STANDARD OF REVIEW**

This Court reviews the grant of a summary judgment motion under the same standard applied by the trial court pursuant to Rule 56(c), SCRPC. Woodson v. DLI Props., LLC, 406 S.C. 517, 528, 753 S.E.2d 428, 434 (2014).

Summary judgment is appropriate when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRPC; see also Tupper v. Dorchester County, 326 S.C. 318, 325, 487 S.E.2d 187, 191 (1997); Wells v. City of Lynchburg, 331 S.C. 296, 301, 501 S.E.2d 746, 749 (Ct.App.1998). Under Rule 56(c), SCRPC, the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. Trivelas v. South Carolina Dep't of Transp., 348 S.C. 125, 130, 558 S.E.2d 271, 273 (Ct.App.2001). Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the

opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial. Rule 56(c), SCRPC; SSI Med. Servs., Inc. v. Cox, 301 S.C. 493, 497, 392 S.E.2d 789, 792 (1990); Peterson v. W. Am. Ins. Co., 336 S.C. 89, 94, 518 S.E.2d 608, 610 (Ct.App.1999). "In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party." Strother v. Lexington County Recreation Comm'n, 332 S.C. 54, 61, 504 S.E.2d 117, 121 (1998).

### ARGUMENT

#### I. THE MASTER DID NOT ERR IN GRANTING SUMMARY JUDGEMENT AGAINST RAVEN'S RUN.

Defendants set forth evidence that showed Raven's Run did not own the disputed property. To survive summary judgment, Raven's Run had to prove that they own the disputed property. Because they could not prove they owned the property with the documents they presented, summary judgment was appropriate. The deed and plat Raven's Run relies on do not show they own the disputed property.

Raven's Run asserts an ownership interest in the land immediately adjacent to Kinlaw's house. Raven's Run claims this ownership interest is extensive enough such that they have complete dominion over the strip of land across the water from their neighborhood. Apparently, they claim this right through tax maps and restrictive covenants, because no deed nor no plat conveys them this

dominion and control. The plats dedicate the opposite of what Raven's Run asserts, and the deeds relied on by Raven's Run do not convey the thin strip they wish to control.

A. RAVEN'S RUN DID NOT DEMONSTRATE THEY OWN THE DISPUTED LAND.

1. THE 1987 DEED RELIED ON BY RAVEN'S RUN CONVEYS NO LAND ACROSS THE BODY OF WATER ON THE CROWN POINTE SIDE. THE OTHER PLATS AND DEEDS CONVEY A SUFFICIENT INTEREST TO CROWN POINTE AND KINLAW SUCH THAT RAVEN'S RUN DOES NOT HAVE CONTROL OVER THIS STRIP.

RAC dedicated the lakes and green areas on Plat BK-2 recorded August 21, 1986 to Crown Pointe (R. pp. 345-347). This dedication predates the deed into Raven's Run relied on by Raven's Run. As between the private parties, this dedication is complete when made. See e.g. Outlaw v. Moise, 222 S.C. 24, 71 S.E.2d 509 (1952). This dedication effectively removes the possibility that Raven's Run has the right to control the portion of Plat BK-2 that shows the 60 foot drainage easement on the lot lines to Crown Pointe. This land extends 20 feet onto the lot owners' property and 40 feet into the lake.

Further, the deeds into Raven's Run, R163, page 134 (R. pp. 118-119) and the referenced plat BL-57 (R. p. 120) do not attempt to convey any part of Crown Pointe. Crown Pointe, the disputed property and its bordering easement are neither described nor platted. Raven's Run is bound by that Plat. Germany v. Kelley, 96 S.E. 959 (S.C. 1918). Where a deed describes land as it is shown on a certain plat, such plat becomes part of the deed for the purpose of showing the boundaries, metes, courses and distances of the property conveyed. Hobonny Club, Inc. v. McEachern, 272 S.C. 392, 397, 252 S.E.2d 133, 136 (1979) Carolina Land Co., Inc. v. Bland, 265 S.C. 98, 217 S.E. (2d) 16

(1975); Lynch v. Lynch, 236 S.C. 612, 115 S.E. (2d) 301 (1960). The land adjacent to Kinlaw's lot was not shown on the plats referenced in the deed of December 11, 1985, or therefore it was not conveyed to Raven's Run. Raven's Run has not shown that it owns this disputed land.

This is not a case where there is no plat reference and where lots are specifically referred to by tax map number. Land on the Crown Pointe side of the water is not shown on BL-57 (R. p. 120), thus that land is not conveyed. There is no tax map contemporaneous with the 1987 deed. There is only a passing reference to a tax map number which is not at all descriptive and does not show the intent of the parties. The plat referenced on the deed controls. Therefore, this case is distinguishable from Millvale Plantation v. Carrison, 401 S.C. 166, 736 S.E.2d 286 (Ct. App. 2012).

Additionally, the subsequent quit claim deeds of 2001 shows the intent of RAC to convey everything on the plat pages of BK-2 (R. pp. 345-347) to Crown Pointe:

Abstractor's Note: It the intention of this deed to convey all property set forth plat pages, saving and excepting all platted lots and public rights of way depicted thereon." Deed H394, page 181 (R. pp. 8-85; R. P. 332)

This undoubtably includes the portion of the 60 foot easement that extends 40 feet into the lake. The language is clear and unmistakable<sup>2</sup>. This intent is further confirmed by Plat BP 160-161 (R. pp. 79-83; R. pp. 339-340), which follows BK-2 (R. pp. 345-347).

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Raven's Run attempts to insert the affidavits of Seabrook and Causey (dated January 4, 2019) into the record. These affidavits were not presented at the original Summary Judgment Motion hearing and they were not even argued at the Motion for Reconsideration hearing. New matters are not considered on reconsideration. Stevens & Wilkinson of S.C., Inc. v. City of Columbia, 409 S.C. 563, 567, 762 S.E.2d 693, 695 (2014) ("[A] party cannot use a Rule 59(e)[, SCRC], motion to advance an issue the party could have raised to the [trial] court prior to judgment, but did not."). These affidavits should be excluded from the record.

Raven's Run attempts to rely on the restrictive covenants to convey title. Plat BK-2 predates the covenants. Restrictive Covenants are strictly construed, with all doubts resolved in favor of the free use of property. Hardy v. Aiken, 369 S.C. 160, 631 S.E.2d. 539 (2006). Therefore, read as a whole, the Restrictive Covenants of Crown Pointe are insufficient to convey title to Raven's Run. As noted above, if they have not already done so, Crown Pointe can amend the Restrictive Covenants at any time. Furthermore, Raven's Run has no right to enforce the covenants. These covenants must be construed in favor of the lot owners of Crown Pointe's free use of the property from their lot line to the water and as set forth on Plat BK-2 (R. pp. 345-347).

Therefore, Raven's Run does not own all property up to the individual lot lines of the Crown Pointe owners. Raven's Run does not own the disputed property immediately to the east of the lots in question: the portion of land and water depicted as the 60 foot drainage easement that extends 20 feet onto the lot owners property and 40 feet into the lake

## 2. THE 1985 DEED DOES NOT CONVEY RAVEN'S RUN THE DISPUTED STRIP OF LAND.

Raven's Run asserted for the first time in their motion for reconsideration that a deed at Book E150, page 875 (R. pp. 268-271) should be taken into account and was not considered in the Masters original ruling. They do not make a similar argument in the current appeal, but Kinlaw will address that claim out of caution.

On reconsideration, Raven's Run relied on the following paragraph in the deed at Book E150, page 875:

2. “ALONG the southern right-of-way of Rifle Range Road two irregular strips of land situate to the east and west of the intersection of Omni Boulevard and Rifle Range Road.” (R. p. 268)

This deed references Plat Book BG 52, 53 and 54 in the paragraph that precedes these two (R. p. 268).

Specifically, because this deed predates the other documents in the previous Order, Raven’s Run argued that the strip of land in dispute in this litigation was conveyed to it by paragraph 2. The disputed strip of land was not conveyed by deed at Book E150, page 875 to Raven’s Run.

The language “ALONG the southern right-of-way of Rifle Range Road two irregular strips of land situate to the east and west of the intersection of Omni Boulevard and Rifle Range Road” does not refer to the disputed strips of land. Rather, referring to Plat BG 52 (R. p. 342), on the southern boundary of Rifle Range Road there are in fact two irregular strips: One on the east 294.46 feet in length and one to the west 191+147.44. Those are contained along Rifle Range Road. They are irregular. They do not extend further inland. At most, this is the land conveyed by deed at Book E150, page 875.

B. RAVEN’S RUN HAS SHOWN NO REASON WHY CROWN POINTE OR KINLAW SHOULD NOT BE ALLOWED TO USE OR MAINTAIN THE STRIP OF LAND BETWEEN THE LOT AND THE WATER.

Crown Pointe and Kinlaw certainly have sufficient ownership interests in the disputed strip of land such that Raven’s Run has no right to bar them both from use and maintenance of the disputed strip. The disputed strip is dedicated to the public or to Crown Pointe. A dedication conveys title and Raven’s Run cannot acquire title after this dedication. See e.g. Outlaw v. Moise, 222 S.C. 24, 28-29, 71 S.E.2d 509 (1952). The dedication is before the 1987 deed. It is not

described as a “buffer strip.” Any restrictive covenant has been effectively amended or is not enforceable by Raven’s Run. The subsequent quit claims deed of 2001 confirm what was conveyed.

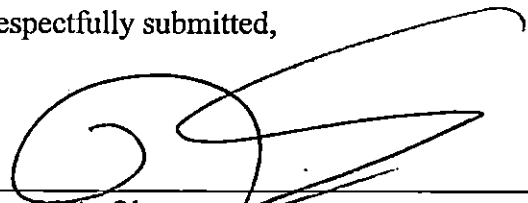
II. BECAUSE RAVEN’S RUN DOES NOT HAVE AN OWNERSHIP INTEREST IN THE DISPUTED STRIP OF LAND SUFFICIENT TO EXCLUDE KINLAW, THEIR ACTIONS FOR TRESPASS AND NUISANCE MUST FAIL.

For the reasons stated above, Raven’s Run has set forth no reason why they have a right to exercise dominion and control over the disputed property. Therefore, their claims in trespass and nuisance must fail.

**CONCLUSION**

The Master’s ruling that Raven’s Run does not own the disputed strip of land should be affirmed, and Raven’s Run’s causes of action should be dismissed.

Respectfully submitted,



August 26, 2020

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**AUG 27 2020**

**SC Court of Appeals**

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

MIKEL R. SCARBOROUGH, Master in Equity

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Appellate Case No. 2019-001289

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Raven's Run Homeowners Association, Inc., Appellant-Respondent,

v.

Crown Point Association, Inc., Lois K. Novak as Trustee of the Lois K. Novak Living Trust dated 10/14/2013; Laurie T. Herron and Mark D. Herron; James B. Kubu and Melissa F. Kubu; Leila June Johnson; Danny Ta and Anita McCauley; Robert E. Luby, Jr., and Barbara Luby; Joshua D. Coonce; Lucius Roy Junevicus; Katherine Kinlaw; Thomas K. Kuyk and Melissa Ward; Roland Franklin Wooten, III, and Teresa Key Wooten; Michael P. Horvath; Timothy E. Moylan and Karen G. Moylan; Carl A. Counasse and Maureen Counasse; David A. Frielinghaus and Holly C. Frielinghaus; Christopher S. Finley and Holly M. Finley; Shirley D. Springer a/k/a Shirley Deanna Springer; Deirdre C. Knight; Robert Shane Johnson; Eric R. Sigman; Lamar R. Graves, Jr. and Terry W. Graves; Mary Elizabeth Gladdedn; Philip Wallace and Naomi Grad; Thomas Edwin Davis and Luis Miguel Gonzalez Melchor; John R. Funkhouser and Jennifer L. Funkhouser; Gregory S. Cooper and Jane B. Cooper; Frank C. Jones, Jr. and Elise Ubele Jones; William P. Topping and Kris B. Topping; LaRhonda S. Ptichko; Kenneth L. Tully and Anna J. Tully, Defendants,

Of Whom James B. Kubu and Melissa F. Kubu and Leila June Johnson are the Respondents.

And Katherine Kinlaw is the Respondent-Appellant.

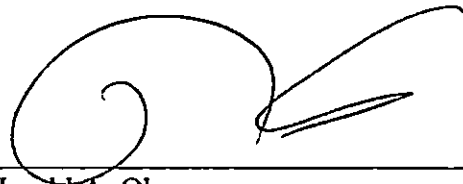
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CERTIFICATE OF COUNSEL

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The undersigned hereby certifies that the Respondent's Final Brief of Respondent-Appellant, Katherine Kinlaw complies with Rule 211(b) SCACR.

August 26, 2020.



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