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State of South Carolina) Court of Common Pleas
County of Beaufort) 14th Judicial Circuit
No. 2016-CP-07-01493

Juan Antonio Adame Tapia)
and Oscar Moreno,)

Plaintiffs,)

vs.)

Maria Walls, in her)
capacity as Treasurer for)
the County of Beaufort, et)
al,)

Defendants,)

HEARING

June 17, 2020

RECEIVED

FEB 18 2021

SC Court of Appeals

Hearing reported by Deborah S. Thomas,
Certified Verbatim Reporter and Notary Public in and
for the State of South Carolina; said hearing held
before Honorable Marvin H. Dukes, III, Beaufort
County Master in Equity and Special Circuit Court
Judge in accordance with the South Carolina Rules of
Civil Procedure, at the Beaufort County Courthouse,
102 Ribaut Road, Room 212, Beaufort, South Carolina
on June 17, 2020, at the hour of 10:59 a.m.

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EXHIBIT INDEX

Exhibits:

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(Exhibits retained by Clerk of Court.)

None Proffered.

* * * * *

1 This hearing is conducted in
2 accordance with the South Carolina Rules of Civil
3 Procedure.

4 JUDGE DUKES: Good morning. We're
5 here in 2016-CP-07-01493. This is Tapia, I hope I
6 pronounced that correctly, and Moreno versus Walls.
7 And my understanding is this is the Treasurer, Maria
8 Walls in her capacity as Treasurer's motion for
9 summary judgment. And Ms. Lohr is here to argue
10 that.

11 I'm happy to hear from you.

12 MS. LOHR: Thank you, Your Honor. As
13 I stated before, we were originally going to try
14 this matter before Your Honor. There were some
15 parties that had not been served with the amended
16 complaint, so we had agreed to enter into a
17 stipulation for the limited purpose of this summary
18 judgment motion. There will be some facts that are
19 in dispute but I don't believe will affect the
20 ultimate outcome of the case. So I have agreed,
21 along with the Plaintiffs' counsel, on which
22 stipulations for you to hear the case today because
23 I believe it may forgo the necessity of trial, you
24 know, depending on your ruling.

25 These were Plaintiffs who purchased the --

1 about eight properties (unintelligible/someone
2 coughing) various Plaintiffs and homeowners
3 association controlled properties at tax sale -- at
4 the October 2014 tax sale.

5 The properties themselves are located in
6 developments in plantations that require payment of
7 yearly assessments of club membership. The
8 Plaintiff has testified that they were unaware of
9 the assessments when they bid on the property. And
10 after the properties were -- after the bids were
11 accepted by the Treasurer's office at the tax sale
12 before the end of the redemption period, the
13 Plaintiff had received notification from the
14 homeowners associations, the clubs that they were
15 going to be assessed fees for their ownership of the
16 property. This is obviously before the title was
17 passed -- before the title passed to them before the
18 end of the redemption period.

19 For the purposes of this motion, the
20 Treasurer has agreed to stipulate that the Plaintiff
21 communicated to the Treasurer's office prior to the
22 end of the redemption period seeking to cancel the
23 sale or otherwise assign the bid. And then at least
24 on one occasion, they were advised by an unknown
25 employee of the Treasurer's office that they were

1 not going to be allowed to cancel the bid or assign
2 the bid.

3 While the bids are not allowed to be
4 canceled, this -- okay. So just -- the statutory
5 (unintelligible) allows bids to be assigned prior to
6 the end of redemption period. They cannot be
7 assigned after the end of the redemption period. So
8 the property ended up not being redeemed during this
9 period and the Plaintiff takes issue with the costs.

10 The Treasurer's practice during this time
11 was to -- when it accepted the bid was to accept the
12 costs. It also required the cost of filing to be
13 paid, you know, the deed stamps and that sort of
14 thing. So those were -- it was a practice of the
15 Treasurer's office at that time to do that. The
16 Treasurer recorded the tax deed over the objection
17 of the Plaintiff.

18 The Plaintiff has asserted error
19 (unintelligible) set by the tax sale. This is an
20 action to set aside the tax sale on -- as it relates
21 to the claims against the Treasurer.

22 The Plaintiff alleges that the Treasurer
23 erred in providing the Plaintiff with correct
24 information. But -- because they would not allow
25 them to assign their bid prior to the end of the

1 redemption period.

2 Plaintiff -- it says the Treasurer erred
3 in recording the tax deed for the relevant property
4 without first collecting the bidder/purchaser
5 recording fees.

6 And since the Plaintiff (unintelligible)
7 tax sale process is not structured to adequately
8 inform potential bidders of the fees, costs,
9 obligation and assessments associated with
10 purchasing property in homeowners' associations.

11 . And it's inequitable to subject persons
12 such as the Plaintiff to the associated costs of
13 (unintelligible) and these properties.

14 With regards to the first allegation that
15 the Plaintiff -- the Plaintiff contends that the tax
16 sale should be set aside because a Treasurer's
17 employee provided them with incorrect information
18 regarding the ability to assign. And again, that's
19 a position that's being stipulated to for the
20 purposes of this summary judgment motion only.

21 Tax sales are -- actions to set aside tax
22 sales are matters in equity. Our courts have
23 previously held that the Plaintiff is not entitled
24 to equitable relief when it's provided -- when it's
25 provided incorrect information by county employees

1 when that person had the means and knowledge to
2 determine the incorrect information. That's the
3 Quail Hill, LLC versus County of Richland case.
4 That case employed (unintelligible) both departments
5 had told the plaintiff -- told plaintiff
6 (unintelligible) of -- the property was
7 (unintelligible) in a difference zoning district
8 than it really was accessed.

9 And the court said that -- in that case,
10 the court ruled that Plaintiff had a means of
11 knowledge and the correct zoning space on the county
12 ordinance and zoning map. And plaintiff was not
13 entitled to equitable estoppel to obtain the
14 erroneous zoning that they had -- that they were
15 (unintelligible).

16 Similarly, there's at least two means, two
17 sources of information that the Plaintiff would have
18 had in this case. (Unintelligible) Quail Hollow
19 plaintiff had access in this case to -- a
20 controlling statute that provides that prior to the
21 expiration of the redemption period if a purchaser
22 assigns his interest -- it makes reference to the
23 purchaser assigning interest.

24 (Unintelligible) the person officially
25 charged with collection of delinquent taxes of the

1 conveyance. That's 12-51-90(A).

2 Additionally, second means that they would
3 have had to -- the information that -- information
4 that they were being given at the Treasurer's office
5 was incorrect was that their bidder card provides
6 reference -- the bidder card they signed at the 2014
7 tax sale contains a reference to assignee in the
8 third paragraph at the bottom. I've attached this
9 as Exhibit A. I know that the Plaintiffs' counsel
10 has made an objection to this being included because
11 it wasn't stipulated to. But I don't believe it has
12 to be stipulated to. These were produced to
13 Plaintiffs' counsel. And they are the 2014 Beaufort
14 County tax sale bidder cards for Mr. Adame and
15 Mr. Tapia.

16 So there's at least two ways that the
17 Treasurer would have -- I mean, that the Plaintiff
18 would have had information that the information
19 provided to them -- allegedly provided to them by
20 the Treasurer's employee that they couldn't have
21 assigned the tax sale was incorrect.

22 Additionally, I know of no jurisprudence
23 in the State that would allow a purchaser at tax
24 sale to challenge the validity of the tax sale.
25 This -- the action to set aside a tax sale is

1 pursuant to 12-51-160. And it's specifically
2 referenced as an action for the recovery of land
3 sold for good (unintelligible) or recovery of
4 possessions.

5 All the case law that talks about
6 statutory (unintelligible) and the notice provision.
7 Both are specific for the -- to this 12-51-160 for
8 the benefit of (unintelligible) regain their
9 property, not for the benefit of someone seeking to
10 set aside a tax sale that's not a previous owner.

11 So I don't believe that the Plaintiff has
12 standing to set aside the tax sale because they were
13 the purchasers of at tax sale. And I don't believe
14 that pursuant to the Quail Hill case that they
15 should be -- that they're entitled to the equitably
16 thought because they've had a means of obtaining the
17 information from another -- at least, two other
18 sources.

19 With regard to the second assertion of
20 error by the Plaintiff, the Treasurer -- Plaintiff
21 asserts the Treasurer erred in recording the tax
22 deeds in question without first collecting the
23 bidder/purchaser recording fees (unintelligible)
24 That that, however, is incorrect. The Treasurer's
25 office practice during this time period -- we

1 obviously -- you also have testimony in court that
2 they paid those costs. But it has been stipulated
3 for the purposes of this hearing that the Treasurer
4 track it. Kimberly Chesney will testimony that the
5 Treasurer's practice during this time period was to
6 collect the fees and costs for filing
7 (unintelligible) at the time they (unintelligible).

8 So it doesn't -- the statute doesn't say
9 when these have to be collected, just that they do
10 have to be collected. So we believe that we
11 collected them appropriately when be collected the
12 deed price.

13 And then the third assertion of error by
14 the Plaintiff is the Plaintiff contends the tax sale
15 process isn't structured to adequately inform
16 potential bidders of the cost, obligations and
17 assessments associated with (unintelligible) with a
18 homeowners association property.

19 The law in South Carolina has long been
20 established. There's no warranty in tax sales and
21 the doctrine of caveat emptor applies.

22 (Unintelligible) purchases at a tax sale does not --
23 does not do so with warranty -- does so without
24 warranty and usually with expectation of substantial
25 profit.

1 So there is no obligation that the
2 Treasurer's office had to provide them with
3 information that they may be subject to fees that
4 occur subject to their (unintelligible).

5 So we don't believe that that is a valid
6 basis for setting aside the tax sale either, Your
7 Honor. And we would ask that the court
8 (unintelligible) of the Plaintiff has failed to set
9 forth any (unintelligible) this tax sale should be
10 set aside. And further, it doesn't have standing to
11 set aside the tax sale if they were to be the
12 purchaser at the tax sale.

13 JUDGE DUKES: Thank you so much.
14 Mr. Mogil, happy to hear from you, sir.

15 MR. MOGIL: Thank you, Your Honor.
16 Your Honor, the memorandum that I filed on Monday
17 evening is simply arguments. There's no case law
18 cited as there really wasn't anything on point.

19 Since then, I've kind of developed some
20 theoretical argument based on some general case law
21 which I've -- I emailed to Mary and also to the
22 court this morning. I'm unable to upload exhibits
23 for some reason on E-file. So they haven't been.
24 The cases and the two additional documents were --
25 which are printouts of websites from the county --

1 Greenville County haven't been introduced into the
2 record, yet, because there's some defect that I need
3 to resolve with tech support. It's just not
4 enabling me to upload the exhibit. So if Your Honor
5 could indulge that.

6 Your Honor, in researching this, I wrote
7 there's few threshold questions. And we're in a
8 unique posture here because as Ms. Lohr has pointed
9 out, the case law that involves tax sales consistent
10 refers to the purpose or legislative intent or
11 judicial interpretation as to protect the taxpayer.
12 My clients are not taxpayers. So we're in a very
13 unique procedural status here whether -- I couldn't
14 find in South Carolina or elsewhere a factually
15 similar case.

16 The Quail Hill case that Ms. Lohr cites
17 does involve information provided resale to a
18 taxpayer -- I mean, to a bidder. And the court says
19 that the bidder cannot rely on that information for
20 the reasons Ms. Lohr stated. And I don't disagree
21 with that, but I don't think that's exactly what
22 happened here.

23 Ultimately, in the component of the
24 argument which I'll get to first was my clients had
25 stipulated that they went to the Treasurer's office

1 and spoke to somebody who told them they could not
2 cancel or assign at the time. And that
3 representation by the Treasurer's officer, it was
4 stipulated that it happened, wouldn't fall within
5 Quail Hill because it's a instruction regarding a
6 legal policy or procedure, not the status of the
7 property.

8 So to the extent that Quail Hill guides
9 this case, and I'll get back to the -- what my
10 clients knew when they bid in a minute. But I would
11 agree that it would be applicable to what they knew
12 when they bid. Perhaps I'll get to what the
13 County's course of dealing was. But I don't think
14 that Quail Hill covers statements that were
15 stipulated or that discovery will show were made to
16 them regarding what their options were at the
17 expiration of the redemption period.

18 I will also point out at the outset that
19 while courts have -- courts have held that an action
20 such as this to set aside a deed is equitable,
21 they're also -- the governing rule is that a tax
22 sale is a statutory creature and that there has to
23 be strict interpretation of the tax sale in order to
24 -- you know, by the courts and not in equity. So
25 it's kind of conflicting there, especially where my

1 clients are not the taxpayers. They are the
2 bidders.

3 And hold on for a second. (Coughing).

4 The case that -- you know, there's the
5 Folk case which is cited in Ms. Lohr's brief, but
6 also, I submitted up to the court. And I'll give
7 you a cite on that which says that, you know, when
8 you're interpreting the tax sales statute, courts
9 may consideration public policy considerations. And
10 so I'm going to get down to -- you know, while I'm
11 on that point, to the latter part of the argument
12 which is two components.

13 When my clients went in and were told that
14 they could not assign or cancel, at that point time,
15 public policy considerations do come into play and,
16 I think, survive summary judgment because they came
17 in and said, we didn't know about this. We could
18 not possibly afford it. And we want to cancel this
19 sale or assignment it to somebody who can afford it
20 who actually put up the money before it's too late.
21 And they were told they couldn't do that.

22 I think that in interpreting the statute
23 the court can take in public policy considerations.
24 As to what does the statute says, and the statute
25 says in two sections. One section it gives the

1 party, a bidder the express right to assign if it
2 produces a -- on a form provided by the Treasurer a
3 notarized assignment. And in this particular case,
4 there is no direct testimony (unintelligible) in the
5 stipulations.

6 But I think, if my clients were to show
7 that they were not provider a form, that they don't
8 even understand where they would look for a form to
9 assign and they weren't told that there was such a
10 form then the officer at the Treasurer's office
11 would not have sufficiently administrated their duty
12 to make that form available or point out where it
13 is.

14 And I understand that this is a tricky
15 (unintelligible) because my guys don't -- my guy was
16 -- are young at the time, in his early 20s and
17 English is a second language. The other guy doesn't
18 speak English at all. Yes, they came to the tax
19 sale. But whether the statements without some
20 express assistance were calculated to properly guide
21 them -- you know, if they were told there was no
22 right to assign when there was and then they weren't
23 provided a form to take to a lawyer or to the
24 assignee who could find a lawyer, I think that would
25 survive summary judgment.

1 And I do think that the Treasurer's office
2 is bound by what we generally call the public duty
3 rule. Now, of course, the public duty rule is
4 usually applied to discuss immunity of public
5 officials and negligence cases and wrongful death
6 cases. But in the Arthur v. Aiken County case which
7 I sent over in -- you know, when the supreme court
8 and the Court of Appeals discuss it, it's -- you
9 know, they say those charged with protecting the
10 public interest should view that interest as supreme
11 to consider what's best for the public and to be
12 prosecute at all times what appears to be in the
13 public interest.

14 The law grants certain discretion to its
15 officers (unintelligible) like public business
16 (unintelligible). I believe that's fairly -- I
17 would call it the busiest judge rule for public
18 employees. But in this particular -- and that's the
19 standard that would be applied as to whether
20 employee's mistake would justify action in this
21 instance.

22 And in this instance, if the facts were
23 presented, such as these people said, we don't know
24 what we're doing. We don't understand it. We want
25 to redeem it. We can't afford it. And understand

1 that this would have averted a mess at the beginning
2 because you have private communities which we're
3 going to allege have uncollectible
4 multi-hundred-thousand dollar assessments at this
5 point.

6 And my guys are bankrupt as a result of
7 this. So there's a lot of money that's been lost on
8 all sides. But the public duty would have been to
9 try to assist and make this right or try and at
10 least get the parties together and try to figure out
11 a remedy.

12 And then we get to the second part. The
13 statute expressly provides that there is a right to
14 assign prior to redemption. And then I also point
15 out in my memorandum and I'll give you the language.
16 At the end of the statutory scheme, it provides that
17 the -- it's in Section -- I believe it's 12-51-150.
18 If the official in charge of the tax sale discovers
19 before tax sale has passed that there's a failure of
20 any action to be properly performed, the official
21 may void the tax title and refund the now paid, plus
22 interest, amount actually earned on the amounts of
23 the successful bidder.

24 So clearly there's discretion on the part
25 of the Treasurer's office to cancel a particular tax

1 sale before tax title has passed. And in this case,
2 not only did my clients go in before the expiration
3 of the redemption, but I personally called it to the
4 Treasurer's office attention that the -- an e-mail
5 writing that they did not want to take title and
6 that they, you know, do not understand what had
7 happened, et cetera. That's a fact issue. But
8 there's no doubt in the record that I communicated
9 before title had passed.

10 So the Treasurer did have discretion to
11 cancel the this under Section 12-51-150. And again,
12 our general rules of statutory construction as set
13 forth in -- I use the State v. Jacobs case which is
14 a criminal case which sets forth the cardinal rule
15 is specific and to ascertain, effectuate legislative
16 (unintelligible).

17 And then that's also been elaborated
18 further in the Key Corporate case which was the tax
19 sale case in Beaufort County which I presume Ms.
20 Lohr or firm actually litigated.

21 So in terms of interpreting the
22 (unintelligible), the statute were supposed to be
23 strict and look at legislative intent. And in this
24 particular case the statute said they can cancel it.
25 So it wasn't true that they could cancel it if

1 that's what they told my clients. And it wasn't
2 true that they couldn't cancel it if that's what the
3 response to me was by Ms. Chesney when I
4 communicated with her in December -- or November
5 after the redemption period ended.

6 If we're looking at the statute strictly,
7 the statute says they can cancel it. So that --
8 that's my argument there. I think that survives
9 summary judgment, Your Honor.

10 On the issue of the fees collected, again,
11 the statute if read narrowly, it doesn't talk about
12 force of dealing. It says that the bidder is
13 supposed to tender fees to the Treasurer. And then
14 the Treasurer can record the deed accordingly.

15 In this case, the testimony that we've
16 stipulated to is the Treasurer said in the course of
17 dealing that they would collect these fees generally
18 in advance. There's no -- we haven't stipulated to
19 any evidence as to what they actually collected at
20 this time. But that is the course of dealing that
21 we stipulated to.

22 And I'm going to say that if the County
23 can override what the statute expressly states with
24 the course dealing argument, Your Honor, it goes the
25 other direction as -- you know, the discovery I'll

1 proffer that the discovery in this case will show
2 that at deposition the County has acknowledged that
3 they permitted these private communities to put out
4 information and circulate information and even have
5 a table at prior tax sales regarding the potential
6 issues that come up when you buy property in a
7 private community and the assessments and mandatory
8 memberships.

9 And while we don't know if that occurred
10 at this particular sale because the discovery is not
11 clear, if that's the -- if they've established the
12 course of dealing at some point of allowing that
13 information to be disseminated at the courthouse,
14 (unintelligible) either in front of Your Honor's
15 office or the courtroom or some other place, when
16 they say they do that, if that's the course -- if
17 the course of dealing applies in one end, it applies
18 in the other. And clearly if my clients had gone in
19 there and seen this information, which they -- you
20 know, we're going to argue at trial that they didn't
21 get, they would have known not to -- not to bid on
22 these properties.

23 And so that goes back to Quail Hill. But
24 if the County establishes a course of dealing in one
25 error or relies on it in another, I think that

1 basically we're going to go back to what the statute
2 requires. And the statute requires them to tender
3 the money.

4 And I think that goes to our general rule,
5 you know, of deed acceptance. You can't accept the
6 deed unless you expressly accept it, either of
7 yourself or through your attorney in a real estate.
8 And if my -- if my clients had been contacted in
9 January of 2016 and said, can we have the fees to
10 record your deed? They would have said no.

11 I'm not proffering that. That's not in
12 the evidence. So they wouldn't have accepted. The
13 County (unintelligible) accepted by taking money
14 from their bid overage I assume or some other part.
15 It's in Mary's record.

16 So, Your Honor, I think that this case
17 survives summary judgment. I think they're very
18 unique issues of law starting with the standing
19 issue. But I don't think South Carolina law is
20 clear as to whether a bidder has standing. I think
21 if he does, he certainly would have standing in
22 equity to right a wrong.

23 And then we go forward to what's the
24 public duty of the Treasurer's office to give out
25 accurate information?

1 So I would ask that summary judgment be
2 denied at this time, Your Honor.

3 JUDGE DUKES: Thank you so much.
4 Anyone else want to be heard? And then we'll circle
5 back to Mary for any response. Mr. Stoney? Mr.
6 Newton?

7 MR. STONEY: All good, Your Honor.

8 JUDGE DUKES: Okay. Ms. Lohr, happy
9 to hear from you.

10 MS. LOHR: Just very briefly, Your
11 Honor. The statute that the Plaintiff relies on to
12 set aside the tax sale as well as his argument with
13 regard to all the case law requiring strict
14 instruction, is actually entitled an action for the
15 recovery of land sold pursuant to this chapter or
16 for recovery and the possession.

17 So to the extent that they're arguing
18 that, you know, any kind -- any defects in the sale
19 would void the sale. That case law is wholly
20 directed at a statute that -- it's for the recovery
21 of land sold. So I do believe that (unintelligible)
22 is a significant (unintelligible) Plaintiff based on
23 the Quail Hill case.

24 I don't believe that they're entitled to
25 equitable relief either because they certainly had

1 information that they could assign. And despite the
2 stipulation that there was (unintelligible)
3 information provided to them, they could have sought
4 further clarification at the office specifically
5 because there was a statute that seemed to
6 specifically reference the ability to assign prior
7 to the end of the redemption period.

8 With regard to the public duty rule, I'm
9 not sure how that applies at all in this case. That
10 is a defense typically to a tort action. There's no
11 tort action that's been alleged here, so I don't
12 know how the creation of duty, a specific duty to an
13 individual would apply in the action to set aside a
14 tax sale.

15 So -- and that's really all, Your Honor,
16 that I would address.

17 JUDGE DUKES: All right. Thank you.

18 Mr. Mogil, you sent some cases in that you
19 wanted me to look at. And I guess I'll need to look
20 at those. You sent those to Heather I guess? Is
21 that right?

22 MR. MOGIL: I sent -- I sent them by
23 email about 40, 30 minutes ago, Your Honor, to you,
24 Heather and Mary as an attachments. And I am going
25 to get them uploaded.

1 JUDGE DUKES: Okay. And those are
2 the cases that you've reference that are in the
3 briefs; is that correct? Or is it --

4 MR. MOGIL: Well, I didn't reference
5 them specifically in the briefs. They're not in
6 brief. If Your Honor would -- if I can file -- if I
7 can ask Your Honor for leave to file without any
8 further just to amend the brief to include those
9 case so you could have easy reference. I didn't
10 file them in the brief before the deadline.

11 I assume the deadline was two days ago for
12 affidavits, but it's a memorandum.

13 JUDGE DUKES: Well, if all you're
14 going to do is just some cases or reference the
15 case, I assume that Mr. Lohr -- or nobody had any
16 objections. You're just sending me the cases.

17 MS. LOHR: No (unintelligible).

18 JUDGE DUKES: Unless you feel like
19 you want to amend it, I wouldn't worry about it.
20 Just -- I'll just read the cases and see what I can
21 do.

22 All right. And refresh my memory. Mr.
23 Stoney who do you represent? You represent one of
24 the plantations? One of the HOAs? Who is it
25 that --

1 MR. STONEY: I do. (Unintelligible).

2 JUDGE DUKES: Which one is it?

3 MR. STONEY: Are you hearing me,
4 Judge.

5 JUDGE DUKES: I can hear you now.
6 Yes.

7 MR. STONEY: Okay. , I'm
8 technologically challenged. So I'm -- I represent
9 Callawassie Island Membership Club. And we
10 intervened in this case because we've got a -- we
11 already have a judgment in place against the
12 Plaintiff. And so, obviously, our position stands
13 or falls on what is determined in this case.

14 JUDGE DUKES: Got you. And,
15 Mr. Newton, I'm guessing you -- is it Belfair you
16 represent? Is that right?

17 MR. NEWTON: In this action, yes,
18 sir, Belfair. We have a pending counterclaim.
19 There's a related action that was filed in 2017 on
20 behalf of Callawassie Island Property Owners
21 Association that deals with three of the lots.
22 There are -- the motion for summary judgment was
23 filed in that case. But we've been waiting on the
24 outcome of this before proceeding with the motion
25 for summary judgment.

1 JUDGE DUKES: Got you. And the
2 defaulting taxpayers are now -- this I think may --
3 might have been what Mary was referencing at the
4 beginning. They're now parties, but are they -- are
5 they in default or what is their status, Mr. Mogil?
6 Do you -- can you tell me how that --

7 MR. MOGIL: Yeah. I would -- that's
8 -- I -- oh, you mean -- the underlying taxpayers.
9 They were named -- like two were physically served
10 at the outset. And then the other ones were not
11 served or located. And they've never been served by
12 publication.

13 These were all (unintelligible)
14 out-of-state people.

15 JUDGE DUKES: Okay.

16 MR. MOGIL: So -- and that's what --
17 Mary pointed that out when we came up before Your
18 Honor in January that properly set this for trial.
19 If the court would (unintelligible) all over the
20 country. And Mary suggested that -- thought Your
21 Honor would want to take a look at the legal issues
22 before we went through that, you know,
23 (unintelligible).

24 JUDGE DUKES: All right. Makes good
25 sense. Okay. All right. Well, let me do this.

1 Let me read the cases and see what I can come up
2 with. And I'll try to let you all know something by
3 the end of the week. If you haven't heard from me
4 by the end of the week, by -- what is today
5 (unintelligible). Maybe by Monday afternoon shoot
6 me an e-mail, and I'll get you out something
7 promptly. I'll just put it on my stack. So
8 anything else we can do for this record today?

9 MR. MOGIL: Your Honor, may I just
10 ask you a question. I sent you the cases already.
11 There's only five.

12 JUDGE DUKES: Okay.

13 MR. MOGIL: (Unintelligible) Mary's
14 Quail Hill case. Can I annotate or amend the
15 memorandum about just to reference where I'm using
16 those cases so you can follow why I sent them to you
17 because none of them are tax sale cases on point.
18 Or only one are. They are general legal doctrines.

19 JUDGE DUKES: All right. Any
20 objection to that, Mary?

21 MS. LOHR: I don't have any
22 objection, Your Honor.

23 JUDGE DUKES: All right. No problem.
24 What -- is that something you could do in the next
25 couple days or what's your --

1 MR. MOGIL: I'll do it by tonight,
2 Your Honor. I'm just simply going to type in the
3 citation of the case and why I put it there. That
4 way you can see what I'm referring to other just
5 looking at a criminal case from 2001 and say, why
6 did he put this in here?

7 JUDGE DUKES: Okay. No problem.

8 MR. MOGIL: Okay?

9 JUDGE DUKES: Good. Well, now, did
10 you say your clients had filed bankruptcy?

11 MR. MOGIL: No. No, Your Honor. I
12 said that essentially with the volume of debt that
13 exists to Callawassie, Berkeley Hall and I don't
14 know if Weston's representing Berkeley Hall or Brian
15 Pitts' offices is on the line. I'm not sure, but
16 between Berkeley Hall, Belfair, Callawassie and
17 Colleton River which is Barry Johnson's client and
18 two of my clients (unintelligible) Colleton River.
19 But between the two of them, it's got to be two,
20 three, \$400,000 of assessments accruing at this
21 point. So with any practical sense they're
22 insolvent. But they have not filed anything.

23 JUDGE DUKES: I just wanted to make
24 sure we weren't doing something, you know, we
25 weren't supposed to do. So, all right. Good.

1 Well, I will try to get back with you all as quickly
2 as I can.

3 Mr. Mogil, I'll look for what you're going
4 to amend and then I'll read that and then I'll try
5 to get back with you all as quickly as possible.

6 MR. MOGIL: Thank you, Your Honor.
7 Thank you, everybody.

8 MS. LOHR: Thank you.

9 MR. STONEY: Thank you very much.

10 JUDGE DUKES: All right. That will
11 conclude the record.

12 (Whereupon, the hearing was concluded
13 at 11:17 a.m.)

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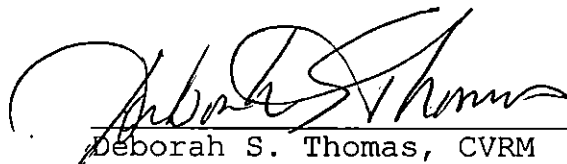
Certificate of Reporter

I, Deborah S. Thomas, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, do hereby certify that I reported the hearing of 2016-CP-07-01493; Juan Antonio Adame Tapia, et al v. Maria Walls, in her capacity as Treasurer for the County of Beaufort, et al, on the 17th day of June, 2020: and that the foregoing pages constitute a true and correct transcription of the said hearing.

I further certify that I am neither attorney nor counsel for, nor related to or employed by, any of the parties connected with this action, nor am I financially interested in said cause.

I further certify that the original of said transcript shall be hereafter delivered to Michael W. Mogil, Law Office of Michael W. Mogil, P.A., 2 Corpus Christie Place, Suite 303, Hilton Head Island, South Carolina 29928.

In witness whereof, I set my hand and sealed this 29th day of October, 2020.



My Commission
expires 2/7/28

Deborah S. Thomas, CVRM
and Notary Public for the
State of South Carolina

