

RECEIVED

May 07 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Charles B. Simmons, Jr., Master-in-Equity

Case No. 2018-CP-23-05191
Appellate Case No. 2020-001188

Richard Joseph Rogozinski,Respondent,

v.

County of Greenville and City of Simpsonville,Appellants.

RECORD ON APPEAL

JENNINGS LAW FIRM, LLC

Clayton L. Jennings, S.C. Bar No. 68284
1151 E. Washington St.
Greenville, SC 29601
(864) 239-0055
clayton@jenningslawfirm.com
Attorney for Respondent
Richard Joseph Rogozinski

HOLMES LAW FIRM

David W. Holmes, S.C. Bar No. 2577
712 North Main Street
Greenville, SC 29609
(864) 271-2381
davidholmes@holmes-law.com
Attorney or Appellant
City of Simpsonville

HAYNSWORTH SINKLER BOYD, P.A.

Boyd B. Nicholson, Jr., S.C. Bar No. 65387
Sarah P. Spruill, S.C. Bar No. 68337
Jonathan D. Klett, S.C. Bar No. 103208
P.O. Box 2048
Greenville, South Carolina 29602-2048
(864) 240-3200
nnicholson@hsblawfirm.com
sspruill@hsblawfirm.com
jklett@hsblawfirm.com
Attorneys for Additional Appellant
County of Greenville

INDEX

Orders

Order filed January 14, 20191
Order filed December 10, 20194
Order filed July 7, 20207
Order of August 14, 202018

Pleadings

Public Index22
Complaint.....26
Motion to Dismiss of the City of Simpsonville31
Motion to Dismiss of the County of Greenville.....33
Amended Complaint35
Answer to Amended Complaint of the County of Greenville51
Answer to Amended Complaint of the City of Simpsonville.....57
Motion to Amend of the City of Simpsonville63
County of Greenville’s Motion to Reconsider, Alter, or Amend Order
Entered July 7, 202067

Transcripts

Transcript of Hearing on June 2, 2020
 Testimony
 Richard Joseph Rogozinski
 Direct82
 Cross (Holmes).....97
 Cross (Nicholson).....123
 Redirect.....127
 Re-Cross132

Debbie Adkins	
Direct	137
Cross (Holmes).....	139
Cross (Nicholson).....	141
The Court.....	143
Redirect.....	144
Kisha [<i>sic</i>] Gamble	
Direct	147
Cross (Holmes).....	155
Cross (Jennings)	165
The Court.....	172
Redirect.....	177
Re-Cross (Holmes)	178
Re-Cross (Jennings)	180
Diana Gracely	
Direct	181
Cross (Jennings)	185
The Court.....	186

Exhibits

Exhibits from Hearing on June 2, 2020

Pl. Ex. 1	190
Pl. Ex. 2.....	191
Pl. Ex. 3.....	192
Pl. Ex. 4.....	204
Pl. Ex. 5.....	213
Pl. Ex. 6.....	214
Pl. Ex. 7.....	215
Def. Ex. 1	216
Def. Ex. 2	217
Def. Ex. 3	218
Def. Ex. 4	219
Def. Ex. 5	220
Def. Ex. 6	221
Def. Ex. 7	222
Def. Ex. 8	223
Def. Ex. 9	224
Def. Ex. 10	225
Def. Ex. 11	226
Def. Ex. 12	227
Def. Ex. 13	228
Def. Ex. 14	229
Def. Ex. 15	231
Def. Ex. 16	232

Def. Ex. 17233
Def. Ex. 18234
Def. Ex. 19235
Def. Ex. 20236
Def. Ex. 21237
Def. Ex. 22238
Def. Ex. 23239
Def. Ex. 24240
Def. Ex. 25241
Def. Ex. 26242
Def. Ex. 27243
Def. Ex. 28244
Def. Ex. 29245
Def. Ex. 30246
Def. Ex. 31247
Def. Ex. 32248
Court Ex. 1249
Court Ex. 2251

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Greenville
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP2305191

Richard Joseph Rogozinski
PLAINTIFF(S)

Greenville County Of et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

This matter is before the Court on Defendant's Motion to Dismiss. After hearing from counsel for each party, the current motion is denied.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 01/11/2019 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Greenville Common Pleas

Case Caption: Richard Joseph Rogozinski vs. Greenville County Of , defendant, et al
Case Number: 2018CP2305191
Type: Order/Electronic Form 4

So Ordered

s/ Edward W. Miller

Electronically signed on 2019-01-11 11:19:26 page 3 of 3

ELECTRONICALLY FILED - 2019 Jan 14 9:12 AM - GREENVILLE - COMMON PLEAS - CASE#2018CP2305191

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Greenville
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP2305191

Richard Joseph Rogozinski
PLAINTIFF(S)

Greenville County Of et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

This case came before the court on the December 10, 2019 Non-Jury Trial Roster. The Parties agreed to have the case Referred to the Master in Equity.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/10/2019 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Greenville Common Pleas

Case Caption: Richard Joseph Rogozinski vs. Greenville County Of , defendant, et al
Case Number: 2018CP2305191
Type: Order/Electronic Form 4

So Ordered

s/ Edward W. Miller

Electronically signed on 2019-12-10 11:00:57 page 3 of 3

ELECTRONICALLY FILED - 2019 Dec 10 11:11 AM - GREENVILLE - COMMON PLEAS - CASE#2018CP2305191

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
	)	2018-CP-23-05191
Richard Joseph Rogozinski,)	
)	
Plaintiff,)	
)	
vs.	)	ORDER DECLARING MAPLE
	)	COURT A PUBLIC ROAD
County of Greenville and City of Simpsonville,)	
)	
Defendants.)	
)	
)	
)	

This matter came before me for trial on June 2, 2020. The plaintiff herein, Richard Joseph Rogozinski (the “Plaintiff”), seeks a determination that the road providing access to land and apartments owned by him is a public road to be maintained by either the County of Greenville or the City of Simpsonville. The defendants, County of Greenville (also herein the “County”) and City of Simpsonville (also herein the “City”) (hereinafter referred to collectively as the “Defendants”), deny that the road known as Maple Court is a public road because the road was never dedicated by the private owner or accepted by the public. The Defendants have also challenged the standing of the Plaintiff to bring this action, and they argue that the judiciary has no authority to order repair of a public road.

At the trial of the case, the Plaintiff testified that he was the owner of real property with an apartment complex located in the County of Greenville and City of Simpsonville, said property being located along a road named Maple Court, bearing Greenville County Tax Map Number 0300000100106 and further described and shown as Lots Nos. 1, 2, 3, 4 and 5 on a plat prepared by R.B. Bruce, RLS, recorded in the Office of the Register of Deeds for Greenville

County in Plat Book 4-X at Page 17 (the “Property”). The Plaintiff entered into evidence the plat prepared by R.B. Bruce, RLS, recorded December 5, 1974 in the Office of the Register of Deeds for Greenville County in Plat Book 4-X at Page 17 (the “Plat”), which shows a road identified as Maple Court providing access to each of the five (5) lots shown on the Property. The Plaintiff also entered into evidence a Statement of Ownership and Consent to Dedicate Streets and Roads to Greenville County for Public Use, which was dated December 5, 1974, recorded in the Office of the Register of Deeds in Dedication Book 1 at Page 193 (the “Statement of Dedication”).

The Plaintiff testified that he moved to Greenville County in January 1990 to assist his parents with the management of the apartments on the Property and to perform manual labor related to the Property. The Plaintiff received an interest in title to the Property in 1990 by deed from his parents recorded in Deed Book 1387 at Page 73, aforesaid records, and later received all right, title, and interest to the Property by deed recorded in Deed Book 1887 at Page 370, aforesaid records. Since moving to Greenville in January 1990, the Plaintiff testified that neither he nor his parents restricted access to the road shown as Maple Court on the Plat, and he testified that Maple Court had been considered a public road for as long as he had been familiar with the Property, that is, since January 1990.

The Plaintiff further testified that deputies of the Greenville County Sheriff’s Office had continuously used Maple Court since at least 1990 to park their vehicles for the purpose of surveying traffic on the adjoining road known as North Maple Street, and to pull over drivers to issue traffic citations on Maple Court. In addition, the Plaintiff testified that neither he nor his parents had ever paid ad valorem property taxes for the road known as Maple Court. Instead, the road known as Maple Court shown on the Plat was excluded from his property tax bill issued by the County of Greenville. The Plaintiff entered photographs showing an area of potholes and

disrepair at or near the intersection of Maple Court and North Maple Street. I find the testimony of the Plaintiff to be credible.

On cross examination, the Plaintiff acknowledged that he placed no trespassing signs some distance down Maple Street to discourage persons who did not reside in his apartment complex from dumping or trespassing on the Property. Although the Defendants argued that such signs were on what the Plaintiff alleged to be the public road of Maple Court, the Defendants did not present a survey showing the location of the signs. On cross-examination, the Plaintiff also acknowledged that there was no street sign identifying Maple Court as a road and that he had no actual knowledge of either the City or the County repairing or maintaining Maple Court.

Following testimony from the Plaintiff, the Plaintiff took testimony from Debbie H. Adkins, who serves as a manager and assessor for Greenville Property Real Property Services. Upon reviewing the tax assessor's record presented by the Plaintiff, Debbie H. Adkins stated that the road known as Maple Court was not taxed by the County of Greenville. Ms. Adkins also testified that property was within the City's territorial boundaries.

The Plaintiff then rested his case, at which time the Defendants renewed their Motions to Dismiss and moved for a directed verdict. The Court denied their motions.

The County called Heshia Gamble to testify. Ms. Gamble has been the County Engineer for thirteen years, and in that position she is over the County's Roads and Bridges Maintenance Department. She testified that part of her job is to know which roads are in the County's inventory. Ms. Gamble testified regarding the process by which the County accepts a road for public dedication, and she also testified concerning the search she had made of County records to determine whether Maple Court was or had ever been in the County's road inventory. She also

indicated that the speed bumps along Maple Court were most likely installed by a private party because the County only installs the larger and rounder items known as speed humps. She also testified that the type of back-on parking that was occurring on Maple Court was not allowed on County roads. Ms. Gamble testified that there was no record that the County had never accepted Maple Court into its inventory of public roads and that there was no evidence the County had ever performed any maintenance. Ms. Gamble testified it was her opinion that Maple Court was not a public road. Ms. Gamble also testified that property was within the City's territorial boundaries, and that the County did not maintain roads within the boundaries of municipalities.

The City called Dianna Gracely as its witness. She testified that she was the City Administrator for the City and was familiar with the Property. Ms. Gracely indicated that she believed Maple Court was a private road and that even if it were a public road, she believed that the County, rather than the City, would be responsible for its maintenance and repair.

Following the close of testimony the City and the County renewed their respective motions to dismiss and for a directed verdict, which the Court denied.

After careful review of the pleadings, the arguments of counsel, and the testimony and evidence presented, I find and conclude as follows:

1. "Perfecting a dedication of property to public use involves two steps. First, an owner must express an intention to dedicate his property to public use in a positive and unmistakable manner. *Boyd v. Hyatt*, 294 S.C. 360, 364, 364 S.E.2d 478, 480 (Ct.App.1988). Second, there must be a public acceptance of the property offered for dedication. *Id.* at 365, 364 S.E.2d at 481. *Helsel v. City of North Myrtle Beach*, 307 S.C. 24, 413 S.E.2d 821 (S.C. 1991)." *Helsel v. City of Myrtle Beach*, 307 S.C. 24, 26-27, 413 S.E.2d 821, 824. In this case, I find under either a clear and convincing standard or preponderance of the evidence standard, that the

Property was dedicated for public use. Critical to note is that the 1974 recorded Plat clearly states that it was a “Final Plat” and provides clear language in its Certificate of Ownership and Dedication that the then owner of the Property was dedicating the road shown as Maple Court for public use. The Plat also contains a Certificate of Approval for Recording signed by J. Coleman Shouse as Director of Planning for the Greenville County Planning Commission. Even without the Certificate of Ownership and Dedication on the Plat and signed by the then owner of the Property, “[w]here land is divided into lots according to a plat, showing streets, and lots are sold and conveyed with reference to said plat, the owner thereby dedicates the streets to the use of the lot owners, their successors in title, and the public. *Blue Ridge Realty Co. v. Williamson*, 247 S.C. 112, 118, 145 S.E.2d 922, 925 (1965).” *Helsel v. City of North Myrtle Beach*, 307 S.C. 24, 413 S.E.2d 821 (S.C. 1991). Because the Plat divided the Property into lots and showed Maple Court as a street, I conclude that the owner dedicated Maple Court to the use of the lot owners, their successors in title, and the public. The fact that the Statement of Ownership recorded in 1974 and signed by the owner of the Property was approved as to form by the County Attorney at the time, E. P. Riley, further mandates the conclusion that the prior owner of the Property dedicated Maple Court for public use and the same was accepted by Greenville County. In sum, there is no doubt that Maple Court was dedicated for public use in a positive and unmistakable manner. To hold otherwise would be to ignore the plain language contained in both recorded documents.

2. The Defendants instead focus their argument on whether the public ever accepted Maple Court as a public road. I find that the reference of the Plat to itself as a “Final Plat”, together with the Certificate of Approval for Recording on the Plat signed by J. Coleman Shouse as Director of Planning for the Greenville County Planning Commission, and the approval as to

form by the County Attorney, E. P. Riley, all serve as clear indicia of the acceptance of Maple Court as a public road by the County. Even were this not the case, South Carolina law provides that, “. . . no formal acceptance by a public authority is necessary to show public acceptance. Acceptance may be implied by the public or a public authority continuously using or repairing the property. Also, acceptance and dedication may be demonstrated by a governmental authority not assessing taxes on the land.” *Mack v. Edens*, 320 S.C. 236, 464 S.E.2d 124 (S.C. App. 1995), citing *Cleland v. Westvaco Corp.*, 314 S.C. 508 (Ct. App. 1993). In this case, the Plaintiff has proved that the County does not assess taxes for the road known as Maple Court and the absence of taxes assessed on Maple Court provides additional proof that the public accepted Maple Court as a public road. And, the fact that law enforcement has used Maple Court is a further indication of it being a public road. Considering all of the above-referenced factors, and considering the old age of the Plat and Statement of Dedication which were never refuted by the County or the City, the Plaintiff has provided strict, cogent, and convincing evidence and proof of dedication and acceptance. *See Tupper v. Dorchester Cnty.*, 326 S.C. 318, 326, 487 S.E.2d 187, 187 (1997).¹

3. The testimony and evidence reflect that the Property and Maple Court are now, as a result of annexation, located within the City. Although the City argues that the County should be responsible for its maintenance because the City never accepted the road into its inventory, I find that the City appears responsible for the maintenance and repair of Maple Court. S.C. Code Ann. 5-27-120 provides:

The city or town council of any city or town of over one thousand inhabitants shall keep in good repair all the streets, ways and bridges within the limits of the city or town and for such purpose it is invested with all the powers, rights and

¹ The Court notes that, as a result of this finding and conclusion, the entire area shown as Maple Court becomes a public road. The Court does not address the implications of this based upon the location of certain items on Maple Court that now may or may not be on public property.

privileges within the limits of such city or town that are given to the governing bodies of the several counties of this State as to the public roads.

The South Carolina Supreme Court has held that S.C. Code Ann. 5-27-120 "clearly defines the duty to the general public of a municipality to maintain its streets." *Vaughan V. City of Lyman*, 370 S.C. 436, 443, 635 S.E.2d 631, at 635 (2006). "[C]ase law shows that, as a result of sections 5-27-120 and 5-27-10 (and their prior versions), municipal councils are in control of the roads within their municipal limits and they have the power to regulate and manage such roads." Op. S.C. Atty. Gen., 2016 WL 7031993, at *3 (S.C.A.G. Nov. 15, 2016).

Ordinarily, county authorities have no power to control streets within municipalities, except where the statute so provides. *Martin v. Saye*, 147 S.C. 433, 145 S.E. 186 [(1928)]. In this State, as in most States, there are statutes vesting such control in the corporate authorities of cities and incorporated towns. The usual effect of such statutes is to transfer from the county authorities to the municipality the power to regulate and control highways located therein. *Chapman v. Greenville Chamber of Commerce*, 127 S.C. 173, 120 S.E. 584, 587 [(1923)].

Leonard v. Talbert, 222 S.C. 79, 83-84, 71 S.E.2d 603, 604-05 (1952). Therefore, it would appear that the City, as the municipality, is responsible for the maintenance and repair of the roads located inside its corporate limits, not the County. See Op. S.C. Atty. Gen., 2016 WL 7031993, at *5 (S.C.A.G. Nov. 15, 2016) (determining "that the municipality, and not the county, is responsible for the maintenance and repair of the roads located inside its corporate limits.").

4. Nevertheless, this court will not order the repair of Maple Court as requested by the Plaintiff. First, the Plaintiff has not demonstrated whether the area of the road in disrepair is within the road known as Maple Court or within the area of the right of way known as North Maple Street which falls under the control of the South Carolina Department of Transportation. Even if the area of disrepair is within Maple Court, granting this remedy may very well violate

the separation of powers doctrine. South Carolina Constitution, art. I, 58 provides: "In the government of this State, the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other." Granting the Plaintiff the relief he seeks would violate this section of the South Carolina Constitution. S.C. Const. art. VIII, gives the General Assembly the power to provide for the structure, power and duties of cities. Pursuant to that authority, S.C. Code Ann. 5-7-30 provides, in part, that:

Each municipality of the State, in addition to the powers conferred to its specific form of government, may enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of powers in relation to roads, streets, markets, law enforcement, health, and order in the municipality or respecting any subject which appears to it necessary and proper for the security, general welfare, and convenience of the municipality or for preserving health, peace, order, and good government in it, including the authority to levy and collect taxes on real and personal property....

Likewise, and with respect to counties, S.C. Code Ann. 57-17-10 provides that:

All roads, highways and ferries that have been laid out or appointed by virtue of an act of the General Assembly, an order of court or an order of the governing body of any county are declared to be public roads and ferries, and the county supervisor and the governing body of the county shall have the control and supervision thereof. The county supervisor and governing body of the county may order the laying out and repairing of public roads where necessary, designate where bridges, ferries or fords shall be made, discontinue such roads, bridges and ferries as shall be found useless and alter roads so as to make them more useful.

The powers set forth in these statutes are clearly legislative in nature. These statutes confer on the City the authority to "enact regulations, resolutions, and ordinances in relation to roads [and] streets," S.C. Code Ann. 5-7-30, and they provide the County with the authority to "order the laying out and repairing of public roads where necessary, . . . discontinue such roads as shall be found useless and alter roads so as to make them more useful." *Id.* 57-17-10.

It is not a function, power or duty of the court to levy taxes, determine how those taxes are spent in relation to roads and streets, or to determine when and under what circumstances roads and streets are repaired or maintained. Plaintiff asks this court to order that the Defendants repair and maintain Maple Court. If Maple Court is a public road or street, the governing council of the applicable jurisdiction should determine when and how it will be repaired and maintained

"The legislative department makes the laws[,] the executive department carries the laws into effect, and the judicial department interprets and declares the laws." *State ex. rel. McLeod v. McInnis*, 278 S.C. 307, 312, 295 S.E.2d 633, 636 (1982). This delineation of powers amongst the branches "prevents the concentration of power in the hands of too few, and provides a system of checks and balances." *Id.*; see also *S.C. Pub. Int. Found. v. S.C. Transp. Infrastructure Bank*, 403 S.C. 640, 649, 744 S.E.2d 521 , 525 (2013) (noting that the "preservation of a separation of powers" is a "basic tenet of democratic societies").

5. Finally, this court has denied the motions of the Defendants to dismiss the action and for a directed verdict. The Plaintiff has standing because he owns the real property surrounding and abutting Maple Court, has a personal stake in this action, and is a real party in interest. See *Georgetown Cnty. League of Women Voters v. Smith Land Co.*, 393 S.C. 350, 713 S.E.2d 287 (2011). The Defendants have each denied that Maple Court is a public road. The Plaintiff presented sufficient testimony and evidence to prove the elements required for dedication and acceptance of a public road, and therefore the court denied the motion of the Defendants for a directed verdict. The court also notes that the Circuit Court denied the motion to dismiss previously filed by the Defendants herein. An Order reflecting the same was entered on January 14, 2019.

Therefore, it is hereby **ORDERED, ADJUDGED, AND DECREED** that:

1. Maple Court is a public road with the dimensions, metes and bounds, and courses and distances shown on the Plat recorded in Plat Book 4-X at Page 17 in the Office of the Register of Deeds for Greenville County; and
2. The City of Simpsonville is responsible for the maintenance and repair of Maple Court, but this court declines to order the immediate repair of Maple Court based on the separation of powers doctrine.

AND IT IS SO ORDERED.

JUDGE'S ELECTRONIC SIGNATURE TO FOLLOW



Greenville Common Pleas

Case Caption: Richard Joseph Rogozinski vs. Greenville County Of , defendant, et al
Case Number: 2018CP2305191
Type: Master/Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

Electronically signed on 2020-07-07 08:55:39 page 11 of 11

ELECTRONICALLY FILED - 2020 Jul 07 9:28 AM - GREENVILLE - COMMON PLEAS - CASE#2018CP2305191

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

2018-CP-23-05191

Richard Joseph Rogozinski,)
)
 Plaintiff,)
)
 vs.)
)
 County of Greenville and City of)
 Simpsonville,)
)
 Defendants.)
 _____)

ORDER

The matter is before the Court pursuant to Defendants’ Motions to Reconsider, Alter or Amend relative to this Court’s Order filed July 7, 2020. Following a careful review of the respective motions, the Court held a telephone conference call with the attorneys on August 4, 2020. At that time, each attorney carefully and zealously presented their respective arguments.

For reasons hereinafter set forth, the motions are denied.

The primary argument submitted by both Defendants is that the Court erred in finding acceptance of Maple Court as a public road.

As set forth in the Order filed July 7, 2020, Plaintiff testified that Maple Court had been considered a public road for as long as he had been familiar with the property. In 1972, a partnership consisting of his parents, was deeded the area in question. He also testified as to law enforcement continuously using Maple Court since at least 1990 for traffic enforcement. It was further uncontested that the property shown as Maple Court has never been taxed nor has Plaintiff or his parents ever paid ad valorem property taxes for the road.

Of greatest significance to the Court are the documents that have been publicly recorded since 1974. Specifically, the Final Plat approved by the Director of the Greenville

County Planning Commission on December 4, 1974, clearly states that it is a “Certificate of Ownership and Dedication”. It notes that Maple Properties is dedicating Maple Court as shown on said plat. The Final Plat was recorded in the Greenville County ROD Office on December 5, 1974. Also, on the Final Plat, is the following “FOR DEDICATION OF ROADS see Dedication Book 1 Page 193”. See, Plaintiff Ex. 1.

The Final Plat, Plaintiff’s Ex. 2, “STATEMENT OF OWNERSHIP, AND CONSENT TO DEDICATE STREETS AND ROADS TO GREENVILLE COUNTY FOR PUBLIC USE”, which is recorded in Dedication Book 1, Page 193, clearly notes that the parties “consent to dedicate streets and roads to Greenville County”, and states that once approved by the County Planning Commission, the Statement would be recorded in the Office of the County Register of Mesne Conveyance. This Statement was recorded in the Register of Deeds Office on December 5, 1974. The Statement notes by signature that it was approved as to form by the County Attorney for Greenville. Plaintiff’s Ex. 2 also states that “Maple Properties is granting and dedicating to those who may purchase said property or any part of it, to the general public **and to Greenville County** the use and control of the streets and roads shown on said plat of property for public use” (emphasis added).

Defendants argue that approval of the plat does not evidence acceptance. Section 6-29-1170 S.C. Code of Laws provides “public acceptance of the lands must be by action of the governing body customary to these transactions”. Under the facts of this case, and as set forth in the recorded plat and Statement that have been of public record in Greenville County since 1974, there was both approval and acceptance of a governing body, in this case Greenville County. There has been no evidence presented that any further steps would have been necessary in 1974 for acceptance of Maple Court by Greenville County.

While the testimony at trial indicated that Maple Court may not have ever been administratively inventoried as a public road in Greenville County, this fact is not dispositive. The

plain language used in the 1974 plat must be given its plain meaning by the Court. And, the only meaning that the Court is able to clearly discern is that Maple Court was approved and accepted by Greenville County.

While it is clear that Plaintiff may have taken some steps over the years contrary to Maple Court being a publicly dedicated street, these steps cannot overcome the clear evidence of public record outlined above.

Notwithstanding the above, and as noted on a footnote on page 6 of the July 7, 2020 Order, the Court finds that the entire area shown as Maple Court is a public road. Plaintiff must comply with all applicable laws, regulations, ordinances, etcetera, in the use of Maple Court. The Court does not and cannot go beyond this limited finding regarding Maple Court.

AND IT IS SO ORDERED.

JUDGE'S SIGNATURE PAGE TO FOLLOW



Greenville Common Pleas

Case Caption: Richard Joseph Rogozinski vs. Greenville County Of , defendant, et al
Case Number: 2018CP2305191
Type: Master/Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

Electronically signed on 2020-08-14 08:38:26 page 4 of 4

ELECTRONICALLY FILED - 2020 Aug 14 3:12 PM - GREENVILLE - COMMON PLEAS - CASE#2018CP2305191



Greenville County 13th Judicial Circuit Public Index



[Greenville County Home Page](#) [South Carolina Judicial Department Home Page](#)

Switch View

Richard Joseph Rogozinski vs. Greenville County Of , defendant, et al

Case Number:	2018CP2305191	Court Agency:	Greenville County Master in Equity	Filed Date:	01/14/2020
Case Type:	Common Pleas	Case Sub Type:	Real Prop/Other 499	File Type:	Non-Jury
Status:	Appeal	Assigned Judge:	Simmons, Charles B. Jr.		
Disposition:	Judgment	Disposition Date:	07/07/2020	Disposition Judge:	Simmons, Charles B. Jr.
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties

Click the icon to show associated parties.





Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
Belcher, Reginald Wayne (Inactive)	PO Box 1473 Columbia SC 29202				Alternate Mediator		01/14/2020
<input checked="" type="checkbox"/> Greenville County Of					Defendant		01/14/2020
Hayes, Daniel Willard (Inactive)	22 S. Pack Square, Ste. 800 Asheville NC 28801				Mediator		01/14/2020
<input checked="" type="checkbox"/> Holmes, David W.	712 N. Main St. Greenville SC 296095514				Defendant Attorney		01/14/2020
<input checked="" type="checkbox"/> Jennings, Clayton L.	1151 E. Washington St. Greenville SC 29601				Plaintiff Attorney		01/14/2020
<input checked="" type="checkbox"/> Nicholson, Boyd Benjamin Jr.	PO Box 2048 Greenville SC 29602				Defendant Attorney		01/14/2020
<input checked="" type="checkbox"/> Rogozinski, Richard Joseph					Plaintiff		10/26/2020
<input checked="" type="checkbox"/> Simpsonville City Of					Defendant		11/24/2020

Associated Cases

Agency	Case #	External	Relationship	Description	Case Filed Date	Disposition Date	Case Status	Disposition
Greenville County Common Pleas	2018CP2305191	N	OTHR	Other	10/09/2018	07/07/2020	Appeal	Ended by Non Jury

Actions

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Simpsonville City Of	Copy Expenses	Filing		11/24/2020-08:54		
Rogozinski, Richard Joseph	Copy Expenses	Filing		10/26/2020-13:50		
Greenville County Of	Appeal/Notice of Appeal to Court of Appeals	Action		09/11/2020-17:43		
Greenville County Of	NEF(09-10-2020 05:43:33 PM) Appeal/Notice of Appeal to C...	Filing		09/11/2020-09:00		

Simpsonville City Of	Appeal/Notice of Appeal to Court of Appeals	Action		08/27/2020-12:32		
Simpsonville City Of	NEF(08-26-2020 12:32:53 PM) Appeal/Notice of Appeal to C...	Filing		08/26/2020-12:36		
Rogozinski, Richard Joseph	NEF(08-14-2020 03:12:24 PM) Master/Order/Other	Filing		08/14/2020-15:12		
Rogozinski, Richard Joseph	Master/Order on Motion to Reconsider	Order		08/14/2020-15:12		
Greenville County Of	NEF(07-17-2020 01:31:01 PM) Notice/Notice of Appearance	Filing		07/17/2020-15:52		
Greenville County Of	Notice/Notice of Appearance	Filing		07/17/2020-13:31		
Greenville County Of	Motion/Alter and/or Amend	Motion		07/17/2020-13:31		
Simpsonville City Of	NEF(07-15-2020 03:47:48 PM) Motion/Alter and/or Amend	Filing		07/15/2020-16:39		
Simpsonville City Of	Def/Simpsonville City Motion/Alter and/or Amend	Motion		07/15/2020-15:47		
Belcher, Reginald Wayne	Copy of Email Correspondence	Filing		07/15/2020-14:57		
Rogozinski, Richard Joseph	NEF(07-07-2020 09:28:29 AM) Master/Order/Other	Filing		07/07/2020-09:28	07/07/2020-09:28	
Rogozinski, Richard Joseph	Master/Order Declaring Maple Court a Public Road	Order		07/07/2020-09:28	07/07/2020-09:28	
Rogozinski, Richard Joseph	Judgment/Relief	Judgment		07/07/2020-09:27	07/07/2020-09:27	
Simpsonville City Of	Judgment/Relief	Judgment		07/07/2020-09:27	07/07/2020-09:27	
Rogozinski, Richard Joseph	Judgment/Relief	Judgment		07/07/2020-09:27	07/07/2020-09:27	
Greenville County Of	Judgment/Relief	Judgment		07/07/2020-09:27	07/07/2020-09:27	
Rogozinski, Richard Joseph	Exhibit List	Filing		06/02/2020-11:28		
Rogozinski, Richard Joseph	NEF(03-31-2020 08:28:42 AM) Notice/Notice of Hearing	Filing		03/31/2020-08:28	07/07/2020-08:28	
Rogozinski, Richard Joseph	Notice/Notice of Hearing	Filing		03/31/2020-08:28	07/07/2020-08:28	
Rogozinski, Richard Joseph	Master/Hearing Before Master-In-Equity/Trial	Action		03/31/2020-08:17	07/07/2020-08:17	
Rogozinski, Richard Joseph	Master/Quiet Title Filing	Filing		01/14/2020-10:57	07/07/2020-10:57	
Rogozinski, Richard Joseph	NEF(12-10-2019 11:11:13 AM) Order/Electronic Form 4	Filing		12/10/2019-11:11	07/07/2020-11:11	
Rogozinski, Richard Joseph	Order/Electronic Form 4-Refer to Master	Order		12/10/2019-11:11	07/07/2020-11:11	
Jennings, Clayton L.	12/10/2019_NJ_Roster/Notice of Case Roster Publication Sent	Action		11/21/2019-14:45	07/07/2020-14:45	
Holmes, David W.	12/10/2019_NJ_Roster/Notice of Case Roster Publication Sent	Action		11/21/2019-14:45	07/07/2020-14:45	
Nicholson, Boyd Benjamin Jr.	12/10/2019_NJ_Roster/Notice of Case Roster Publication Sent	Action		11/21/2019-14:45	07/07/2020-14:45	
Jennings, Clayton L.	12/9/2019_NJ_Roster/Notice of Case Roster Publication Sent	Action		11/14/2019-09:23	07/07/2020-09:23	
Holmes, David W.	12/9/2019_NJ_Roster/Notice of Case Roster Publication Sent	Action		11/14/2019-09:23	07/07/2020-09:23	
Nicholson, Boyd Benjamin Jr.	12/9/2019_NJ_Roster/Notice of Case Roster Publication Sent	Action		11/14/2019-09:23	07/07/2020-09:23	
Rogozinski, Richard Joseph	ADR/Notice of ADR	Action		08/28/2019-09:42	07/07/2020-09:42	
Rogozinski, Richard Joseph	NEF(05-30-2019 09:42:02 AM) ADR/Notice of ADR	Filing		05/30/2019-09:42	07/07/2020-09:42	
Rogozinski, Richard Joseph	ADR/Alternative Dispute Resolution (Workflow)	Action		05/07/2019-17:51	08/28/2019-17:51	
Simpsonville	NEF(01-24-2019 12:00:51 PM)	Filing		01/24/2019-	07/07/2020-	

City Of	Answer/Answer To Amended Com...			14:03	14:03	
Simpsonville City Of	Answer/Answer To Amended Complaint	Filing		01/24/2019-12:00	07/07/2020-12:00	
Greenville County Of	NEF(01-24-2019 10:38:23 AM) Answer/Answer To Amended Com...	Filing		01/24/2019-10:47	07/07/2020-10:47	
Greenville County Of	Answer/Answer To Amended Complaint	Filing		01/24/2019-10:38	07/07/2020-10:38	
Rogozinski, Richard Joseph	NEF(01-14-2019 09:12:12 AM) Order/Electronic Form 4	Filing		01/14/2019-09:12	07/07/2020-09:12	
Rogozinski, Richard Joseph	Order/Electronic Form 4- Motion/Dismiss Denied	Order		01/14/2019-09:12	07/07/2020-09:12	
Rogozinski, Richard Joseph	NEF(01-09-2019 07:54:30 PM) Amended/Amended Summons And ...	Filing		01/10/2019-08:40	07/07/2020-08:40	
Rogozinski, Richard Joseph	Verification/Change or amended	Filing		01/10/2019-08:39	07/07/2020-08:39	
Rogozinski, Richard Joseph	Amended/Summons And Amended Complaint	Filing		01/09/2019-19:54	07/07/2020-19:54	
Greenville County Of	NEF(01-07-2019 10:38:28 AM) Memo/Memo in Support	Filing		01/07/2019-11:48	07/07/2020-11:48	
Greenville County Of	Memo/Memo in Support	Filing		01/07/2019-10:38	07/07/2020-10:38	
Jennings, Clayton L.	1/7/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		12/17/2018-09:02	07/07/2020-09:02	
Holmes, David W.	1/7/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		12/17/2018-09:02	07/07/2020-09:02	
Nicholson, Boyd Benjamin Jr.	1/7/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		12/17/2018-09:02	07/07/2020-09:02	
Greenville County Of	NEF(12-14-2018 04:46:09 PM) Notice/Notice of Appearance	Filing		12/17/2018-08:56	07/07/2020-08:56	
Greenville County Of	Notice/Notice of Appearance	Filing		12/14/2018-16:46	07/07/2020-16:46	
Greenville County Of	Def/County of Greenville Motion/Dismiss	Motion		12/14/2018-16:46	01/10/2019-16:46	
Jennings, Clayton L.	1/7/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		12/14/2018-16:06	07/07/2020-16:06	
Holmes, David W.	1/7/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		12/14/2018-16:06	07/07/2020-16:06	
Simpsonville City Of	NEF(12-14-2018 12:13:30 PM) Motion/Dismiss	Filing		12/14/2018-15:05	07/07/2020-15:05	
Simpsonville City Of	Def/City of Simpsonville Motion/Dismiss	Motion		12/14/2018-12:13	01/10/2019-12:13	
Simpsonville City Of	NEF(12-14-2018 12:09:18 PM) Notice/Notice of Appearance	Filing		12/14/2018-12:09	07/07/2020-12:09	
Simpsonville City Of	Notice/Notice of Appearance	Filing		12/14/2018-12:09	07/07/2020-12:09	
Rogozinski, Richard Joseph	Verification/Verified	Filing		10/10/2018-09:50	07/07/2020-09:50	
Rogozinski, Richard Joseph	Summons & Complaint	Filing		10/09/2018-17:51	07/07/2020-17:51	

Financials

Summary

Fine/Costs:	\$100.00	Total Paid for fine/costs:	\$100.00	Balance Due:	\$0.00
--------------------	----------	-----------------------------------	----------	---------------------	--------

Costs

Description	Cost Code	Amount	Charge Action	Disbursed Amount
Master's Order of Reference Fee (\$50)	MIEFE2	\$50.00		\$50.00
Copy Fees 100%	CPYFEE	\$25.00		\$25.00
Copy Fees 100%	CPYFEE	\$25.00		\$25.00

Payments

Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
11/24/2020	28057	JBoehmke	PY	\$25.00
10/26/2020	28010	JBoehmke	PY	\$25.00
01/14/2020	27480	KHerrmann	PY	\$50.00

CMSWeb 6.1 © 2019 South Carolina Judicial Branch • All rights reserved

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
)	
Richard Joseph Rogozinski,)	
)	
Plaintiff,)	
	)	SUMMONS
vs.)	
)	
County of Greenville and City of Simpsonville,)	
)	
Defendants.)	
)	
)	
)	

TO: THE DEFENDANTS ABOVE-NAMED

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is served upon you, and to serve a copy of your Answer to said Complaint upon the subscriber at his office at 1151 East Washington Street, Greenville, South Carolina, 29601, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, Plaintiff will apply to the Court for entry of a Default Judgment.

s/Clayton L. Jennings
 Clayton L. Jennings (S.C. Bar # 68284)
 1151 E. Washington St.
 Greenville, South Carolina 29601
 (864) 239-0055
Attorney for Plaintiff

October 9, 2018
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
)	
Richard Joseph Rogozinski,)	
)	
Plaintiff,)	
	)	COMPLAINT
vs.)	
)	
County of Greenville and City of Simpsonville,)	
)	
Defendants.)	
)	
)	
)	
_____)	

Plaintiff, by and through his undersigned attorney, will respectfully show unto the Court the following:

GENERAL ALLEGATIONS

1. Plaintiff Richard Joseph Rogozinski (“Plaintiff”) is a resident of Greenville County, South Carolina.
2. Defendant County of Greenville (“Greenville”) is a body politic and political subdivision of the State of South Carolina.
3. Defendant City of Simpsonville (“Simpsonville”) is a body politic and municipality of the State of South Carolina located within the County of Greenville.
4. Since December 20, 1999, Plaintiff has owned certain real property located within Greenville County along a road named Maple Court, bearing Greenville County Tax Map Number 0300000100106 and further described and shown as Lots Nos. 1, 2, 3, 4 and 5 on a plat prepared

by R.B. Bruce, RLS, recorded in the R.O.D. for Greenville County in Plat Book 4-X at Page 17 (the “Property”).

5. The subject road known as Maple Court provides access to and from the Property where Plaintiff leases apartments on the Property to his tenants.

6. The subject road known as Maple Court was dedicated for public use to Greenville by an instrument entitled “Statement of Ownership and Consent to Dedicate Streets and Roads to Greenville County for Public Use” executed by the then owner of the Property, approved and accepted by Greenville, and recorded December 5, 1974 in the Office of the Register of Deeds for Greenville County in Dedication Book 1 at Page 193.

7. The public road known as Maple Court and its confluence with the street known as Maple Street are in a serious state of disrepair, and Plaintiff’s tenants have complained about the street’s condition and the water pooling in the potholes and areas where the asphalt has eroded where mosquitoes lay their eggs.

8. On information and belief, the Property and Maple Court were annexed by Simpsonville after the date on which Greenville accepted the dedication of Maple Court as a public road.

9. Plaintiff has requested that Greenville repair and maintain Maple Court.

10. Plaintiff has requested that Simpsonville repair and maintain Maple Court.

11. Both Greenville and Simpsonville have refused to maintain or repair Maple Court.

12. This Court has both personal and subject matter jurisdiction over this matter, and venue is proper in the Greenville County Court of Common Pleas.

13. An actual controversy exists between the parties since a demand for maintenance of Maple Court has been made by Plaintiff, and both Greenville and Simpsonville have refused to assent to any obligation to maintain or repair Maple Court.

PLAINTIFF'S CAUSE OF ACTION
(DECLARATORY JUDGMENT)

14. Plaintiff incorporates herein by reference each and every allegation set forth hereinabove as if repeated verbatim.

15. Plaintiff seeks declaratory judgment that in accordance with the statutory and common law of South Carolina, Maple Court is a public road, that either Greenville or Simpsonville is obligated to maintain and repair Maple Court, and that either Greenville or Simpsonville must immediately make repairs to Maple Court.

WHEREFORE Plaintiff prays that the Court issue an Order declaring that:

- A. Maple Court is a public road;
- B. either Greenville or Simpsonville is obligated to maintain and repair Maple Court;
- C. either Greenville or Simpsonville must immediately make repairs to Maple Court;
- D. And for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

JENNINGS LAW FIRM, LLC
Attorney for Plaintiff

By: s/Clayton L. Jennings
Clayton L. Jennings
S.C. Bar #68284
1151 E. Washington St.
Greenville, SC 29601
clayton@jenningslawfirm.com
(864) 239-0055

Greenville, South Carolina
October 9, 2018

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Richard Joseph Rogozinski,
Plaintiff,

vs.

County of Greenville and City of
Simpsonville,
Defendants.

IN THE COURT OF COMMON PLEAS
C.A. No. 2018-CP-23-05191

**CITY OF SIMPSONVILLE’S MOTION TO
DISMISS
SCRCP RULE 12(b)(1) & (6)**

TO THE PLAINTIFF AND HIS ATTORNEY, CLAYTON L. JENNINGS:

YOU PLEASE TAKE NOTICE that the undersigned attorney for the Defendant, City of Simpsonville, will move before the presiding Judge of the Thirteenth Judicial Circuit, Greenville County Courthouse, Greenville, South Carolina, on the tenth day after the service hereof for an Order dismissing the Complaint against the City of Simpsonville pursuant to Rule 12(b)(1) and Rule 12(b)(6) SCRCP as follows:

1. The Plaintiff has failed to set forth facts sufficient to constitute a cause of action against this Defendant.
2. The Plaintiff lacks standing to secure some or all of the relief sought in the Complaint.
3. This Court cannot grant the relief sought by Plaintiff because it would violate the separation of powers doctrine.

This Motion will be based on the Complaint, Defendant City of Simpsonville's Memorandum of Law to be filed with this Court, and such other and additional materials as may be filed in this matter.

s/David W. Holmes
David W. Holmes,
SC Bar Number: 002577
ATTORNEY FOR DEFENDANT
CITY OF SIMPSONVILLE

HOLMES LAW FIRM
712 North Main Street
Greenville, SC 29609
Telephone: (864) 271-2381
Facsimile: (864) 751-9484
E-mail: davidholmes@holmes-law.com

December 14, 2018
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	C.A. No. 2018-CP-23-05191
 Richard Joseph Rogozinski,)	
	)	DEFENDANT COUNTY OF GREENVILLE’S
Plaintiff,	)	MOTION TO DISMISS
)	
vs.)	
)	
County of Greenville and City of)	
Simpsonville,)	
)	
<u>Defendants.</u>)	

Defendant County of Greenville (the “County”) moves, pursuant to South Carolina Rules of Civil Procedure 12(b)(1) and 12(b)(6), that the Court dismiss this action. The grounds for this motion include the following:

1. The Plaintiff has no standing to bring this action. “Standing may be acquired: (1) by statute; (2) through the rubric of ‘constitutional standing;’ or (3) under the ‘public importance’ exception.” *ATC South, Inc. v. Charleston Cnty.*, 380 S.C. 191, 195, 669 S.E.2d 337, 339 (2008). Plaintiff has neither statutory nor constitutional standing to institute this action against the County, and the public importance exception to the Standing Doctrine does not apply.

2. The Plaintiff fails to state a claim for which relief can be granted because he has no private right of action to seek an order from the Court compelling the County to repair roads. “Where a statute does not specifically create a private cause of action, one can be implied **only if the legislation was enacted for the special benefit of a private party.**” *See Adkins v. S.C. Dep’t of Corrs.*, 360 S.C. 413, 418, 602 S.E.2d 51, 54 (2004) (emphasis in original) (quoting *Citizens for Lee Cnty. v. Lee Cnty.*, 308 S.C. 23, 416 S.E.2d 641 (1992)).

3. The Plaintiff fails to state a claim for which relief can be granted because allowing Plaintiff to bring this action – in which he requests the Court to order the County to repair a road

-- would violate the Separation of Powers Doctrine under the South Carolina Constitution, which states that “the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other.” *See* S.C. Const. Art. I, § 8. The Plaintiff’s requested relief would also violate Home Rule. *See Owens v. Magill*, 308 S.C. 556, 560, 419 S.E.2d 786, 789 (1992) (“[A] court will not attempt to control the discretionary powers conferred upon a county board and will not interfere, by means of a taxpayer suit, to restrain the authorities of a county board from the exercise of their discretionary power . . . absence of illegality, fraud, or clear abuse of authority.”).

This Motion is based upon the pleadings of record, the County’s Memorandum in Support of Motion to Dismiss (which will be filed prior to a hearing on this Motion), and such other materials as may be submitted to the Court.

For the reasons set forth in this Motion and the memorandum to be filed with the Court, the County respectfully requests that the Court dismiss this action.

HAYNSWORTH SINKLER BOYD, P.A.

s/Boyd B. Nicholson, Jr.

Boyd B. Nicholson, Jr., S.C. Bar No. 65387

Post Office Box 2048

Greenville, SC 29602

Tel.: (864) 240-3247 (Telephone)

Fax.: (864) 240-3300 (Facsimile)

E-Mail: nnicholson@hsblawfirm.com

Attorneys for Defendant County of Greenville

Dated: December 14, 2018
Greenville, South Carolina

STATE OF SOUTH CAROLINA

)

IN THE COURT OF COMMON PLEAS

)

COUNTY OF GREENVILLE

)

THIRTEENTH JUDICIAL CIRCUIT

)

Richard Joseph Rogozinski,

)

2018CP2305191

)

Plaintiff,

)

SUMMONS

)

vs.

)

)

County of Greenville and City of Simpsonville,

)

)

Defendants.

)

)

)

)

TO: THE DEFENDANTS ABOVE-NAMED

YOU ARE HEREBY SUMMONED and required to answer the Amended Complaint herein, a copy of which is served upon you, and to serve a copy of your Answer to said Amended Complaint upon the subscriber at his office at 1151 East Washington Street, Greenville, South Carolina, 29601, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, Plaintiff will apply to the Court for entry of a Default Judgment.

s/Clayton L. Jennings
Clayton L. Jennings (S.C. Bar # 68284)
1151 E. Washington St.
Greenville, South Carolina 29601
(864) 239-0055
Attorney for Plaintiff

January 9, 2019
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
)	
Richard Joseph Rogozinski,	)	2018CP2305191
)	
Plaintiff,)	
)	
vs.	)	AMENDED COMPLAINT
)	
County of Greenville and City of Simpsonville,)	
)	
Defendants.)	
)	
)	
)	

Plaintiff, by and through his undersigned attorney, will respectfully show unto the Court the following:

GENERAL ALLEGATIONS

1. Plaintiff Richard Joseph Rogozinski (“Plaintiff”) is a resident of Greenville County, South Carolina and is a taxpayer of Greenville County, South Carolina.
2. Defendant County of Greenville (“Greenville”) is a body politic and political subdivision of the State of South Carolina.
3. Defendant City of Simpsonville (“Simpsonville”) is a body politic and municipality of the State of South Carolina located within the County of Greenville.
4. Since December 20, 1999, Plaintiff has owned certain real property located within Greenville County along a road named Maple Court, bearing Greenville County Tax Map Number 0300000100106 and further described and shown as Lots Nos. 1, 2, 3, 4 and 5 on a plat prepared by R.B. Bruce, RLS, recorded in the R.O.D. for Greenville County in Plat Book 4-X at Page 17

(the “Property”) where Plaintiff leases approximately 43 apartments. An overhead view of the Property made available by Greenville County Real Property Services is attached hereto as **Exhibit A**.

5. According to Greenville, the fair market value of the Property is \$1,200,000. *See*

Exhibit B.

6. For the year 2018, Plaintiff paid \$19,144.04 to Greenville County for *ad valorem* real property taxes due.

7. The subject road known as Maple Court provides the only means of vehicular access to and from the Property where Plaintiff leases apartments on the Property to his tenants.

8. The subject road known as Maple Court was dedicated for public use to Greenville by an instrument entitled “Statement of Ownership and Consent to Dedicate Streets and Roads to Greenville County for Public Use” executed by the then owner of the Property, approved and accepted by Greenville, and recorded December 5, 1974 in the Office of the Register of Deeds for Greenville County in Dedication Book 1 at Page 193. *See Exhibit C*. The dedication of Maple Court is further shown by plat attached hereto as **Exhibit D**.

9. Maple Court has been used by the public since the 1970s.

10. The public road known as Maple Court is in a serious state of disrepair, especially at its confluence with the public road known as Maple Street, and Plaintiff’s tenants residing on the Property have complained about the street’s condition, the damage done to their motor vehicles, and the water pooling in the potholes and areas where the asphalt has eroded and where mosquitoes lay their eggs.

11. The poor condition of Maple Court has strained economic relations between Plaintiff and his tenants who lease apartments on the Property, made it more difficult to lease

apartments on the Property, and Plaintiff has expended time, labor, and money attempting to improve the gaping holes in Maple Court near its confluence with Maple Street, including, without limitation, purchasing and placing crusher run in the holes in Maple Court.

12. The Property owned by Plaintiff is by far the largest investment held by Plaintiff, and Plaintiff relies on income from his tenants on the Property.

13. Plaintiff, by and through his attorney, contacted the Public Works and Engineering Department of Greenville regarding repairs to Maple Court, but an employee of Greenville in the Public Works and Engineering Department informed Plaintiff's attorney that, despite the above-described plat and dedication, Greenville had never entered Maple Court into its system as a public road.

14. On information and belief, the Property and Maple Court were annexed by Simpsonville after the date on which Greenville accepted the dedication of Maple Court as a public road. *See* letter from Greenville County, attached hereto as **Exhibit E**. Greenville acknowledges its duty to maintain its public roads, but has informed Plaintiff that its duty to maintain passed to the municipality of Simpsonville as a result of annexation by Simpsonville. *See* **Exhibit E**.

15. Plaintiff has requested that Greenville repair and maintain Maple Court.

16. Plaintiff has requested that Simpsonville repair and maintain Maple Court.

17. Both Greenville and Simpsonville have refused to maintain or repair Maple Court and denied any legal obligation or responsibility to maintain Maple Court.

18. This Court has both personal and subject matter jurisdiction over this matter, and venue is proper in the Greenville County Court of Common Pleas.

19. An actual controversy exists between the parties since a demand for maintenance of Maple Court has been made by Plaintiff, and both Greenville and Simpsonville have refused to

acknowledge that Maple Court is a public road and refused to consider or assent to any obligation to maintain Maple Court.

20. If Maple Court is not a public road, and neither Greenville nor Simpsonville has an obligation to maintain Maple Court, Plaintiff would suffer significant and specific financial loss in paying to maintain Maple Court.

PLAINTIFF'S CAUSE OF ACTION
(DECLARATORY JUDGMENT)

21. Plaintiff incorporates herein by reference each and every allegation set forth hereinabove as if repeated verbatim.

22. Plaintiff seeks declaratory judgment that in accordance with the statutory and common law of South Carolina, Maple Court is a public road, that either Greenville or Simpsonville is obligated to maintain and repair Maple Court, and that either Greenville or Simpsonville must immediately make repairs to Maple Court.

WHEREFORE Plaintiff prays that the Court issue an Order declaring that:

- A. Maple Court is a public road;
- B. either Greenville or Simpsonville is obligated to maintain and repair Maple Court;
- C. either Greenville or Simpsonville must immediately make repairs to Maple Court; and
- D. for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

JENNINGS LAW FIRM, LLC
Attorney for Plaintiff

By: s/Clayton L. Jennings
Clayton L. Jennings
S.C. Bar #68284
1151 E. Washington St.
Greenville, SC 29601
clayton@jenningslawfirm.com
(864) 239-0055

January 9, 2019
Greenville, South Carolina

EXHIBIT A

Greenville County, SC



Disclaimer: This Map is not a LAND SURVEY and is for reference purposes only. Data contained in this map are prepared for the inventory of Real Property found within this jurisdiction, and are compiled from recorded deeds, plats, and other public records. Users of this map are hereby notified aforementioned public primary information sources should be consulted for verification of the information contained in this map. Greenville County assumes no legal responsibility for the information contained in this map.

Map Scale
1 inch = 80 feet
1/9/2019

EXHIBIT B

REAL PROPERTY DETAILS

Details for Tax Year 2018

[Property Tax Estimate](#)

Select Another Tax Year:



[View Map](#)



[View Old Property Card](#)



[Change Mailing Address](#)

GENERAL INFORMATION

Map #:	0300000100106
Tax Year:	2018
District:	899
Owner(s):	Rogozinski Richard Joseph
Previous Owner:	Rogozinski Hazel
Care Of:	
Mailing Address:	1 Turnbridge Trl Simpsonville, SC 29680

DESCRIPTION

Acreage:	1.100
Description:	1 2 3 4 5
Location:	710 N Maple St
Subdivision:	
Deed Book-Page:	1887 - 370
Deed Date:	12/22/1999
Will:	
Sale Price:	\$433,333
Plat Book-Page:	

CLASSIFICATION

Jurisdiction:	1 (County Jurisdiction)
Homestead Code:	No
Assessment Class:	OT - Non-Legal Residence

PROPERTY INFORMATION

Bedrooms/Bathrooms:	0 Bedrooms, 0 Bathrooms, Half Bathrooms
Square Footage:	0
Land Use:	120 (Apartment-Convent(C,D)) 120 (Apt- High rise (A,B))

VALUE

Fair Market Value:	1,200,000
Taxable Market Value:	944,340

ELECTRONICALLY FILED - 2019 Jan 09 7:54 PM - GREENVILLE - COMMON PLEAS - CASE#2018CP2305191

EXHIBIT C

SOUTH CAROLINA }
GREENVILLE COUNTY }

STATEMENT OF OWNERSHIP, AND CONSENT TO DEDICATE STREETS AND ROADS TO GREENVILLE COUNTY FOR PUBLIC USE

I, (or we), the undersigned, do hereby state that I, (or we), am (are) the owner(s) in fee simple of the lands which we have caused to be subdivided, which lands are shown on a plat of said property, the subdivision being named MAPLE COURT a copy of which plat is on file in the office of the County Planning Commission of Greenville County, and a copy of which upon approval by the County Planning Commission will be recorded in the office of the County Register of Mesne Conveyance.

That we freely offer, grant and dedicate to those who may purchase said property or any part of it, to the general public and to Greenville County the use and control of the streets and roads shown on said plat of property for public use.

The property shown on said plat is not encumbered by a recorded deed of trust or mortgage, or by a judgment rendered by any court, except: NONE

IN TESTIMONY WHEREOF, MAPLE PROPERTIES, A PARTNERSHIP by its MANAGING PARTNER, Trustee, has hereunto set ITS hand and seal, and the _____ has caused these presents to be signed by its President, attested by its Secretary and has caused its Common Seal to be affixed thereto.

Witness the Grantor's hand(s) and seal(s) this 5 day of December, 1974

Signed, Sealed and Delivered in the presence of:

James T. Miller, Jr MAPLE PROPERTIES, A PARTNERSHIP
John H. Owings, Jr By Robert E. Gregory (SEAL)

Approved as to form: G. T. Riley
County Attorney

STATE OF SOUTH CAROLINA }
COUNTY OF GREENVILLE }

PROBATE

PERSONALLY appeared before me John H. Owings, Jr who being first duly sworn, deposes and says that (s)he saw the within named MAPLE PROPERTIES, A PARTNERSHIP sign, seal and as his act and deed deliver the within Dedication and that (s)he, with J. Thomas Miller by Robert E. Gregory witnessed the execution thereof.

SWORN to before me this 5th day of December, 1974

Brenda N. Austin (LS)
Notary Public for South Carolina
My commission expires: November 9, 1981

STATE OF SOUTH CAROLINA }
COUNTY OF GREENVILLE }

RENUNCIATION OF DOWER

I, _____, a Notary Public in and for South Carolina, do hereby certify unto all whom it may concern that Mrs. _____, the wife of the within named _____, did this day appear before me, and, upon being privately and separately examined by me, did declare that she does freely, voluntarily, and without any compulsion, dread, or fear of any person or persons, whosoever, pronounce, release, and forever relinquish unto the within named _____ its successors and assigns, all her interest and estate, and also all her right, title, and claim of dower of, in, or to all and singular the premises within mentioned and released.

(SEAL)

Given under my hand and seal, this _____ day of _____, 19____

Notary Public for South Carolina

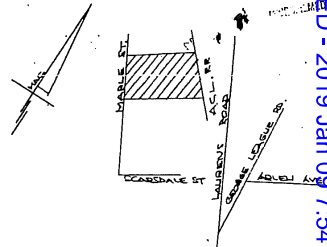
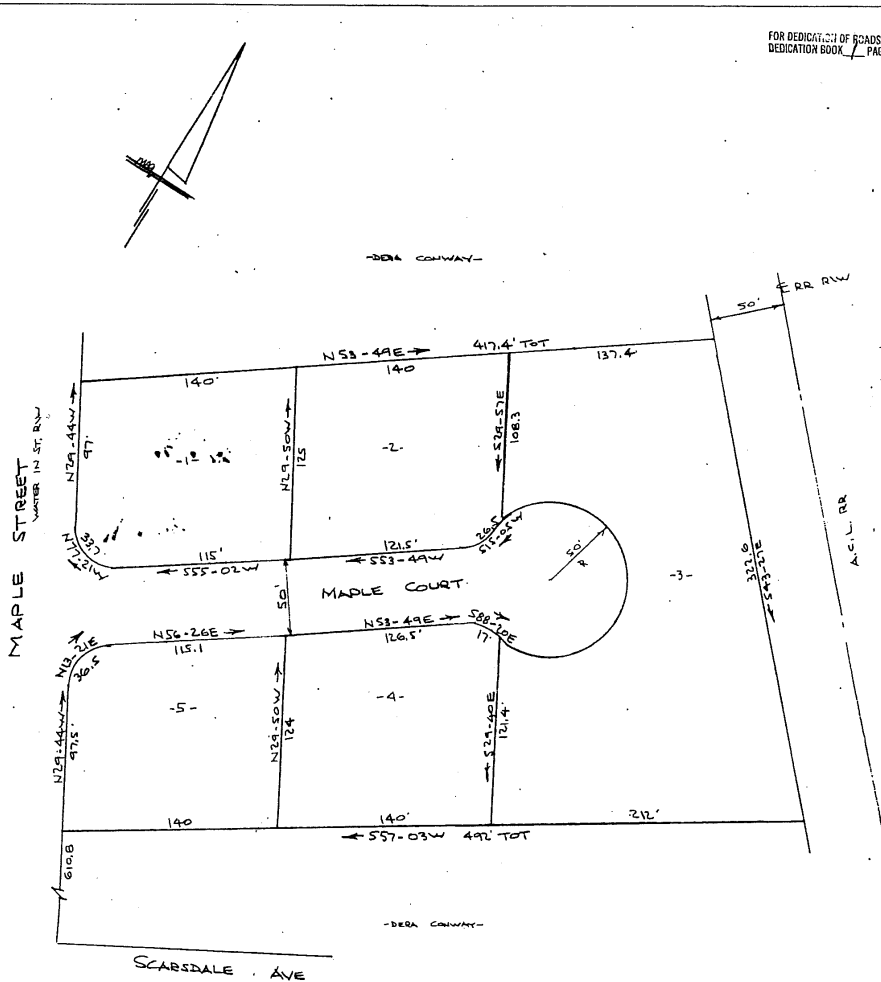
Filed for registration at 4:19 o'clock P. M., Dec. 5, 1974 and registered in the office of the County Register of Mesne Conveyance of Greenville County, South Carolina in Book 1 Page 193

Fee \$ 5.00 Paid
13921
48-17

By Hannibal S. Tankersley
Register of Mesne Conveyance

EXHIBIT D

FOR DEDICATION OF ROADS SEE DEDICATION BOOK PAGE 193



FINAL PLAT

CERTIFICATE OF OWNERSHIP AND DEDICATION

"The undersigned hereby acknowledge that I am (we are) the owner(s) of the property described herein and that I (we) hereby adopt the plat of subdivision with my (our) consent and that I (we) establish the minimum building restriction lines, and hereby dedicate to public use as roads, streets, and easements, forever all areas so shown or indicated on said plat as follows:

12-14-77 Signed Maple Properties
 / / / Signed Partnership for
 / / / Signed Ronald E. Sherry
 / / / Signed _____

CERTIFICATE OF ACCURACY

"I, _____, certify that this plat was (drawn by me) (made under my supervision) (an actual survey made under my supervision) from an actual survey made by me) (said description recorded in Book _____ Page _____ Book _____ Page _____ etc.); that the error of closure as calculated by latitude and departure is _____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____ Page _____; that this plat was prepared in accordance with the Greenville County Subdivision Regulations adopted:

9-19-77 DATE B. B. Brubaker
 LICENSED ENGINEER OR REGISTERED SURVEYOR
 S. C. Registration No. 1952

CERTIFICATE OF APPROVAL FOR RECORDING

"I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations for Greenville County, with the exception of such variances, if any, as are noted in the minutes of the Greenville County Planning Commission of Greenville County, South Carolina, and that it has been approved for recording in the effect of the County Register of Deeds Conveyances."

12/14/77 DATE J. Chatham Jones
 DIRECTOR OF PLANNING
 GREENVILLE COUNTY PLANNING COMMISSION

FILE NUMBER

72-183

FINAL
DOYLE PEACE

MAPLE PROPERTIES OWNER R. B. Brubaker RESHIELD REG. SURVEYOR

32 NO. OF ACRES 007 MILES OF NEW RD.
 0 NO. OF LOTS 19 SEPT 1977 DATE

ERROR OF CLOSURE 1:4500
 SCALE: 1" = 40'
 40 0 40 80 120 160

NOTE: S' DRAINAGE AND UTILITY EASEMENT ALOWS, ALL SIDE & REAR LOT LINES.

13921 Filed This 5th day of Dec. 1977
 and Recorded by Vol. 48 Page 17 at 1:19 PM
Ronald E. Sherry
 Register Meritor Correspondence Greenville County, S.C.

#13921

4X-77

EXHIBIT E



COUNTY ATTORNEY'S OFFICE

Mark W. Tollison
County Attorney
(864) 467-7110
www.greenvillecounty.org

July 25, 2018

Clayton L. Jennings, Esq.
Jennings Law Firm, LLC
1151 E. Washington St.
Greenville, SC 29601

Re: Maple Court, Simpsonville, SC
TMS No.: 0300000100106

Dear Mr. Jennings:

I am writing in response to your letter of June 20th regarding the status of Maple Court, a road located wholly within the City of Simpsonville. You have questioned why Greenville County does not recognize Maple Court as a County Road despite recorded documents from the 1970's dedicating the road to Greenville County.

The County's records reflect that the property owned by your client and surrounding Maple Court has been located within the jurisdiction of the City of Simpsonville since sometime prior to 1993. Under the Home Rule Act, the South Carolina General Assembly has granted county and municipal governments the right to control roadways within their respective jurisdictions. See S.C. Code §§ 4-9-30 and 5-7-30. The County's longstanding policy where a municipality annexes property located on both sides of a roadway requires that the road is removed from the County's jurisdiction and responsibility for maintenance passes to the municipality. To that end, there are no "County" roads being maintained inside the city limits of the six municipalities operating in Greenville County.

We recommend that you reach out to the City of Simpsonville with any questions of maintenance responsibilities regarding Maple Court. If you have any questions or concerns, please do not hesitate to contact me at 467-7110.

Sincerely,

Mark W. Tollison

MWT/js

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	C.A. No. 2018-CP-23-05191
Richard Joseph Rogozinski,)	
)	
Plaintiff,	)	DEFENDANT COUNTY OF
	)	GREENVILLE’S ANSWER
vs.	)	TO AMENDED COMPLAINT
)	
County of Greenville and City of)	
Simpsonville,)	
)	
<u>Defendants.</u>)	

Defendant County of Greenville (hereinafter “Greenville County”), answering the Amended Complaint of the Plaintiff (the “Amended Complaint”), would respectfully show unto the Court:

FOR A FIRST DEFENSE
(General Denial)

Greenville County denies each and every allegation of the Amended Complaint not herein admitted, qualified, or explained.

1. Greenville County admits Paragraph 1 of the Amended Complaint upon information and belief.
2. Greenville County admits Paragraph 2 of the Amended Complaint.
3. Greenville County admits Paragraph 3 of the Amended Complaint.
4. Greenville County lacks specific knowledge as to the allegations contained in Paragraph 4 of the Amended Complaint and, therefore, denies the same and demands strict proof thereof.
5. Greenville County admits so much of Paragraph 5 as alleges that Greenville’s Real Property Services for the year 2018 provides a fair market value of \$1,200,000.00 for the specified property.

6. Greenville County admits the allegations set forth in Paragraph 6 of the Amended Complaint upon information and belief.

7. Greenville County lacks specific knowledge as to the allegations contained in Paragraph 7 of the Amended Complaint and, therefore, denies the same and demands strict proof thereof.

8. Greenville County denies the allegations of Paragraph 8 to the extent they assert that Maple Court is a public road and Greenville County approved and accepted the dedication of Maple Court for public use. Greenville County demands strict proof thereof.

9. Greenville County lacks specific knowledge as to the allegations contained in Paragraph 9 of the Amended Complaint and, therefore, denies the same and demands strict proof thereof.

10. Greenville County lacks specific knowledge as to the allegations contained in Paragraph 10 of the Amended Complaint and, therefore, denies the same and demands strict proof thereof.

11. Greenville County lacks specific knowledge as to the allegations contained in Paragraph 11 of the Amended Complaint and, therefore, denies the same and demands strict proof thereof.

12. Greenville County lacks specific knowledge as to the allegations contained in Paragraph 12 of the Amended Complaint and, therefore, denies the same and demands strict proof thereof.

13. Greenville County lacks specific knowledge as to the allegations contained in Paragraph 13 of the Amended Complaint and, therefore, denies the same and demands strict proof thereof.

14. Responding to the allegations set forth in Paragraph 14, Greenville County craves reference to Exhibit E, and further, Greenville County denies all allegations that are contrary to Exhibit E.

15. Greenville County admits so much of the allegations contained in Paragraph 15 of the Amended Complaint as allege that the Plaintiff has requested that Greenville County repair Maple Court, but Greenville County denies that such relief is due the Plaintiff in this lawsuit or that Greenville County is responsible for such repairs.

16. Greenville County lacks specific knowledge as to the allegations contained in Paragraph 16 of the Amended Complaint and, therefore, denies the same and demands strict proof thereof.

17. Greenville County admits the allegations of Paragraph 17, and would further state that it is not responsible to repair or maintain Maple Court.

18. Greenville County denies the allegations of Paragraph 18 and demands strict proof thereof.

19. Greenville County denies the allegations of Paragraph 19 and demands strict proof thereof.

20. Greenville County lacks specific knowledge as to the allegations contained in Paragraph 20 of the Amended Complaint and, therefore, denies the same and demands strict proof thereof.

21. In response to Paragraph 21, Greenville County incorporates the preceding paragraphs in response thereto.

22. The allegations in Paragraph 22 are legal conclusions that require no response. To the extent a response may be required, Greenville County denies the allegations of Paragraph 22 and demands strict proof thereof.

FOR A SECOND DEFENSE
(Failure to State a Claim)

23. Greenville County incorporates herein the relevant and consistent allegations of the preceding paragraphs.

24. The Amended Complaint fails to state a claim upon which relief can be granted against Greenville County and should be dismissed pursuant to Rule 12(b)(6), SCRCP.

FOR A THIRD DEFENSE
(Lack of Standing)

25. Greenville County incorporates herein the relevant and consistent allegations of the preceding paragraphs.

26. Plaintiff lacks standing to assert these claims. Therefore, the Amended Complaint should be dismissed pursuant to Rule 12(b)(1), SCRPC.

FOR A FOURTH DEFENSE
(No Private Right of Action)

27. Greenville County incorporates herein the relevant and consistent allegations of the preceding paragraphs

28. Plaintiff has no private right of action to seek an order from the Court compelling Greenville County to repair roads. Therefore, the Amended Complaint should be dismissed with prejudice.

FOR A FIFTH DEFENSE
(Violation of Separation of Powers)

29. Greenville County incorporates herein the relevant and consistent allegations of the preceding paragraphs.

30. Plaintiff's requested relief would violate the Separation of Powers Doctrine under the South Carolina Constitution, S.C. Const. Art. I, § 8. Therefore, the Amended Complaint should be dismissed with prejudice.

FOR A SIXTH DEFENSE
(Violation of Home Rule)

31. Greenville County incorporates herein the relevant and consistent allegations of the preceding paragraphs.

32. Plaintiff's requested relief would violate Home Rule under the South Carolina Constitution, S.C. Const. Art. VIII, and the Home Rule Act, S.C. Code Ann. § 4-9-10, et seq. Therefore, the Amended Complaint should be dismissed with prejudice.

FOR A SEVENTH DEFENSE
(Maple Court Not a Public Road)

33. Greenville County incorporates herein the relevant and consistent allegations of the preceding paragraphs.

34. Maple Court was not properly dedicated to Greenville County for public use, nor approved and accepted by Greenville County for public use. Therefore, the Amended Complaint should be dismissed with prejudice.

FOR AN EIGHTH DEFENSE
(Sovereign Immunity)

35. Greenville County incorporates herein the relevant and consistent allegations of the preceding paragraphs.

36. Plaintiff's claims are barred by the doctrine of sovereign immunity and/or limited by the terms of the South Carolina Tort Claims Act.

FOR A NINTH DEFENSE
(No Damages)

37. Greenville County incorporates herein the relevant and consistent allegations of the preceding paragraphs.

38. Plaintiff has suffered no cognizable damages and therefore cannot maintain the present action against Greenville County.

FOR A TENTH DEFENSE
(Equitable Defenses)

39. Greenville County incorporates herein the relevant and consistent allegations of the preceding paragraphs.

40. Plaintiff's claims are barred in whole or in part by the doctrines of estoppel, waiver, laches, and/or other equitable doctrine.

41. Greenville County hereby gives notice that it intends to rely upon any additional affirmative defenses that become available or apparent during the course of investigation and/or discovery, and hereby reserve the right to amend this Answer to assert any such defenses.

WHEREFORE having fully answered the Amended Complaint, Greenville County prays that:

- (a) Plaintiff's case be dismissed on the merits; and
- (b) Greenville County be awarded such other and further relief as this Court deems just and proper.

Respectfully Submitted,

HAYNSWORTH SINKLER BOYD, P.A.

By: s/ Boyd B. Nicholson
Boyd B. Nicholson, Jr., SC Bar #65387
HAYNSWORTH SINKLER BOYD, P.A.
ONE North Main, 2nd Floor (29601)
Post Office Box 2048
Greenville, South Carolina 29602
P: 864-240-3200
F: 864-240-3300

*Attorneys for Defendant
County of Greenville*

Dated: January 24, 2019
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Richard Joseph Rogozinski,

Plaintiff,

vs.

County of Greenville and City of
Simpsonville,

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. No. 2018-CP-23-05191

**CITY OF SIMPSONVILLE'S ANSWER TO
PLAINTIFF'S AMENDED COMPLAINT**

The Defendant, City of Simpsonville, (hereinafter "Simpsonville"), answering the Amended Complaint of the Plaintiff (the "Amended Complaint"), would respectfully show unto this Honorable Court as follows:

FOR A FIRST DEFENSE
(General Denial)

1. All allegations of the Amended Complaint not hereinafter specifically admitted, qualified, or explained are denied.
2. Simpsonville admits Paragraph 1 of the Amended Complaint upon information and belief; however, to the extent that said allegations are intended to allege that Plaintiff has standing as a taxpayer, the same are denied.
3. Simpsonville admits Paragraph 2 of the Amended Complaint.
4. Simpsonville admits Paragraph 3 of the Amended Complaint.
5. Except for those matters and things that are recorded in the public records of Greenville County, South Carolina, Simpsonville lacks specific knowledge as to the allegations contained in Paragraph 4 of the Amended Complaint and, therefore, denies the same. Further, Simpsonville

denies any allegation of said paragraph that varies from the documents that are recorded in the public records.

6. Simpsonville admits so much of Paragraph 5 as alleges that according to the online records maintained by Greenville County's Real Property Services for the year 2018 indicates a fair market value of \$1,200,000.00 for the specified property.

7. To the extent that the allegations set forth in Paragraph 6 of the Amended Complaint claim that Maple Court is a public road owned and maintained by Simpsonville, the same are denied; however, upon information and belief, the access to Plaintiff's property is called Maple Court.

8. Simpsonville lacks specific knowledge as to the allegations contained in Paragraph 7 of the Amended Complaint and, therefore, denies the same.

9. Simpsonville denies the allegations of Paragraph 8 to the extent they assert that Maple Court is a public road and Simpsonville approved and accepted the dedication of Maple Court for public use. However, Simpsonville admits that there is a document recorded in Dedication Book 1, Page 193 and a plat recorded in Plat Book 4X, Page 77.

10. Simpsonville denies the allegations contained in Paragraph 9 of the Amended Complaint.

11. Simpsonville denies that Maple Court is a public road that Simpsonville owns and is required to maintain. Simpsonville lacks knowledge as to the remainder of the allegations contained in Paragraph 10 of the Amended Complaint and, therefore, denies the same.

12. Simpsonville lacks specific knowledge as to the allegations contained in Paragraph 11 of the Amended Complaint and, therefore, denies the same and demands strict proof thereof.

13. Simpsonville has no information on which to form a belief concerning the allegations contained in Paragraph 12 of the Amended Complaint and, therefore, denies the same.

14. Simpsonville has no information on which to form a belief concerning the allegations contained in Paragraph 13 of the Amended Complaint and, therefore, denies the same.

15. With regard to the allegations of Paragraph 14, because those allegations are not directed at this Defendant, no answer is needed or required. However, to the extent that an answer is needed or required, Simpsonville denies same.

16. With regard to the allegations of Paragraph 15, because those allegations are not directed at this Defendant, no answer is needed or required. However, to the extent that an answer is needed or required, Simpsonville denies same.

17. Simpsonville admits so much of the allegations contained in Paragraph 16 of the Amended Complaint as allege that the Plaintiff has requested that Simpsonville repair Maple Court, but Simpsonville denies that such relief is due the Plaintiff in this lawsuit or that Simpsonville is responsible for such repairs.

18. Simpsonville admits the allegations of Paragraph 17 and would further state that it is not responsible for repairing or maintaining Maple Court.

19. Simpsonville denies the allegations of Paragraph 18.

20. Simpsonville denies the allegations of Paragraph 19.

21. Simpsonville denies the allegations contained in Paragraph 20 of the Amended Complaint.

22. In response to Paragraph 21, Simpsonville incorporates the preceding paragraphs in response thereto.

23. The allegations in Paragraph 22 are legal conclusions that require no response. To the extent a response may be required, Simpsonville denies the allegations of Paragraph 22.

FOR A SECOND DEFENSE
(Failure to State a Claim)

24. Simpsonville incorporates herein the relevant and consistent allegations of the preceding paragraphs.

25. The Amended Complaint fails to state a claim upon which relief can be granted against Simpsonville and should be dismissed pursuant to Rule 12(b)(6), SCRPC.

FOR A THIRD DEFENSE
(Lack of Standing)

26. Simpsonville incorporates herein the relevant and consistent allegations of the preceding paragraphs.

27. Plaintiff lacks standing to assert these claims. Therefore, the Amended Complaint should be dismissed pursuant to Rule 12(b)(1), SCRPC.

FOR A FOURTH DEFENSE
(No Private Right of Action)

28. Simpsonville incorporates herein the relevant and consistent allegations of the preceding paragraphs

29. Plaintiff has no private right of action to seek an order from the Court compelling Simpsonville to repair roads. Therefore, the Amended Complaint should be dismissed with prejudice.

FOR A FIFTH DEFENSE
(Violation of Separation of Powers)

30. Simpsonville incorporates herein the relevant and consistent allegations of the preceding paragraphs.

31. Plaintiff's requested relief would violate the Separation of Powers Doctrine under the South Carolina Constitution, S.C. Const. Art. I, § 8. Therefore, the Amended Complaint should be dismissed with prejudice.

FOR A SIXTH DEFENSE
(Violation of Home Rule)

32. Simpsonville incorporates herein the relevant and consistent allegations of the preceding paragraphs.

33. Plaintiff's requested relief would violate Home Rule under the South Carolina Constitution, S.C. Const. Art. VIII, and the Home Rule Act, S.C. Code Ann. § 5-7-10, et seq. Therefore, the Amended Complaint should be dismissed with prejudice.

FOR A SEVENTH DEFENSE
(Maple Court Not a Public Road)

34. Simpsonville incorporates herein the relevant and consistent allegations of the preceding paragraphs.

35. Maple Court was not properly dedicated to Simpsonville for public use, nor approved and accepted by Simpsonville for public use. Therefore, the Amended Complaint should be dismissed with prejudice.

FOR AN EIGHTH DEFENSE
(Sovereign Immunity)

36. Simpsonville incorporates herein the relevant and consistent allegations of the preceding paragraphs.

37. Plaintiff's claims are barred by the doctrine of sovereign immunity and/or limited by the terms of the South Carolina Tort Claims Act.

FOR A NINTH DEFENSE
(No Damages)

38. Simpsonville incorporates herein the relevant and consistent allegations of the preceding paragraphs.

39. Plaintiff has suffered no cognizable damages and therefore cannot maintain the present action against the Simpsonville.

FOR A TENTH DEFENSE
(Equitable Defenses)

40. Simpsonville incorporates herein the relevant and consistent allegations of the preceding paragraphs.

41. Plaintiff's claims are barred in whole or in part by the doctrines of estoppel, waiver, laches, and/or other equitable doctrine.

42. Simpsonville hereby gives notice that it intends to rely upon any additional affirmative defenses that become available or apparent during the course of investigation and/or discovery, and hereby reserve the right to amend this Answer to assert any such defenses.

WHEREFORE having fully answered the Amended Complaint, Simpsonville prays that:

- (a) Plaintiff's case be dismissed on the merits; and
- (b) Simpsonville be awarded such other and further relief as this Court deems just and proper.

s/David W. Holmes
David W. Holmes,
SC Bar Number: 002577
ATTORNEY FOR DEFENDANT
CITY OF SIMPSONVILLE

HOLMES LAW FIRM
712 North Main Street
Greenville, SC 29609
Telephone: (864) 271-2381
Facsimile: (864) 751-9484
E-mail: davidholmes@holmes-law.com

January 24, 2019
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE CIRCUIT COURT

Richard Joseph Rogozinski,
Plaintiff,

C.A. No. 2018-CP-23-05191

v.

County of Greenville and
City of Simpsonville,

Defendants.

DEFENDANT CITY OF SIMPSONVILLE’S MOTION TO AMEND

Pursuant to Rules 52 and 59, SCRPC, Defendant City of Simpsonville (the “City”) hereby moves to alter or amend this Court’s order filed July 7, 2020. The City received electronic notice of the entry of the order on July 7, 2020.

The City hereby incorporates its pre-trial memoranda as to why it was entitled to judgment in this case. With respect to the Court’s Order dated July 7, 2020, the City raises the following points:

1. The Court’s Order dated July 7, 2020 finds that Maple Court is a public road. For that finding, Defendant City of Simpsonville respectfully contends that the Court failed to adequately consider the testimony of Latisha Gamble, Greenville County’s engineer. For these reasons, the evidence does not support the rulings in the order. Ms. Gamble testified that the final plat and the statement of ownership were steps in a process for the county to accept the dedication of the road. She testified that the plat and the statement of dedication were approved for recording because the development depicted on the final plat was planned to occur. The testimony at trial was that when these documents were recorded, no actual development of the property had taken place. In fact, there was evidence that the property was not developed according to the plat and this testimony was not contradicted.

Ms. Gamble’s testimony was unchallenged that the actual development, the construction of the roads and buildings, were inconsistent with the final plat that was approved. As a result, the County would not have accepted the road as a public road.

2. The Plaintiff had the burden of proof at trial. The Plaintiff introduced a 1974 plat into evidence (Plaintiff's Exhibit 1); however, the Plaintiff did not have the property surveyed to show that the actual development of the property, the construction of the "road" and the "cul de sac" were actually built to the size and at the location shown on the final plat. To the contrary, the Greenville County GIS map (Plaintiff's Exhibit 6) indicated that:

(a) Plaintiff (or his predecessors in title) constructed a permanent mailbox kiosk/pedestal within the alleged public road as well as concrete curbing and portions of a parking lot for the Plaintiff's apartments.

(b) Plaintiff (or his predecessors in title) constructed a permanent concrete pad on which is located a private trash dumpster within the alleged public road.

(c) There is no cul de sac. Plaintiff (or his predecessors in title) constructed a permanent landscape island, together with concrete curbing in the area where the supposed cul de sac should be.

3. While the Court's Order addresses the no trespassing signs that Plaintiff posted, the Court's Order shifted the burden of proof to the Defendant. The Order stated that the "Defendants did not present a survey showing the location of the signs." Defendant respectfully submits that it was the Plaintiff's burden to show that the final plat and existing improvements on the real property were the same. Nevertheless, the Defendant did place into evidence numerous photographs that clearly depicted the location of the signs. (Defendants' Exhibits 6, 17, 18 & 19) Plaintiff admitted, on cross examination, that he posted the no trespassing sign and that it was at the entrance to Maple Court.

4. Plaintiff (or his predecessors in title) constructed three speed bumps along Maple Court. Ms. Gamble testified that the speed bumps were not the type or kind that the County would install and appeared to be what a private landowner would install.

5. The history of Maple Court since its construction is further evidence that substantiates Ms. Gamble's testimony, that was not contradicted by the Plaintiff and that the Plaintiff admitted, was that the road, as constructed, was never accepted as a public road by the government:

(a) There is no evidence that the public has used Maple Court. The only testimony was that Plaintiff's tenants use Maple Court and that sheriff's deputies have pulled people over for traffic violations for driving that occurred on Maple Street; not Maple Court. (Assuming that Maple Court is as long as shown on the plat (Plaintiff's Exhibit 1), Maple Court is a dead end that is approximately 291 feet long) This is no different from a driver pulling into a private parking lot adjacent to a public street when stopped by police.

(b) Neither Greenville County nor the City of Simpsonville have ever done any maintenance work on Maple Court. Assuming that Maple Court was constructed within 1 year following the recording of the plat, at the time of trial, Maple Court had been in existence for 46 years with no maintenance ever having been done.

(c) Some of improvements constructed on site are in the roadway that was alleged to have been dedicated to the government.

- (d) The Plaintiff posted no trespassing signs on Maple Court.
- (e) Someone other than Greenville County or the City of Simpsonville constructed speed bumps on Maple Court.
- (f) As Ms. Debbie Adkins, Greenville County Real Property Services Manager testified, the county GIS records include road data going back for many, many years. There is no data connected with Maple Court. All roads that have been accepted by the government are assigned numbers and none had been assigned to Maple Court. That numbering (data) would appear in the GIS system if the County or the City had ever accepted Maple Court as a public road.
- (g) E-911 recognizes no such address as Maple Court. The Plaintiff has an office on site, but the tax notices and the County's GIS system indicate that the property is located at 710 Maple Street; not Maple Court. (*See*, Plaintiff's Exhibit 7 and Defendants' Exhibit 7) All of Plaintiff's tenants have a Maple Street address. None have a Maple Court address. Again, Plaintiff admitted this.
- (h) There is no street sign posted for Maple Court. Plaintiff admitted that adjacent public roads near his apartment complex have posted street signs.
- (i) Perhaps, more importantly, neither Greenville County nor the City of Simpsonville has ever claimed that Maple Court is a public road.

Acceptance of an offer of dedication also may be recognized through a public authority's using, repairing, or working the streets. *Chaffee v. City of Aiken*, 57 S.C. 507, 513, 35 S.E. 800, 802 (1900). The City presented testimony at trial from long term residents of North Myrtle Beach which demonstrated that the street end has been utilized continuously by the public for beach access and parking since the road was opened in 1942. The City also presented testimony showing that public authorities have maintained and policed the street end since at least 1944. We find sufficient evidence in the record to indicate the offer of dedication was accepted through continuous public use as well as through maintenance by public authorities for a period in excess of forty-five years. *Helsel v. City of North Myrtle Beach*, 307 S.C. 24, 413 S.E.2d 821 (1992) [Emphasis added.]

6. The Court's Order emphasized that neither the County nor the City affirmatively repudiated the final plat or the statement of dedication. Ms. Gamble testified that the final steps in gaining the county's approval had not occurred because the development that took place was not consistent with the approved final plat. In *Helsel v. City of North Myrtle Beach*, 307 S.C. 24, 413 S.E.2d 821 (1992), a plat with a dedication of the street end had been filed for public record. In addition, however, the City had passed two separate resolutions accepting public streets, including the street end at issue. This Court's Order places the burden on the government to take affirmative action that opposes the dedication when no such legal obligation exists. To the contrary, it is up to the developer to complete the site development consistent with the approved

plat and then submit to the County for final acceptance. That did not happen here. The law is clear that the City or the County had to take some affirmative step to accept Maple Court as a public road. “There ordinarily must be an express or implied acceptance of a dedication before the dedication is complete, *and such acceptance must be made within a reasonable time.* *Outlaw v. Moise*, 222 S.C. 24, 30, 71 S.E.2d 509, 511 (1952).” *Hesel v. City of North Myrtle Beach*, 307 S.C. 24, 413 S.E.2d 821 (1992) [Emphasis added.] No express or implied acceptance occurred with regard to Maple Court.

CONCLUSION

For all of these above reasons and those presented by the City at the trial and in its briefings in this matter, the Court should reconsider its earlier rulings and amend its order. Based on these arguments, the City contends it is entitled to have judgment entered in its favor.

Respectfully submitted,

s/ David W. Holmes

David W. Holmes, SC Bar No. 2577

HOLMES LAW FIRM

712 North Main Street

Greenville, SC 29609

Telephone: 864.271.2381

Facsimile: 864.751-9484

Attorney for Defendant

City of Simpsonville, South Carolina

July 15, 2020
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Richard Joseph Rogozinski,

Plaintiff,

vs.

County of Greenville and City of
Simpsonville,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No. 2018-CP-23-05191

**DEFENDANT COUNTY OF GREENVILLE'S
MOTION TO RECONSIDER, ALTER, OR
AMEND ORDER ENTERED JULY 7, 2020**

Pursuant to South Carolina Rules of Civil Procedure 52(b) and 59(e), Defendant County of Greenville (the "County") moves this Court to reconsider, alter, or amend its "Order Declaring Maple Court a Public Road" entered on July 7, 2020 (the "Order"). The County incorporates all evidence and arguments made during trial and in its pre-trial brief.

RELEVANT FACTUAL BACKGROUND

Plaintiff, Richard Joseph Rogozinski ("Rogozinski" or "Plaintiff") brought this action against the County and City of Simpsonville (the "City") seeking the determination that Maple Court, the road providing access to land and apartments owned by him, is a public road to be maintained by either the County or the City. The Court entered an Order finding that Maple Court is a public road. Specifically, the Court found as follows:

1. That Maple Court was dedicated for public use in a positive and unmistakable manner;
2. That the Plaintiff has provided strict, cogent, and convincing evidence for proof of dedication and acceptance;

3. That the City is responsible for the maintenance and repair of the roads located inside its corporate limits, not the County;
4. That Maple Court is located within the City, and thus, the City is responsible for the maintenance and repair of Maple Court;
5. That the Court declines to order the maintenance and repair of Maple Court based upon the Separation of Powers Doctrine; and
6. That Plaintiff has standing to bring this action.

See Order at ¶¶1-5.

The County moves to reconsider, alter, or amend that part of the Order finding that Plaintiff has provided strict, cogent, and convincing evidence of proof of County acceptance of Maple Court. Specifically, the County respectfully submits that the Court should not have found that (1) approval of the plat prepared by R.B. Bruce, RLS, recorded December 5, 1974 in the Office of the Register of Deeds for Greenville County in Plat Book 4-X at Page 17 (the “Plat”), and (2) approval as to form of the Statement of Ownership and Consent to Dedicate Streets and Roads to Greenville County for Public Use, dated December 5, 1974, recorded in the Office of the Register of Deeds in Dedication Book 1 at Page 193 (the “Statement of Dedication”) constituted public acceptance. *Id.* at ¶¶1-2. Furthermore, the County respectfully submits that the Court should not have found that Maple Court was accepted by the public through use by law enforcement and the County’s non-assessment of taxes. *Id.* As set forth in detail below, these actions fail to meet Plaintiff’s heavy burden for County acceptance of Maple Court. In the alternative, the County respectfully requests that the Court amend the Order to remove use by law enforcement as a factor for dedication of a public road.

STANDARD OF REVIEW

Rule 52(b) of the South Carolina Rules of Civil Procedure states:

Upon motion of a party made not later than 10 days after receipt of written notice of entry of judgment the court may amend its findings or make additional findings and may amend the judgment accordingly, and the motion may be made with a timely motion for a new trial. When findings of fact are made in actions tried by the court without a jury, the findings may thereafter be raised whether or not the party raising the question has made in the trial court an objection to such findings or has made a motion to amend them or a motion for judgment.

S.C. R. Civ. P. 52(b).

Rule 59(e) provides that “[a] motion to alter or amend the judgment shall be served not later than ten (10) days after receipt of written notice of the entry of the order.” S.C. R. Civ. P. 59(e). “A motion under Rule 59(e) long has been viewed as ‘motion for reconsideration’ despite the absence of those words from the rule.” *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004). A party may file such motion when the party “believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it.” *Id.* at 24, 602 S.E.2d at 780. “There is nothing inherently unfair in allowing a party one final chance not only to call the court’s attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument.” *Id.* at 22, 602 S.E.2d at 779. Therefore, “a party usually is allowed to ask the court to reconsider its decision even if it means rehashing all or part of an argument previously presented.” *Id.* at 21, 602 S.E.2d at 778-79.

ARGUMENT

I. **The County respectfully requests that the Court reconsider its decision that Maple Court was accepted as a County road.**

The County maintains that Plaintiff has not met his burden of strict, cogent, and convincing proof that the County accepted Maple Court into its road inventory. In the Order, the Court determined that Maple Court had been accepted by the County because of the following:

I find that the reference of the Plat to itself as a “Final Plat”, together with the Certificate of Approval for Recording on the Plat signed by J. Coleman Shouse as Director of Planning for the Greenville County Planning Commission, and the approval as to form by the County Attorney, E.P. Riley, all serve as clear indicia of the acceptance of Maple Court as a public road by the County. Even were this not the case, South Carolina law provides that, “. . . no formal acceptance by a public authority is necessary to show public acceptance. Acceptance may be implied by the public or a public authority continuously using or repairing the property. Also, acceptance and dedication may be demonstrated by a governmental authority not assessing taxes on the land.” *Mack v. Edens*, 320 S.C. 236, 464 S.E.2d 124 (S.C. App. 1995), citing *Cleland v. Westvaco Corp.*, 314 S.C. 508 (Ct. App. 1993). In this case, the Plaintiff has proved that the County does not assess taxes for the road known as Maple Court and the absence of taxes assessed on Maple Court provides additional proof that the public accepted Maple Court as a public road. And, the fact that law enforcement has used Maple Court is a further indication of it being a public road. Considering all of the above-referenced factors, and considering the old age of the Plat and Statement of Dedication which were never refuted by the County or the City, the Plaintiff has provided strict, cogent, and convincing evidence and proof of dedication and acceptance. *See Tupper v. Dorchester Cnty.*, 326 S.C. 318, 326, 487 S.E.2d 187, 187 (1997).

Order at ¶2 (footnote omitted). The factors referenced by the Court above are not sufficient to constitute acceptance of Maple Court as a County road.

South Carolina law sets forth that “[t]o have a completed dedication, there must be some form of acceptance of the offer to dedicate.” *Tupper*, 326 S.C. at 326, 487 S.E.2d at 191-92 (citations omitted). Evidence of acceptance of a dedication must be by clear, convincing, and unequivocal proof. *Vick v. S.C. Dep’t of Transp.*, 347 S.C. 470, 477 n.2, 556 S.E.2d 693, 697 n.2 (Ct. App. 2001). “No formal acceptance by the public of an offer of dedication is necessary, and

acceptance of the offer may be implied by the public's or public authority's continuously utilizing or maintaining the property in some fashion." *Van Blarcum v. City of N. Myrtle Beach*, 337 S.C. 446, 451, 523 S.E.2d 486, 489 (Ct. App. 1999). However, there must "be public use for a sufficient period of time as will indicate the intention of the public to accept the offer of dedication." *Boyd v. Hyatt*, 294 S.C. 360, 366, 364 S.E.2d 478, 481 (Ct. App. 1988); *see also Wise v. South Fenwick, LLC*, No. 2008-UP-314, 2008 WL 9843962, at *2 (Ct. App. June 25, 2008) ("there must be, within a reasonable time, an express or implied public acceptance of the property offered for dedication."). Plaintiff has failed to meet his burden of proof for acceptance of Maple Court.

A. Approval of the Plat does not evidence acceptance of Maple Court.

First, the approval of the Plat in 1974 should not be a factor for acceptance of Maple Court as a County road. The South Carolina Supreme Court has set forth that "[t]he mere fact the County approved [a] plat does not constitute an acceptance" for a dedication. *Tupper*, 326 S.C. at 326-27, 487 S.E.2d 187, 192; *see also Vick*, 347 S.C. at 478-79, 556 S.E.2d at 698.

South Carolina law is clear that approval of a plat does not evidence acceptance. More specifically, S.C. Code Ann. § 6-29-1170, titled "Approval of plan or plat not acceptance of dedication of land," provides:

The approval of the land development plan or subdivision plat may not be deemed to automatically constitute or effect an acceptance by the municipality or the county or the public of the dedication of any street, easement, or other ground shown upon the plat. Public acceptance of the lands must be by action of the governing body customary to these transactions.

Accordingly, there must be some action by the County to accept any dedication found by the Plat. "The acts proved must not be consistent with any construction other than that of a dedication." *Hoogenboom v. City of Beaufort*, 315 S.C. 306, 317, 433 S.E.2d 875, 883 (Ct. App. 1992). Outside of approval in 1974, and as testified to without contravention by the County Engineer, Heshia

Gamble, the County has not acted to accept Maple Court. Moreover, the County has not acted “within a reasonable time” from the 1974 Plat of Maple Court. *See Boyd*, 294 S.C. at 366, 364 S.E.2d at 481; *Wise*, 2008 WL 9843962, at *2. Therefore, the Court should not have considered plat approval as a factor for the County’s acceptance of Maple Court.

B. Use by law enforcement should not be a considered as evidence for acceptance of Maple Court.

Second, the Order finds implied acceptance of Maple Court through the use by law enforcement. Private road use by law enforcement should not be a determining factor for road dedication. There are several South Carolina statutes and cases that authorize police jurisdiction on private roads and property. *See, e.g.*, S.C. Code Ann. § 23-1-15 (permitting police jurisdiction on parking lots); § 56-3-1971 (permitting law enforcement officers to issue parking violation tickets on private property); § 5-7-110 (“police officers shall exercise their powers on all private and public property within the corporate limits of the municipality”); § 17-13-40 (allowing law enforcement officer jurisdiction outside of county or city limits); § 17-13-45 (expanding jurisdiction when police officers respond to distress calls or requests for assistance); *see also State v. Allen*, 314 S.C. 539, 541-42, 431 S.E.2d 563, 564-65 (1993) (finding the Uniform Act Regulating Traffic is applicable to private roads); *State v. Harris*, 299 S.C. 157, 159, 382 S.E.2d 925, 926 (1989) (finding police officer’s actions outside his or her jurisdiction to be lawful if they could be properly undertaken by an ordinary citizen).

To hold law enforcement use as a factor for public roadway dedication would create conflict with South Carolina law. Law enforcement has jurisdiction on private property in several instances. The Order would produce a chilling effect on police conduct in the County. By way of example, police officers may be directed to avoid private roadways in the scope of their duties.

Based on the foregoing, the Court should not have considered use by law enforcement as a factor for the dedication and acceptance of Maple Court.

C. The County's mere non-assessment of charging taxes on Maple Court cannot be the sole determinant for acceptance.

Third, after reviewing the proper factors for acceptance of a roadway, this leaves the Court with the non-assessment of taxes as Plaintiff's sole evidence for the County's acceptance of Maple Court. While the assessment of taxes is a factor to be considered, the non-assessment alone is insufficient for County acceptance. *See Helsel v. City of N. Myrtle Beach*, 307 S.C. 24, 28, 413 S.E.2d 821, 824 (1992) ("Nonassessment of taxes on land may be considered in conjunction with other facts to show there has been a dedication and acceptance.").

In *Walker v. Guignard*, the Court of Appeals affirmed that implied acceptance cannot be found by mere inaction by the County in not charging taxes on the property. 293 S.C. 247, 249, 359 S.E.2d 528, 529 (Ct. App. 1987); *see also Shia v. Pendergrass*, 222 S.C. 342, 350, 72 S.E.2d 699, 702 (1952) (finding the payment of taxes "itself is not generally treated as very strong evidence" of dedication). Thus, Plaintiff must provide strict, cogent and convincing evidence beyond the non-assessment of taxes to establish acceptance of Maple Court. Plaintiff has failed to meet his heavy burden of proof for County acceptance.

Considering the applicable factors for acceptance, it is clear that the County has not expressly or impliedly accepted Maple Court. As set forth above, approval of a plat and use by law enforcement are not appropriate factors to consider for acceptance. Further, the approval of the Plat was in 1974, and Plaintiff failed to present any evidence of County conduct close to this date. In addition, South Carolina case law has found that mere inaction by the County in assessing taxes does not create an implied acceptance. Therefore, Plaintiff has not met his burden of strict,

cogent and convincing proof for acceptance of Maple Court, and the Court should reconsider the Order finding County acceptance.

II. In the alternative, the County respectfully requests that the Court amend paragraph two of the Order to redact language regarding law enforcement usage as a factor for dedication and acceptance.

The Order renders findings of fact that should not be construed as guidance for the dedication and acceptance of a roadway. Paragraph two of the Order states that “the fact that law enforcement has used Maple Court is a further indication of it being a public road.” Order at ¶2. Upon review of South Carolina case law, use by law enforcement has never been a determining factor for the dedication and acceptance of a public roadway. As set forth above, there are various South Carolina statutes and cases that subject private property to police jurisdiction. Law enforcement drives on private roads and property frequently to perform police work. Accordingly, the County respectfully requests that the Court amend the Order to redact use by law enforcement as a factor for dedication and acceptance of a public road.

CONCLUSION

For all of the foregoing reasons, the County respectfully requests that the Court grant its motion to reconsider the Order entered on July 7, 2020, and issue an amended order finding no acceptance of Maple Court by the County. This motion to reconsider is based upon the record in this case, the pleadings that have been submitted to the Court, the County’s pre-trial brief, and the evidence and arguments made during trial. In the alternative, the County respectfully requests that the Court amend the Order to redact language that law enforcement use of Maple Court is a factor in determination of dedication and acceptance of a public road.

[Signature Page to Follow]

Respectfully submitted:

HAYNSWORTH SINKLER BOYD, P.A.

s/ Jonathan D. Klett

Boyd B. Nicholson, Jr., S.C. Bar No. 65387

Jonathan D. Klett, S.C. Bar No. 103208

Post Office Box 2048

Greenville, SC 29602

Tel.: (864) 240-3200 (Telephone)

Fax.: (864) 240-3300 (Facsimile)

E-Mail: nnicholson@hsblawfirm.com

E-Mail: jklett@hsblawfirm.com

Attorneys for Defendant County of Greenville

July 17, 2020
Greenville, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

Richard Joseph Rogozinski ,)
Plaintiff,)
-vs-)
County of Greenville and)
City of Simpsonville,)
Defendants.)
_____)

Case No. 2018-CP-23-05191

TRANSCRIPT OF RECORD

June 2, 2020

BEFORE: THE HONORABLE CHARLES B. SIMMONS, JR.

APPEARANCES:

Clayton L. Jennings, Esquire
Attorney for the Plaintiff

David W. Holmes, Esquire
Boyd B. Nicholson, Jr., Esquire
Attorney for the Defendants

Danette P. Hanks, CCR
Court Reporter

I N D E X

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
Richard Joseph Rogozinski				
Jennings	6		51	
Holmes		21		
Nicholson		47		57
Debbie H. Adkins				
Jennings	61		68	
Holmes		63		
Nicholson		65		
The Court		67		
Kisha Gamble				
Nicholson	71		101	
Holmes		79		101
Jennings		89		104
The Court		96		
Diana Gracely				
Holmes	106			
Jennings		109		
The Court		110		

PLAINTIFF' S/ EXHIBITS

1	NO	DESCRIPTION	ID	EV
2	P-1	Final Plat	6	11
3	P-2	Statement of Ownership and Consent to Dedicate Streets and Roads to Greenville County for Public Use	6	12
4	P-3	Various Titles to Real Estate	6	15
5	P-4	Various photographs of road condition	6	16
6	P-5	Photograph of Officer making a traffic stop	6	17
7	P-6	Aerial view of Rogozinski property	6	18
8	P-7	Real Property Details	6	
9				
10				
11				
12				
13				
14				
15	D-1	Photo of Maple Court entrance sign with back of stop sign	6	47
16	D-2	Photos of dumpster	6	
17	D-3	Photos of mailbox kiosk	6	
18	D-4	Photos of cars parked with sign reading dumpster for tenants use only	6	
19	D-5	Photos of cars parked and building with sign that reads as in Defendant 4	6	
20	D-6	Photo of cars parked with sign reading Security Notice - Residents and their guests only - No Trespassing - No Dumping	6	26
21				
22				
23				
24				
25				

1	NO	DESCRIPTION	ID	EV
2	D-7	Greenville County Consolidated Tax Notice	6	68
3	D-8	Greenville County Tax Maps - Rogozinski	6	
4		Richard Joseph		
5	D-9	Greenville County, SC aerial view	6	48
6	D-10	Photos of cars parked and kiosk	6	
7	D-11	Photos of street with house in the background	6	
8	D-12	Photo of street at different angle with house	6	
9		in background		
10	D-13	Photo of street with kiosk in background	6	
11	D-14	Brochure of County of Greenville - Department	6	79
12		of Public Works - Engineering/Maintenance		
13		Division - Roads and Bridges		
14	D-15	Photo of Maple Court and North Maple Street	6	24
15		intersection showing condition of road and		
16		back of stop sign		
17	D-16	Photo showing end of Maple Court from cul de	6	25
18		sac		
19	D-17	Photo showing Security Notice as described in	6	25
20		Defendant 6		
21	D-18	Photo where Maple Court intersects with North	6	27
22		Maple Street with stop sign		
23	D-19	Photo showing relationship of security sign to	6	27
24		North Maple Street		
25	D-20	Photo of speed bump and condition of pavement	6	30

1	NO	DESCRIPTION	ID	EV
2		at intersection of Maple Court and North Maple		
3		Street		
4	D-21	Photo showing green house and cul de sac	6	32
5	D-22	Photo of dumpster	6	33
6	D-23	Photo showing one of buildings of Maple Court	6	35
7	D-24	Photo of speed bump	6	36
8	D-25	Photo of North Maple Street going south toward	6	37
9		property		
10	D-26	Photo of sign of Magnolia Ridge - adjoining	6	38
11		subdivision		
12	D-27	Photo of Cryovac building across street from	6	39
13		apartment complex		
14	D-28	Photo of kiosk	6	
15	D-29	Real Property Details of Rogozinski	6	
16	D-30	Aerial view of property	6	
17	D-31	Aerial view of Cornerstone Court	6	66
18	D-32	Aerial view of property and parking lot at	6	65
19		Cryovac		
20				
21		COURT' S/EXHIBITS		
22	C-1	Email from Nick Nicholson to Charles B.	113	
23		Simmons, Jr. dated June 2, 2020		
24	C-2	Email from David Holmes to Charles B. Simmons,	113	
25		Jr. dated June 2, 2020		

1 (WHEREUPON, Plaintiff Exhibit Numbers 1 through 14
2 were marked for identification.)

3 (WHEREUPON, Defendant Exhibit Numbers 1 through 32
4 were marked for identification.)

5 THE COURT: This is Rogozinski versus County of
6 Greenville and City of Simpsonville; 2018-05191. Case is
7 referred. I would remind all to attempt, as best as
8 possible, to recognize social distancing in today's new
9 world. But other than that, unless there are any
10 preliminary matters, you can go ahead and call your first
11 witness.

12 MR. HOLMES: I do. I just want to say that
13 the City of Simpsonville had filed a motion to dismiss, a
14 Rule 12(b)(6) motion. We briefed that. And I think those
15 briefs are part of the Court's record. Your Honor asked
16 that we submit pretrial briefs. I'm asking that the city
17 of Simpsonville's pretrial brief be made a part of the
18 record in this case.

19 And I'll just tell Your Honor, when we had our
20 pretrial conference, we argued the same issues that were
21 raised in the 12(b)(6) motion. We're going to stand on
22 those issues. And frankly, Judge, at an appropriate time
23 we're going to ask you to rule on them because we think
24 you can. And I just want to put that on the record.

25 THE COURT: Okay. You're protected on the

1 record. I'm denying ---

2 MR. HOLMES: And ditto for Greenville County.

3 THE COURT: And ditto on the ruling. So y'all
4 are both protected on the record. You can call your first
5 witness.

6 MR. JENNINGS: Your Honor, the Plaintiff calls
7 Mr. Richard Joseph Rogozinski.

8 THE COURT: Sir, if you'll come around to the
9 witness stand. Place your left hand on the bible and
10 raise your right hand for me, please. Do you swear to
11 tell the truth, whole truth and nothing but the truth?

12 MR. ROGOZINSKI: Yes, sir.

13 THE COURT: All right. You can come around and
14 have a seat, please, sir. And if you'll state your full
15 name.

16 MR. ROGOZINSKI: Richard Joseph Rogozinski.

17 THE COURT: All right. Thank you. Your
18 witness.

19 RICHARD JOSEPH ROGOZINSKI,

20 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MR. JENNINGS:

23 Q. Good morning, Mr. Rogozinski.

24 A. Good morning.

25 Q. Are you the owner of an apartment complex and land

1 along Maple Court in Simpsonville, South Carolina known as
2 Lots one, two, three, four and five on a plat recorded in
3 plat book 4X at page 17 in the Greenville County Register
4 of Deeds office?

5 A. Yes.

6 Q. And how long have you been familiar with that
7 property?

8 A. Since 1990.

9 Q. When did you move to the upstate?

10 A. January 1990.

11 Q. And why did you move here?

12 A. To run Maple Court.

13 Q. And so in running Maple Court, does that mean that
14 you manage the property, and what else did you do?

15 A. Manage, maintenance, heat and air, remodel,
16 everything.

17 Q. And have you been involved with the property
18 continuously since January 1990?

19 A. Yes.

20 Q. During all those years has anyone ever told you that
21 Maple Court was a private road?

22 A. No.

23 Q. Have you ever seen a sign saying that Maple Court is
24 or was a private road?

25 A. No.

1 Q. And let me back up. In December 1990 did your
2 parents purchase this property?

3 A. Yes.

4 Q. And are your parents Hazel and Richard John
5 Rogozinski?

6 A. Yes.

7 Q. All right. Did your parents ever exclude the public
8 from using Maple Court?

9 A. No.

10 Q. Have you ever excluded the public from using Maple
11 Court?

12 A. No.

13 Q. In other words, you and your parents as owners of
14 this property have always allowed the public to use Maple
15 Court?

16 A. Yes.

17 Q. Does the Greenville County Sheriff's Department or
18 Office routinely make traffic stops on Maple Court and
19 using Maple Court?

20 A. Frequently; yes.

21 Q. How long have they been doing that?

22 A. Long as I can remember. Since day one.

23 Q. Since day one? Have you ever tried to stop any
24 sheriff's deputies from using Maple Court to make traffic
25 stops or arrests?

1 A. No.

2 Q. Do you pay property taxes for the road known as
3 Maple Court?

4 A. No.

5 Q. Did your parents pay property taxes for the road
6 known as Maple Court?

7 A. No.

8 Q. To the best of your knowledge has anyone since the
9 1970s paid property taxes on Maple Court?

10 A. No.

11 Q. Do any of those deeds to lots one, two, three, four
12 and five convey the road known as Maple Court to the
13 owners of this property since 1973?

14 A. No.

15 Q. All right. I'd like to show you a plat marked as
16 Plaintiff's Exhibit 1. And do you see that plat?

17 A. Yes.

18 Q. Does that show Maple Court in between the property
19 owned by you?

20 A. Yes.

21 Q. And do you see on that plat that there's a
22 certificate on the top right, Certificate of Ownership and
23 Dedication?

24 A. Yes.

25 Q. And that's from Maple Properties, a Partnership?

1 A. Yes.

2 Q. And do you see on that plat below there that there's
3 a Certificate of Approval for a recording?

4 A. Yes.

5 Q. And that's from the Greenville County Planning
6 Commission; is that right?

7 A. Yes.

8 MR. JENNINGS: And I would move Plaintiff's
9 Exhibit 1 into evidence.

10 MR. HOLMES: Without objection.

11 MR. NICHOLSON: No objection, Your Honor.

12 (WHEREUPON, Plaintiff Exhibit Number 1 was admitted
13 into evidence.)

14 THE COURT: All right. Let's do this, because
15 from what I understand, the lawyers aren't anticipating
16 any objections to any exhibits. So unless there's an
17 objection, I'm just going to assume there's no objection.
18 So silence is indeed golden here today.

19 MR. JENNINGS: Okay. Very well.

20 THE COURT: Thank you.

21 Q. I'd like to show you what's marked as Plaintiff's
22 Exhibit 2.

23 MR. HOLMES: And if counsel could, our exhibits
24 aren't marked, if he just says what that is so I can mark
25 mine, I'd appreciate it.

1 MR. JENNINGS: I'm about to.

2 Q. And do you see that that is a statement of ownership
3 and consent to dedicate streets and road to Greenville
4 County for public use?

5 A. Yes.

6 Q. And that's recorded in dedication book 1 at page 193
7 in the Greenville County Register of Deeds; is that
8 right?

9 A. Yes.

10 Q. And do you see that on this document, which is dated
11 December -- or filed December 5th, 1974, that the owners
12 of Maple Court, a copy of the plat recorded in plat book
13 4X at page 17, dedicated Maple Court or all the roads
14 shown on that plat to the county, to Greenville County,
15 for the use and control of the streets and roads shown on
16 said plat of property for public use?

17 A. Yes.

18 Q. Do you see about halfway down that document where
19 there's the signature of the county attorney E.P. Riley?

20 A. Yes.

21 (WHEREUPON, Plaintiff Exhibit Number 2 was admitted
22 into evidence.)

23 Q. Now, I would like to show you a number of deeds
24 marked as Plaintiff's Exhibit 3, and marked collectively
25 as Plaintiff's Exhibit 3. And I'd like to ask you about

1 ownership of this property. If you look at the first
2 deed, which appears to be recorded in deed book 1884 at
3 page 370, in December 1999 did your mother convey all of
4 her remaining interest in the property to you for four
5 hundred thirty-three thousand three hundred thirty-three
6 dollars?

7 A. Yes.

8 Q. And you already owned a fractional interest in the
9 property which your parents had conveyed to you in January
10 1990; is that right?

11 A. Correct.

12 Q. And after your father had passed, he had left all of
13 his interest in the property to your mother Hazel
14 Rogozinski?

15 A. Yes.

16 Q. And there's a deed of distribution recorded after
17 your father passed in 1997; is that right?

18 A. Yes.

19 Q. All right. Now, for clarification, on these deeds
20 is your father shown as Richard J. Rogozinski?

21 A. Yes.

22 Q. And you are Richard Joseph Rogozinski?

23 A. Yes.

24 Q. All right. And your father's middle name was John;
25 is that right?

1 A. Yes. Correct.

2 Q. Now, in all these deeds, which go back to the 1970s,
3 do you notice that all the references in the legal
4 descriptions for the property refer to a lot number and
5 refer to the plat recorded in plat book 4X at page 17?

6 A. Yes.

7 Q. And that plat shows Maple Court as a public road; is
8 that right?

9 A. Yes.

10 Q. And so none of these deeds conveyed title to Maple
11 Court, the road; did they?

12 A. No.

13 MR. HOLMES: Objection, Your Honor. This
14 witness isn't an expert and he can't testify about what
15 conveyed title.

16 Q. All right. Did you ---

17 MR. JENNINGS: I'm sorry.

18 THE COURT: All right. You've already
19 conceded that. We'll move on.

20 MR. JENNINGS: Okay.

21 Q. You didn't ever receive title to the road known as
22 Maple Court; did you?

23 A. No.

24 Q. Okay. Now, does Maple Court -- is it a cul-de-sac?

25 A. Yes.

1 Q. And at one end of Maple Court is there access to a
2 road known as North Maple Street?

3 A. Yes.

4 Q. And is that a pretty busy street in Simpsonville?

5 A. Yes. Quite.

6 Q. Where Maple Court intersects or merges with Maple
7 Street, could you describe the condition of the road?

8 A. It's hideous. It's a public sewer access there for
9 North Maple Street and it's just terrible.

10 Q. And have you taken photographs of the area where
11 Maple Court ---

12 A. Yes.

13 Q. --- meets North Maple Street?

14 A. Yes.

15 (WHEREUPON, Plaintiff Exhibit Number 3 was admitted
16 into evidence.)

17 Q. Could you review the photographs marked Plaintiff's
18 Exhibit 4? Are those true and accurate photographs taken
19 by you?

20 A. Yes, sir.

21 Q. What do you see in these photographs?

22 A. Potholes, a lot of water damage. When North Maple
23 Street was paved over twice, they created a puddle lane
24 that destroyed it.

25 Q. And have you tried to contact governmental officials

1 to attempt to have that area of the road repaired?

2 A. Yes. Many times.

3 Q. Has the city of Simpsonville or the county of
4 Greenville agreed to make any repairs to the road?

5 A. No, sir. They kept pointing at each other.

6 Q. And when you say they were pointing at each other,
7 what do you mean?

8 A. They were just, it's not my responsibility, it's
9 theirs. It's not mine, it's theirs. And, you know, just
10 giving me the runaround.

11 Q. Now, you mentioned that the police have used Maple
12 Court?

13 A. Yes.

14 Q. To make traffic stops?

15 A. Yes.

16 Q. And you mentioned that had been continuous since, I
17 think you said day one; is that right?

18 A. Yes. There's a school zone and quite frequent.

19 Q. And do they actually pull over cars into Maple Court
20 and issue traffic citations?

21 A. Yes.

22 Q. And have you observed that on prior occasions?

23 A. Yes.

24 (WHEREUPON, Plaintiff Exhibit Number 4 was admitted
25 into evidence.)

1 Q. I'd like to show you a photograph marked Plaintiff's
2 Exhibit 5. Did you take that photograph?

3 A. Yes.

4 Q. And what does that show?

5 A. A police officer giving a citation to someone.

6 Q. Is that a sheriff's deputy in ---

7 A. County sheriff; correct.

8 Q. A county sheriff. All right.

9 MR. NICHOLSON: Your Honor, if please the
10 Court? I don't object to entry of the exhibit, I just --
11 not an objection to -- not in agreement that I think what
12 he says is true.

13 THE COURT: I understand. Exhibit only.

14 (WHEREUPON, Plaintiff Exhibit Number 5 was admitted
15 into evidence.)

16 Q. Now, have you ever seen the Greenville County Real
17 Property Services tax map information of your property?

18 A. Yes.

19 Q. And I'd like to show you what's marked Plaintiff's
20 Exhibit 6. Is that an aerial view of your property?

21 A. Yes.

22 Q. And do you see running through the middle of that
23 property and intersecting into North Maple Street a road?

24 A. Yes.

25 Q. And does it show that you own that road on that GIS

1 aerial view?

2 A. No.

3 Q. All right. And that shows the tax map number of
4 your property, which ends in 106; is that right?

5 A. Correct. Yes.

6 (WHEREUPON, Plaintiff Exhibit Number 6 was admitted
7 into evidence.)

8 Q. All right. And then finally, also on the Greenville
9 County Real Property Services website, do you see this
10 printout of real property details showing the tax map
11 number ending in 106 with the owner Richard Joseph
12 Rogozinski. Is that describing your property?

13 A. Yes.

14 Q. All right. Has anyone from Greenville County Real
15 Property Services or the Greenville County Tax Collector's
16 Office ever told you that you need to pay taxes on the
17 road known as Maple Court?

18 A. No.

19 Q. And when you purchased the property from your mother
20 in 1999 and became the hundred percent fee simple owner of
21 the property, does that deed show your mailing address as
22 33 Maple Court?

23 A. Yes.

24 Q. All right. Now, we're almost finished, but I have
25 just a few more questions for you. Have you placed no

1 trespassing and no dumping signs at two places on your
2 property?

3 A. Yes.

4 Q. Why have you done that?

5 A. Because our dumpster that's on the private property
6 was being abused by so many people. I was bringing a load
7 of trash to the dump on a weekly basis even though I have
8 an eight yard dumpster.

9 Q. Were those signs ever intended to exclude the public
10 from using Maple Court?

11 A. No.

12 Q. Have you ever put a sign at the corner of Maple
13 Court facing North Maple Street which says private road do
14 not enter?

15 A. No. You have to pull in to see it.

16 Q. So you'd have to pull into Maple Court to see your
17 signs?

18 A. I believe so; yes.

19 Q. All right. Is it your understanding that after
20 Greenville County accepted Maple Court for public use in
21 the 1970s that the city of Simpsonville annexed your
22 property?

23 MR. NICHOLSON: Objection, Your Honor.

24 MR. HOLMES: Objection.

25 THE COURT: Assuming facts ---

1 MR. NICHOLSON: Yeah, he's assuming that
2 Greenville County accepted the roads.

3 THE COURT: If you'll rephrase the question.

4 MR. JENNINGS: I'll rephrase.

5 Q. Was this formerly merely in the city -- in the
6 county of Greenville, but not in the city of Simpsonville
7 until the 1990s?

8 A. I believe so; yes.

9 Q. And is it your understanding that this property is
10 now within the city limits of the city of Simpsonville?

11 A. Yes. I think Sunbelt brought it in the city limits
12 to get city services.

13 Q. Is that Sunbelt properties, the former owner?

14 A. Correct.

15 Q. Okay. So are you asking the Court to determine
16 whether Maple Court should be maintained by either the
17 city of Simpsonville or the county of Greenville?

18 A. Yes.

19 Q. And do you believe that because of the condition of
20 the road that it is in need of immediate repair?

21 A. Yes.

22 Q. Is it a health and safety concern?

23 A. The intersection could be if someone had to go out
24 in an ambulance or something. It's a little bumpy.

25 Q. And have you received complaints from your tenants

1 about the condition of the road?

2 MR. HOLMES: Objection, Your Honor. That's
3 hearsay.

4 MR. JENNINGS: I'm not asking for a statement.
5 I'm asking if you've received complaints.

6 THE COURT: Go ahead.

7 A. Several. And they've also called the city and the
8 county.

9 MR. HOLMES: Objection, Your Honor. Now
10 that's double hearsay.

11 THE COURT: I sustain the objection as to
12 calling governmental agencies.

13 Q. Okay. And are you asking the Court to order
14 whichever governmental entity is responsible for this road
15 to make immediate repairs to the road?

16 A. Yes.

17 Q. All right. Thank you. Please answer any questions
18 ---

19 THE COURT: All right, gentlemen, which one of
20 y'all want to go in on cross.

21 MR. HOLMES: I'll be glad to start, Your
22 Honor.

23 THE COURT: All right.

24 MR. HOLMES: May it please the Court, Your
25 Honor?

CROSS EXAMINATION

1
2 BY MR. HOLMES:

3 Q. Mr. Rogozinski, my name is David Holmes, and I
4 represent the city of Simpsonville.

5 A. Okay.

6 Q. You have managed what you call Maple Court since you
7 came here in 1990; is that correct?

8 A. Yes.

9 Q. Have you ever seen anybody with the city of
10 Simpsonville out on Maple Court doing any work?

11 A. Yes.

12 Q. What work have they done?

13 A. Well, pick up trash action. They came in with a claw
14 truck. We had a -- the city dumpster was there. It was
15 part of the city services that brought us into the city
16 limits.

17 Q. So you've had trash pick-up out there?

18 A. Yes.

19 Q. And to gain access to the dumpster that you had on
20 the property, they had to use Maple Court?

21 A. Yes.

22 Q. Okay. Let me show you what has been marked as
23 Plaintiff's Exhibit 1. And let me ask you if you can
24 identify that.

25 THE WITNESS: Excuse me. Can I have my water?

1 MR. NICHOLSON: You said Plaintiff's.

2 MR. HOLMES: I'm sorry. I misspoke.

3 Q. Defendant's Exhibit Number 15.

4 A. 15; okay. What's the question?

5 Q. Can you identify that?

6 A. Yes.

7 Q. What is it?

8 A. It's Maple Court and North Maple Street
9 intersection.

10 Q. Does that photograph fairly and accurately depict
11 what you're calling Maple Court?

12 A. Yes.

13 Q. Okay. And then some.

14 A. Pardon me?

15 Q. And then some? Are there speed humps or bumps on
16 Maple Court?

17 A. Yes.

18 Q. How many are there?

19 A. Three.

20 Q. Who put them there?

21 A. I have no idea.

22 Q. Okay. How long have they been there?

23 A. Since I've been here.

24 Q. Okay. So you don't know where they came from?

25 A. I do not.

1 (WHEREUPON, Defendant Exhibit Number 15 was admitted
2 into evidence.)

3 Q. Okay. Let me show you what has been -- a photograph
4 that has been marked as Defendant's Exhibit 16 and ask if
5 you can tell me what that shows?

6 A. It shows the other end of Maple Court from the cul-
7 de-sac.

8 Q. Okay. Does that photograph fairly and accurately
9 depict the condition of what you're calling Maple Court?

10 A. Not the worst part, but yes. Not the part that ---

11 Q. But does the photograph show the area that you're
12 calling Maple Court?

13 A. Yes.

14 Q. Is there anything funny or flaky about the
15 photograph and what it shows?

16 A. I'm sorry. I misunderstood the question. I thought
17 you were asking about the damage?

18 Q. No, sir.

19 A. Okay. So what's the question?

20 Q. Does that photograph fairly depict your property in
21 Simpsonville that you just testified about?

22 A. It's a shot from the cul-de-sac of Maple Court going
23 out to North Maple Street.

24 (WHEREUPON, Defendant Exhibit Number 16 was admitted
25 into evidence.)

1 Q. Okay. I'm going to show you what's been marked as
2 Defendant's Exhibit Number 17. Can you tell me what that
3 is?

4 A. It's a security notice to keep the dumpers away.

5 Q. Okay. And where is that sign posted?

6 A. It's on the corner of our parking lot that's on part
7 of Maple Court.

8 Q. Okay. Did you post that sign?

9 A. Yes.

10 Q. And when did you post it?

11 A. I can't recall. Long time ago.

12 Q. Okay. And it clearly says no trespassing; is that
13 correct?

14 A. Security notice. I can't really read -- I can't ---

15 Q. It's your sign, Mr. Rogozinski. What does it say?

16 A. You're talking years ago when I put it up there. Do
17 you have a clearer photograph? I'll read it. I know it
18 says no dumping, because that was the issue.

19 (WHEREUPON, Defendant Exhibit Number 17 was admitted
20 into evidence.)

21 Q. Let me hand you what's been marked as Defendant's
22 Exhibit Number 6. Does that show the sign any better?

23 A. Yes. Security notice, residents and their guests
24 only, no trespassing, no dumping.

25 Q. Okay.

1 A. That was a desperation to stop the dumpers.

2 Q. And that sign has been there so long you don't
3 remember how long it's been there?

4 A. Fifteen, twenty years maybe. Since they built the
5 storage units next door, because that's when the dumping
6 got really bad.

7 Q. Okay. So fifteen or twenty years it's been there?

8 A. However long the storage units have been there.

9 Q. Okay. And it's the year 2000 (verbatim) and you've
10 been the full owner of that property since at least 1999;
11 is that correct?

12 A. That's correct.

13 Q. So about twenty years?

14 A. Right after they put the storage units up the
15 dumping got bad. Put the signs. I don't remember what
16 year.

17 Q. Okay. Has the city of Simpsonville ever told you to
18 take the sign down?

19 A. No.

20 (WHEREUPON, Defendant Exhibit Number 6 was admitted
21 into evidence.)

22 Q. Okay. Let me hand you what is a photograph that's
23 been marked as Defendant's Exhibit Number 18 and ask you
24 if you can tell me what that is?

25 A. Well, it's the other side of the sign.

1 Q. So that exhibit depicts the back side of the sign
2 that you posted that says no trespassing and its
3 relationship with the stop sign and the intersection with
4 North Maple; is that correct?

5 A. Yes.

6 Q. They're right near each other; is that right?

7 A. Relatively.

8 (WHEREUPON, Defendant Exhibit Number 18 was admitted
9 into evidence.)

10 Q. Let me show you what's been marked as Defendant's
11 Exhibit Number 19. Is that a photograph that basically
12 shows the sign and its relation to North Maple Street?

13 A. Yes. It's on the most inward parking area of Maple
14 Court away from North Maple Street.

15 (WHEREUPON, Defendant Exhibit Number 19 was admitted
16 into evidence.)

17 Q. Now I'm handing you a photograph that's been marked
18 as Defendant's Exhibit Number 20. And does that show a
19 speed hump and then in front of the speed hump some water
20 standing in an area?

21 A. Yes. It's the intersection of North Maple and Maple
22 Court.

23 Q. Okay. Well, who owns that area?

24 A. That's what we're here to figure out.

25 Q. Well, did you know that North Maple Street is a

1 state road?

2 A. I have no idea. I thought it was a county road.

3 Q. All right. So North Maple is maintained by the
4 South Carolina Department of Transportation and not either
5 the county of Greenville or the city of Simpsonville?

6 MR. JENNINGS: Objection. He's already stated
7 that he doesn't know who owns North Maple Street.

8 THE COURT: Sustain the objection.

9 Q. Is that the area you're claiming needs to be
10 repaired?

11 A. Yes.

12 Q. Okay. Do you have an engineer that's going to
13 testify today that did a survey to show exactly what's
14 built on the ground?

15 A. What are you -- I have no idea.

16 Q. Well, did you hire an engineer?

17 A. I didn't hire an engineer; no.

18 Q. Okay. So do you have a current survey to show where
19 the roads are, where they intersect, what the property
20 lines are?

21 A. I have the plat. I assume that's a survey.

22 Q. So the answer is you don't have a recent survey; is
23 that correct?

24 A. No.

25 Q. Okay. So let me ask you a question. You're asking

1 this Court to order, if I understand correctly, that
2 either the city of Simpsonville or Greenville County owns
3 what you call Maple Court; is that correct?

4 A. Yes.

5 Q. Okay. What is it that you're asking the Court to
6 order? I mean how does the judge know what is Maple
7 Court?

8 MR. JENNINGS: Objection. This witness can't
9 testify about what the judge may know or conclude.

10 THE COURT: I think it's a fair question to
11 ask him, what is Maple Court? Where is it? That's part
12 of the essence of the lawsuit. So go ahead.

13 Q. Can you answer the question?

14 A. What's ---

15 Q. You filed a lawsuit in Greenville County and in that
16 lawsuit you asked that the judge order that the city of
17 Simpsonville or Greenville County own a road that you call
18 Maple Court. Describe Maple Court for me.

19 A. It's a city road, as far as I'm aware.

20 Q. How wide is it?

21 A. I have no -- never measured it.

22 Q. How long is it?

23 A. I don't know.

24 Q. Do you have any witnesses that are going to come to
25 trial to testify about that?

1 A. No one that's alive.

2 Q. Was there anything that stopped you from hiring a
3 surveyor to come out there with engineering instruments
4 and measure it so that you could present that to the Court
5 and say this is what I claim is Maple Court?

6 A. No.

7 Q. Do you understand that roads have rights-of-way?

8 A. I'm not a road guy.

9 Q. So the street that's Maple -- North Maple Street
10 that's the main road that gets to Maple Court, your
11 apartment complex, you don't know who owns it and do you
12 even know how wide it is?

13 A. No, I don't.

14 Q. So you don't know where Maple -- North Maple would
15 intersect with Maple Court; do you?

16 A. I don't know the variances; no.

17 (WHEREUPON, Defendant Exhibit Number 20 was admitted
18 into evidence.)

19 Q. I'm going to hand you what's been marked as
20 Defendant's Exhibit Number 21. Can you tell me what's
21 shown on that photograph?

22 A. It's looking up into Maple Court into the cul-de-
23 sac.

24 Q. Okay. And according to the evidence you produced,
25 the land that you own is divided into five lots; is that

1 correct?

2 A. Yes.

3 Q. And how many buildings are on those five lots?

4 A. Seven.

5 Q. Okay. You have four lots of each side of what
6 you're calling Maple Court and there's a building on each
7 of those lots?

8 A. Yes.

9 Q. Then there's three in the area that you call the
10 cul-de-sac. I believe it's lot 3; is that correct?

11 A. Yes.

12 Q. And then you have an office building?

13 A. Oh, yes, the office. So eight; yes.

14 Q. Okay. And who built the office building?

15 A. I believe Sunbelt did.

16 Q. Okay. It was there when you bought it?

17 A. Yes.

18 Q. Okay. When were those buildings built; do you
19 know?

20 A. Best I know it was the seventies.

21 Q. Okay. So you don't know if it was before or after
22 1974?

23 A. Well, the four buildings closest to North Maple
24 Street were built first. I know that. But I don't know
25 exactly what year each building was built.

1 Q. Okay. And that shows your mail kiosk; is that
2 correct?

3 A. Yes.

4 Q. Do you know whether or not that kiosk is inside what
5 you claim to be the public way or Maple Court?

6 A. I do not know where the variances ...

7 Q. What do you mean by variance?

8 A. From the middle of the road out how many feet. I
9 mean I just -- I have no idea.

10 Q. Did you build that kiosk?

11 A. No.

12 (WHEREUPON, Defendant Exhibit Number 21 was admitted
13 into evidence.)

14 Q. I'm handing you Defendant's Exhibit Number 22 and
15 ask you if you can identify that, please?

16 A. It's the dumpster.

17 Q. That's your dumpster; is that right?

18 A. Yes.

19 Q. Okay. And your dumpster has no trespassing signs
20 all over it; does it not?

21 A. Yes.

22 Q. Do you know whether or not your dumpster is in that
23 area that would be called Maple Court?

24 A. It's outside of the cul-de-sac, so I would assume
25 it's on our property.

- 1 Q. But you don't know?
- 2 A. I don't know; no.
- 3 Q. Who built the fence around it?
- 4 A. I have no idea.
- 5 Q. Who put the concrete pad where it sits?
- 6 A. I have no idea.
- 7 (WHEREUPON, Defendant Exhibit Number 22 was admitted
8 into evidence.)
- 9 Q. Okay. I'm going to hand you what's been marked as
10 Defendant's Exhibit Number 23. Can you tell me what that
11 is?
- 12 A. It's a photograph of one of our buildings.
- 13 Q. Okay. Well, is there a parking lot a part of that?
- 14 A. It looks like it's taken from the parking lot on the
15 other side of Maple Court. So yes.
- 16 Q. Okay. Well, where is Maple Court in relationship to
17 the parking lot? Does that photograph show it?
- 18 A. Yes, it does.
- 19 Q. Okay. Can you tell the Judge where Maple Court ends
20 and your parking lot begins?
- 21 A. Yes. There's a line there you can clearly see and
22 there's a line there you can clearly see.
- 23 Q. So you're just talking about pavement, a line in the
24 pavement?
- 25 A. Yes.

1 Q. Okay. And did you know that neither the county nor
2 the city would -- if the judge were to declare that Maple
3 Court was a public road, if your parking lots are in that
4 right-of-way, your residents would have to back into Maple
5 Court, and that's not allowed?

6 MR. JENNINGS: Objection. Calls for a legal
7 conclusion, which is not -- has not been stipulated.

8 THE COURT: You're asking -- if he's aware of
9 it, as the owner, I think it's legitimate. Go ahead.

10 A. Can you repeat the question?

11 Q. Okay. Right now your vehicles have to back up in
12 your parking lot to turn to enter what's called Maple
13 Court; is that right?

14 A. Yes.

15 Q. Okay. Well, if Maple Court is declared to be owned
16 by the city or the county, did you know that your vehicles
17 wouldn't be allowed to back into Maple Court? You would
18 have to provide access where they can turn around on your
19 property before they enter Maple Court?

20 A. Well, I don't know. Doesn't everybody's driveway
21 come into the city road?

22 Q. And driveways are not owned by the city; are they?

23 A. No. That's their driveway. I guess if they've got
24 to back into their driveway and pull up, then so be it.

25 Q. But that's what Maple Court is, it's your driveway?

1 A. No. The driveway is off of Maple Court.

2 (WHEREUPON, Defendant Exhibit Number 23 was admitted
3 into evidence.)

4 Q. I'm going to hand you Defendant's Exhibit Number 24
5 and ask you, is that one of the speed bumps we're talking
6 about?

7 A. Yes.

8 Q. And there's three of them; right?

9 A. Yes.

10 Q. How long is Maple Court?

11 A. I don't know how long it is.

12 Q. So you've got three speed humps in what you call a
13 public road that ends in a cul-de-sac and there are seven
14 apartment buildings that you have apartments in; is that
15 correct?

16 A. Yes.

17 Q. There are three speed humps. So how far apart are
18 the speed humps?

19 A. I never measured. I don't know.

20 Q. Simpsonville didn't put them there?

21 A. I have no idea who put them there.

22 Q. Okay. The county didn't put them there?

23 A. They were there before I got here.

24 Q. Okay. Have you ever done any real estate
25 development?

1 A. No.

2 Q. Do you know anything about real estate development?

3 A. No.

4 Q. Do you know anything about the planning process of
5 Greenville County or the city of Simpsonville?

6 A. No.

7 (WHEREUPON, Defendant Exhibit Number 24 was admitted
8 into evidence.)

9 Q. Let me hand you a photograph that has been marked as
10 Defendant's Exhibit Number 25. What does that show?

11 A. North Maple Street.

12 Q. Okay. Coming south toward your property?

13 A. I'm not aware of the direction. What do you mean,
14 where it's looking to?

15 Q. Yes.

16 A. It's looking toward the city.

17 Q. Okay. And the entrance to Maple Court Apartments is
18 shown in that picture? That's what you would see if you
19 were driving down North Maple Street towards your
20 property?

21 A. That's what you would see; yes.

22 Q. Okay. Do you see a street sign?

23 A. A street sign?

24 Q. Sure. You said Maple Court is a public street.
25 Where is the street sign?

- 1 A. We don't have a street sign.
- 2 Q. You don't have one?
- 3 A. (No verbal response.)
- 4 (WHEREUPON, Defendant Exhibit Number 25 was admitted
5 into evidence.)
- 6 Q. I'm going to hand you Defendant's Exhibit Number 26
7 and ask you if you know what that is?
- 8 A. That's the next door neighbor.
- 9 Q. The subdivision right next to Maple Court
10 Apartments?
- 11 A. Yeah. Yes.
- 12 Q. And that shows the road sign put up by the city of
13 Simpsonville?
- 14 A. I don't know who put the road signs up.
- 15 Q. Well, it's a blue sign; right?
- 16 A. I see the sign; yes.
- 17 Q. Okay. And that's the right name of the road that's
18 on the road sign; isn't it?
- 19 A. I believe so; yes.
- 20 Q. Let me show you what's been marked Exhibit -- and by
21 the way, again, that road is right next to where your
22 apartment complex is? They gain access off North Maple
23 just like you do?
- 24 A. Yeah. It's a dead end road.
- 25 Q. And so is yours; is that right?

1 A. Yes.

2 (WHEREUPON, Defendant Exhibit Number 26 was admitted
3 into evidence.)

4 Q. Okay. And this is Defendant's Exhibit Number 27.
5 Do you recognize that?

6 A. Yes.

7 Q. It shows Cryovac is right across the street from
8 Maple Court Apartments?

9 A. Yes.

10 Q. It shows street signs on both North Maple and the
11 intersecting street?

12 A. Yes.

13 Q. Put up by the city of Simpsonville?

14 A. I don't know.

15 Q. You don't know, but they have street signs; is that
16 right?

17 A. They have street signs; yes.

18 Q. Okay. And you've seen the government out there, one
19 government entity or another, doing road work; is that
20 right?

21 A. They repaved that road; yes.

22 Q. Do you know who?

23 A. I have no idea.

24 Q. We're talking about North Maple?

25 A. Yes.

1 (WHEREUPON, Defendant Exhibit Number 27 was admitted
2 into evidence.)

3 Q. Now, you put into evidence an Exhibit -- Plaintiff's
4 Exhibit Number 6, and I'm going to show you my copy of it.
5 And I think you testified that that was an aerial view on
6 Greenville County's GIS map; is that correct?

7 A. Yes.

8 Q. Okay. Did you come up -- did you print that off the
9 internet?

10 A. No.

11 Q. Do you know anything about Greenville County's GIS
12 system?

13 A. No.

14 Q. Do you even know what that exhibit is?

15 A. No.

16 Q. Then why is it in evidence?

17 A. You'll have to ask my lawyer.

18 Q. Okay.

19 A. I would assume it's on the plat.

20 Q. You would assume what is on the plat?

21 A. That this is a reflection of the plat.

22 Q. Well, let me show you Plaintiff's Exhibit Number 1
23 that you've also put into evidence. Do you see any
24 buildings on Plaintiff's Exhibit Number 1?

25 A. No.

1 Q. Do you see a road on Plaintiff's Exhibit Number 1?

2 A. If you're talking about Maple Court; yes.

3 Q. Okay. So you think that's a paved road that's shown
4 on there; is that right?

5 A. I have no idea.

6 Q. So you don't know if that's just a line on a piece
7 of paper?

8 A. Resembles like a pencil drawing. It doesn't have
9 detail.

10 Q. That's the point; isn't it? It doesn't have any
11 detail?

12 A. No.

13 Q. It doesn't have your buildings?

14 A. No.

15 Q. It doesn't show where the landscaped islands are on
16 your property?

17 A. Doesn't show surrounding property either. No, it's
18 just a ---

19 Q. It doesn't show where it intersect North Maple
20 Street?

21 A. Well, yeah, it does.

22 Q. How?

23 A. Well, it's assumed North Maple is here, but ---

24 Q. So the point is, it doesn't show it. You just
25 assume that's where North Maple is; is that right?

1 A. Well, no, it's written Maple Street right there and
2 Maple Court.

3 Q. So you don't know if your dumpster is in the middle
4 of it?

5 A. On this; no.

6 Q. Can't see it; can you?

7 A. No.

8 Q. Okay. Do you know whether there's a landscaped
9 island in which you call a cul-de-sac shown on it?

10 A. The landscaped island is outside the cul-de-sac.

11 Q. Okay. Well, let's look at the other exhibit that
12 you put into evidence, which is Plaintiff's Exhibit Number
13 6. Do you see a dark line that goes right up through the
14 middle of the property? Do you see that?

15 A. Yes.

16 Q. Okay. And you've testified that that is what you
17 call a public road called North Maple Court -- I mean
18 Maple Court; is that correct?

19 A. Yes.

20 Q. And it shows your dumpster, your mailing kiosk. It
21 even shows in the cul-de-sac that there are trees and an
22 island that's landscaped; doesn't it?

23 A. Yes.

24 Q. Okay. All in which you claim is the city's public
25 road; is that correct?

1 A. Yes.

2 Q. And those are things that you testified you didn't
3 put there. They've been there since before you came down;
4 is that correct?

5 A. Yes.

6 Q. So as we speak, you have absolutely no idea whether
7 the 1974 plat that you put in evidence was done before a
8 single building was built? Is that correct?

9 A. I don't know.

10 Q. Okay. So you don't know today whether or not that
11 what was planned to be done when that plat was recorded
12 never happened? Is that correct?

13 A. No. I wasn't there.

14 Q. Sure. And then if you look at lot 3 on that
15 exhibit, it shows three buildings in what was supposed to
16 be a single lot; is that correct? Actually there's four
17 buildings on it, including your office?

18 A. Yeah.

19 Q. That's correct?

20 A. Yeah.

21 Q. That's not what's shown on the plat that was
22 recorded in Greenville County in 1974; is it?

23 A. This is a rough outline. I mean even my house has a
24 grassy area that goes into a public area that I mow.

25 Q. Let me show you something else, Mr. Rogozinski. You

1 have put in evidence Plaintiff's Exhibit Number 7; is that
2 correct?

3 A. Yes.

4 Q. And it indicates what the site address of the
5 property is; doesn't it?

6 A. Yes.

7 Q. And it indicates the site address of the property is
8 710 North Maple Street; correct?

9 A. Yes.

10 Q. Okay. It doesn't show -- and each of your apartment
11 complexes have addresses and they're also 710; are they
12 not?

13 A. Yes.

14 Q. Okay. So everything is 710 North Maple Street. Not
15 a single address of a single apartment in that apartment
16 complex has a mailing address of Maple Court; do they?

17 A. My office once in a while uses 33 Maple Court. It's
18 uses 33, 710 Number 33. But 33 Maple Court has been used
19 by me through the years.

20 Q. Okay. And let's go back to Plaintiff's Exhibit
21 Number 6. The next door neighbor street, Cornerstone
22 Street, is marked on the GIS map; is that correct?

23 A. This is a GIS map?

24 Q. You put it in evidence, Mr. Rogozinski. It's your
25 exhibit.

- 1 A. Okay. Yeah.
- 2 Q. And you believe that exhibit is accurate; is that
3 correct?
- 4 A. Relatively; yeah.
- 5 Q. Relatively? What's wrong with it?
- 6 A. Well, it's accurate. I mean the lines are -- you
7 know, I don't know, we didn't hire a surveyor to go out
8 there and check all the lines, but I would say it's
9 accurate.
- 10 Q. Okay. And it clearly depicts the name of the street
11 in the subdivision and we've put a picture in showing that
12 there's a sign posted saying it's a public street. Is
13 that correct?
- 14 A. Yeah.
- 15 Q. Cornerstone?
- 16 A. Yeah, Cornerstone.
- 17 Q. But what you -- the driveway that you call Maple
18 Court has no street name indicated on it?
- 19 A. No.
- 20 Q. Did you know if you click on the GIS map, it will
21 give you information about each feature on the map? Have
22 you ever done that?
- 23 A. No.
- 24 Q. Did you know when you click on what you call North
25 Maple Court it says no data?

- 1 A. I had no idea.
- 2 Q. No idea. Because you've never done that?
- 3 A. No.
- 4 Q. But you're asking the Court to order either the city
5 of Simpsonville or Greenville County to come out and fix
6 something you claim they own; is that correct?
- 7 A. Yes.
- 8 Q. Okay.
- 9 A. I don't own it.
- 10 Q. But the point is you don't know who owns it; isn't
11 that correct?
- 12 A. That's why we're here.
- 13 Q. It's possible that the original person that had the
14 plat recorded in 1974 still owns it? Isn't that right?
- 15 A. I doubt it.
- 16 Q. Well, you don't -- you testified and you put in as
17 an exhibit a string of deeds that refer to lots that are
18 shown on this plat that was recorded on December 4th,
19 1974; is that correct?
- 20 A. Yes.
- 21 Q. Okay. And none of those deeds except for the
22 original deed where the original owner transferred it to
23 the developer includes what you call Maple Court; is that
24 correct?
- 25 A. Yes.

1 Q. So if the owner of that property never signed the
2 deed to transfer it, I guess that owner still owns it;
3 right?

4 A. I doubt it. I would be handed the tax bill for it
5 from the transactions over the years.

6 Q. But you're claiming you don't own it?

7 A. I don't own it; no.

8 Q. Okay. Now, you don't know how long Maple Court is,
9 but you'll admit that it's short; is that correct?

10 A. Yes.

11 Q. And there's a fence at least around one border of
12 the property; is that correct?

13 A. Yes.

14 Q. Okay. There's nowhere for anybody to go when they
15 get on Maple Court except to your buildings; is that
16 correct?

17 A. Yes.

18 Q. Okay. So when you say the public uses that road,
19 we're talking about your tenants?

20 A. No. People go in and out. The police have done
21 their routes in there over the years.

22 Q. But you want the police to come check your private
23 property; don't you?

24 A. Sure.

25 Q. Okay. Your dumpster guy comes out there and picks

1 up your dumpster; is that right?

2 A. Yes.

3 Q. And the police, if they're stopping somebody,
4 stopping them for a traffic violation that occurred on
5 Maple or another street; is that correct?

6 A. Yes.

7 Q. I mean when they flash their blue lights to pull
8 somebody over, they pull over at a safe place and they
9 turn down your street and ignore your sign that says no
10 trespassing; right?

11 A. Well, they set up a speed trap and they wave them in
12 there to give them their citations because they have
13 multiple stops at once.

14 Q. You ever told them not to do that?

15 A. No.

16 Q. Okay.

17 MR. HOLMES: Your Honor, I don't think I have
18 any other questions.

19 THE COURT: Mr. Nicholson.

20 MR. NICHOLSON: May it please the Court?

21 One of the advantages of having Mr. Holmes go first,
22 Your Honor, is that he had to do all the work. But this
23 examination for me is going to be a little disjointed. So
24 the Court bear with me.

25 I'm going to put in, just because it's a better copy,

1 Defendant's Exhibit 9. It's just a better copy.

2 (WHEREUPON, Defendant's Exhibit Number 9 was admitted
3 into evidence.)

4 CROSS EXAMINATION

5 BY MR. NICHOLSON:

6 Q. Defendant's Exhibit Number 9, does it appear to be
7 the same as Defendant's Exhibit Number 6, but just a
8 little better copy, color copy? Do you agree with that?

9 A. Yeah. Stands out more; yes.

10 Q. Mr. Rogozinski, let me show you what's been marked
11 as Defendant's Exhibit Number 1.

12 MR. NICHOLSON: Here you go, Your Honor.

13 THE COURT: I'm sorry, Mr. Nicholson. Is this
14 supposed to be marked as an original exhibit, because it
15 appears to have a sticker on it.

16 MR. NICHOLSON: The original is right there.
17 That's just something for you to put down. It's not the
18 original. I'm sorry.

19 THE COURT: All right. Thank you.

20 (WHEREUPON, Defendant Exhibit Number 1 was admitted
21 into evidence.)

22 Q. You can hold onto it. I'm going to ask you about
23 it.

24 THE COURT: I'm sorry. This is Defendant's 1?

25 MR. NICHOLSON: Yes, sir.

1 Q. I've shown you -- that's a picture of your entrance
2 to Maple Court; yes?

3 A. It's a picture of our signage.

4 Q. Okay. But the signage is at the entrance to Maple
5 Court?

6 A. Right. That's where the stop sign is. So yes.

7 Q. Okay. And that's my next question. This is the
8 back of the stop sign. We've already seen pictures of the
9 stop sign. This is the back of that stop sign; correct?

10 A. Yes.

11 Q. Okay. And the sign at Maple Court, that's how
12 people know that they're going into Maple Court Apartment
13 Complex; correct?

14 A. Yes.

15 Q. Because Mr. Holmes said there's no street signs?

16 A. No.

17 Q. Okay. Now just to orient a little further, just to
18 ---

19 MR. NICHOLSON: Your Honor, may I see I
20 believe it's Defendant's Exhibit 6, so I can show Mr.
21 Rogozinski.

22 THE COURT: Is that in the group of photos?

23 MR. NICHOLSON: Yes, sir. Well, it'll be like
24 that, it'll be a paper photo.

25 MR. HOLMES: Your Honor, my photographs

1 started at like 15.

2 MR. NICHOLSON: Well, but you entered mine
3 because it had the ---

4 MR. HOLMES: That's correct.

5 MR. NICHOLSON: It's Defendant's 6.

6 MR. HOLMES: Your Honor, I believe it looks
7 like this.

8 MR. NICHOLSON: Yeah, this is what we're
9 looking for, right here, Judge.

10 Q. I'm going to show you Defendant's Exhibit 6, Mr.
11 Rogozinski. Do you see that?

12 A. Yes.

13 MR. NICHOLSON: Do you need another copy, Your
14 Honor?

15 THE COURT: No, sir.

16 Q. I'm getting close. Is this okay?

17 A. That's fine.

18 Q. Okay.

19 A. I don't mind. My immune system is building rocket
20 launchers.

21 Q. Okay. There you go.

22 A. Don't worry about it.

23 Q. Defendant's Exhibit 1 that we marked, does it appear
24 to be -- do you see these two cars right here to the
25 right? Do you see that?

1 A. Yeah, three cars.

2 Q. Three cars actually, right that. We've got three
3 cars. Do you see that? Now if you compare that to, if
4 you compare that to Defendant's Exhibit 6 that you got?

5 A. Yes.

6 Q. Do those cars appear to be the same thing with just
7 a different angle?

8 A. Yes.

9 Q. I'm just ---

10 MR. NICHOLSON: Judge, this is just a point of
11 orienting where the sign is versus where the entrance to
12 the complex.

13 Q. Thank you, Mr. Rogozinski.

14 MR. NICHOLSON: Now, may I see, Your Honor,
15 the pictures that Plaintiff entered?

16 Q. Okay. This is one of the pictures that you entered,
17 Mr. Rogozinski, as Plaintiff's Exhibit 4. And I believe
18 that's right where Maple comes in; correct?

19 A. Yes.

20 Q. Okay. And then the remainder of these pictures --
21 am I correct, the remainder of these pictures basically
22 depict this photo from the back; correct?

23 A. Yes.

24 Q. Okay. So all these pictures are where -- are what
25 you call Maple Court ties into North Maple Street;

1 correct?

2 A. Where the city sewer is and all that stuff.

3 Q. Okay.

4 MR. NICHOLSON: Your Honor, could I have a
5 second? Mr. Holmes was very thorough, but I want to make
6 sure ...

7 Nothing further, Your Honor. Thank you, very much.
8 Thank you, Mr. Rogozinski.

9 THE COURT: All right. Mr. Jennings?

10 MR. ROGOZINSKI: Do you want these?

11 MR. NICHOLSON: No, sir. Judge Simmons may
12 want those.

13 THE COURT: Your very fine lawyer will go
14 through everything in just a few minutes and make sure
15 everything stays where it belongs.

16 MR. ROGOZINSKI: Okay.

17 REDI RECT EXAMI NATION

18 BY MR. JENNI NGS:

19 Q. All right, Ri ch.

20 A. Yes.

21 Q. You mean you haven't memorized the metes and bounds
22 and length and width of Maple Court?

23 A. No, si r.

24 Q. I'm going to show you the plat marked as Plai nti ff's
25 Exhi bi t 1. And do you see on that plat the length of each

1 lot along Maple Court? For example lot one being a
2 hundred and fifteen feet; lot two being 121.5 feet; and
3 then a cul-de-sac with a radius of fifty feet?

4 A. Yes, actually.

5 Q. All right.

6 A. I don't have my glasses, so I can't really ...

7 Q. Are you asking the Court to determine that Maple
8 Court has the length and width and dimensions shown on
9 that plat?

10 A. Yes.

11 Q. And I'm going to show you what was marked as the
12 County of Greenville Defendant's Exhibit Number 9, which
13 appears to be the overhead view of the Real Property
14 Services for the county of Greenville's depiction of Maple
15 Court. And do you see that they show Maple Court with the
16 length before the cul-de-sac of two hundred twenty feet on
17 one side and 232.4 feet on the other side?

18 A. Yes.

19 Q. And do you see that the county shows that the total
20 distance from North Maple Street to the end of the cul-de-
21 sac as 262.4 feet?

22 A. Yes.

23 Q. And do you believe that the county's GIS view of
24 Maple Court is roughly or exactly the same as what the
25 plat shows from the 1970s?

1 A. Yes.

2 Q. And is that exactly, again, what you want the Court
3 to declare as Maple Court? What the plat shows in that
4 subdivision plat recorded in plat book 4X at page 17?

5 A. Yes.

6 Q. So you do know what you want the Court to declare as
7 Maple Court?

8 A. Yes.

9 Q. You're not a surveyor; are you?

10 A. No.

11 Q. Are your no trespassing, no dumping signs on your
12 own property?

13 A. I believe so; yes.

14 Q. The area under -- that needs repair near the
15 intersection of North Maple Street, is that on Maple
16 Court?

17 A. Yes.

18 Q. And the police or sheriff's deputies throughout all
19 these years have used Maple Court not just to pull
20 speeders off of North Maple Street at random, but have, in
21 fact, set up and clocked speeders on North Maple Street
22 from their vehicles and their equipment on Maple Court; is
23 that right?

24 A. They park on Maple Court and they go out with their
25 guns.

1 Q. Okay.

2 A. On foot usually.

3 Q. Now, if I told you that my home is located on an
4 alley that has no street sign, would you then say that I
5 own a private alley because it has no street sign?

6 MR. HOLMES: Objection, Your Honor. Calling
7 for speculation.

8 MR. JENNINGS: Well, Your Honor, that's
9 exactly what the city of Simpsonville was ---

10 THE COURT: I understand. And that's a very
11 fine argument, but I don't know that this gentleman is in
12 a position to answer it.

13 MR. JENNINGS: Well, if he can ---

14 THE COURT: You may proffer it for the record,
15 though.

16 Q. Do you believe that because a street has no street
17 sign at its corner that therefore it must be a private
18 street just because it has no street sign?

19 MR. HOLMES: Objection. Calls for some
20 opinion.

21 THE COURT: I've already sustained the
22 objection. He's proffering, is what I understand.

23 A. Not at all. I've seen numerous streets without
24 signs.

25 Q. Have you received mail at 33 Maple Court?

1 A. Yes.

2 Q. I'm sorry. Addressed to the mailing address of 33
3 Maple Court through the years?

4 A. Yes.

5 Q. And you mentioned earlier that your deed from your
6 mother to you in 1999 shows your mailing address for
7 taxation purposes at 33 Maple Court; is that right?

8 A. Yes.

9 Q. And did you receive your tax notices at 33 Maple
10 Court ---

11 A. Yes.

12 Q. --- after that deed?

13 A. Yes.

14 Q. Did you put in a stop sign at the end of Maple
15 Court?

16 A. No.

17 Q. Did your parents?

18 A. No.

19 Q. Is there enough room for cars in your parking lot to
20 back up and turn so that they can then enter the road
21 known as Maple Court, not by backing but with the front of
22 their vehicle entering Maple Court first?

23 MR. HOLMES: Your Honor, I object. He's
24 testified he's not a surveyor. He's not an engineer. He
25 hasn't got any current drawings. He couldn't possibly

1 know that.

2 THE COURT: But he's an owner for a lot of
3 years, so I'm going to allow him to answer.

4 A. Yes. According to the lines I pointed out on the
5 photograph to the Judge, they can back up without going on
6 to what I believe is Maple Court.

7 Q. And your parking lot is paved and adjoins Maple
8 Court; is that right?

9 A. Yes.

10 Q. And although there may not be an obvious sign,
11 physical sign, depicting the boundary between Maple Court
12 and the parking lot, do you want the Court to declare that
13 the survey, which we admitted, does depict the actual
14 boundary of Maple Court? The fifty foot right-of-way?

15 A. Yes.

16 Q. All right.

17 MR. JENNINGS: No further questions.

18 THE COURT: Do you have any very brief
19 questions?

20 MR. HOLMES: No, sir.

21 THE COURT: And of course, the emphasis was on
22 very brief, Mr. Nicholson.

23 MR. NICHOLSON: Yes sir, they will be.

24 THE COURT: All right.

25 RE CROSS EXAMINATION

1 BY MR. NICHOLSON:

2 Q. I believe this is Defendant's Exhibit 9. Mr.
3 Jennings asked you about that. Do you have that?

4 MR. JENNINGS: He can just look at my exhibit.

5 MR. NICHOLSON: Here you go. Yeah, that's it.

6 Q. And he told you about these metes and bounds and
7 everything and you said this is what you want the city or
8 the county to repair; right?

9 A. Yes.

10 Q. So you want them to go and pave over your -- that's
11 your dumpster right there; right?

12 A. I want the ---

13 Q. That's within what you claim is Maple Court;
14 correct?

15 A. (Affirmative nod.)

16 Q. Is that a yes?

17 A. Yes. That's where the dumpster is.

18 Q. Okay. Do you want the city or the county to pave
19 over your dumpster site?

20 A. We want the ---

21 Q. Yes or no?

22 A. Not right now. We want the intersection fixed where
23 North Maple and Maple Court meet.

24 Q. Well, but this dumpster is within what you claim is
25 Maple Court; right?

1 A. Right. I don't own the road, so ...

2 Q. So are you expecting the city and the county to
3 maintain the maintenance on your dumpster?

4 A. No. The dumpster is not in the road.

5 Q. What about this what appears to be one-fifth of a
6 little landscaping area there. Do you want the city or
7 the county to maintain that, too?

8 A. We all own a little strip of land next to the road
9 in front of our house. That's basically the same thing.

10 Q. So you do or don't?

11 A. No. I don't want them to cut the grass.

12 Q. But you would be okay with the county or the city,
13 if indeed they do have responsibility for this road, to
14 come in and just take out your dumpster site; right?

15 A. The dumpster is not in the road.

16 Q. Well, you claim it is; right?

17 A. It's not in the physical road.

18 MR. JENNINGS: Objection, Your Honor. The
19 client cannot make a determination of the boundary lines
20 from the slanted aerial view of the GIS shown on the
21 county's website, which we all know is not ---

22 MR. NICHOLSON: He just argued you could.
23 That's why I'm asking him these questions.

24 MR. JENNINGS: He argued that the county ---

25 THE COURT: I think we understood that Mr.

1 Nicholson just asked your client, it's basically all or
2 nothing. Correct?

3 MR. NICHOLSON: Yeah.

4 THE COURT: And if the road is as whatever it
5 is on the ground, if it includes the existing structures
6 then if it is a public street, then would the governmental
7 entity have a right or responsibility to remove
8 everything?

9 MR. NICHOLSON: Right.

10 Q. And same question with respect to -- your kiosk is
11 within what you claim is Maple Court; right? It's hard to
12 see because the number 220 is over it, but isn't the kiosk
13 ---

14 A. It's within the line on that plat, yeah. Whatever
15 it's called.

16 Q. So I mean would the city and the county become the
17 guarantors of the mail right there?

18 A. Just the road.

19 Q. Just the road. Okay. So they can just -- if it's
20 in the way they can just plow over the mail kiosk; is that
21 right?

22 A. If they want to. They own it.

23 MR. NICHOLSON: I have nothing further.

24 A. I can move the kiosk.

25 THE COURT: All right. Thank you, sir. You

1 can step down.

2 Mr. Jennings, how long is your next witness?

3 MR. JENNINGS: Your Honor, I would anticipate
4 five minutes.

5 THE COURT: Now, is that real time or lawyer
6 time?

7 MR. JENNINGS: That's my time. I can't speak
8 for the other attorneys.

9 THE COURT: Let's go ahead and call your next
10 witness then.

11 MR. JENNINGS: Your Honor, she's under
12 subpoena and she is a county employees. Attorney
13 Nicholson mentioned that she would be here. Although I
14 subpoenaed her to appear at nine, I agreed for her to
15 delay her appearance until ten.

16 MR. NICHOLSON: Judge, I'm turning my phone
17 on. I hope I won't be fined by the Court for doing that.
18 But I'm turning my phone on ---

19 THE COURT: That all depends on for what
20 purpose, Mr. Nicholson. Where is your witness that was
21 supposed to be here at ten?

22 MR. NICHOLSON: She ---

23 THE COURT: Let's go ahead and take a brief
24 break now. Let my bailiff know when you're ready to go.

25 (WHEREUPON, Court stood at recess for a short break.)

1 THE COURT: You can call your next witness.

2 MR. JENNINGS: Plaintiff calls Debbie H.
3 Adkins.

4 THE COURT: If you'll come over to the witness
5 stand, please. Place your left hand on the bible and
6 raise your right hand. Do you swear to tell the truth,
7 whole truth and nothing but the truth?

8 MS. ATKINS: I do.

9 THE COURT: Thank you. Come around and have a
10 seat, please. And if you'll state your full name.

11 MS. ATKINS: Debbie Adkins.

12 DEBBIE ADKINS,

13 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. JENNINGS:

16 Q. Good morning, Ms. Adkins.

17 A. Good morning.

18 Q. Where do you work?

19 A. I work for Real Properties Services at Greenville
20 County.

21 Q. And what is your title?

22 A. Division Manager of Real Property Services.

23 Q. And does Real Property Services maintain tax maps
24 for Greenville County?

25 A. Yes.

1 Q. And does Greenville County Real Property Services
2 assess properties ---

3 A. Yes.

4 Q. --- for property tax purposes?

5 A. Yes, sir.

6 Q. All right. And I'll try to stay as far from you as
7 I can ---

8 A. Thank you.

9 Q. --- because of the coronavirus. But I'm going to
10 show you what was marked Exhibit 9 by Defendant Greenville
11 County. And I would ask you to look at that exhibit and
12 look at tax map number 03000010610 -- I'm sorry -- 100106.
13 And do you see that property on this exhibit?

14 A. Yes, sir.

15 Q. And in the middle of that property, do you see a
16 road?

17 A. I see a cul-de-sac.

18 Q. A cul-de-sac?

19 A. Yes.

20 Q. And according to this document, is that cul-de-sac
21 assessed and taxed by Greenville County?

22 A. There is no map number on there, so, no, it does not
23 get a tax bill.

24 Q. Okay. I have no further questions.

25 THE COURT: Your witness.

1 MR. HOLMES: May it please the Court, Your
2 Honor.

3 CROSS EXAMINATION

4 BY MR. HOLMES:

5 Q. Ms. Adkins, my name is David Holmes. I think we've
6 talked for a bunch of years but we've never ---

7 A. Yes.

8 Q. --- met in person. You assign -- that is, your
9 office assigns tax map numbers to various properties?

10 A. Yes, sir.

11 Q. Okay. And the GIS system gives your office, the
12 general public, and the Court the capability to just click
13 on various features on the map to determine information
14 about them; is that correct?

15 A. That's correct.

16 Q. Have you tried to, if you will, click on what you
17 refer to as a cul-de-sac on Defendant's Exhibit Number 9?

18 A. This particular one?

19 Q. Yes?

20 A. No, sir.

21 Q. Let me hand you Defendant's Exhibit Number 32, which
22 I will represent to you is a screen shot of the Greenville
23 County website. In the upper left hand corner of that
24 exhibit it says no feature is found. Would that be
25 consistent with the county just doesn't have any records

1 about that?

2 A. That would be; yes.

3 (WHEREUPON, Defendant Exhibit Number 32 was admitted
4 into evidence.)

5 Q. Okay. And then let me hand you what's been marked
6 as Defendant's Exhibit Number 31. And I will represent to
7 you that on that exhibit if you click on what's called
8 Cornerstone Court -- do you see that on there?

9 A. Yes, sir.

10 Q. With the red line through it. And it comes up with
11 a road number of SV. Can you tell the Court what a road
12 numbered SV would mean?

13 A. I can guess, but I don't know.

14 Q. Okay. But is that -- but it's assigned to a
15 government jurisdiction that would be responsible for
16 that?

17 A. Roads are not my specialty.

18 Q. Okay.

19 A. The fact that it has -- comes up with information
20 means that it is in a road inventory somewhere.

21 Q. Okay. All right. And at least the fact that if you
22 click on what has been testified as Maple Court, which is
23 the cul-de-sac and there's no data, would that indicate to
24 your office that it's not in anybody road inventory?

25 A. We do not have it logged in any inventory; that's

1 correct.

2 Q. Okay. And how far back does the GIS system go? The
3 data that's used to compile the current GIS, how old is
4 that data or how far does it go back?

5 A. The data goes back as old as the records to when we
6 converted records from the 1950s into the GIS.

7 Q. Okay. So if there is no data, it would indicate
8 that at least since the county's had data, the cul-de-sac
9 which is referred to on Defendant's Exhibit Number 9 has
10 not been in anybody's road inventory since data was being
11 kept; is that correct?

12 A. That is true.

13 MR. HOLMES: Your Honor, I don't have any
14 other questions of this witness.

15 (WHEREUPON, Defendant Exhibit Number 31 was admitted
16 into evidence.)

17 MR. NICHOLSON: Very quickly, Your Honor.

18 CROSS EXAMINATION

19 BY MR. NICHOLSON:

20 Q. Let me hand you what's been marked as Defendant's
21 Exhibit 7. Does this -- looking on the bottom left hand
22 corner, does this appear to be the same tax map number as
23 what we saw on Defendant's Exhibit 9?

24 A. Yes.

25 Q. Okay.

1 THE COURT: I'm sorry. What's the exhibit
2 number?

3 MR. NICHOLSON: 7.

4 THE COURT: Thank you.

5 MR. NICHOLSON: And I just cross-referenced it
6 to Defendant's 9, Your Honor.

7 Q. And so this is a tax bill for Defendant's Exhibit --
8 for that same tax number we see on Defendant's Exhibit 9;
9 correct?

10 A. That is correct.

11 Q. And just -- and so we've got an allocation here of
12 tax money. Do you see that?

13 A. Yes.

14 Q. Okay. We've got arena debt service, art museum,
15 Greenville Tech, library, Greenville County, Simpsonville
16 City tax, Greenville school district?

17 A. Correct.

18 Q. Okay. What would be -- would this property be
19 within the city limits of Simpsonville?

20 A. It is being taxed in the city limits of
21 Simpsonville; yes.

22 Q. Okay.

23 MR. NICHOLSON: I don't have anything else,
24 Judge. Thank you.

25 (WHEREUPON, Defendant Exhibit Number 7 was admitted

1 into evidence.)

2 EXAMINATION

3 BY THE COURT:

4 Q. Based on your experience, and you and I have both
5 been around a couple of years ---

6 A. Little while.

7 THE COURT: I'm fine if any of y'all object to
8 this question. I don't normally ask questions.

9 Q. But based on your experience, do you have an opinion
10 as to who owns this cul-de-sac?

11 MR. NICHOLSON: I would say she's not an
12 expert in real estate, Your Honor. But she can answer the
13 question.

14 A. I don't have a ---

15 THE COURT: Is your sitting objection an
16 objection?

17 MR. NICHOLSON: Your Honor, I would just say
18 she's not a -- she's certainly an expert in tax
19 assessment. I don't know that she's an assessment in real
20 estate law.

21 THE COURT: That's why I was asking her a very
22 qualified question.

23 MR. NICHOLSON: Well, Your Honor, the
24 Plaintiff called her to demonstrate that this road was not
25 taxed, which, of course, is one of the major factors in

1 determining whether a road has been accepted by a public
2 entity. So she testified about that. If the Court is
3 curious, I would object as to ---

4 THE COURT: I will properly withdraw the
5 question.

6 Mr. Holmes, I'm sure you would have added in on the
7 objection ---

8 MR. HOLMES: I would have, Judge, but I'm
9 being silent.

10 THE COURT: Ms. Adkins, I guess it'll be a
11 decision for another day. But thank you so much for
12 coming.

13 Any other questions for Ms. Adkins?

14 MR. NICHOLSON: No, sir.

15 REDIRECT EXAMINATION

16 BY MR. JENNINGS:

17 Q. Ms. Adkins, you don't determine -- well, let me
18 restate that. You determine what property is assessed; is
19 that correct? And taxed? Or your office does?

20 A. That is a true statement. Can I add a however? And
21 the however is we gather our information from recorded
22 plats. So if it is a road that's dedicated or easements
23 or private drives, we make the determination whether it is
24 or isn't ---

25 Q. All right.

1 A. --- from recorded plats.

2 Q. Thank you.

3 THE COURT: All right. Anything else?

4 MR. JENNINGS: Nothing, Your Honor.

5 THE COURT: I appreciate you coming over.

6 All right, Mr. Jennings, any other witnesses?

7 MR. JENNINGS: No further witnesses, Your
8 Honor.

9 THE COURT: All right. Who's going to go next
10 then? Mr. Holmes?

11 MR. JENNINGS: Ms. Adkins is free to go, Your
12 Honor; correct?

13 THE COURT: You're free to go. Yes, ma'am.

14 MR. HOLMES: I think the county was going to
15 go next, Judge.

16 MR. NICHOLSON: I know we're non-jury and
17 everything, but to parrot what Mr. Holmes did at the start
18 of the trial, I would like to just reserve any of my
19 motions. I'm happy to speak to them now ---

20 THE COURT: That's fine. You're protected on
21 the record.

22 MR. JENNINGS: Your Honor, housekeeping matter
23 just before, then. Is the Court treating all of these
24 exhibits as admitted or do I need to move those into
25 evidence formally?

1 THE COURT: It is my intention that unless
2 there was a specific objection, anything that's been
3 identified and discussed and has an exhibit sticker on it
4 has now been introduced.

5 MR. NICHOLSON: All right. Thank you.

6 MR. HOLMES: That is my understanding.

7 MR. NICHOLSON: For the county, as well, Your
8 Honor. Thank you.

9 THE COURT: All right.

10 MR. HOLMES: Your Honor, normally this is the
11 time to make a motion for a directed verdict on the basis
12 -- and if you want me to reserve that, I just want it to
13 be noted on the record.

14 THE COURT: And I'll take it as an involuntary
15 non-suit and I'll deny the motion. You're protected on
16 the record.

17 MR. NICHOLSON: That's what I meant, Judge.

18 THE COURT: I will be consistent in my
19 ruling.

20 MR. NICHOLSON: Yes. Thank you.

21 THE COURT: All right. Thank you.

22 MR. NICHOLSON: May it please the Court, Your
23 Honor, I call Ki sha Gamble to the stand.

24 THE COURT: If you'll place your left hand on
25 the bible and raise your right hand. Do you swear to tell

1 the truth, whole truth and nothing but the truth?

2 MS. GAMBLE: Yes, sir.

3 THE COURT: All right. If you'll come around
4 and have a seat, please. And if you'll state your full
5 name.

6 MS. GAMBLE: Ki sha Gamble.

7 KISHA GAMBLE,

8 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. NICHOLSON:

11 Q. Ms. Gamble, good morning. How are you?

12 A. I'm great.

13 Q. You feel okay this morning?

14 A. Yes.

15 Q. Great. Ms. Gamble, where are you employed?

16 A. Greenville County.

17 Q. And what's your title?

18 A. County engineer.

19 Q. How long have you been the county engineer?

20 A. Thirteen years.

21 Q. How long have you been with Greenville County?

22 A. Eighteen years.

23 Q. What did you do before you were a county engineer?

24 A. I was the county's traffic engineer.

25 Q. Okay. Let's back up just a little bit more. Are

- 1 you a licensed engineer?
- 2 A. Yes. I'm a licensed professional engineer.
- 3 Q. Okay. Do you hold any other engineering or other
4 professional titles?
- 5 A. Yes, sir. I'm also a professional traffic
6 operations engineer.
- 7 Q. Okay. Where did you receive your educational
8 training?
- 9 A. Clemson University.
- 10 Q. Okay. And your degree is in what?
- 11 A. I have a bachelor's and master's degree in civil
12 engineering.
- 13 Q. Okay. Can you describe -- well, first of all
14 describe your duties when you were traffic engineer. What
15 did you do as a traffic engineer with Greenville County?
- 16 A. As traffic engineer I was responsible for any
17 traffic related issues on county roads, including signage,
18 traffic studies, any type of requests from citizens for
19 speed humps, traffic counts, coordination with other
20 agencies on traffic-related issues.
- 21 Q. As being a traffic engineer was part of your duties
22 to know what was in the inventory, so to speak, of the
23 Greenville County road system?
- 24 A. Yes, sir.
- 25 Q. Okay. Tell me about your duties as the -- now

1 you've been county engineer for the last thirteen years?

2 A. Yes.

3 Q. Tell me about your duties there?

4 A. As the county engineer I'm responsible for the
5 maintenance of the county roads.

6 Q. Okay. And as part of being a county engineer, is
7 part of your job, part of your duties, to be knowledgeable
8 of the roads that Greenville County is required to
9 maintain?

10 A. Yes, sir.

11 Q. Okay. Does that include those roads that have been
12 accepted by Greenville County?

13 A. Yes, sir.

14 Q. Okay. Now, we're here talking about -- obviously
15 we're talking about what the Plaintiff calls a road, but a
16 parcel of property that's known as Maple Court. Are you
17 aware of that?

18 A. Yes.

19 Q. Did you perform an investigation with respect to
20 Maple Court?

21 A. Yes.

22 Q. What did you do?

23 A. I checked our county's road files, which is a hard
24 system of files for each road that has been accepted into
25 Greenville County's maintenance.

1 Q. Okay. And what did you find?

2 A. There's no record of this road.

3 Q. Okay. Did you find any evidence where Greenville
4 County had ever maintained an area known as Maple Court?

5 A. No, sir.

6 Q. Okay.

7 MR. NICHOLSON: Your Honor, may I see some of
8 those pictures?

9 THE COURT: Which ones do you want, Mr.
10 Nicholson? There are a bunch of them.

11 MR. NICHOLSON: Why don't I just take all of
12 -- can I just take all of them?

13 THE COURT: Yes, sir.

14 MR. NICHOLSON: Thank you, Judge.

15 THE COURT: Yes, sir.

16 Q. While I'm going through these pictures, we saw a --
17 we saw a picture that said no trespassing. Remember
18 that?

19 A. Yes.

20 Q. Is it your understanding that a public road will
21 contain a no trespassing sign?

22 A. No, sir.

23 Q. Okay. Let me show you Defendant's Exhibit 15.

24 MR. NICHOLSON: Your Honor, for the record,
25 this is the back of a stop sign that I think has been -- I

1 know has been identified as a stop sign that's at the
2 entrance to the apartment complex.

3 Q. Ms. Gamble, Defendant's Exhibit 15 is the back of a
4 stop sign; correct?

5 A. Yes, sir.

6 Q. Now, do you see any stickers or anything on the back
7 of that sign?

8 A. No, sir.

9 Q. What does that indicate to you?

10 A. That indicates that it is a privately owned sign.

11 Q. Why is that?

12 A. All signs that are installed by a government entity
13 have a sticker on the back showing ownership and when the
14 sign was installed.

15 Q. Does Greenville County do that?

16 A. Yes, sir.

17 Q. Okay. Ms. Gamble, we've also looked at pictures
18 today -- well, here's one. Let's look at Defendant's 15
19 again. Mr. Holmes went over this earlier, but we see some
20 cars that are parked right here. Do you see that?

21 A. Yes, sir.

22 Q. Are there any issues -- if this were a county road
23 -- now, we don't agree this is a county road. But if this
24 were a county road, would there be any issue with cars
25 parked the way they are now?

1 A. Yes, sir.

2 Q. Can you explain that to the Court?

3 A. With regards to county's ordinances, parking lots
4 are not allowed to adjoin roads in such manner. Cars are
5 not allowed to enter and back into roads in such a manner.

6 Q. I'm going to show you a couple of other pictures
7 that have been entered into evidence. These are
8 Defendant's 24 and Defendant's 21. I think Mr. Holmes
9 called them a speed hump. What do you call them?

10 A. Those are speed bumps.

11 MR. NICHOLSON: We all have our areas of
12 expertise, Mr. Holmes.

13 Q. And does the county -- what does the county do with
14 -- does the county install speed bumps on its public
15 roads?

16 A. No, sir.

17 Q. Explain that a little bit to the Court for me?

18 A. Speed bumps are something that you will find in
19 parking lots or on private property. Those are not
20 appropriate for public roads. Speed humps are what would
21 be appropriate for public roads, which are larger than
22 what you see there.

23 Q. Okay. A little bit wider, broader?

24 A. Yes, sir. Very much wider and broader.

25 Q. Okay. The road that runs -- I think you all

1 established it runs adjacent to the apartment complex is
2 North Maple Street?

3 A. Yes.

4 Q. Do you know which entity maintains North Maple
5 Street?

6 A. South Carolina Department of Transportation.

7 Q. Okay. Let me show you what's been marked as
8 Defendant's Exhibit 14.

9 THE COURT: Defendant's 14?

10 MR. NICHOLSON: 14; yes, sir.

11 THE COURT: Just for the record, because we
12 have two Defendants, does each -- does a county exhibit
13 need to be designated a county exhibit versus a city
14 exhibit?

15 MR. HOLMES: It does not from the city's point
16 of view.

17 MR. NICHOLSON: From our standpoint it doesn't
18 matter. I mean I've been using a lot of Mr. Holmes's
19 exhibits that he entered and I think he used a couple of
20 mine.

21 THE COURT: I just wanted that clear on the
22 record. Thank you.

23 MR. NICHOLSON: Thank you, Judge.

24 Q. What is this, Ms. Gamble?

25 A. This appears to be a brochure that's produced by my

1 department.

2 Q. Okay. And flip to the second page. Do you see
3 where it says about us?

4 A. Yes.

5 Q. And just read that paragraph.

6 A. The Engineering and Maintenance Division maintains
7 over seven thousand roads within Greenville County with
8 the exception of highways maintained by the SCDOT and
9 roads within city limits maintained by the respective
10 municipality. This represents appropriate seventeen
11 hundred miles of roads.

12 (WHEREUPON, Defendant Exhibit Number 14 was admitted
13 into evidence.)

14 Q. Okay. As a part of your job as county engineer, I
15 guess as traffic engineer, too, when you started off, is
16 it and was it a part of your job to be able to discern
17 what's a county road versus what's an SCDOT road, versus
18 what's a road of a municipality?

19 A. Yes, sir.

20 Q. Okay. And I believe you already testified that
21 North Maple Street is a SCDOT road; correct?

22 A. Yes.

23 Q. On Defendant's Exhibit 9 here, it states city of
24 Simpsonville on the GIS map on the property -- or the tax
25 map property lists it in the right hand corner there of

1 Mr. Rogozinski. Is that your understanding?

2 A. Yes.

3 Q. So it's your understanding this property is within
4 the city of Simpsonville?

5 A. That's correct.

6 Q. Okay.

7 MR. NICHOLSON: May I have one moment, Your
8 Honor?

9 THE COURT: Yes, sir.

10 MR. NICHOLSON: Thank you.

11 Your Honor, thank you very much. That's all the
12 questions I have.

13 Thank you, Ms. Gamble. Answer any questions that
14 counsel may have of you.

15 THE COURT: Mr. Holmes.

16 MR. HOLMES: Did you say something?

17 THE COURT: Yes, sir. Your witness.

18 MR. HOLMES: May it please the Court, Your
19 Honor.

20 CROSS EXAMINATION

21 BY MR. HOLMES:

22 Q. Ms. Campbell, my name is -- Gamble, my name is David
23 Holmes. I think you know who I am. And the county is a
24 county government that is governed by twelve elected
25 individuals; is that correct?

1 A. Yes, sir.

2 Q. And annually do those twelve individuals adopt a
3 budget currently?

4 A. Bi-annually.

5 Q. Bi-annually. In Greenville County they adopt a
6 budget every two years instead of every year?

7 A. Correct.

8 Q. Is part of that budget the maintenance of roads and
9 bridges in Greenville County?

10 A. Yes, sir.

11 Q. And based on that budget, taxes are levied and then
12 charged to Greenville County taxpayers to fund the
13 maintenance of roads and bridges; is that correct?

14 A. Yes, sir.

15 Q. And the county has a road maintenance program where
16 roads are inventoried?

17 A. Yes.

18 Q. And they're rated for repair?

19 A. Yes.

20 Q. Okay. And has that been a process that's been
21 ongoing for a number of years?

22 A. Yes, sir.

23 Q. Do you know what the Greenville Legislative
24 Delegation Transportation Committee is?

25 A. Yes, sir.

1 Q. What is it?

2 A. It is a committee that oversees money from state gas
3 tax to perform various road projects.

4 Q. Okay. The General Assembly has passed legislation
5 that puts taxes on each gallon of gas we buy at the pump;
6 is that correct?

7 A. Yes, sir.

8 Q. And some of that comes back to Greenville County; is
9 that correct?

10 A. Yes, sir.

11 Q. And I believe the counties and the cities
12 participate in those funds to do road maintenance; is that
13 correct?

14 A. Yes, sir.

15 Q. And are you familiar with what's called the
16 Municipal Match Program?

17 A. Yes, sir.

18 Q. Can you tell the Court what that is?

19 A. It is a program that the Committee uses to match gas
20 tax dollars with money from the county and the
21 municipalities to perform resurfacing.

22 Q. And are you familiar that they set aside -- that is
23 the -- we call it the CTC; is that correct?

24 A. Yes, sir.

25 Q. Okay. They set aside a certain amount of their

1 funds every year for the county and all municipalities
2 participate in; is that correct?

3 A. Yes, sir.

4 Q. Do you know if the city of Simpsonville participates
5 in that?

6 A. Yes, sir.

7 Q. And Greenville County participates; is that
8 correct?

9 A. Yes.

10 Q. And I believe Greenville County has gotten as much
11 as four million dollars in a year to match to do road
12 maintenance; is that correct?

13 A. Yes, sir.

14 Q. Now, can you tell the Court just briefly what the
15 process is to determine which roads will receive paving
16 funds for maintenance?

17 A. The process that CTC uses or the process that the
18 county uses?

19 Q. Are they not similar?

20 A. Different.

21 Q. Okay. Tell me what the county uses?

22 A. The county, every four years we have our roads
23 evaluated. Each road is given a value from zero to one
24 hundred; zero being worse and one hundred being best. So
25 just like school. And from there that is how we determine

1 which roads need to be paved each year. That road list is
2 submitted to CTC with our request for funding. And then
3 CTC funds -- they have their own process of how they
4 determine how much funding each entity gets. It's a
5 percentage, a formula. Obviously Greenville County has
6 the most roads of anybody, so we get the largest
7 percentage of that. So based on the money that is given,
8 plus our matches, we're able to pay for the resurfacing of
9 those roads that we have selected.

10 Q. And to make the process more complicated, there are
11 House of Representative Districts in Greenville County,
12 and is there a process to distribute that money based on
13 house districts?

14 A. Yes. From the county's standpoint, we distribute it
15 county-wide using the council districts. For the CTC's
16 standpoint, they make sure that each house district is
17 represented.

18 Q. Okay. And -- but that process has been going on for
19 how many years now?

20 A. As far as I can remember.

21 Q. Okay. A very long time?

22 A. Very long time.

23 Q. Okay. Now, let's just assume for the sake of my
24 question that what has been called Maple Court were in a
25 public road inventory. Where would it fit on a list to be

1 repaired?

2 A. If it were in a public inventory, it would
3 definitely qualify for paving.

4 Q. It would qualify?

5 A. Yes.

6 Q. Yeah, but I'm talking about -- you testified you
7 prioritize them.

8 A. Oh, you mean like what number value?

9 Q. Yeah, like where would it be on that list to be
10 paved?

11 A. Probably fifties.

12 Q. Okay. And what would that represent in terms of
13 years?

14 A. You mean like how old?

15 Q. Let me back up. You're familiar with GPATS?

16 A. Yes.

17 Q. Tell the Judge what GPATS is?

18 A. GPATS is the Greenville-Pickens Area Transportation
19 Study. It's a regional transportation agency that
20 oversees the regional projects.

21 Q. And do they also take a look at road maintenance
22 projects as part of their job?

23 A. Not typically.

24 Q. Okay. Where Greenville County is concerned would
25 this be on a road paving list, that is Maple Court be on a

1 road paving list for next year?

2 A. Do you mean if it was a county road?

3 Q. Yes.

4 A. It's possible.

5 Q. It's possible. Okay. Now, you, that is your
6 department of the Public Works of the County of
7 Greenville, have anything to say about the amount of money
8 or is that up to the twelve members of county council to
9 decide how much money you get?

10 A. It's up to council.

11 Q. Okay. And even -- and they base their decisions on
12 what roads to pave based on the priority list and the
13 available money; is that correct?

14 A. Yes.

15 Q. Okay. Now, are you familiar with the county's GIS
16 system?

17 A. Yes, sir.

18 Q. Okay. Have you clicked on or looked up what has
19 been identified as Maple Court to determine whether or not
20 if there's any data at all involved in that?

21 A. Yes, sir, as a part of my research.

22 Q. Okay. And were you able to find any data about it?

23 A. No, sir.

24 Q. All right. I'm going to show you what has been
25 marked as Plaintiff's Exhibit Number 1 which is a plat

1 that has on it marked Maple Court. Based on your
2 experience with the county, would that have been a plat
3 that would have been prepared prior to any development
4 taking place?

5 A. Yes.

6 Q. There are no buildings and no streets; is that
7 correct?

8 A. Correct.

9 Q. Okay. And so the county subdivision would have
10 approved it based on what they understood was going to be
11 built on the property?

12 A. That's correct.

13 Q. Okay. Have you been to the property?

14 A. Yes.

15 Q. All right. Is what is built on the property, does
16 it align with that plat?

17 A. Generally speaking.

18 Q. Okay. There is one lot with three buildings on it?

19 A. Yes.

20 Q. Okay. And would private facilities like a mailing
21 kiosk, a dumpster, a sign that says no trespassing, and a
22 landscaped island be permitted inside the public right-of-
23 way?

24 A. No, sir.

25 Q. Okay. Would that have been a reason why Greenville

1 County would not actually accept it into their system
2 because what was built is not what was shown on the
3 original plan?

4 A. Yes, sir.

5 Q. Okay. And the original plan that called out for a
6 public road, that would be reflected on the GIS system
7 because that's a publicly recorded document; is that
8 correct?

9 A. Yes, sir.

10 Q. Okay. But that's not an indication that the county
11 has agreed to accept it, repair it and maintain it?

12 A. No.

13 Q. Okay. When does the decision to accept it, repair
14 it and maintain it, when is that decision made visa vie a
15 piece of property being developed?

16 A. If a property is being developed from scratch, once
17 the property is platted, the design engineer and/or
18 developer will have to present documents that indicate
19 that the road was built to county standards and then it
20 would be accepted for maintenance.

21 Q. And of course would have to align with what's shown
22 on the plat that had been accepted for recording; is that
23 correct?

24 A. Yes. The plat has to reflect certain things, as
25 well.

1 Q. Okay. And what's on the ground, is it the same or
2 different than what's shown on the plat that's recorded?

3 A. Slightly different. There are some differences.

4 Q. All right. Based on your training and experience
5 with the county, would the county have ever agreed to
6 accept what's called Maple Court?

7 A. No.

8 Q. Okay. Now, the GIS map itself has a disclaimer
9 saying it is not a survey; is that correct?

10 A. That's correct.

11 Q. Okay. And is that simply because there's some
12 public records that the county tries to just superimpose
13 some lines on a photograph?

14 A. That's correct.

15 Q. All right. And so the county is clear that you
16 can't rely on the GIS map as a survey to tell what's what;
17 is that correct?

18 A. That's correct.

19 Q. Does the county make efforts to make it as accurate
20 as it can?

21 A. Absolutely.

22 Q. Okay. Now, you've been in the courtroom and there's
23 been some testimony about having to fix some potholes or
24 something at the intersection of what's been called Maple
25 Court and North Maple Street; is that correct?

1 A. That's correct.

2 Q. Okay. If the GIS map is correct, would it show that
3 that area of repair is likely an SCDOT right-of-way?

4 A. It's possible. It appears to be.

5 Q. Without a survey and an engineer's drawing showing
6 conditions that actually exist on the ground, would there
7 be any way to determine where or what Maple Court would
8 have to consist of?

9 A. Not really, no.

10 Q. Okay.

11 MR. HOLMES: Your Honor, I don't have any
12 other questions of this witness.

13 THE COURT: All right, your witness.

14 CROSS EXAMINATION

15 BY MR. JENNINGS:

16 Q. So, Ms. Gamble, if that area of disrepair and
17 potholes and problems with Maple Court is within the
18 county or the city of Simpsonville's duty to maintain, if
19 Maple Court is in fact a public road, would the county be
20 willing to make those repairs?

21 A. Can you repeat that? I didn't hear the first part
22 of that.

23 Q. Okay. Mr. Holmes asked you if near the intersection
24 of Maple Court and North Maple Street, in that area where
25 there are potholes and gravel and a general area of

1 disrepair would the county be willing to repair that if in
2 fact that is part of Maple Court and that public road to
3 be maintained by the city of Simpsonville and/or the
4 county of Greenville instead of being in North Maple
5 Street right-of-way, which I understand, and you testified
6 is maintained by the state?

7 A. If it's a county road, then yes, the county would
8 maintain it.

9 Q. Okay. You understand my client is not asking the
10 county to pave the entire road of Maple Court; don't you?

11 A. Yes, sir.

12 Q. Okay. Now, could you walk us through the steps of
13 having a road dedicated and accepted by the county?

14 A. Generally speaking. I don't have my land
15 development regulations in front of me. There are a lot
16 of steps. But generally speaking there's the two
17 different processes. If it's a road that is not -- has
18 not been built and is being developed that has a separate
19 process from a road that has already been built and then
20 wanting to be accepted as a county road.

21 Q. All right. If it -- what would be the process for a
22 road which has not been built and needs to be dedicated
23 and accepted by the county?

24 A. Okay. The first step would be for it to be designed
25 by a licensed professional engineer -- well, surveyed and

1 then designed by a licensed professional engineer ---

2 THE COURT: And I hate to interrupt, but are
3 we talking about the current process or the process at the
4 time back in 1974 because obviously that may be a
5 significant difference.

6 MR. JENNINGS: Thank you, Your Honor.

7 Q. Do you know what the process would be in 1974 for
8 the dedication and acceptance of a public road by the
9 county?

10 A. No, sir.

11 Q. All right. Do you understand that a formal
12 acceptance by a public authority is necessary to show
13 public acceptance of a public road?

14 A. Yes.

15 Q. Do you understand that acceptance of a public road
16 may be implied by the public or a public authority
17 continuously using or repairing the property?

18 A. Possible.

19 Q. Okay. Do you understand that acceptance and
20 dedication may be demonstrated by governmental authority
21 not accessing taxes on the land?

22 A. No, sir.

23 Q. Does the county ever make mistakes?

24 A. Everyone makes mistakes.

25 Q. Okay. Did the county place stickers on the back of

- 1 stop signs in 1974?
- 2 A. Yes, sir.
- 3 Q. How long do those stickers last?
- 4 A. Until they're removed. The sign usually outlast the
5 stickers. It's not like a -- it's a permanent sticker.
- 6 Q. Do you think a sticker would last forty-six years?
- 7 A. Possibly.
- 8 Q. If residents of an apartment complex could back into
9 a three-point turn to enter upon a public road with the
10 front of their car first rather than backing into the
11 public road, would that be acceptable?
- 12 A. Are you talking about this particular location or
13 generally speaking?
- 14 Q. Both.
- 15 A. Generally speaking, this particular location has
16 other issues with that maneuver. The asphalt can't be
17 continuous and contiguous.
- 18 Q. But if residents of an apartment complex can back up
19 and turn on their own private property and then enter the
20 public road -- and forgive me, I don't know what the best
21 term would be -- but face forward, front of the car first,
22 would that be acceptable to the county?
- 23 A. As long as the asphalt is removed.
- 24 Q. As long as the asset is what?
- 25 A. The asphalt must be removed. A driveway -- a

1 singular driveway must be created.

2 Q. Okay.

3 A. A single access point.

4 Q. Now, in the 1970s, you don't know what the county's
5 policy on speed bumps versus speed humps was; do you?

6 A. There was no policy in the 1970s.

7 Q. Okay.

8 A. There was no -- there were no speed hump, there was
9 no traffic under the policy, but speed bumps are not
10 something that is allowed, period.

11 Q. But you don't know what the policy was in the
12 1970s?

13 A. I do. They did not exist.

14 Q. If I told you I grew up on Country Club Drive in
15 Greenville, South Carolina, and my mother persuaded the
16 city and/or county to place a speed bump on Country Club
17 Drive, are you telling me that wouldn't be possible?

18 A. I can't tell you what's possible. I can tell you if
19 it probably existed or not. It did not.

20 Q. There was no policy; is that right?

21 A. That's correct.

22 Q. Okay. Now, if you wanted to dedicate a public road,
23 a private owner wanted to dedicate something to a private
24 road, you would want to show that on a plat; wouldn't
25 you?

1 A. Sure. Yes, sir. It's not up here.

2 MR. JENNINGS: Does Your Honor have
3 Plaintiff's Exhibit 1?

4 THE COURT: Yes, sir.

5 MR. JENNINGS: And 2 would be helpful, please,
6 sir.

7 Q. I'd like to show you the plat marked Plaintiff's
8 Exhibit 1. And do you see that plat?

9 A. Yes, sir.

10 Q. All right. Do you see a road on that plat?

11 A. I see Maple Court.

12 Q. You see Maple Court. And do you see lots that have
13 been subdivided into one, two, three, four and five?

14 A. Yes, sir.

15 Q. Okay. And do you see on that plat a certificate of
16 ownership and dedication?

17 A. Yes, sir.

18 Q. Is that what an owner should do to try to dedicate a
19 road?

20 A. That's one of many steps.

21 Q. Do you see a certificate of accuracy?

22 A. Yes.

23 Q. And then finally, do you see a certificate of
24 approval for a recording signed by the Greenville County
25 Planning Commission?

1 A. Yes, sir.

2 Q. And are all those the proper steps to take to
3 dedicate a road?

4 A. Those are some of the steps.

5 Q. Okay. And I'm going to show you what's marked
6 Plaintiff's Exhibit 2, a Statement of Ownership and
7 Consent to Dedicate Streets and Roads to Greenville County
8 for Public Use. Is that a good idea to file to show that
9 a road is being dedicated?

10 A. Yes, sir. That's another one of the steps.

11 Q. And do you see where the county attorney signed that
12 document, Mr. E. P. Riley?

13 A. Yes, sir.

14 Q. And do you see on this document that the roads and
15 streets shown on Maple Court plat in plat book 4X at page
16 17 were dedicated to the general public and to Greenville
17 County for the use and control of the streets and roads
18 shown on said plat of property? And I'll show you that
19 paragraph. Do you see that?

20 A. You're talking about right here? Yes.

21 Q. Okay. And even if the public did not -- or the
22 county did not formally accept Maple Court into its
23 inventory, either by mistake or because they just didn't
24 formally accept it, you understand that no formal
25 acceptance by a public authority is necessary to show

1 acceptance of a road?

2 A. I disagree.

3 Q. You disagree with our Supreme Court?

4 MR. HOLMES: Your Honor, he's asking her a
5 legal question.

6 THE COURT: I sustain the objection.

7 MS. GAMBLE: I'm not a lawyer. You asked my
8 opinion.

9 MR. JENNINGS: No further questions.

10 MR. NICHOLSON: Very quickly.

11 THE COURT: All right. I'm going to ask you a
12 couple of questions.

13 EXAMINATION

14 BY THE COURT:

15 Q. First, thanks for being over here.

16 A. No problem.

17 Q. And I want to follow up with a couple of questions
18 that the attorneys have asked. Look back at Plaintiff's
19 1. All right. This was recorded in the Greenville County
20 Register of Deeds Office back in I believe 1974?

21 A. Yes, sir.

22 Q. And it clearly shows Certificate of Ownership and
23 Dedication up on the right top and then down halfway
24 through on the right hand side, it says Certificate of
25 Approval for Recording, and it was signed by, appears to

1 be Coleman Shouse, Director of Greenville County Planning
2 Commission.

3 A. Yes, sir.

4 Q. If this had not been accepted by Greenville County,
5 why would it have been approved for recording?

6 A. Recording is one of the steps in the process, but
7 that's not the final -- final step.

8 Q. But wouldn't this kind of give notice to the world
9 that, hey, the appropriate governmental authority,
10 Greenville County, they've seen it, they've approved it,
11 recorded it?

12 A. Yes, it could. Yeah. We find all sorts of ---

13 Q. And I really do understand back then was a different
14 day?

15 A. Exactly.

16 Q. Now, look at Plaintiff's 2 with me.

17 A. Uh-huh (affirmative).

18 Q. Where it says Statement of Ownership and Consent to
19 Dedicate Streets. And it's signed by John Owens, who at
20 that point was a well respected member of the Greenville
21 County staff.

22 A. Yeah.

23 Q. And also by the loved and beloved E. P. Riley, the
24 County Attorney.

25 A. Uh-huh (affirmative).

1 Q. And this is recorded?

2 A. Yes.

3 Q. So these two documents were public records since the
4 mid seventies?

5 A. Uh-huh (affirmative).

6 Q. Why would they not, taken together, indicate that
7 the county, rightfully or wrongfully, following the
8 process or not following the process, approved them and
9 accepted them?

10 A. I really can't answer that. A lot of possible
11 explanations. But there have been roads in the past where
12 there have been dedications but it was never formally
13 accepted by county for one reason or another.

14 Q. All right. But would the signing by the county
15 attorney and by the Chairman of the Greenville County
16 Planning Commission not be some manifestation of
17 acceptance?

18 A. It would be certainly a step along the way in the
19 process; yeah.

20 Q. Okay. Now, let me ask you -- let's change gears a
21 little bit.

22 A. Sure.

23 Q. And on the plat is Defendant's 6 -- you've got it up
24 in front of you.

25 A. 6? Oh, yeah, uh-huh (affirmative).

1 Q. Okay. Help me understand what you were talking
2 about where it says you can't back out into a public
3 roadway? And you mentioned something about it would have
4 to be a dedicated single driveway?

5 A. Right.

6 Q. You lost me a little bit there. You're talking over
7 my head when you start engineering stuff.

8 A. Oh, it's not that bad. So you see how that's all
9 asphalt there and the parking, and then the road is all
10 asphalt. So you can't have all that contiguous area --
11 they can't just back into the road. You're not allowed.
12 So ---

13 Q. Is it even more narrow on the other side?

14 A. I think it's about the same.

15 Q. Okay. Because I'm looking at Plaintiff's 6, which
16 you have. I think you've got a copy of it there. It's
17 the one that's got the ---

18 A. Oh, I've got ---

19 Q. No, that's Defendant's.

20 A. Oh, Defendant's.

21 Q. Look at Defendant's 9 right in front of you. I
22 think they've got the same ---

23 A. Oh, okay. Yeah. Okay. So instead of all of that
24 you would need to remove most of the asphalt and just make
25 a singular driveway like about twenty-four feet wide that

1 then once it gets outside of the right-of-way, then you
2 can widen into your private property area.

3 Q. All right. And let me ask you again, we're talking
4 hypothetically here.

5 A. Yes.

6 Q. And the lawyers don't like it when judges ask
7 questions, and I understand that. Any time I tell you I
8 don't normally ask questions, the immediate thought is,
9 well, he must ask a lot of questions. Is this situation
10 -- if in fact it is decided that this is a public road, is
11 the landowner then bridled with, if you will, if you're
12 in, you're all in. You can't say, well, I want to be in
13 so you fix this little area, but you don't make me comply
14 with everything else. Is it all or nothing ---

15 A. Yes.

16 Q. --- from the landowner's standpoint?

17 A. It's all or nothing because we're maintaining the
18 road where -- maintaining the entire road.

19 Q. Okay. This is probably my last question. Assume,
20 purely hypothetically, that at some point Maple Court was
21 dedicated to Greenville County.

22 A. Uh-huh (affirmative).

23 Q. And then some years later the city of Simpsonville
24 annexes that area. Who would then be responsible for
25 maintenance if there had been a determination or if there

1 was a determination that Maple Court was sufficiently
2 dedicated to Greenville County? Is it still Greenville
3 County's responsibility or does Greenville County come
4 along and say, whew, city of Simpsonville, thank you,
5 you've got all this, you deal with it.

6 A. It would belong to the city of Simpsonville.

7 Q. Okay.

8 THE COURT: Now, gentlemen, now that I've
9 sufficiently muddied the water, y'all are welcome to talk
10 to this nice lady some more.

11 MR. NICHOLSON: I won't comment, Judge.

12 THE COURT: I'm okay with it, Mr. Nicholson.

13 REDIRECT EXAMINATION

14 BY MR. NICHOLSON:

15 Q. First of all, Plaintiff's 1 and 2, this is during
16 the sort of pre-development; is that right?

17 A. Yes.

18 Q. Okay. And the -- Mr. Riley, the County Attorney,
19 that's approval -- it says approved as to form?

20 A. Yeah.

21 Q. Okay. To your knowledge, the County Attorney is not
22 going out there and making sure that they're ---

23 A. No.

24 Q. Okay. He's not the Planning ---

25 A. No.

1 Q. I mean he's not the county engineer?

2 A. No.

3 Q. He just looks at the document ---

4 A. Yeah.

5 Q. --- and sees whether it's been notarized properly
6 and etcetera?

7 A. Right.

8 Q. Okay.

9 MR. NICHOLSON: That's all, Judge. Thank you.

10 THE COURT: You can have more time since I
11 spent too much time, Mr. Nicholson.

12 MR. NICHOLSON: I don't like muddy water,
13 Judge. Sometimes if you just ---

14 THE COURT: You're just seeking truth and
15 justice, and I appreciate that.

16 THE COURT: All right, Mr. Holmes.

17 MR. HOLMES: May it please the Court? Just a
18 couple.

19 RE CROSS EXAMINATION

20 BY MR. HOLMES:

21 Q. Judge Simmons asked you about the dedication
22 document and the plat that was recorded.

23 A. Uh-huh (affirmative).

24 Q. Is that correct? And I believe your testimony
25 earlier was that those were done pre-development. That is

1 no road had been paved, no buildings had been built, no
2 landscape island. No nothing; is that correct?

3 A. Yes.

4 Q. Okay. And even in 1974 the decision to take in
5 maintenance of a road would have to have depended on did
6 you do what you said you were going to do?

7 A. Yes.

8 Q. Okay. And now that raises the problems of a parking
9 lot that doesn't have a separate private drive that enters
10 a public road; is that correct?

11 A. Yes.

12 Q. Okay. And then private features built within the
13 public right-of-way?

14 A. Yes.

15 Q. If you take the GIS system, can you actually measure
16 the paved surface of what is the -- called Maple Court?

17 A. Yes.

18 Q. All right. Have you done that?

19 A. No.

20 Q. Okay. Is Maple Court paved fifty feet wide?

21 A. No.

22 Q. And is there a cul-de-sac that has a fifty-foot
23 radius, which means the circle from one side to the other
24 is a hundred feet?

25 A. No.

1 Q. And that is the reason why it would not have ever
2 been accepted?

3 A. Yes.

4 MR. HOLMES: Thank you, Judge.

5 THE COURT: Mr. Jennings, any other questions?

6 MR. JENNINGS: Just a couple, Your Honor.

7 RECROSS EXAMINATION

8 BY MR. JENNINGS:

9 Q. If my mailbox is in the public right-of-way of a
10 road area, the county wouldn't bulldoze it; would they?

11 A. Not a single mailbox, no.

12 Q. And if my client's parking lot adjoins this public
13 road known as Maple Court, and it's been that way for
14 decades and decades and decades, if the Court determines
15 that public -- I'm sorry -- that Maple Court is a public
16 road, the county wouldn't retaliate against my client and
17 then try to shut down his parking lot; would it?

18 A. The county does not retaliate.

19 Q. Okay. And you understand that public roads are not
20 always paved to the very edge of a right-of-way; don't
21 you?

22 A. They're not.

23 Q. Okay. And finally, wouldn't the county engineering
24 or zoning, building enforcements or code enforcements or
25 some division of the county shut down the development of

1 this apartment complex in the roads if it was not in
2 compliance with the proposed development plan?

3 A. I can't speak to that, sir. I wasn't around at that
4 time.

5 Q. What about now?

6 A. Yes. It would not be accepted.

7 Q. Thank you.

8 THE COURT: All right. Thank you, ma'am, you
9 can step down.

10 Any other witnesses, Mr. Nicholson?

11 MR. NICHOLSON: No, sir.

12 THE COURT: All right, Mr. Holmes.

13 MR. HOLMES: Call Diana Gracely to the stand,
14 please.

15 THE COURT: All right. If you'll come around
16 and place your left hand on the bible and raise your right
17 hand. Do you swear to tell the truth, whole truth and
18 nothing but the truth?

19 MS. GRACEY: I do.

20 THE COURT: Thank you. If you'll come around
21 and have a seat, please, ma'am.

22 DIANA GRACEY,

23 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MR. HOLMES:

1 Q. Would you state your full name, please, ma'am?

2 A. Diana Gracely.

3 Q. And are you employed by the city of Simpsonville?

4 A. Yes, sir.

5 Q. And how are you employed by them?

6 A. I'm the City Administrator, appointed by City
7 Council.

8 Q. Okay. And how long have you been with the city of
9 Simpsonville?

10 A. About fourteen -- no, no -- about twenty-six months.

11 Q. Does the city have an annual budget?

12 A. We do.

13 Q. Okay. And it is governed by seven people, a mayor
14 and six council members that are elected; is that
15 correct?

16 A. Yes, sir, that's correct.

17 Q. And annually they adopt a budget?

18 A. We do.

19 Q. I believe you're in the process of adopting an
20 annual budget now; is that correct?

21 A. Yes, sir. We've completed first reading.

22 Q. Okay. And is part of that budget money set aside
23 for the maintenance of roads and streets inside the city
24 limits?

25 A. Yes, sir.

1 Q. Okay. So city council must approve those funds; is
2 that correct?

3 A. Correct.

4 Q. And then once a budget is approved, how do you get
5 the funds to fund that budget?

6 A. Those funds come from a public works fee that go
7 into an enterprise fund and they're -- once the budget is
8 approved and we have a road list that's approved, it goes
9 to the County Transportation Committee for participation
10 in the municipal match program.

11 Q. Okay. Let me ask a better question. The budget of
12 the city of Simpsonville is supported by what? Is it tax
13 dollars?

14 A. Tax dollars; yes.

15 Q. Okay. And based on that budget then the millage is
16 established and tax notices are sent out to city
17 residents; is that correct?

18 A. That's correct.

19 Q. Okay. Now, who actually does the tax billing for
20 the city of Simpsonville?

21 A. Greenville County has that responsibility.

22 Q. All right. So the single exhibit that we've seen as
23 the tax notice includes the city taxes?

24 A. Correct.

25 Q. Okay. And that tax revenue, whether it's what we

1 call the CTC or the city of Simpsonville, is all money
2 that's used and appropriated by the city council?

3 A. Correct.

4 Q. And does the city of Simpsonville have a maintenance
5 schedule for its road system?

6 A. We have an annual paving list that is approved. And
7 we provide that list to the county transportation
8 committee and they do as much of that resurfacing as they
9 can within the budget appropriated.

10 Q. And the city matches whatever they provide?

11 A. Correct. We actually exceed the match because as
12 Ms. Gamble mentioned those monies are appropriated by the
13 CTC by formula. And so we actually put in more dollars
14 than the dollar-for-dollar match required.

15 Q. Okay. So the city council sitting as a legislative
16 body enacts the budget ordinances, then you have the
17 funds, as city administrator, to go do the road
18 maintenance; is that correct?

19 A. That's correct.

20 Q. Okay. Now, let's assume that Maple Court was in the
21 city's road system. I know the city claims it is now.
22 But if it were to be in the road system, where would it
23 come on the priority list to get worked on?

24 A. It's difficult to say because we haven't completed
25 an assessment because our research indicates that it's not

1 in the road system. But I would tell you, based on the
2 usage, it would not rank very high in paving priority. We
3 try to get roads that have through traffic that are in a
4 severe state of disrepair that serve the public purpose
5 greater than Maple Court would, hypothetically.

6 Q. Okay. So the process of scheduling roads for
7 maintenance and repair involves multiple people and a lot
8 of decisions and different matrixes; is that correct?

9 A. That is correct.

10 Q. Okay.

11 MR. HOLMES: Thank you, Judge. I don't have
12 any other questions of this witness.

13 THE COURT: Mr. Nicholson?

14 MR. NICHOLSON: Nothing, Your Honor. Thank
15 you.

16 CROSS EXAMINATION

17 BY MR. JENNINGS:

18 Q. Does the city of Simpsonville patch potholes on
19 roads they're responsible for?

20 A. We do.

21 Q. Okay. Does the city of Simpsonville allow a private
22 citizen to patch potholes?

23 A. On a public street; no, sir.

24 Q. Okay. So you don't blame my client for needing
25 clarity to know whether the city of Simpsonville should

1 patch the potholes on Maple Court; do you?

2 A. Well, we provided that clarity as the city when we
3 indicated to him that it was not a public street. But
4 certainly if he needs additional clarity, no, I wouldn't
5 blame him.

6 Q. Thank you.

7 EXAMINATION

8 BY THE COURT:

9 Q. All right. Ms. Gracely, first, thank you very much
10 for being here. If in fact at some point it had been --
11 Maple Court had been accepted into Greenville County
12 inventory and then the city of Simpsonville at some date
13 later annexes that area, do you have an opinion as to who
14 would be responsible for Maple Court? Purely
15 hypothetically based on the limited question that I just
16 posed to you?

17 A. Generally speaking, because I work in municipal
18 government, I tend to disagree because I think the road
19 still is in Greenville County. So I would maintain that
20 Greenville County would. I know their opinion is
21 different and there's some law that governs that. So Ms.
22 Gamble and I have had differences of opinion on that.

23 Q. So y'all just can't help me out at all.

24 A. I'm sorry for that.

25 Q. No, that's fair. That's fair. Kind of like the

1 federal and the state governments fighting with each other
2 sometimes. But y'all are very nice and y'all ---

3 A. We do it in a very respectful manner, yes, sir.

4 Q. We've lost that, unfortunately on many levels.

5 THE COURT: Any other questions for this nice
6 lady?

7 MR. HOLMES: Not from the city, Your Honor.

8 MR. NICHOLSON: No, sir.

9 THE COURT: Thank you, Ms. Gracely. You can
10 have a seat.

11 All right. Mr. Holmes?

12 MR. HOLMES: No other witnesses, Your Honor.

13 THE COURT: Anything else?

14 MR. JENNINGS: Your Honor, I would like to
15 give just a one and a half minute summation?

16 THE COURT: You know what, number one, there's
17 zero chance a lawyer can do a summation in ninety seconds.
18 But number two, if I don't understand it by now, it's not
19 y'all's fault; it's my fault.

20 But I do want to have a brief chat with the attorneys
21 back in chambers. So if we can do that.

22 Let me before we got back into chambers, to the
23 clients and to the parties here, y'all chose good lawyers.
24 And good lawyers, they know what the laws are. They know
25 how to litigate. They know how to get it ready. They're

1 zealous advocates. And certainly that's happened here.

2 I don't think -- King Solomon, who was so wise in
3 biblical times, I don't think there's a baby to split in
4 this particular instance. So what that means is that one
5 side will say, well, that Simmons is a smart judge, and
6 the other two will say, how did he ever get out of law
7 school? And I understand that. That's the nature of the
8 job. I do appreciate y'all being here. And I know it's
9 an important case to everybody concerned, and I will
10 certainly treat it with utmost respect.

11 But if I could see the attorneys back in chambers.
12 Once we're finished in chambers if y'all will make sure to
13 go through the exhibits with Ms. Hanks, my court reporter,
14 just to make sure everything stays in the court record.

15 (WHEREUPON, Court Exhibit Numbers 1 and 2 were marked
16 for identification after receipt of same on afternoon
17 of the trial, per Judge Simmons.)

18
19 END OF REQUESTED TRANSCRIPT OF TESTIMONY
20
21
22
23
24
25

The undersigned, Danette P. Hanks, Court Reporter, Office of Master in Equity for Greenville County, South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, before The Honorable Charles B. Simmons, Jr., as Master in Equity for Greenville County, South Carolina on the 2nd day of June, 2020.

I do further certify that I am neither of kin, counsel, nor interest to any parties hereto.

October 19, 2020

Danette P. Hanks

Danette P. Hanks, CCR

11

SOUTH CAROLINA }
GREENVILLE COUNTY }

STATEMENT OF OWNERSHIP, AND CONSENT TO DEDICATE STREETS AND ROADS TO GREENVILLE COUNTY FOR PUBLIC USE

I, (or we), the undersigned, do hereby state that I, (or we), am (are) the owner(s) in fee simple of the lands which we have caused to be subdivided, which lands are shown on a plat of said property, the subdivision being named MAPLE COURT, a copy of which plat is on file in the office of the County Planning Commission of Greenville County, and a copy of which upon approval by the County Planning Commission will be recorded in the office of the County Register of Mesne Conveyance.

That we freely offer, grant and dedicate to those who may purchase said property or any part of it, to the general public and to Greenville County the use and control of the streets and roads shown on said plat of property for public use.

The property shown on said plat is not encumbered by a recorded deed of trust or mortgage, or by a judgment rendered by any court, except: NONE

IN TESTIMONY WHEREOF, MAPLE PROPERTIES A PARTNERSHIP By ITS MANAGING PARTNER, Trustee, has hereunto set ITS hand and seal, and the _____ has caused these presents to be signed by its President, attested by its Secretary and has caused its Common Seal to be affixed thereto.

Witness the Grantor's(s) hand(s) and seal(s) this 5 day of December, 1974

Signed, Sealed and Delivered in the presence of:

James T. Miller W Maple Properties a Partnership (SEAL)
John H. Ouwings Jr By Karel E. Grogan (SEAL)

Approved as to form:

E. T. Sibley
County Attorney

STATE OF SOUTH CAROLINA }
COUNTY OF GREENVILLE }

PROBATE

PERSONALLY appeared before me John H. Ouwings Jr who being first duly sworn, deposes and says that (s)he saw the within named MAPLE PROPERTIES A PARTNERSHIP sign, seal and as his act and deed deliver the within Dedication and that (s)he, with J. Thomas Miller By Karel E. Grogan, witnessed the execution thereof.

SWORN to before me this 5th day of December, 1974
Presida A. Ouwings (LS)
Notary Public for South Carolina
My commission expires: November 9, 1981

STATE OF SOUTH CAROLINA }
COUNTY OF GREENVILLE }

RENUNCIATION OF DOWER

I, _____, a Notary Public in and for South Carolina, do hereby certify unto all whom it may concern that Mrs. _____, the wife of the within named _____, did this day appear before me, and, upon being privately and separately examined by me, did declare that she does freely, voluntarily, and without any compulsion, dread, or fear of any person or persons, whosoever, renounce, release, and forever relinquish unto the within named _____ its successors and assigns, all her interest and estate, and also all her right, title, and claim of dower of, in, or to all and singular the premises within mentioned and released.

(SEAL)

Given under my hand and seal, this _____ day of _____, 19____

Notary Public for South Carolina

Filed for registration at 4:19 o'clock P. M., Dec. 5, 1974 and registered in the office of the County Register of Mesne Conveyance of Greenville County, South Carolina in Book 1 Page 193

Fee \$ 5.00 Paid
13921
8-19-77 44-17

By Hannie S. Tankersley
Register of Mesne Conveyance



BAETY O. GROSS, JR.
ATTORNEY AT LAW
P.O. BOX 1135
FOUNTAIN INN, SC 29644

TITLE TO REAL ESTATE

0-1887-370

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

1999 DEC 22 P 1: 26

KNOW ALL MEN BY THESE PRESENTS, that HAZEL M. ROGOZINSKI
in consideration of FOUR HUNDRED THIRTY-THREE THOUSAND THREE HUNDRED
THIRTY-THREE & 00/100 (\$433,333.00) DOLLARS, the receipt of which is hereby
acknowledged, have granted, bargained, sold, and released, and by these
presents do grant, bargain, sell and release unto:

RICHARD JOSEPH ROGOZINSKI, ALL MY REMAINING INTEREST IN AND TO

ALL those certain pieces, parcels or lots of land situate, lying and being
in the County of Greenville, State of South Carolina, near the Town of
Simpsonville, on a street named Maple Court and being shown and designated
as Lots Nos. 1, 2, 3, 4 and 5 on a plat prepared by R.B. Bruce, RLS,
recorded in the R.O.D. Office for Greenville County in Plat Book 4-X at
Page 17; reference is hereby made to said plat for a more detailed metes
and bounds description thereof.

This being the same property conveyed to the Grantor by deeds recorded in
Deed Book 1383 at Page 184 on December 21, 1989; Deed Book 1387 at Page 73
on January 29, 1990 and Deed Book 1810 at Page 966 on January 6, 1999.

This conveyance is made subject to any restrictions, rights-of-way, or
easements that may appear of record, on the recorded plat(s) or on the
premises.

GRANTEE'S ADDRESS: 33 Maple Court
Simpsonville, S.C. 29681

together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging
or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned
unto the grantee(s), and the grantee's(s) heirs, successors and assigns, forever. And, the grantor(s) do(es)
hereby bind the grantor(s) and the grantor's(s) heirs, successors, and personal representatives to warrant and
forever defend all and singular said premises unto the grantee(s) and the grantee's(s) heirs, successors, and
assigns, and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the grantor's(s') hand(s) and seal(s) this 20th day of DECEMBER, 1999.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Anne M. Adair Hazel M. Rogozinski (SEAL)
BAETY O. GROSS, JR. HAZEL M. ROGOZINSKI

FILED FOR RECORD IN GREENVILLE
COUNTY S.C. R.O.D. OFFICE AT 01:26 PM
12 22 99 RECORDED IN DEED
BOOK 1887 PAGE 0370 THRU 0000
DOC # 1999106735

(SEAL)
STATE 112710
SW
DEC 22 1999
COUNTY 47685

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE) PROBATE

PERSONALLY appeared the undersigned witness and made oath that (s)he
saw the within named grantor(s) sign, seal and as the grantor's(s') act and
deed deliver the within deed and that (s)he, with other witness subscribed
above witnessed the execution thereof.

SWORN to before me this 20TH Day of DECEMBER, 1999. 106735
Baety O. Gross, Jr. (SEAL) Anne M. Adair
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 1-30-00

PLAINTIFF'S
EXHIBIT
3
6-2-20
PENGAD 800-631-6889

BOOK 1310 PAGE 906

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

PROBATE COURT

IN THE MATTER OF ESTATE OF RICHARD J. ROGOZINSKI, deceased
CASE NUMBER 97ES2301512

1997 JUL - 6 12:00

DEED OF DISTRIBUTION

WHEREAS, the decedent died on the 11th day of June 1997; and,

WHEREAS, the estate of the decedent is being administered in the Probate Court for Greenville County, South Carolina in File # 97ES2301512; and,

WHEREAS, the grantee herein is either a beneficiary or heir at law, as appropriate, of the decedent, and,

WHEREAS, the undersigned Personal Representative is the duly appointed and qualified fiduciary in this matter, and,

NOW, THEREFORE, in accordance with the laws of the State of South Carolina, the Personal Representative has granted bargained, sold and released, and by these Presents does grant, bargain, sell and release to:

Name: Hazel Rogozinski
Address: 114 Walnut Street
Thomaston, CT 06787

EXEMPT

the following described property:

18-899-300-1-1.5; 1.6, 1.8
JAN - 6 1999

AN UNDIVIDED FORTY-FIVE (45%) PERCENT INTEREST IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL those certain pieces, parcels or lots of land situate, lying and being in the County of Greenville, State of South Carolina, near the Town of Simpsonville, on a Street named Maple Court and being shown and designated as Lot Nos. 1, 2, 3, 4 and 5 on a plat of the property of Maple Properties, dated September 19, 1974 made by R. E. Bruce, R.L.S., recorded in the R.M.C. Office for Greenville County in Plat Book 4-X at Page 17; reference is hereby craved to said plat for a more detailed metes and bounds description thereof.

1-06 7352

This being the same property conveyed to the decedent, Hazel Rogozinski and Richard Joseph Rogozinski by deed of Richard J. Rogozinski, et al, dated January 18, 1990 and recorded in the R.M.C. Office for Greenville County in Deed Book 1387 at Page 73 on January 19, 1990.

This conveyance is made subject to any restrictions, rights-of-way, or easements that may appear of record, on the recorded plat(s) or on the premises.

3

1000

1111

FORM 1400PC (1-89)
82-3-907, 82-3-908

GRAPHIC PRESS 3631 Debrae Street, West Columbia, South Carolina 29169 (803) 796-4207

PAGE 1 OF 2

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises/Property belonging, or In anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises/Property unto the said Hazel Rogozinski their heirs and assigns forever.

IN WITNESS WHEREOF, the undersigned, as Personal Representative of the estate of the decedent, has executed this Deed, this 22 day of December, 1998

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

Estate of: RICHARD J. ROGOZINSKI

by Signature: Hazel Rogozinski
HAZEL ROGOZINSKI, PERSONAL REP.

Witness: Rae Ann Duffy
Rae Ann Duffy

Witness: Catherine P. DuPont

STATE OF CONNECTICUT
COUNTY OF

PROBATE

PERSONALLY appeared before me Rae Ann Duffy

and made oath that he/she saw the within named

Personal Representative(s) sign, seal, and as their act and deed, deliver the within written Deed, and that he/she with

Catherine P. DuPont witnessed the execution thereof.

SWORN to before me this 22 day of Dec, 1998

Witness Signature: Rae Ann Duffy
Rae Ann Duffy

Catherine P. DuPont

Notary Public for Connecticut

My Commission Expires:

CATHERINE P. DUPONT
NOTARY PUBLIC
MY COMMISSION EXPIRES SEP. 30, 2003

ROSS
P.O. Box 1135
Mountain View, SC 29664

FILED FOR RECORD IN GREENVILLE
COUNTY SC R.O.D. OFFICE AT 01:44 PM
01/06/99 RECORDED IN DEED
BOOK 1810 PAGE 0966
DOC # 99001111

2
JAN - 6 1999

Judy A. Hill

GROSS & GAULT, Attorneys at Law

GRANTEE'S ADDRESS: 20 MAPLE COURT Apt.
Simpsonville, SC 29681

STATE OF SOUTH CAROLINA }
COUNTY OF GREENVILLE }

FILED
GREENVILLE, S.C.

833 1387 PAGE 73

KNOWN ALL MEN BY THESE PRESENTS, that RICHARD J. ROGOZINSKI AND HAZEL N. ROGOZINSKI
LUANNE S. TENNEY
R.M.C.

in consideration of ONE AND 00/100 (\$1.00) plus assumption of mortgage as set out below--Dollars,

the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell and release unto RICHARD J. ROGOZINSKI, AN UNDIVIDED FORTY-FIVE (45%) PERCENT INTEREST, HAZEL H. ROGOZINSKI, AN UNDIVIDED FORTY-FIVE (45%) PERCENT INTEREST, AND RICHARD JOSEPH ROGOZINSKI, AN UNDIVIDED TEN (10%) PERCENT INTEREST, their heirs and assigns forever as tenants in common:

ALL those certain pieces, parcels or lots of land situate, lying and being in the County of Greenville, State of South Carolina, near the Town of Simpsonville, on a Street named Maple Court and being shown and designated as Lot Nos. 1, 2, 3, 4 and 5 on a plat of the property of Maple Properties, dated September 19, 1974 made by R. B. Bruce, R.L.S., recorded in the R.M.C. Office for Greenville County in Plat Book 4-X at Page 17; reference is hereby craved to said plat for a more detailed metes and bounds description thereof.

This is the same property conveyed to the Grantors by deed of Teisir Farhan et al, dated December 20, 1989, recorded in the R.M.C. Office for Greenville County in Deed Book 1383 at Page 184 on December 21, 1989.

This conveyance is made subject to any restrictions, rights-of-way, or easements that may appear of record, on the recorded plat(s) or on the premises.

As a part of the consideration hereof, the Grantees agree to assume and pay, according to its terms, that certain note and mortgage given to NCNB South Carolina, on which there is a balance due of \$460,000.00; said mortgage being recorded in Mortgage Book 2047 at Page 52 in the R.M.C. Office for Greenville County, on December 21, 1989.

18-899-300-1-1.5, 1.6 & 1.8

together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the grantee(s), and the grantee's(s)' heirs, successors and assigns, forever. And, the grantor(s) do(es) hereby bind the grantor(s) and the grantor's(s)' heirs, successors, executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee's(s)' heirs, successors and assigns against the grantor(s) and the grantor's(s)' heirs, successors and assigns and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the grantor's(s)' hand(s) and seal(s) this 18 day of January 19 90

SIGNED, sealed and delivered in the presence of:
[Signature]
[Signature]

[Signature] (SEAL)
RICHARD J. ROGOZINSKI (SEAL)
HAZEL N. ROGOZINSKI (SEAL)
[Signature] (SEAL)

STATE OF SOUTH CAROLINA }
COUNTY OF GREENVILLE }

PROBATE

Personally appeared the undersigned witness and made oath that (s)he saw the within named grantor(s) sign, seal and as the grantor's(s)' act and deed deliver the within deed and that (s)he, with other witness subscribed above witnessed the execution thereof.

SWORN to before me this 18 day of January 19 90
[Signature] (SEAL)
Notary Public for South Carolina
My commission expires: 1-18-93

[Signature]
1-18-93 486

Recorded January 29, 1990 at 3:52 PM

1102

GROSS & GAULT, Attorneys at Law

STATE OF SOUTH CAROLINA }
COUNTY OF GREENVILLE }

Grantors address
33 Maple Court, Oyster
Greenville, SC 29681
89-1383-184 v

KNOWN ALL MEN BY THESE PRESENTS, that TEISIR FARHAN AND FAROUK FARHAN

in consideration of SIX HUNDRED FIFTY THOUSAND AND 00/100 (\$650,000.00)----- Dollars.

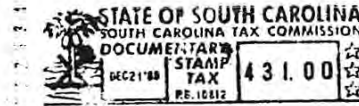
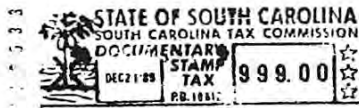
the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell and release unto RICHARD J. ROGOZINSKI AND HAZEL M. ROGOZINSKI, their heirs and assigns forever:

(18) - 897 - 300 - 1 - 1.5, 1.6 & 1.8

ALL those certain pieces, parcels or lots of land situate, lying and being in the County of Greenville, State of South Carolina, near the Town of Simpsonville, on a Street named Maple Court and being shown and designated as Lot Nos. 1, 2, 3, 4 and 5 on a plat of the property of Maple Properties, dated September 19, 1974 made by R.B. Bruce, R.L.S., recorded in the R.M.C. Office for Greenville County in Plat Book 4-X at Page 17; reference is hereby craved to said plat for a more detailed metes and bounds description thereof.

This being the same property conveyed to the Grantors by deed of Sunbelt Properties, dated July 31, 1989, recorded in the R.M.C. Office for Greenville County in Deed Book 1368 at Page 942 on July 31, 1989.

This conveyance is made subject to any restrictions, rights-of-way, or easements that may appear of record, on the recorded plat(s) or on the premises.



together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the grantee(s), and the grantee(s)'s heirs, successors and assigns, forever. And, the grantor(s) do(es) hereby bind the grantor(s) and the grantor(s)'s heirs, successors, executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee(s)'s heirs, successors and assigns against the grantor(s) and the grantor(s)'s heirs, successors and assigns and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the grantor's(s)' hand(s) and seal(s) this 20th day of December 19 89

SIGNED, sealed and delivered in the presence of:

[Signature]
[Signature]

TEISIR FARHAN (SEAL)
TEISIR FARHAN (SEAL)
FAROUK H FARHAN (SEAL)
FAROUK FARHAN (SEAL)

STATE OF SOUTH CAROLINA }
COUNTY OF GREENVILLE }

PROBATE

Personally appeared the undersigned witness and made oath that (s)he saw the within named grantor(s) sign, seal and as the grantor(s)'s act and deed deliver the within deed and that (s)he, with other witness subscribed above witnessed the execution thereof.

SWORN to before me this 20th day of December 19 89

[Signature] (SEAL)
Notary Public for South Carolina
My commission expires: 1-15-93

[Signature]
12-21-89 532 400

Recorded Dec. 21, 1989 at 11:05 Am

57303

1368-942

TITLE TO REAL ESTATE - CORPORATE FORM

STATE OF SOUTH CAROLINA
COUNTY OF Greenville

Address of Grantee:
111 N. Main St.
Simpsonville, S.C. 29689

Block Map Reference No.
300-1-1.5

300-1-1.6

300-1-1.8

KNOWN ALL MEN BY THESE PRESENTS, that Sunbelt Properties, Incorporated
a corporation organized and existing under the laws of South Carolina

Five Hundred Eighty Six Thousand (\$586,000.00) and no/100-----Dollars.
the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell
and release unto Telsir Farhan and Farouk Farhan, their heirs and assigns forever:

All that piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Greenville, near the Town of Simpsonville, at the end of a cul-de-sac at the eastern end of Maple Court and being shown and designated at Lots No. 1, 2, 3, 4 and 5 on a plat of the Property of Maple Properties, dated November 4, 1972, and made by R. B. Bruce, R.L.S., and recorded in the R/S Office for Greenville County, S.C., in Plat Book 4X at page 17, reference to which is hereby made for a more complete description by metes and bounds.

This is the identical property conveyed to the grantor by Hovy Clyde Brooks by way of Deed Book 1143, page 502 dated March 2, 1981 and Southgate Investors, Inc. by way of Deed Book 1143, page 494 dated March 2, 1981.

This conveyance is made subject to such easements, restrictions, or right of way as may appear of record or on the premises. (18) - 899 - 300 - 1 - 1.5 - 1.6 - 1.8

STATE OF SOUTH CAROLINA
SOUTH CAROLINA TAX COMMISSION
DOCUMENTARY TAX STAMP
AUG-1-89 999.99
PB. 10312

GREENVILLE COUNTY
159005
SOUTH CAROLINA COUNTY DOCUMENTARY TAX
★ JUL 31 89
PB. 10311 644.60

together with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining. TO HAVE AND TO HOLD All and singular the said premises before mentioned unto the said grantee(s), and the grantee(s)'s heirs (or successors) and assigns forever. And the grantor does hereby bind the grantor and the grantor's successors to warrant and forever defend all and singular the said premises unto the grantee(s) and the grantee(s)'s heirs (or successors) and assigns against the grantor and the grantor's successors and against every person whatsoever lawfully claiming or to claim the same or any part thereof, except as to restrictions and easements of record, if any.

IN WITNESS WHEREOF The grantor has caused these presents to be executed in its name by its duly authorized officer(s) and its corporate seal to be hereto affixed this 31st July, 1989

Signed, Sealed and Delivered in the Presence of:
Donald E. Waggoner
Sharon P. Coffey

Sunbelt Properties, Inc.
By *Arnold E. Mullinax*
Arnold E. Mullinax
The Vice President
President or Vice President

Attest:
Zelma L. Waggoner
Zelma L. Waggoner
Secretary, Assistant Secretary or Treasurer

(CORPORATE SEAL)

STATE OF SOUTH CAROLINA
COUNTY OF Greenville PROBATE

PERSONALLY appeared the undersigned witness and made oath that (s)he saw the within named corporation as its act and deed acting by and through its duly authorized officer(s) above named, sign, seal and as its act and deed, deliver the within deed, and that (s)he with the other witness subscribed above witnessed the execution thereof.

Sworn to before me this 31st July, 1989
Donald E. Waggoner (SEAL)
Notary Public

Sharon P. Coffey
Witness

My commission expires:
May 18, 1994

NO RENUNCIATION OF DOWER - CORPORATE GRANTOR

RECORDED JUL 31 1989 4:39 P.M.

300-1-1.5

STATE OF SOUTH CAROLINA
COUNTY OF Greenville

REC'D S.O.
1 33 PM '81
H.C. HENSLBY

1143-494

GRANTEE'S ADDRESS:

P. O. Box 5207
Greenville, SC 29606

KNOW ALL MEN BY THESE PRESENTS, that

Southgate Investors, Inc.

in consideration of Two hundred sixty-two thousand five hundred and no/100 (\$262,500.00) Dollars,
the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell
and release unto

Sunbelt Properties, Inc., its successors and assigns forever:

ALL that certain piece, parcel or lot of land, with all improvements thereon,
or hereafter constructed thereon, situate, lying and being in the State of South
Carolina, County of Greenville, in the Town of Simpsonville being shown and
designated as Lots Nos. 1 and 2 on a Plat entitled "Maple Properties," and having
according to said Plat the following metes and bounds, to-wit:

BEGINNING at an iron pin on the Eastern side of Maple Street, joint corner of
Lot No. 1 and property of Dera Conway and running thence N. 53-49 E., 280 feet to
a point, joint corner of Lots Nos. 2 and 3 and property of Dera Conway; thence
running with the joint line of Lots Nos. 2 and 3, S. 29-57 E., 108.3 feet to a
point on the Southeastern side of Maple Court; thence running with Maple Court,
the following courses and distances: S. 15-05 W., 26.5 feet; S. 53-49 N. 121.5
feet; and S. 55-02 W., 115 feet to a point at the Northeastern intersection of
Maple Street and Maple Court; thence running with the said intersection, N. 72-21 W.,
33.7 feet to a point on the Eastern side of Maple Street; thence running with the
Eastern side of Maple Street, N. 29-44 W., 97 feet to the point and place of
beginning.

18(299) 300-1-1.8

ALSO:

ALL those pieces, parcels or lots of land with all improvements thereon, situate,
lying and being in the State of South Carolina, County of Greenville, on the
Southeastern side of Maple Court, near the Town of Simpsonville, and being shown as
Lots 4 and 5 on plat entitled "Property of Doyle Peace," made by R. B. Bruce, dated
September 19, 1974, and recorded in the REC Office for Greenville County, SC, in
Plat Book 4X, at Page 17; reference to said plat is hereby craved for a metes and
bounds description.

18(299) 300-1-1.5

This is the identical property conveyed to the grantor by deed of Maple (continued on back)

together with all and singular the rights, members, benefits and appurtenances to said premises belonging or in any wise incident or ap-
pertaining, to have and to hold all and singular the premises before mentioned unto the grantee(s) and the grantee(s)' heirs or successors and
assigns forever. And the grantor(s) do(es) hereby bind the grantor(s) and the grantor(s)' heirs or successors, executors and administrators
to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee(s)' heirs or successors and against every per-
son whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the grantor(s)' hand(s) and seal(s) this 25th day of February, 1981

SIGNED, sealed and delivered in the presence of

Michael Spivey
Barbara M. Spivey

Southgate Investors, Inc. (SEAL)

Marie Clyde Brooks (SEAL)
By: Marie Clyde Brooks, President (SEAL)
O. B. Given, Jr. (SEAL)
O. B. Given, Jr., Vice President (SEAL)

STATE OF SOUTH CAROLINA }
COUNTY OF Greenville }

PROBATE

Personally appeared the undersigned witness and made oath that s/he saw the within named
grantor(s) sign, seal and as the grantor(s)' act and deed, deliver the within written deed and that s/he, with the other witness subscribed
above, witnessed the execution thereof.

SWORN to before me this 25th day of February, 1981

Michael Spivey (SEAL)
Notary Public for the South Carolina

Barbara M. Spivey (SEAL)

My commission expires 6-24-85

STATE OF SOUTH CAROLINA }
COUNTY OF _____ }

(N) RENUNCIATION OF DOWER (CORP. GRANTOR)

If the undersigned Notary Public, s/he hereby certifies unto all whom it may concern, that the
undersigned wife/women of the above named grantor(s) respectively, did this day appear before me, and each upon being privately and
separately examined by me, did declare that she/he freely, voluntarily, and without any compulsion, dread or fear of any person whomso-
ever, renounced s/he release and forever relinquish unto the grantor(s) and the grantor(s)' heirs or successors and assigns, all her interest and es-
tate and all her right and claim of dower to and to all singular the premises within mentioned and recited.

GIV

Notary Public
for the South Carolina

5670

4323 RV2

STATE OF SOUTH CAROLINA }
COUNTY OF Greenville }

GRANTEE'S ADDRESS 1143 502
P. O. Box 5207
Greenville, SC 29606

CR. FILED
MAR 2 1 05 PM '81
RMC
RAN ERSLEY

KNOW ALL MEN BY THESE PRESENTS, that

Hovie Clyde Brooks

in consideration of Two hundred sixty-two thousand five hundred and no/00 (\$262,500.00) Dollars,

the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell and release unto

Sunbelt Properties, Inc, its successors and assigns forever:

ALL that piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Greenville, near the Town of Simpsonville, at the end of a cul-de-sac at the eastern end of Maple Court and being shown and designated as Lot No. 3 on a plat of the Property of Maple Properties, dated November 4, 1972, made by R. B. Bruce, R.L.S., and recorded in the RMC Office for Greenville County, SC, in Plat Book 4X at page 17, reference to which is hereby made for a more complete description by metes and bounds.

This is the identical property conveyed to the grantor by deed of Dee Smith Co., Inc., to be recorded of even date herewith.

This conveyance is made subject to such easements, restrictions, or rights of way as may appear of record or on the premises.

18(299) 300-1-1.9
18(899) 300-1-1.6

OFFICE
GREENVILLE COUNTY
★
288.75

together with all and singular the rights, members, benefits and appurtenances to said premises belonging or in any wise incident or appertaining, to have and to hold all and singular the premises before mentioned unto the grantee(s) and the grantee(s)' heirs or successors and assigns forever. And the grantor(s) do(s) hereby bind the grantor(s) and the grantee(s) heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee(s)' heirs or successors and against every person whatsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the grantor(s) hand(s) and seal(s) this 25th day of February, 1981

SIGNED, sealed and delivered in the presence of

Hovie Clyde Brooks (SEAL)
Hovie Clyde Brooks

H. Michael Spivey (SEAL)
Barbara M. Spivey (SEAL)

STATE OF SOUTH CAROLINA }
COUNTY OF Greenville }

PROBATE

I, the undersigned Notary Public, do hereby certify that I saw the within named grantor(s) sign, seal and as the grantor(s)' act and deed, deliver the within written deed and that she, with the other witness subscribed above, witnessed the execution thereof.

WITNESS my hand and seal this 25th day of February, 1981

H. Michael Spivey (SEAL)
Notary Public for South Carolina

Barbara M. Spivey (SEAL)

My commission expires 1-21-85

STATE OF SOUTH CAROLINA }
COUNTY OF Greenville }

RENUNCIATION OF DOWER

I, the undersigned Notary Public, do hereby certify unto all whom it may concern, that the within named woman of the above named grantor(s) voluntarily and without any compulsion, threat or fear of any person whatsoever, renounced her dower and forever relinquish unto the grantor(s) and the grantee(s) heirs or successors and assigns, all her interest and estate, and all her rights and claim of dower, to and to all singular the premises, heresetofore mentioned and released.

GIVEN under my hand and seal this 25th day of February, 1981

Hovie Clyde Brooks (SEAL)

H. Michael Spivey (SEAL)
Notary Public for South Carolina

My commission expires 1-21-85

RECORDED MAR 2 1981

1985 P. M. N. 3-1-15

5050

4325 RW 2

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

FILED
GREENVILLE, CO. S. C.
VOL 971 PAGE 517

KNOW ALL MEN BY THESE PRESENTS THAT **MAPLE PROPERTIES, A PARTNERSHIP**

FILED
GREENVILLE, CO. S. C.
APR 2 9 56 AM '73
R.H.C.

In consideration of FIFTEEN THOUSAND (\$15,000.00) and no/100-----Dollars,
the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell and release
unto **IMPERIAL CONSTRUCTION CO., INC.**, its successors and assigns forever:

ALL that piece, parcel or lot of land situate, lying and being in the
State of South Carolina, County of Greenville, near the Town of Simpson-
vill, at the end of a cul-de-sac at the Eastern end of Maple Court and
being shown and designated as Lot No. 3 on a Plat of the Property of
Maple Properties, dated November 4, 1972, made by R. B. Bruce, R. L. S.
and recorded in the RMC Office for Greenville Countym South Carolina in
Plat Book 44, Page 17, reference to which is hereby craved for the
metes and bounds thereof.

The above described property is a part of the same conveyed to the Grantor
herein by deed of Dera R. Conway recorded in the RMC Office for Greenville
County, South Carolina in Deed Book 952, Page 413, and is hereby conveyed
subject to rights of way, easements, conditions, public roads and restric-
tive covenants reserved on plats and other instruments of public record
and actually existing on the ground affecting said property.

The Grantee agrees to pay Greenville County property taxes for the tax
year 1973 and subsequent years.

OUT OF
- 299-300-1-1.6
- 899-300-1-1.5
NOTED
3000
Greenville County
Stamps
Paid \$16.50
Act No. 320 Sec. 1

together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or apper-
taining; to have and to hold all and singular the premises before mentioned unto the grantee(s), and the grantee(s)' heirs or successors and assigns,
forever. And, the grantee(s) do(es) hereby bind the grantor(s) and the grantor(s)' heirs or successors, executors and administrators to warrant and
forever defend all and singular said premises unto the grantee(s) and the grantee(s)' heirs or successors and against every person whomsoever law-
fully claiming or to claim the same or any part thereof.

WITNESS the grantor(s)' hand(s) and seal(s) this 30th day of March 1973.

SIGNED, sealed and delivered in the presence of:

MAPLE PROPERTIES, A PARTNERSHIP (SEAL)
BY: Donald E. [Signature] (SEAL)
AND [Signature] (SEAL)

STATE OF SOUTH CAROLINA } PROBATE
COUNTY OF GREENVILLE } Personally appeared the undersigned witness and made oath that (s)he saw the within named grantor(s)
sign, seal and as the grantor(s)' act and deed deliver the within written deed and that (s)he, with the other witness subscribed above witnessed the
execution thereof.

SWORN to before me this 30th day of March 1973.
James E. John III (SEAL)
Notary Public for South Carolina
My Commission Expires 8-26-78

STATE OF SOUTH CAROLINA } RENUNCIATION OF DOWER GRANTOR PARTNERSHIP
COUNTY OF } I, the undersigned Notary Public, do hereby certify unto all whom it may concern, that the undersigned
wife (wives) of the above named grantor(s) respectively, did this day appear before me, and each, upon being privately and separately examined by
me, did declare that she does freely, voluntarily, and without any compulsion, dread or fear of any person whomsoever, rescuer, release and forever re-
linquish unto the grantee(s) and the grantee(s)' heirs or successors and assigns, all her interest and estate, and all her right and claim of dower of,
in and to all and singular the premises within mentioned and released.

GIVEN under my hand and seal this _____ day of _____ 19____ (SEAL)
Notary Public for South Carolina.

RECORDED this 2nd day of April 1973 at 9:56 A. M. No. #27663

300-1-1.5
1.6

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the Premises before mentioned unto the said Maple Properties, a Partnership,

its successors ~~XXX~~ and Assigns forever.

(Continued on next page)

And I do hereby bind myself, my Heirs, Executors and Administrators to warrant and forever defend all and singular the said Premises unto the said **Maple Properties, a Partnership,**

its successors ~~XXXX~~ and Assigns, against myself and my Heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS my hand and seal, this 15th day of August in the year of our Lord one thousand, nine hundred and seventy-two in the one hundred and ninety-seventh year of the Independence of the United States of America.

Signed, sealed and delivered in the presence of

Frank W. Dietz
James G. Johnson III

Dera R. Conway (L.S.)
Dera R. Conway

(L.S.)

State of South Carolina,
County of GREENVILLE

PERSONALLY appeared before me Frank W. Dietz and made oath that he saw the within named Dera R. Conway sign, seal and as her act and deed deliver the within written deed, and that James G. Johnson, III he with witnessed the execution thereof.

SWORN TO before me this 15th day of August A.D. 19 72
James G. Johnson III (L.S.)
Notary Public for South Carolina.

Frank W. Dietz
Frank W. Dietz

My commission expires: Aug. 12, 1980.

State of South Carolina,
County of

NO Renunciation of Dower NECESSARY
GRANTOR A WOMAN

I, _____, do hereby certify unto all whom it may concern that Mrs. _____ the wife of the within named _____ did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within named _____

Heirs and Assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the Premises within mentioned and released.

Given under my hand and seal, this _____ day of _____ A. D. 19 _____

Notary Public for South Carolina. (L.S.)

Recorded this 21st day of August 19 72, at 4:40 P.M., No. 5256









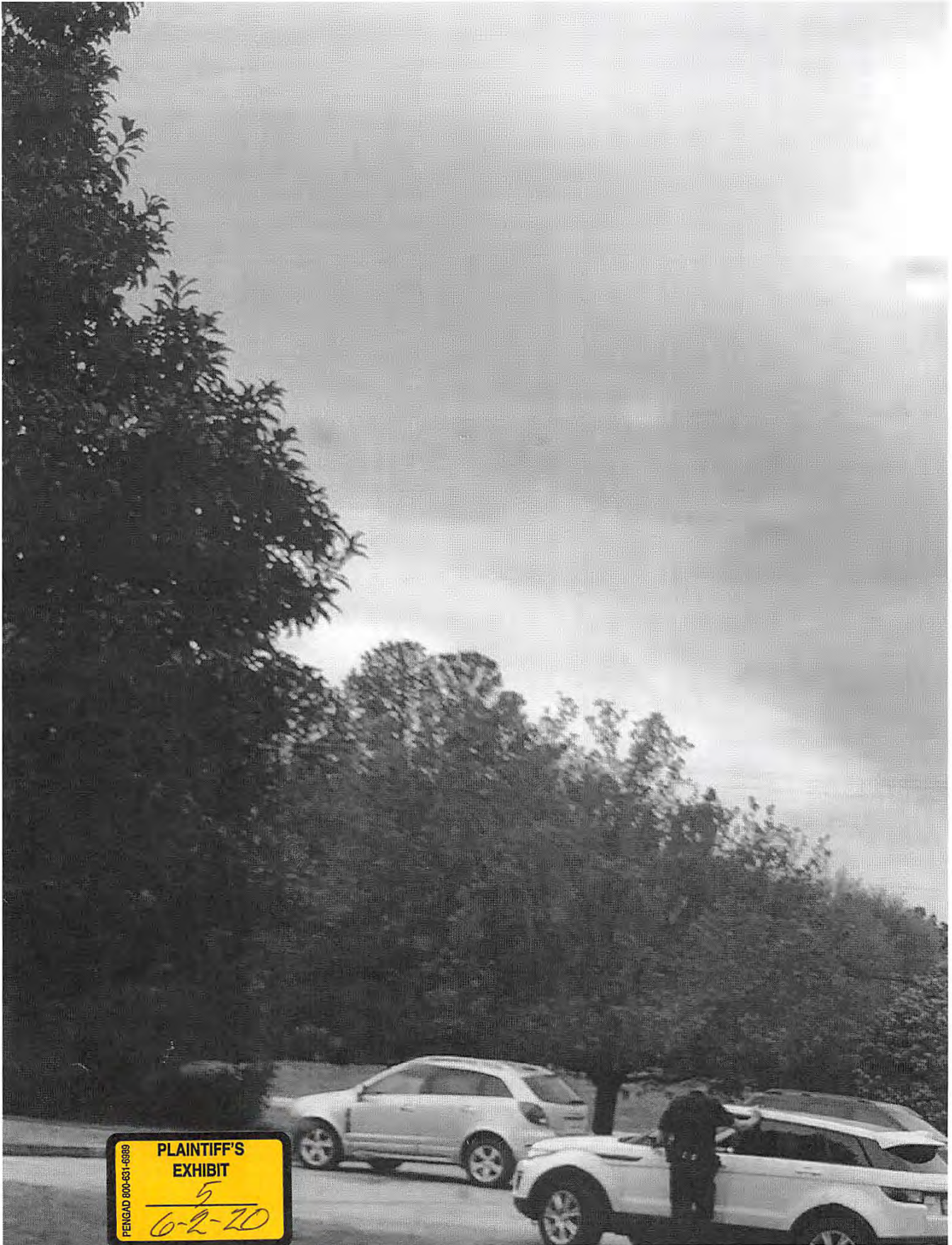




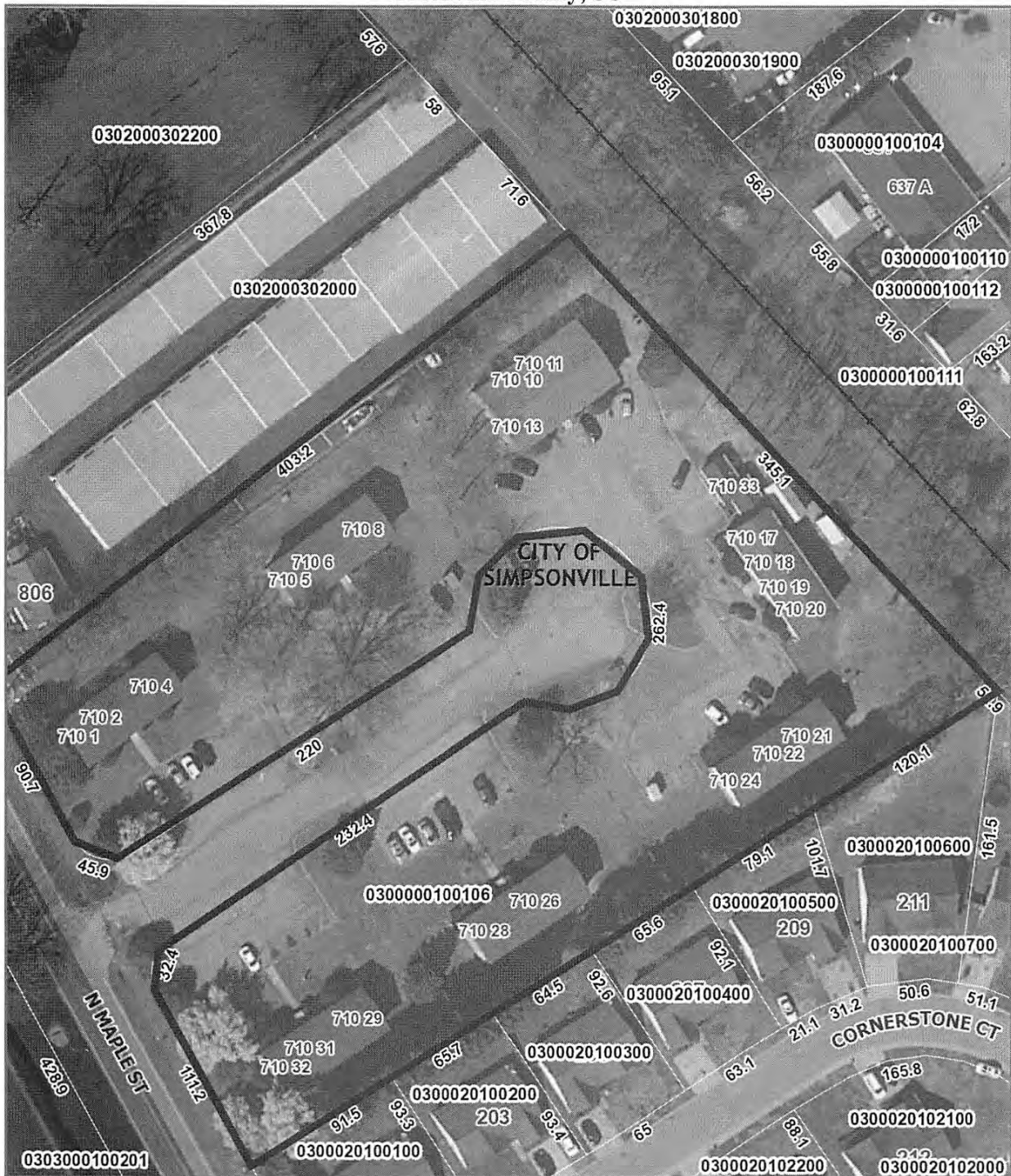








Greenville County, SC



Disclaimer: This Map is not a LAND SURVEY and is for reference purposes only. Data contained in this map are prepared for the inventory of Real Property found within this jurisdiction, and are compiled from recorded deeds, plats, and other public records. Users of this map are hereby notified of the responsibility for the information contained in this map. Greenville County is not responsible for the information contained in this map.

Map Scale
1 inch = 80 feet
1/9/2019





REAL PROPERTY DETAILS


Details for Tax Year 2018

[Property Tax Estimate](#)

Select Another Tax Year:

 View Map

 View Old Property Card

 Change Mailing Address

GENERAL INFORMATION

Map #: 0300000100106
 Tax Year: 2018
 District: 899
 Owner(s): Rogozinski Richard Joseph
 Previous Owner: Rogozinski Hazel
 Care Of:
 Mailing Address: 1 Turnbridge Trl Simpsonville, SC 29680

DESCRIPTION

Acreage: 1.100
 Description: 1 2 3 4 5
 Location: 710 N Maple St
 Subdivision:
 Deed Book-Page: 1887 - 370
 Deed Date: 12/22/1999
 Will:
 Sale Price: \$433,333
 Plat Book-Page:

CLASSIFICATION

Jurisdiction: 1 (County Jurisdiction)
 Homestead Code: No
 Assessment Class: OT - Non-Legal Residence

PROPERTY INFORMATION

Bedrooms/Bathrooms: 0 Bedrooms, 0 Bathrooms, Half Bathrooms
 Square Footage: 0
 Land Use: 120 (Apartment-Convent(C,D))
 120 (Apt- High rise (A,B))

VALUE

Fair Market Value: 1,200,000
 Taxable Market Value: 944,340





PEYCO-Bayonne, N. J.
DEFENDANT'S
EXHIBIT
1
6-2-20

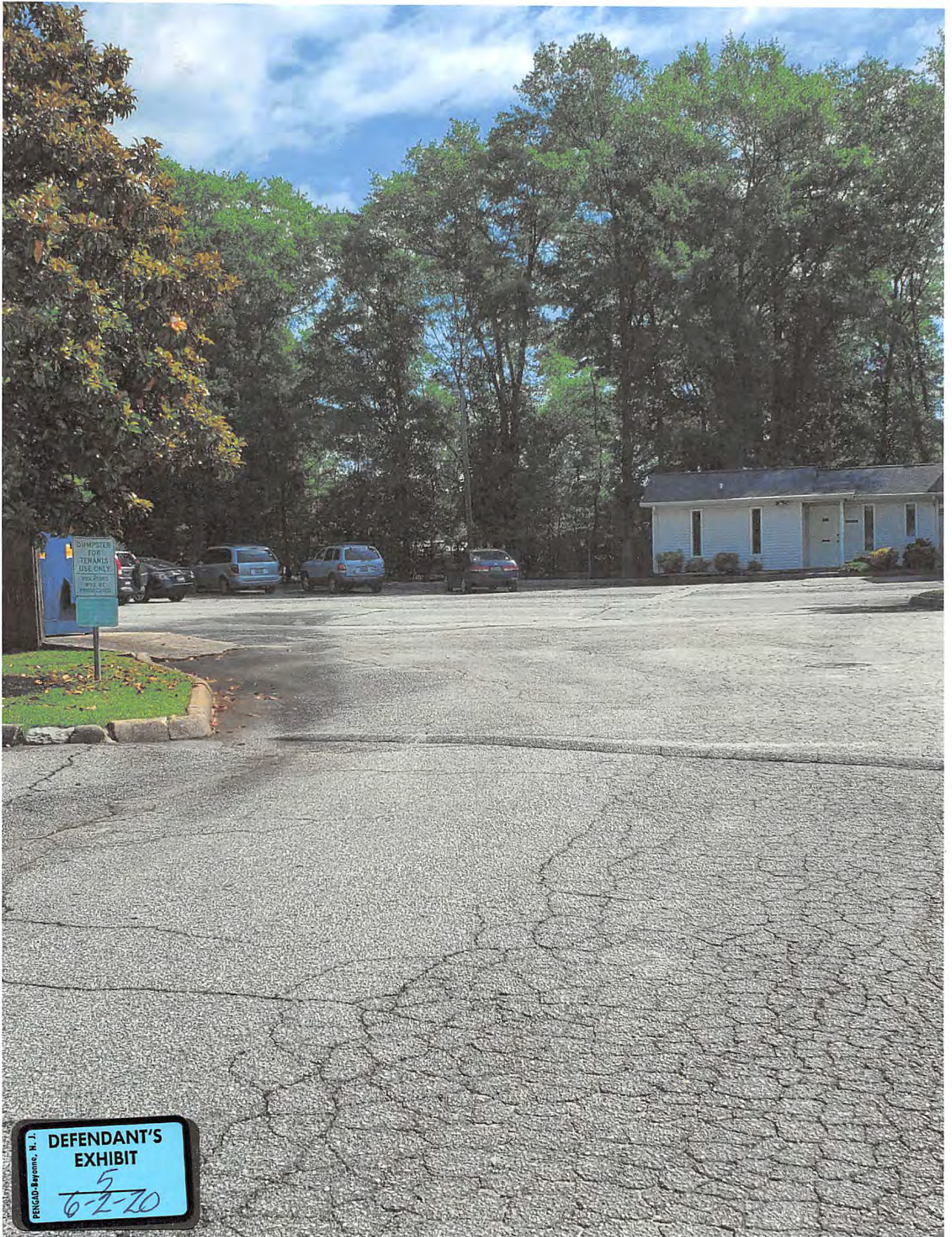


PERIGAD-Byronne, N. J.
**DEFENDANT'S
EXHIBIT**
2
6-2-20



PENGAD-Beyonne, N. J.
**DEFENDANT'S
EXHIBIT**
3
6-2-20







PENACAD-Bayonne, N. J.
DEFENDANT'S EXHIBIT
6
6-2-20

2019

GREENVILLE COUNTY CONSOLIDATED TAX NOTICE
www.greenvillecounty.org

126977

DIST	TOTAL TAX VALUE	RATIO	ASSESSED VALUE	MILLAGE
899	944340	6%	56670	.33430

ACCT #: 1900021536977
 DATE PRINTED: 10/23/2019
 MAP #: 0300.00-01-001.06

57287 1 AV 0.380 P:57287 / T:225 / S:
 77 ROGOZINSKI RICHARD JOSEPH
 1 TURNBRIDGE TRL
 SIMPSONVILLE SC 29680-4300



CURRENT YEAR TAX AMOUNT DUE

TAXABLE MARKET VALUE:	944,340
ASSESSED VALUE:	56,670
TOTAL TAX	\$ 18,944.78
SANITATION	
SIMPSONVILLE PW FEE	\$ 167.00
PUBLIC SAFETY COMM FEE	\$ 14.95
COUNTY STORMWATER	\$ 513.00
CITY STORMWATER	
HOMESTEAD LESS SCHOOL OPERATIONS	
SCHOOL TAX CREDIT SAVINGS	

PAY THIS AMOUNT ON OR BEFORE JANUARY 15, 2020* **\$ 19,639.73**

PAY JAN 16, 2020 - FEB 01, 2020 (INCLUDES ADDITIONAL 3% PENALTY)* \$ 20,208.07

PAY FEB 02, 2020 - MAR 16, 2020 (INCLUDES ADDITIONAL 7% PENALTY)* \$ 21,534.20

PAY AFTER MAR 16, 2020 (INCLUDES ADDITIONAL 5% PENALTY PLUS \$40.00 COST)* \$ 22,521.44

ROGOZINSKI RICHARD JOSEPH
 YOUR PROPERTY IS ASSESSED AT 6%
 IF THIS IS YOUR LEGAL RESIDENCE
 CONTACT REAL PROPERTY SERVICES
 AT 864-467-7300.

ALLOCATION OF TAX MONEY

GREENVILLE SCHOOL	61%	11,498.14	
SIMPSONVILLE CITY TAX	19%	3,604.15	
GREENVILLE COUNTY	15%	2,941.45	
LIBRARY	3%	481.69	
GREENVILLE TECH	2%	300.35	
ART MUSEUM	%	90.67	
ARENA DEBT SERVICE	%	28.33	
SIMPSONVILLE PW FEE		\$ 167.00	
PUBLIC SAFETY COMM FEE		\$ 14.95	
COUNTY STORMWATER FEE		\$ 513.00	
TOTAL TAX AND FEES		\$ 19,639.73	



Scan And Pay
Your Bill Now

ACRES: 1.100
 710 N MAPLE ST
 LOT/TRACT/UNIT 1 2 3 4 5
 PRIOR YEAR AMOUNT PAID: \$19,144.04

After Mar 31, 2020 send Payment to:
Greenville County Tax Collector
 301 University Ridge, Suite 700
 Greenville, SC 29601

Please allow at least 3 weeks for processing
 AVOID LINES PAY BY CERTIFIED U.S. MAIL, REGULAR MAIL or INTERNET [Charges apply]
 (<http://www.greenvillecounty.org/TaxCollector/OnlineTax.aspx>), or use our lobby kiosk or Drop Box (located outside of office) - Payments received by closing will be counted as made the same day.
 SAVE TIME - Please read both sides of bill before calling.

FOR QUICKER PROCESSING, USE ONE CHECK PER PAYMENT STUB

* If the Tax Collector's Office is closed on the due date, then the due date is extended until the close of the next business day

KEEP THIS STATEMENT FOR YOUR RECORDS

PLEASE DO NOT STAPLE, CLIP, TAPE, FOLD OR MUTILATE DETACH AND RETURN THIS STUB WITH PAYMENT

Make all checks payable to Greenville County Tax Collector

1900021536977	19,639.73
MAP #: 0300.00-01-001.06	20,208.07
ROGOZINSKI RICHARD JOSEPH	21,534.20
	22,521.44

IF YOUR ADDRESS IS NOT CORRECT PLEASE MAKE CHANGES IN THE BOX BELOW

TAX COLLECTOR'S COPY
 Greenville County Tax Collector
 Department 390
 PO Box 100221
 Columbia SC 29202-3221



19000215369770000196397300002020807000021534200002252144

Identify **Details** Map

Rogozinski Richard Joseph
MAPLE Zoom to

[Community Info](#) [Property Report](#)
[Property Card](#) [Estimated Taxes](#)
[Sales Search](#) [Ownership History](#)
[Assessment History](#) [Map Links](#)
[Oblique Photos](#)

PIN / Tax Map # 0300000100106

Owner Name Rogozinski Richard Joseph

Owner Name 2

Mailing Address 1 Turnbridge Trl

City Simpsonville

State SC

Zip Code 29680

In Care Of

Previous Owner Rogozinski Hazel

Deed Date 12/22/1999

Deed Book 4997

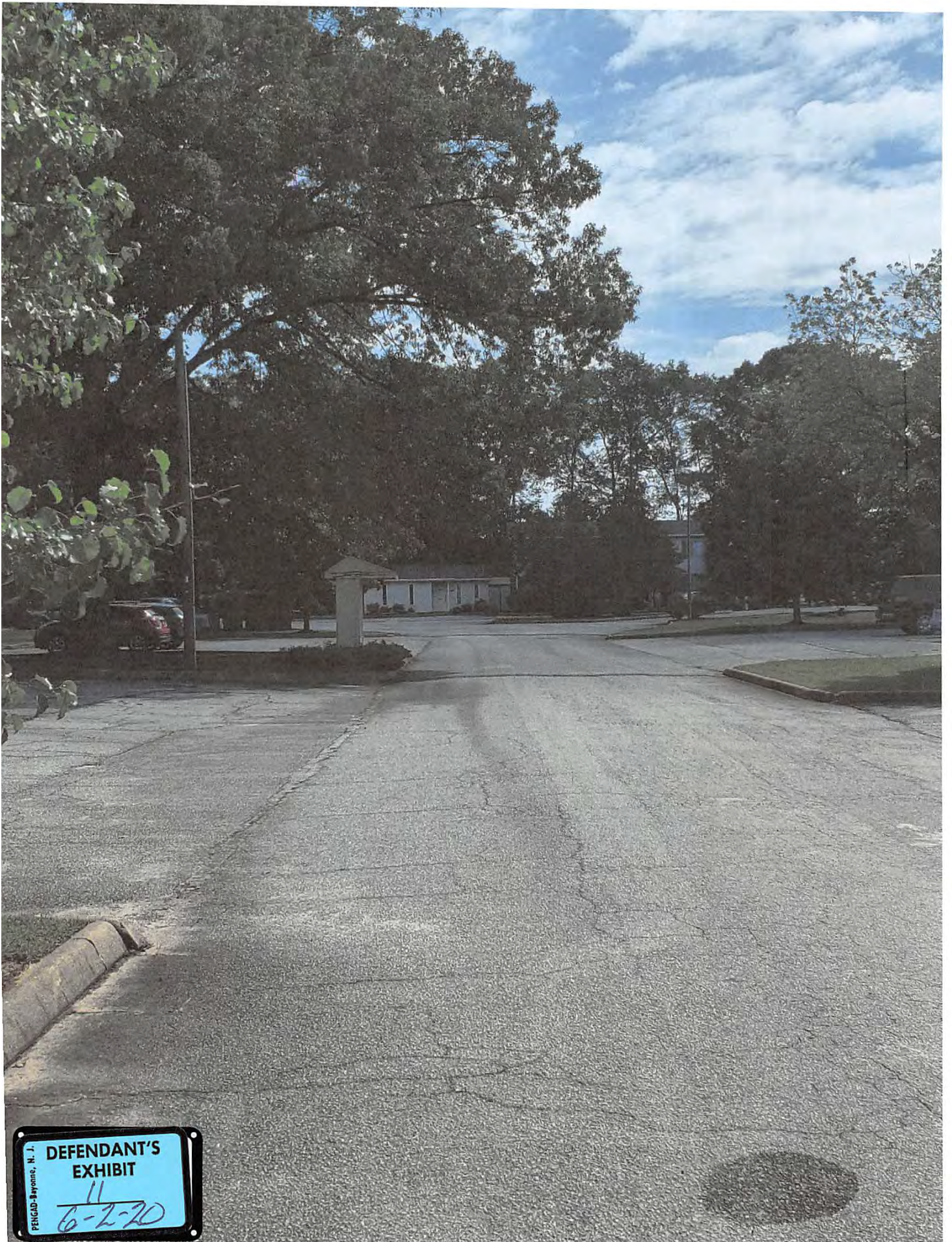
Greenville Maps Identify Street View Community Info

Map Themes Draw Print





DEFENDANT'S
EXHIBIT
10
6-2-20
PENGLD-Bayonne, N. J.







Roadway Improvements

The Engineering/Maintenance Division generally oversees two Improvement Projects each year. These projects are selected based the amount of funding available as well as drainage issues, pavement condition, traffic volume etc. Improvements may include drainage upgrades, safety improvements, bridge replacements, intersection improvements, and widening.

Drainage Assistance

The Engineering/Maintenance Division also maintains the roadside drainage systems as a part of the County Road’s right of way.

The *Off Right-of Way Drainage Assistance Program* can aid residents in solving small individual lot drainage issues, occurring off the roadway. When possible for the County to perform the work, we will provide the labor and equipment at no cost to the property owner, provided that they are willing to assume the cost of the materials.

Even though we will occasionally assist with off right of way issues, the property owner(s) is responsible for maintaining the easement.

Permitting for Utilities and Driveways

A *Greenville County Encroachment Permit* is required for all activity within the County’s right of way. Generally, the property owner can obtain permission to work within the shoulder of a County Road, by posting a monetary bond ranging from \$100-\$300; however, when the pavement will be affected, a licensed and bonded contractor must obtain the Encroachment Permit, provided that all insurance/bonding requirements are met.

Important Phone Numbers:

Engineering Dept..... (864) 467-7016

(Driveway Culvert Applications, Encroachment Permits, Resurfacing Issues, Traffic Calming Applications, Right of Way Information)

SCDOT Maintenance..... (864) 241-1224

(Questions or concerns regarding State-maintained Roads)

County Maintenance Facilities

Travelers Rest (864) 834-4791

(Performs General maintenance, tree trimming, and pavement/curb repair, for County Roads in Northwestern Greenville County)

O’Neal (864) 895-2835

(Performs General maintenance, tree trimming, and pavement/curb repair, for County Roads in Northeastern Greenville County)

Sign Shop (864) 834-2962

(Maintain/replace stop signs, speed limit signs, and street markers on Greenville County Maintained Roads)

Southern Bureau..... (864) 243-5665

(Performs General maintenance, tree trimming, and pavement/curb repair, for County Roads in Southern Greenville County)

For more information regarding the services provided by Greenville County’s Engineering/Maintenance Division, please visit our website!

http://www.greenvillecounty.org/Public_Works/Eng.asp

COUNTY OF GREENVILLE

DEPARTMENT OF PUBLIC WORKS

ENGINEERING/MAINTENANCE DIVISION

ROADS & BRIDGES



**Greenville
County**

“...At Your Service”

301 University Ridge, Suite 3800
Greenville, SC 29601
Phone: (864) 467-7016
Fax: (864) 467-7161
<http://www.greenvillecounty.org>



Objective

The objective of the Engineering & Maintenance Division is to ensure that the County's rights of way are built and maintained in a consistent, cost-effective manner, while securing the highest level of safety and satisfaction for use by the general public.

Vision Statement

Our vision is to be an effective Public Works organization that involves contributions from all levels of the community and to become the region's most efficient, innovative provider of rights of way services to County citizens.

About Us

The Engineering/Maintenance Division maintains over 7,000 roads within Greenville County, with the exception of highways (maintained by the SCDOT) and roads within city limits (maintained by the respective municipality). This represents approximately 1700 miles of roads.

- SCDOT..... (864) 241-1224
- City of Greenville..... (864) 467-4345
- City of Greer..... (864) 848-2184
- City of Mauldin..... (864) 289-8981
- City of Simpsonville..... (864) 967-9531
- City of TR..... (864) 834-7958

For more information regarding the services provided by Greenville County's Engineering/Maintenance Division, please visit our website!
http://www.greenvillecounty.org/Public_Works/Eng.asp

Services Provided

The services offered on the County Roads are regulated by Greenville County's Operating Ordinance #3571, and includes the following activities:

- Pothole Repairs
- Ditch Cleaning
- Dead Animal Removal
- Driveway-culvert Installations
- Street Marker Installations
- Street Sign Maintenance
- Traffic Studies
- Speed Hump Installations
- Pavement Resurfacing
- Roadway Improvements
- Drainage Assistance
- Permitting for Public Utilities and Driveways

Potholes/Ditch Cleaning/Dead Animal Removal

Upon notification (or discovery) that a problem exists on a County Road, the Engineering/Maintenance Division will repair potholes, unclog roadside ditches and remove dead animals from the roadway. Unfortunately, these services are not offered for situations occurring on private properties.

Driveway Culvert Installations

The Engineering/ Maintenance Division will install one driveway-culvert connection per residence for qualifying property owners. The policy requires that the applicant own the property and the property must be used as their primary residence. Commercial installations are not performed by the County.

Street Markers/Sign Maintenance

To ensure that Emergency Response Agencies can locate residents in the event of an emergency, the Engineering/Maintenance Division maintains the street markers for all roads located within the County; including Private Roads and State Roads (the municipalities maintain their own).

Speed Hump Studies

Speed hump studies are generally performed when a resident requests that traffic calming measures be implemented on a County Road. A Traffic Calming Application must be submitted to the County in order to begin the process. The results from the traffic study determine whether the County Road is eligible for traffic calming measures. Speed Humps are installed if results from the traffic study meet the County's criteria for speed humps. If the criteria are met, the County provides a petition for the majority of the neighborhood to sign indicating their consent for the County to install speed humps.
http://www.greenvillecounty.org/Public_Works/traffic.asp

Pavement Resurfacing

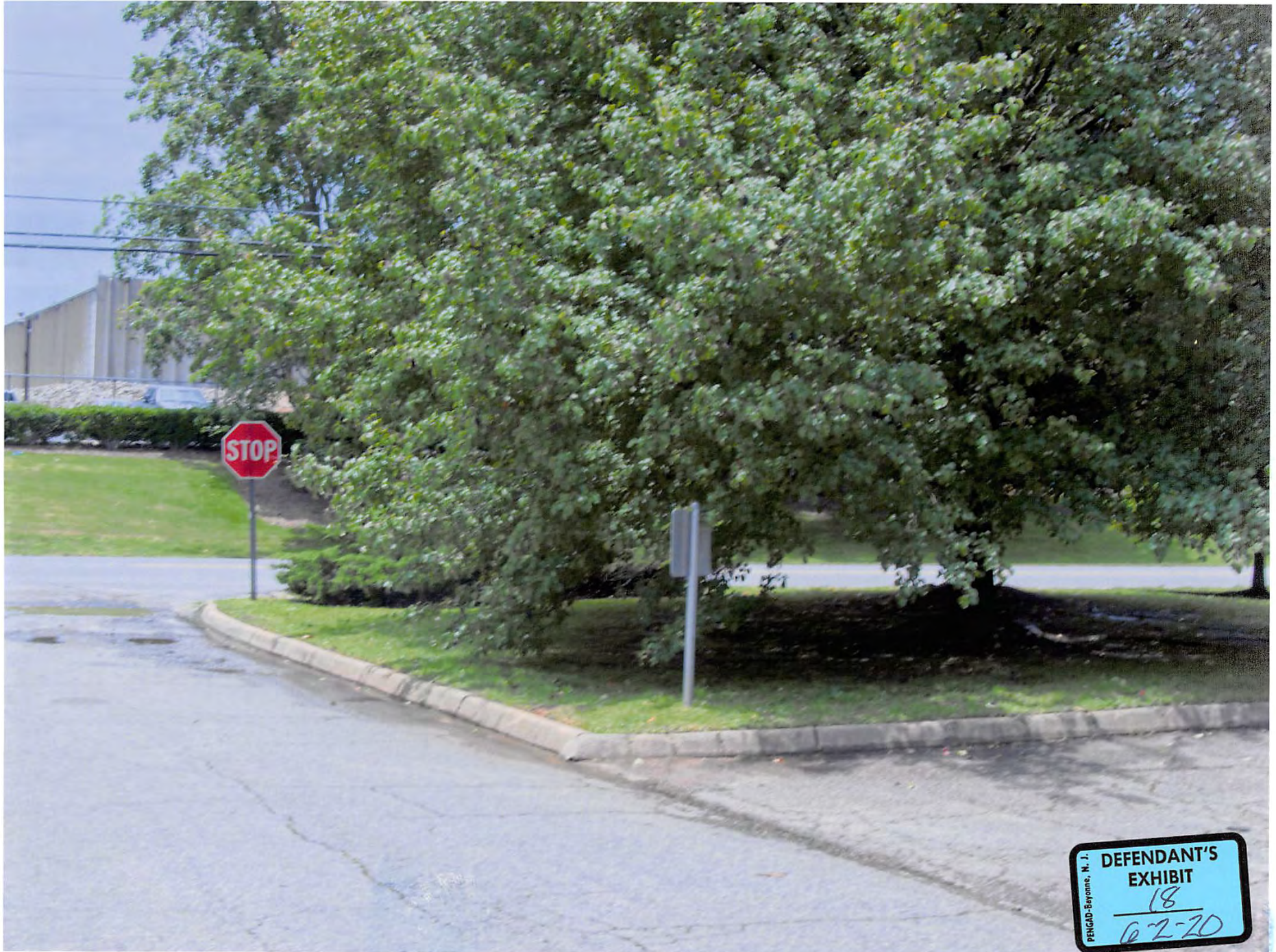
The County has adopted a "Worst-First" Paving Policy in order to ensure that the worst (condition) roads are paved first. A third-party inspection firm rates the condition of all roads on a scale of 0 to 100 to establish an Overall Condition Index (OCI) for each road; the OCI's of the County Roads are used to compile the list of roads that are paved each year. Greenville County resurfaces up to 30 miles of County Roads annually.





DEFENDANT'S
EXHIBIT
16
6-2-20
PENGLAD, Bayonne, N. J.





PENGLA-Bayonne, N. J.
DEFENDANT'S
EXHIBIT
18
6-2-20



PERIGOD-Bayonne, N. J.
DEFENDANT'S
EXHIBIT
19
6-2-20



PENGAD-Byrnes, N. J.
DEFENDANT'S
EXHIBIT
20
6-2-20







PENGLD-Bayonne, N. J.
**DEFENDANT'S
EXHIBIT**
23
6-2-20





PENCAD-Bayonne, N. J.
**DEFENDANT'S
EXHIBIT**
L5
6-2-20



PERICAD-Byrnes, N. J.
**DEFENDANT'S
EXHIBIT**
26
10-7-20





FENGID-Bayonne, N. J.
**DEFENDANT'S
EXHIBIT**
18
6-2-20

REAL PROPERTY DETAILS

Details for Tax Year 2020

Select Another Tax Year:

2020

 [View Map](#)

 [View Old Property Card](#)

 [Change Mailing Address](#)

 [Download Forms](#)

 [Property Tax Estimate](#)

GENERAL INFORMATION

Map #: 0300000100106
Tax Year: 2020
District: 899
Owner(s): Rogozinski Richard Joseph
Previous Owner: Rogozinski Hazel
Care Of:
Mailing Address: 1 Turnbridge Trl Simpsonville, SC 29680

DESCRIPTION

Acreage: 1.100
Description: 1 2 3 4 5
Location: 710 N Maple St
Subdivision:
Deed Book-Page: 1887 - 370
Deed Date: 12/22/1999
Will:
Sale Price: \$433,333
Plat Book-Page:

CLASSIFICATION

Jurisdiction: 1 (County Jurisdiction)
Homestead Code: No
Assessment Class: OT - Non-Legal Residence

PROPERTY INFORMATION

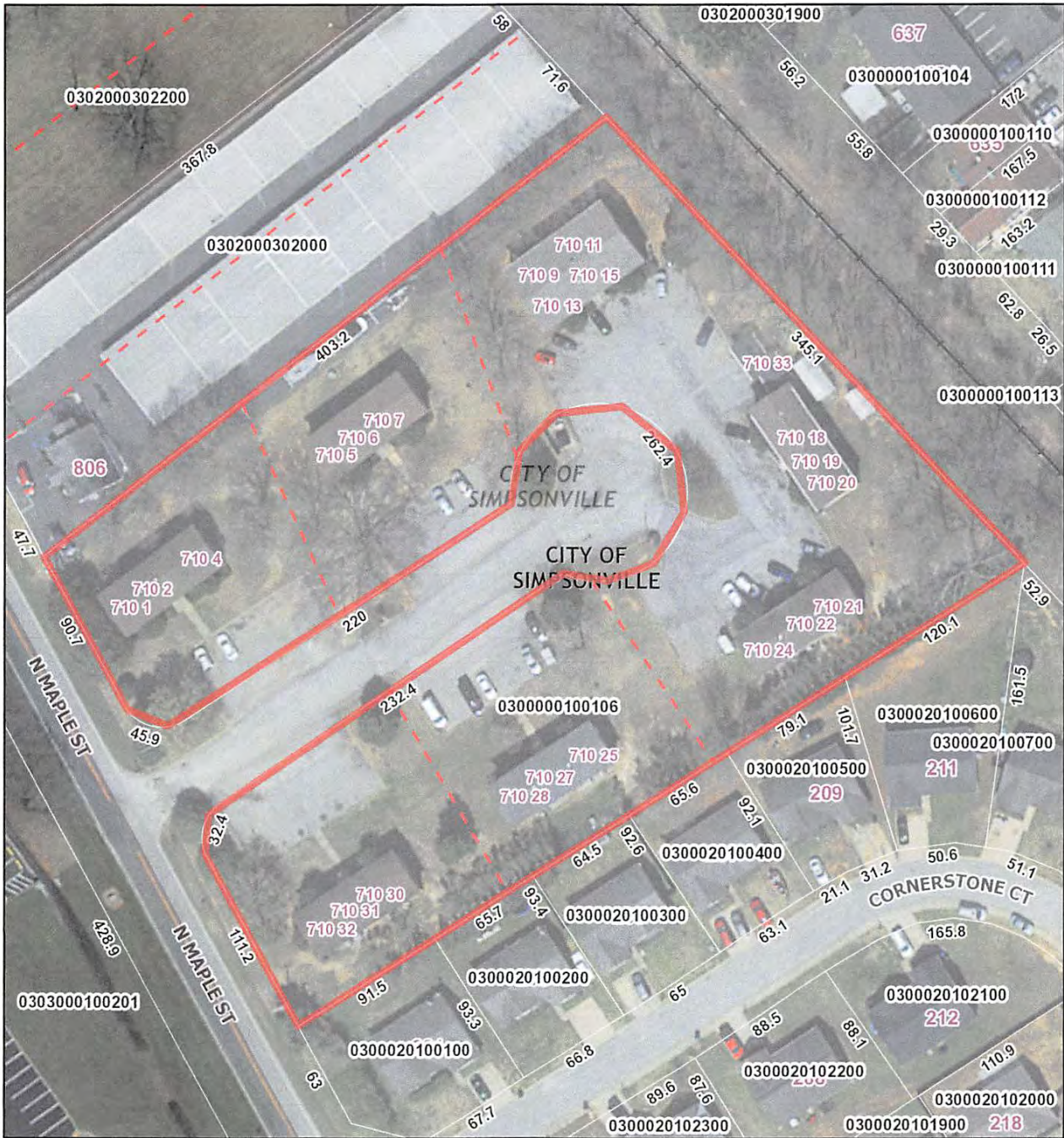
Bedrooms/Bathrooms: 0 Bedrooms, 0 Bathrooms, Half Bathrooms
Square Footage: 0
Land Use: 120 (Apartment-Convent(C,D))
120 (Apt- High rise (A,B))

VALUE

Fair Market Value: 1,200,000
Taxable Market Value: 944,340
Total Rollback:
Taxes: Not Available

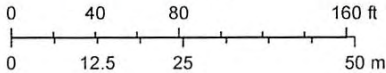


Greenville County, SC



June 1, 2020

1:960



DEFENDANT'S
EXHIBIT
30
6-2-20

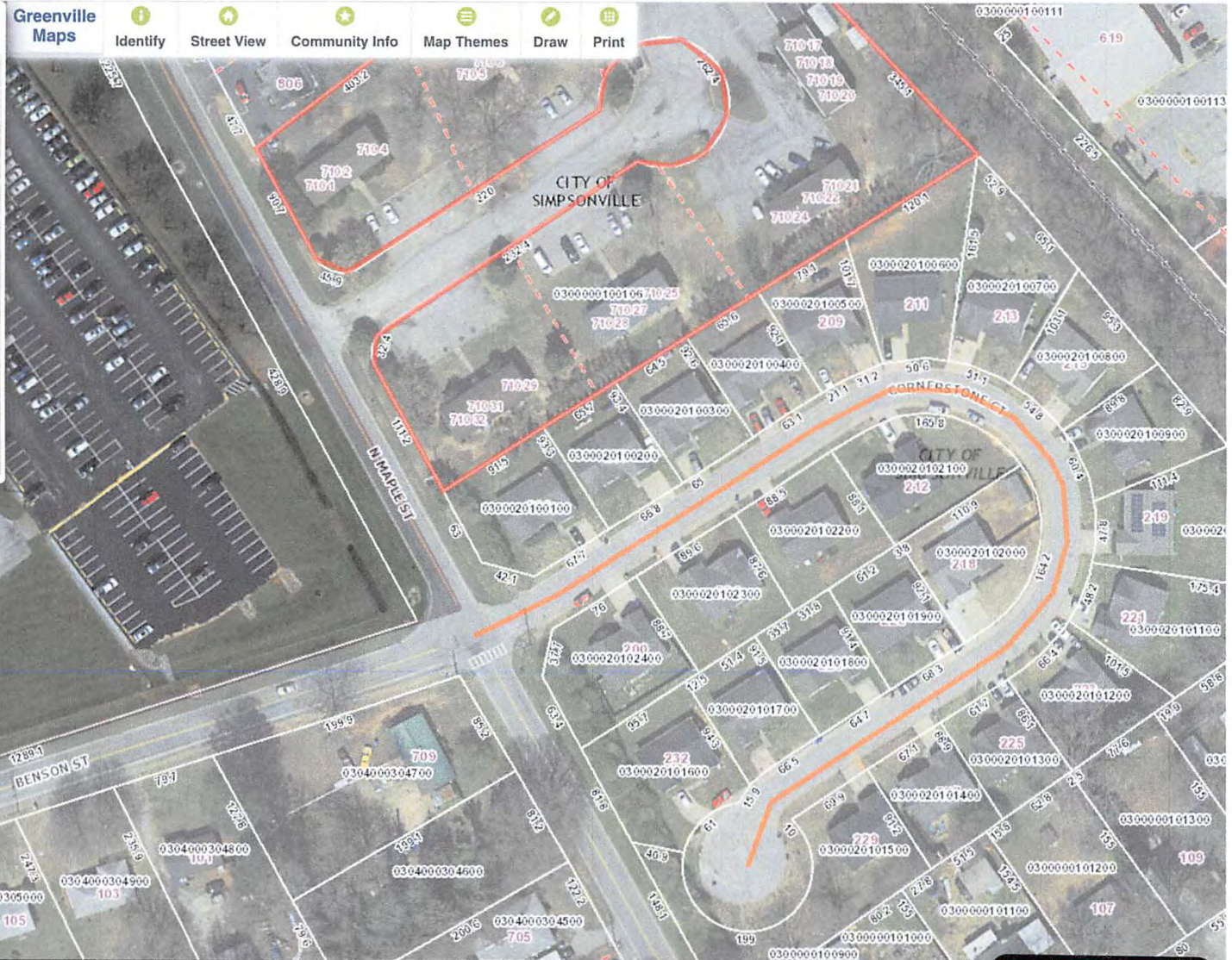
Greenville County GIS Division, Greenville, South Carolina, Greenville County, South Carolina GIS Division

Disclaimer: This Map is not a LAND SURVEY and is for reference purposes only. Data contained in this map are prepared for the inventory of Real Property found within this jurisdiction, and are

Identify Details Map

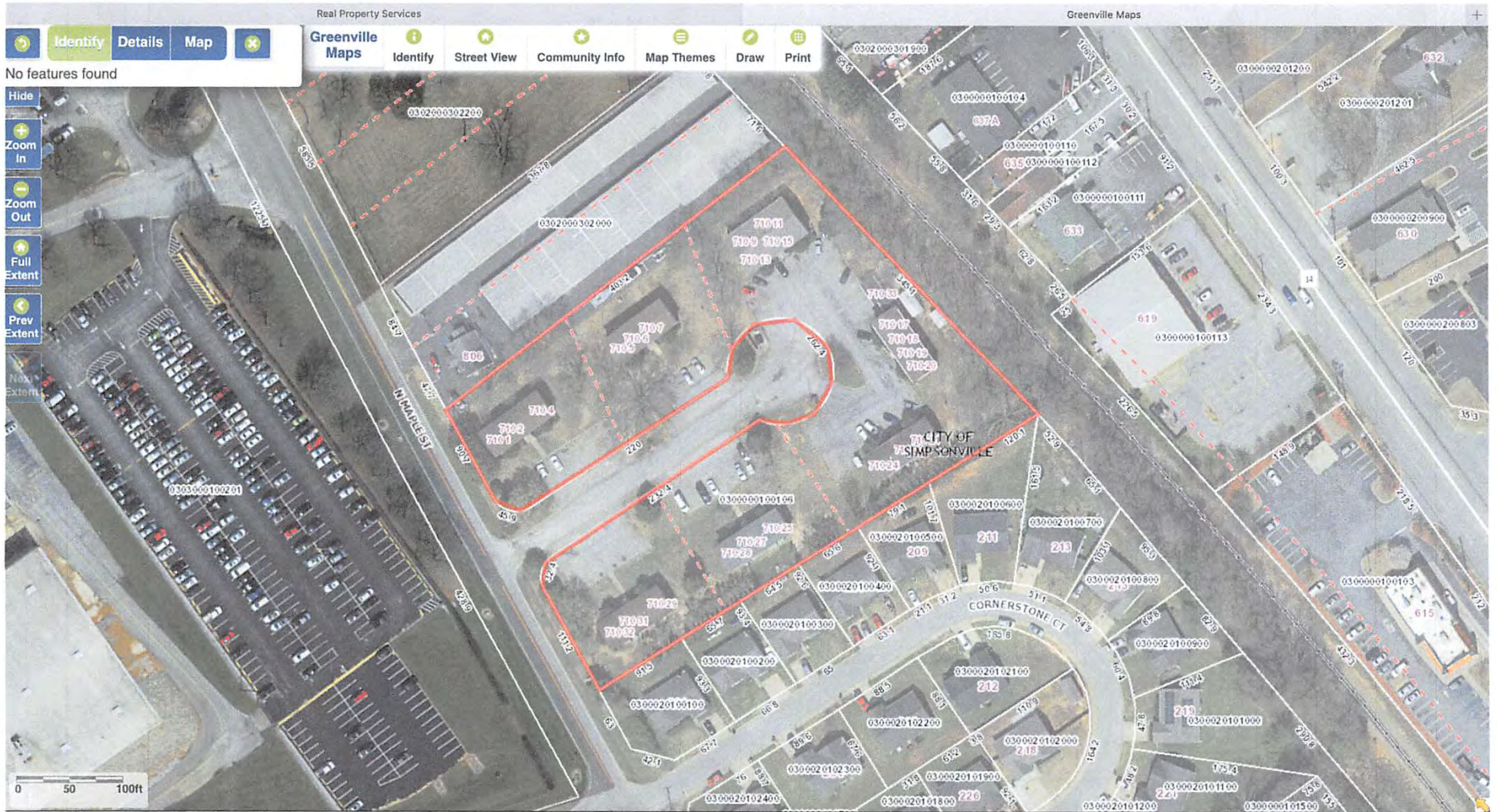
Cornerstone Ct Zoom to

Road Name	Cornerstone Ct
Road Number	SV
Alternate Road Name	
Left Address Low	201
Left Address High	299
Right Address Low	200
Right Address High	298
Zip Code	29681
SHAPE.STLeng	951.3625947467896



DEFENDANT'S EXHIBIT
 31
 6-2-20

PENIGAD-Bayonne, N. J.



PERGID-Bayamc, M. J.
**DEFENDANT'S
EXHIBIT**
32
6-2-20

Hanks, Danette

From: Simmons, Judge Charles
Sent: Tuesday, June 02, 2020 1:48 PM
To: Hanks, Danette
Subject: FW: Rogozonski v. Greenville County and City of Simpsonville

Judge Charles B. Simmons, Jr.
Suite 313, 305 East North Street
Greenville County Courthouse
Greenville, SC 29601
(864) 467-8556

From: Herrmann, Karen
Sent: Tuesday, June 2, 2020 12:06 PM
To: Simmons, Judge Charles
Subject: FW: Rogozonski v. Greenville County and City of Simpsonville

fyi

Karen K. Herrmann
Administrative Docketing Coordinator
Judge Charles B. Simmons, Jr.
Greenville County Courthouse, Suite 313
305 East North Street
Direct Dial 864-467-8258/ Fax 864-467-8401

From: Nicholson, Nick [mailto:nnicholson@hsblawfirm.com]
Sent: Tuesday, June 02, 2020 12:04 PM
To: Herrmann, Karen
Cc: David Holmes (davidholmes@holmes-law.com); Clayton Jennings
Subject: Rogozonski v. Greenville County and City of Simpsonville

CAUTION: This email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Karen,

During trial Judge Simmons noted that the various directed verdict and other motions that I made for Greenville County were protected for the record. I am writing to confirm that this is the case following the conclusion of the testimony as well. I will be glad to submit something formal and in writing if Judge Simmons would like, or we could simply reserve it for post-trial motions if that is the Court's pleasure. I am also happy to come back over to the court to argue also.

Glad to discuss further.

Bet regards.

Nick



HAYNSWORTH SINKLER BOYD

Boyd B. (Nick) Nicholson, Jr. | Managing Director, Attorney
Direct 864.240.3247 | nnicholson@hsblawfirm.com

Haynsworth Sinkler Boyd, P.A.
ONE North Main, 2nd Floor | Greenville, SC 29601
Main 864.240.3200 | Mobile 864.430.0693 | Fax 864.240.3300

[Web](#) | [Bio](#) | [vCard](#) | [Map](#) | [Linked In](#) | [Blog](#)

CONFIDENTIALITY NOTICE: *This e-mail and any files transmitted with it are confidential and may contain information which is legally privileged or otherwise exempt from disclosure. They are intended solely for the use of the individual or entity to whom this e-mail is addressed. If you are not one of the named recipients or otherwise have reason to believe that you have received this message in error, please immediately notify the sender and delete this message immediately from your computer. Any other use, retention, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited.*

Hanks, Danette

From: Simmons, Judge Charles
Sent: Tuesday, June 02, 2020 1:49 PM
To: Hanks, Danette
Subject: FW: Conference Call Tomorrow - Richard Rogozinski v. Greenville County (2018-23-05191)

Judge Charles B. Simmons, Jr.
Suite 313, 305 East North Street
Greenville County Courthouse
Greenville, SC 29601
(864) 467-8556

From: Herrmann, Karen
Sent: Tuesday, June 2, 2020 12:00 PM
To: Simmons, Judge Charles
Subject: FW: Conference Call Tomorrow - Richard Rogozinski v. Greenville County (2018-23-05191)

See below from Mr. Holmes.

Karen K. Herrmann
Administrative Docketing Coordinator
Judge Charles B. Simmons, Jr.
Greenville County Courthouse, Suite 313
305 East North Street
Direct Dial 864-467-8258/ Fax 864-467-8401

From: David Holmes [mailto:DavidHolmes@holmes-law.com]
Sent: Tuesday, June 02, 2020 11:59 AM
To: Herrmann, Karen; Clayton Jennings; Nicholson, Nick
Subject: Re: Conference Call Tomorrow - Richard Rogozinski v. Greenville County (2018-23-05191)

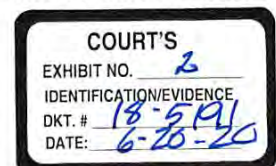
CAUTION: This email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Karen:

If you could pass this along to Judge Simmons, I'd appreciate it.

There was not a time for me to move for a directed verdict at the end of all of the evidence. Therefore, I need the record to be clear that I do so move. If I need to file a formal, written motion to that effect, I am happy to do so. In addition, as I recalled the proceedings, there was going to be some time to argue the issues of standing, jurisdiction, and separation of powers.

I am happy to file a short brief on these issues as well as the grounds for a motion for directed verdict. I think I could do that fairly quickly.



I will wait to hear from Judge Simmons. If necessary, I am happy to return to court to place this on the record, too.

David W. Holmes
Holmes Law Firm
712 N. Main Street
Greenville, SC 29609
Tel.: 864.271.2381
Fax: 864.751.9484

CONFIDENTIALITY NOTICE: This electronic mail transmission has been sent by a lawyer. It may contain information that is confidential, privileged, proprietary, or otherwise legally exempt from disclosure. If you are not the intended recipient, you are hereby notified that you are not authorized to read, print, retain, copy or disseminate this message, any part of it or any attachments. If you have received this message in error, please delete this message and any attachments from your system without reading the content and notify the sender immediately of the inadvertent transmission. There is no intent on the part of the sender to waive any privilege, including the attorney-client privilege, that may attach to this communication. Thank you for your cooperation.

Nothing in this message is intended to constitute an Electronic signature for purposes of the Uniform Electronic Transactions Act (UETA) or the Electronic Signatures in Global and National Commerce Act ("E-Sign") unless a specific statement to the contrary is included in this message.

From: "Herrmann, Karen" <KHerrmann@greenvillecounty.org>
Date: Thursday, May 28, 2020 at 3:45 PM
To: Clayton Jennings <clayton@jenningslawfirm.com>, David Holmes <DavidHolmes@holmes-law.com>, Boyd Nicholson <nnicholson@hsblawfirm.com>
Subject: RE: Conference Call Tomorrow - Richard Rogozinski v. Greenville County (2018-23-05191)

Good afternoon Clayton,

I will be happy to get this information to the Judge.

Thank you very much for setting up the call.

Have a wonderful evening.

Karen K. Herrmann
Administrative Docketing Coordinator
Judge Charles B. Simmons, Jr.
Greenville County Courthouse, Suite 313
305 East North Street
Direct Dial 864-467-8258/ Fax 864-467-8401

From: Clayton Jennings [mailto:clayton@jenningslawfirm.com]
Sent: Thursday, May 28, 2020 3:44 PM
To: Herrmann, Karen; David Holmes; Nicholson, Nick
Subject: Conference Call Tomorrow - Richard Rogozinski v. Greenville County (2018-23-05191)

CAUTION: This email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

All,

My calendar shows that we have a conference call set for 8:45 a.m. tomorrow and that I am hosting the call.

Please call: (712) 451-0532 and use **Access Code: 312513** to join the call.

Karen, if you don't mind passing this along to Judge Simmons, I would be most appreciative.

Thank you,

Clayton L. Jennings
Jennings Law Firm, LLC
1151 E. Washington St.
Greenville, SC 29601
864.239.0055
864.239.4112 (fax)

CONFIDENTIALITY NOTICE: *This e-mail and any files transmitted with it are confidential and may contain information which is legally privileged or otherwise exempt from disclosure. They are intended solely for the use of the individual or entity to whom this e-mail is addressed. If you are not one of the named recipients or otherwise have reason to believe that you have received this message in error, please immediately notify the sender and delete this message immediately from your computer. Any other use, retention, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited.*