

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
Nov 15 2021
SC Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

William H. Seals, Jr., Circuit Court Judge

Case No. 2016-CP-26-00673
Case No. 2016-CP-26-00674
Case No. 2016-CP-26-00743
Case No. 2016-CP-26-00744
Appellate Case No. 2018-000041

Jim Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, Errol Dos Santos, and Jeffrey Richardson, on behalf of themselves and all other similarly situated, Plaintiffs,

v.

Ocean Front Spa Horizontal Property Regime, Inc., Bill Cameron, Walter Jordan, Ralph Jump, Stanley Jordan, Ray Coghill, and John Doe past board directors of Ocean Front Spa Horizontal Property Regime, Inc., Defendants,

And

Jim Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, Errol Dos Santos, and Jeffrey Richardson, on behalf of themselves and all other similarly situated, Plaintiffs,

v.

The Myrtle Beach Resort Homeowners Association, Inc., Phil Cox, Bill Cameron, Stanley Jordan, Walter Jordan, Wayne Urban, Ken Perkins, and John Doe past board directors of The Myrtle Beach Resort Homeowners Association, Inc., Defendants,

And

Jim Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, and Errol Dos Santos, and Jeffrey Richardson, individually in their capacity as derivative shareholders, Plaintiffs,

v.

K.A. Diehl and Associates, Inc., The Myrtle Beach Resort Homeowners Association, Inc., Phil Cox, Bill Cameron, Stanley Jordan, Wayne Urban, Walter Jordan, Ken Perkins, and John Doe past board directors of The Myrtle Beach Resort Homeowners Association, Inc., Defendants,

And

Jim Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, Errol Dos Santos, and Jeffrey Richardson, individually in their capacity as derivative shareholders of Ocean Front Spa Horizontal Property Regime, Inc., Plaintiffs,

v.

Ocean Front Spa Horizontal Property Regime, Inc., Walter Jordan, Ralph Jump, Ray Coghill, John Doe past board directors of Ocean Front Spa Horizontal Property Regime, Inc., The Myrtle Beach Resort Homeowners Association, Inc., Phil Cox, Bill Cameron, Stanley Jordan, Wayne Urban, Ken Perkins, John Doe past board directors of The Myrtle Beach Resort Homeowners Association, Inc., and K.A. Diehl and Associates, Inc.Defendants,

Of whom Mark Dos Santos is the Appellant,

And

Ocean Front Spa Horizontal Property Regime, Inc., Walter Jordan, Ralph Jump, Ray Coghill, John Doe past board directors of Ocean Front Spa Horizontal Property Regime, Inc., The Myrtle Beach Resort Homeowners Association, Inc., Phil Cox, Bill Cameron, Stanley Jordan, Wayne Urban, Ken Perkins, John Doe past board directors of The Myrtle Beach Resort Homeowners Association, Inc., and K.A. Diehl and Associates, Inc., are the Respondents.

AFFIDAVIT OF KENNETH MOSS

COMES NOW Kenneth Moss, who, after being duly sworn, deposes and says:

1. My name is Kenneth Moss. I am an adult, of sound mind, competent to testify to all matters in this Affidavit.
2. The information in this Affidavit is based on my personal knowledge and is true and accurate to the best of my knowledge and belief.
3. I am the President of the Myrtle Beach Resort Homeowners Association, Inc. (“MBRHOA”).

4. On May 1, 2017, all of the representative plaintiffs agreed to the terms of a settlement in the above-captioned actions, on behalf of the members of MBRHOA and the Ocean Front Spa Horizontal Property Regime, Inc. (“Regime”).

5. After the mediation, one of the representative plaintiffs—Mark dos Santos—objected to the settlement, ultimately appealing the trial court’s decision to enforce the settlement.

6. On March 16, 2021, Mark dos Santos sold his only property interest connected to the Regime, and he is no longer a member of or in any way connected to the Regime or the MBRHOA. Exhibit 1 to this Affidavit is a copy of the Warranty Deed associated with this sale of property, which was recorded with the Horry County Register of Deeds on March 25, 2021, in Book 4402 at page 2083.

7. Based on Mark dos Santos’ selling his property and losing his membership in the Regime and MBRHOA, he no longer has any basis to represent the rights of the Regime, MBRHOA, or the members of either organization in this appeal or any related litigation.

8. I am not aware of any existing members of MBRHOA or the Regime who oppose the terms of the settlement the parties reached at mediation on May 1, 2017.

FURTHER AFFIANT SAYETH NOT.

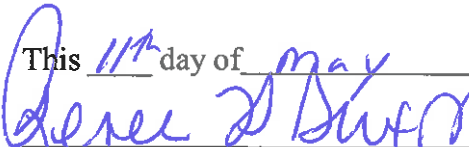
I swear under oath that the foregoing Affidavit is true to the best of my knowledge and belief.



KENNETH MOSS

SWORN TO and subscribed before me

This 11th day of May, 2021.



Notary Public for South Carolina
My Commission Expires: 12-18-27
Renee H Bayley

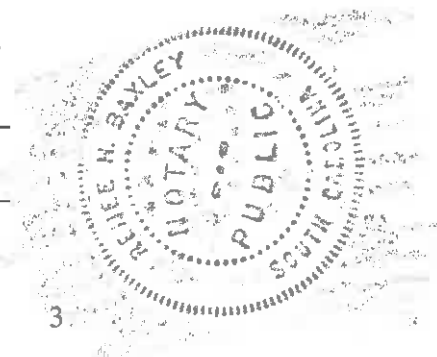


Exhibit 1

Warranty Deed

46009010044,

Prepared By and Return to:
Murray Law Offices, PA
4214 Mayfair Street, Suite A
Myrtle Beach, SC 29577
Phone: (843)286-2000
File No.: 21-MB 0162AWR

*** Title Search Not Performed By Preparing Attorney ***

(Please do not write above this line -- Reserved for Register of Deeds Office)

STATE OF SOUTH CAROLINA

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WARRANTY DEED

COUNTY OF HORRY

KNOW ALL MEN BY THESE PRESENTS, that Mark E. Dos Santos and Keri A. Dos Santos, Grantor(s), in the State aforesaid, for and in consideration of the sum of **One Hundred Twenty Thousand And No/100 Dollars (\$120,000.00)**, unto me paid by Robert A. Zellhofer, Grantee, in the State aforesaid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released and by these presents does grant, bargain, sell, and release unto the said Robert A. Zellhofer, as sole owner, his heirs and assigns, forever, in fee simple, together with every contingent remainder and right of reversion, the following described property, to wit:

APARTMENT NO. 101 of MYRTLE BEACH RESORT OCEAN FRONT SPA HORIZONTAL PROPERTY REGIME (a condominium) a Horizontal Property Regime established pursuant to the South Carolina Horizontal Property Act, Title 27, Chapter 31, Code of Law of South Carolina (1976), and submitted by Master Deed dated April 15, 1983, and recorded April 15, 1983 in the Office of the Register of Deeds for Horry County, South Carolina in Deed Book 789 at Page 362.

SUBJECT to all of the provisions of aforementioned Master Deed and all Exhibits and Amendments thereto. And subject to the By-Laws of Myrtle Beach Resort Ocean Front Spa Horizontal Property Regime, Inc., and to all other restrictions and easements appearing of record.

OCEANFRONT PROPERTY DISCLOSURE STATEMENT

Pursuant to S.C. Code Ann., Section 48-39-330 (1990 Supp.) the Grantor discloses to the Grantee that the property or a portion thereof is or may be subject to the South Carolina Coastal Tideland and Wetlands Act as it is located, in whole or in part, seaward of the setback line. The location of the property in proximity to the setback line, the baselines, the jurisdictional lines, the seaward corners of all habitable structures and the erosion rate is shown on a plat by Culler Land Surveying Co., Inc., recorded November 18, 1991 in the office of the Clerk of Courts for Horry County in Plat Book 117 at Page 99. All or part property is or may be within the velocity zone as determined by the Federal Emergency Management Agency. The Grantor makes no representation to the Grantee concerning the location of such baselines, setback lines, or the velocity zone, the effect of such regulation on the property or the accuracy of the foregoing disclosure.

THIS BEING the identical property conveyed to Mark E. Dos Santos and Keri A. Dos Santos from Judy O. Gravley by Deed dated June 2, 2005 and recorded on June 7, 2005 in Deed Book 2922, in the Office of the Register of Deeds of Horry County, South Carolina.

Stamps: \$132.00 State Stamps: \$312.00 ELECTRONICALLY RECORDED Marion D.
Foxworth III, Horry County, SC Registrar of Deeds

TMS: 192-05-02-001 and PIN# 460-09-01-0044

Property Address: 5905 South Kings Highway, Unit B-101, Myrtle Beach, SC 29575

Grantee(s) Address: N48W34160 Jaeckles Drive, Nashotah, WI 53058

THIS CONVEYANCE IS MADE SUBJECT TO easements and restrictions of record and otherwise affecting the property.

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 and **Robert A. Zellhofer, as sole owner**, his heirs and assigns, forever, in fee simple, together with every contingent remainder and right of reversion.

AND Grantor does hereby bind themselves and their heirs and assigns, to warrant and forever defend all and singular the said premises unto the said **Robert A. Zellhofer, as sole owner**, his heirs and assigns, forever, in fee simple, together with every contingent remainder and right of reversion against the Grantors and the Grantor's heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

(Signature Page to Follow)

IN WITNESS WHEREOF my Hand and Seal this 16th day of March, 2021.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]
1st Witness

Stephanie Kennedy
Printed Name

[Signature]
2nd Witness

MELANIE POWELL
Printed Name

[Signature]
Mark E. Dos Santos

[Signature]
Keri A. Dos Santos

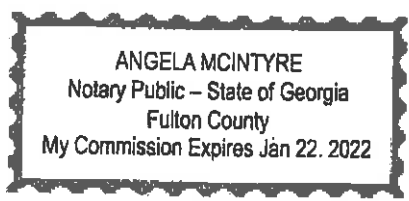
STATE OF Georgia)
COUNTY OF Fulton) PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he was present and saw the within Grantor sign, seal, and as his/her/their act and deed, deliver the within Warranty Deed; that deponent with the other witness whose name is subscribed above, witnessed the execution thereof, and that the subscribing witness is not a party to or beneficiary of the transaction.

SWORN to before me this
16th of March, 2021.

[Signature]
1st Witness

[Signature]
Notary Public for State of Georgia
Notary Public Printed Name: Angela McIntyre
My Commission Expires: 01/22/2022



AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

PERSONALLY, appeared before me the undersigned, who being duly sworn, deposes and states:

- 1. I have read the information on this Affidavit and I understand such information.
2. The property being transferred is located at 5905 South Kings Highway, Unit B-101, Myrtle Beach, SC 29575 bearing Horry County Tax Map Number 192-05-02-001 and PIN# 460-09-01-0044, and was transferred by Mark E. Dos Santos and Keri A. Dos Santos to Robert A. Zeilhofer on March 16, 2021.
3. Check one of the following: The deed is:
a. [X] subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
b. [] subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
c. [] exempt from the deed recording fee because (see information section of affidavit):
4. Check one of the following if either item 3(a) or item 3(b) above has been checked. (See Information section of this affidavit):
a. [X] The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$120,000.00.
b. [] The fee is computed on the fair market value of the realty which is \$
c. [] The fee is computed on the fair market value of the realty as established for property tax purposes which is \$
5. Check YES [] or NO [X] to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES", the amount of the outstanding balance of this lien or encumbrance is: \$
6. The deed recording fee is computed as follows:
a. Place the amount listed in item 4 above here: \$ 120,000.00
b. Place the amount listed in item 5 above here: \$ 0.00
c. Subtract Line 6(b) from Line 6(a) and place result here: \$ 120,000.00
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ 444.00.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Sellers
9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned no more than one year, or both.

Handwritten signatures of Mark E. Dos Santos and Keri A. Dos Santos with printed names below.

SWORN to before me this 16 of March, 2021.
Notary Public for State of Georgia
Notary Public Printed Name: Angela Montoya
My Commission Expires: 01/22/2022

**HORRY COUNTY REGISTER OF DEEDS
TRANSMITTAL SHEET**

**TO BE FILED WITH EACH INSTRUMENT PRESENTED ELECTRONICALLY FOR RECORDING.
HORRY COUNTY REGISTER OF DEEDS, 1301 SECOND AVENUE POST OFFICE BOX 470 , CONWAY ,
SOUTH CAROLINA 29526**

DOCUMENT TYPE OF INSTRUMENT BEING FILED: Deed

DATE OF INSTRUMENT: .

DOCUMENT SHALL BE RETURNED TO:

NAME: Law Offices N. David DuRant & Associates P.A.

ADDRESS:

1801 Glens Bay Rd

Myrtle Beach, SC 29575-4821

TELEPHONE: (843) 650-7800

FAX: (843) 650-7800

E-MAIL ADDRESS: durantre@lawofficesofdurant.com

Related Document

(s):

PURCHASE PRICE / MORTGAGE AMOUNT: \$ 120000.00

BRIEF PROPERTY DESCRIPTION: Apartment No. 101 of Myrtle Beach Resort Ocean Front Spa Horizontal Property Regime

TAX MAP NUMBER (TMS #) 195-05-02-001 / PIN NUMBER: 101

GRANTOR / MORTGAGOR / OBLIGOR / MARKER (FROM WHO):

	<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>MIDDLE NAME</u>
1.	<u>SANTOS</u>	<u>MARK E.</u>	<u>DOS</u>
2.	<u>SANTOS</u>	<u>KERLA.</u>	<u>DOS</u>

GRANTEE / MORTGAGEE / OBLIGEE (TO WHO):

	<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>MIDDLE NAME</u>
1.	<u>ZEILHOFER</u>	<u>ROBERT</u>	<u>A.</u>