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Mar 28 2022

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

The Honorable Marvin H. Dukes, III
Beaufort County
Trial Court Case No. 2020-CP-07-0231

APPELLATE CASE NO. 2022-000277

Georgia Harrison, Barbara Harrison,
Joyce Ellen Harrison, William S. Harrison III,
Stanley Roberts, and
Diana Mendheim, Individually and As Attorney In Fact,

Respondents,

vs.

Stephanie Lorraine Kirkland, Gary Lamont Kirkland,
Kieta Nicole White, and Cheryl Kirkland,

Appellants.

**RESPONDENTS' RETURN TO APPELLANTS' MOTION
PURSUANT TO RULE 241(A)**

INTRODUCTION

Currently pending before this Court is the Appellants' Motion Pursuant To Rule 241(A), filed on March 17, 2022. The Motion should be denied firstly, on a procedural basis because it fails to comply with the South Carolina Appellate Court Rules, and secondly, on a substantive basis because it is unsupported by law or statute.

PROCEDURAL DEFICIENCIES

Appellants filed their Notice of Appeal on March 9, 2022, an Amended Notice of Appeal on March 14, 2022, and filed the pending Motion Pursuant To Rule 241(A) on March 17, 2022.

The pending Motion is made pursuant to, and must conform with, Rules 240 and 241, SCACR. Rule 240(c) requires that all motions have a certificate or affidavit of service reflecting the date of service upon all parties, filed with the original motion. The original “Motion Pursuant To Rule 241(A)” filed March 17, 2022 has no such certificate or affidavit attached.

Rule 240(c) further requires that where the Record on Appeal or Appendix has not been filed, the movants shall file affidavits and other documents in support of their positions. Here, neither the Record on Appeal nor Appendix has been filed with this Court. The pending Motion has no required affidavits nor other documents in support of the Appellants’ motion.

Rule 241(d)(1) requires that unless there are extraordinary circumstances that make it impracticable, an application for an order of supersedeas (which is, in essence, what the Appellants seek), must first be made to the lower court that entered the order or decision on appeal. Further, Rule 241(d)(3) and (4) require that the Appellants herein “must file” with the motion, a written petition verified by the client, and contemporaneously file a certified copy of the order, judgment, decree or decision of the lower court and a copy of the notice of appeal with its proof of service. The Petition must include, in addition to the factual background necessary for an understanding of the Petition, a “showing that an application for this relief was made to the lower court” and was unjustifiably denied or that the relief granted failed to afford the relief which the petitioner requested. If no application was made to the lower court (as is the case here), “the petition shall state the extraordinary circumstances which made it impracticable to make such an application.” The Appellants have failed herein to make an application to the lower court for this relief prior to

seeking redress from this Court, have failed to include a petition verified by the Appellants, and have failed to include any assertion that extraordinary circumstances existed that made it impracticable to make such motion to the lower court prior to filing the instant Motion in this Court.

The Appellants' pending Motion Pursuant to Rule 241(A), as filed, fails to comply with numerous procedural provisions of the SCACR as set forth above, and thus should be denied. Vaughn v. Morgan, 31 S.C. 602, 9 S.E. 743 (1889).

Should the Court find the pending Motion Pursuant To Rule 241(A) appropriately before the Court for substantive consideration, the Respondents reply to the Motion as follows:

FACTUAL BACKGROUND

This is an action to quiet title filed under S.C. Code Annot. Section 15-67-10 et seq. and to Partition the land by sale, pursuant to S.C. Code Annot. Section 15-61-10 et seq. The Summons and Complaint were filed on November 24, 2020, and the Complaint advised the Court and the Defendants in November of 2020, of a pending contract that had been entered into by the Plaintiffs to sell the property at issue to Rotunda Land & Development Group, LLC ("Rotunda") for \$9,100,000.00, which the Plaintiffs believed to be a fair and equitable price for the property. See the Affidavit of Andre Johnny White (the "White Affidavit") filed contemporaneously with this Return, and Exhibits A and B thereto.

The parcel at issue is a tract of approximately 26.462 acres located on the north end of Hilton Head Island in Beaufort County (the "Property"), which has been through two previous quiet title actions. Pursuant to South Carolina Rule of Civil Procedure 71(e), because the suit

included a partition action, the Circuit Court was empowered to determine the title and interests in the real property of the several parties to the action.

In response to the Complaint, the then Defendants Stephanie Lorraine Kirkland, Gary Lamont Kirkland, Keita Nicole White and Cheryl Kirkland, filed an Answer on January 7, 2021. *See* Exhibit C to the White Affidavit. The case was then referred to the Beaufort County Master In Equity, Judge Marvin H. Dukes III, by consent. *See* Exhibit D to the White Affidavit.

On May 21, 2021, the Plaintiffs and the Defendants presented a joint Consent Order to the Court evidencing a written agreement between all parties that the Property is owned in indivision by the Plaintiffs, the represented Co-Owners and the Defendants, and that Consent Order provided a detailed “Exhibit A” setting forth the mutually-agreed upon undivided interest percentages of each party. Judge Dukes signed and filed the Consent Order on May 21, 2021. *See* Exhibit E to the White Affidavit. At that time, the Plaintiffs owned an undivided 99.192707 percent interest in the Property and the Defendants owned an undivided 0.807293 percent interest in the Property.

Once the quiet title portion of the case had been resolved by a Consent Order and all owners of the Property specifically identified by percentage ownership, the parties and counsel moved forward under the Pinckney Act (S.C. Code Annot. Section 15-61-310, et seq.) to determine the Fair Market Value of the 26.462 acres, and on September 15, 2021, the Court entered its Order pursuant to S.C. Code Annot. Section 15-61-360(B), establishing the Fair Market Value of the 26.462 acres at Nine Million, One Hundred Thousand (\$9,100,000.00) Dollars. *See* Exhibit F to the White Affidavit.

Due to the continuing delays brought about by the extended litigation, the Plaintiffs worked with the Rotunda principals to extend the closing date on the contract several times, and then on October 19, 2021, the Plaintiffs/Respondents convinced the Rotunda principals to raise their

proposed purchase price from the original \$9,100,000.00 to \$9,750,000.00 — an increase of \$650,000.00 over the Court-established (and mutually agreed upon) Fair Market Valuation of the Property. *See* Exhibit G to the White Affidavit.

The Plaintiffs continued to attempt to move the case forward, and on October 20, 2021, following another status conference, the Court filed an Order realigning certain parties at the Defendants' counsel's request (with the consent of the Plaintiffs), and pursuant to the Pinckney Act, allocated to the Defendants the "right to buy" interests of the co-tenant Plaintiffs pursuant to S.C. Code Annot. Section 15-61-370(D)(2), based upon their respective existing fractional undivided ownership interests in the Property. By that Order, the Appellant Defendants were given until 5:00 p.m. on December 22, 2021 to pay in to the Clerk of Court, their apportioned prices to buy out the Plaintiffs' interests under the Pinckney Act. Further, the October 20, 2021 Order provided that if the Defendants failed to timely pay their apportioned amounts into the Court, "then the property that is subject to this action shall be partitioned by sale at a purchase price of not less than \$9,100,000.00, and that the Plaintiffs shall be authorized to enter into, or ratify, a contract of sale for not less than such price, and including such other commercially reasonable terms and conditions as are deemed appropriate." (*See* the October 20, 2021 Order attached as Exhibit H to the White Affidavit, page 5.) As of October 20, 2021, with the realignment of five of the former Plaintiffs as new Defendants, the remaining Plaintiffs own in aggregate an undivided 98.828122 percent interest in the Property and the nine Defendants/Appellants own in aggregate an undivided 1.171878 percent interest in the Property.

The Defendants then had 63 days to buy out the Plaintiffs' interests as per the specific requirements of the Pinckney Act¹. Not a single Defendant tendered their apportioned price into Court by 5:00 p.m. on December 22, 2021, but their counsel did file a Motion For Relief of Judgment and For Extension of Time to Tender Price Under Right of First Refusal and Motion for Realignment of Parties at 7:54 p.m. that evening. *See* Exhibit J to the White Affidavit. In addition, the Defendants/Appellants also filed a "Supplemental Motion For Relief of Judgment and For Extension of Time To Tender Purchase Price Under Right Of First Refusal" on January 5, 2022 and within hours thereafter, another "Amended Supplemental Motion for Relief of Judgment and For Extension of Time To Tender Purchase Price Under Right of First Refusal." *See* Exhibits K and L to the White Affidavit.

Another status conference and motion hearing was held on January 6, 2022, and from that hearing Judge Dukes' Order of January 20, 2022 emanated, which denied the Defendants' December 22, 2021 motion and the two motions filed January 5, 2022, and further held that to the extent any of the three Defendants' Motions then pending (*i.e.*, the Motion For Relief of Judgment and For Extension of Time to Tender Purchase Price Under Right of First Refusal and Motion for Realignment of Parties filed on the evening of December 22, 2021; the Defendants' Supplemental Motion for Relief of Judgment and For Extension of Time to Tender Purchase Prices Under Right of First Refusal filed January 5, 2022; and the Defendants' Amended Supplemental Motion for Relief of Judgment and For Extension of Time to Tender Purchase Price Under Right of First Refusal filed later in the day on January 5, 2022) "are construed to seek relief or remedy from this Court in addition to reconsideration or amendment of my October 20, 2021 Order, I also

¹ During that 63-day period, the Plaintiffs/Respondents and Rotunda executed a Sixth Amendment to the contract, extending the closing date until March 22, 2022 because of the continuing litigation. *See* Exhibit I to the White Affidavit.

respectfully deny those motions.” *See* the January 20, 2022 Order, page 2, attached as Exhibit M to the White Affidavit. The Defendants then filed a motion for reconsideration on January 31, 2022 (*see* Exhibit N to the White Affidavit), which was denied by Order dated March 7, 2022. *See* Exhibit O to the White Affidavit.

The original Notice of Appeal was then filed by the Defendants/Appellants on March 9, 2022 and this pending Motion was filed on March 17, 2022. The Clerk directed this Return to be filed by March 28, 2022.

ARGUMENT AND CITATION OF AUTHORITY

By this Motion, the Appellants seek this Court’s imprimatur of the Appellants’ position that their filing of the Notice of Appeal and Amended Notice of Appeal on March 9, 2022, automatically stays “the proceedings and the trial court and effect of the orders on appeal.” (See Motion, p. 1.) The Motion was filed after the Plaintiffs/Respondents advised counsel for the Appellants that the Plaintiffs intended to move forward to close the \$9,750,000.00 sale of the Property to Rotunda unless and until the Appellants sought and received an Order of Supersedeas with an appropriate bond. *See* Affidavit of Thomas C. Taylor, Esq. filed contemporaneously with this Return and the letter of March 10, 2022 from Mr. Taylor to Charles E. Houston, Jr., Esq., counsel for the Appellants, attached thereto as Exhibit A. (The sale did not close on March 22, 2022 because Rotunda’s counsel advised the Plaintiffs that the purchaser would not close until this appeal is resolved. *See* the White Affidavit, paragraph 5. The Plaintiffs and Rotunda are presently negotiating toward what the Plaintiffs hope will be a seventh extension of the Rotunda Purchase and Sale Agreement.)

The Plaintiffs/Respondents contend that a plain reading of SCACR 241 shows the general automatic stay provisions are subject to certain exceptions, including Rule 241(b)(4), which provides that judgments directing the sale or delivery of possession of real property are excepted from the general stay provision, as provided in S.C. Code Annot. Section 18-9-170.

As the Court can discern from the pleadings attached to the White Affidavit, the dual prongs of this action were an action to Quiet Title in those identified owners and a request to the Court to partition the land by sale in order to allow all owners to share equally in the terms of a contract that is in an amount exceeding the agreed-upon and court-ordered Fair Market Value by \$650,000.00.

The Appellants have not appealed the Consent Order of May 21, 2021 quieting title in the identified owners in certain determined percentages, and thus that is the law of the case. But the Appellants have attempted to appeal² Judge Dukes' Order of October 20, 2021, which specifically provided that if the Defendants failed to timely pay in to the Court their apportioned prices to buy out the Plaintiffs' interests under the Pinckney Act provisions, "then the property that is the subject of this action shall be partitioned by sale at a purchase price of not less than \$9,100,000.00, and that the Plaintiffs shall be authorized to enter into, or ratify, a contract of sale for not less than such price, and including such other commercially reasonable terms and conditions as are deemed appropriate." (*See Exhibit H to the White Affidavit.*)

Judge Dukes' Order that the Property "shall be partitioned by sale" falls squarely within the ambit of S.C. Code Annot. Section 18-9-170, which provides that:

² Respondents reserve all arguments on the substantive issues of whether the Notice of Appeal was timely filed.

[i]f the judgment appealed from direct (sic) the sale of delivery of possession of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking.

Although there do not appear to be any cases directly on point dealing with a situation where some of the owners of heirs' property sought to partition their land by sale and went through all of the detailed procedures providing safeguards to other co-owners pursuant to the Pinckney Act, the clear intention of the Legislature by enacting S.C. Code Annot. Section 18-9-170, was to provide a bonding requirement prior to the issuance of any stay in this type suit, so that the benefits of a contract of sale, if lost because of the delays of appeal, would not be lost to those Respondents.

Respondents acknowledge the inherent right of a party in Circuit Court to seek appellate review of lower court decisions as long as the appellate court rules are followed. But those rules, as here, may require the Appellants to adequately bond off the anticipated damages that the Respondents are very likely to incur during the pendency of the appeal in the form of a lost contract or crash of the current real estate market. Although the Respondents have taken good faith steps toward attempting to extend the Rotunda contract yet again, given the current state of the economy, it is only fair and reasonable that the Court condition any stay in this case upon a substantial bond

of at least Nine Million, Seven Hundred Fifty Thousand (\$9,750,000.00) Dollars to be placed by the Appellants prior to, and as a condition of, any stay.

Respondents urge this Court to reject the Appellants' argument that this Motion should be analyzed in light of the Appellants' having included Judge Dukes' Order of January 20, 2022 in their numerous Orders appended to the Notices of Appeal. That January 20, 2022 Order was not the Order in the case directing the sale or delivery of possession of real property; it was an Order rejecting the Appellant's three motions filed after the Defendant co-owners failed to meet the Court-imposed deadline for purchasing the Plaintiffs/Respondents' interests via the Pinckney Act safeguards. The Appellants' myriad arguments tendered in the Motion relating to Judge Dukes' alleged errors in rejecting Mr. Houston's multiple motions for reconsideration by his January 20, 2022 Order can be dealt with by this Court at the full briefing level if the appeal moves forward.

In final reply to the arguments posited in the Motion, the Respondents urge the Court to reject the Appellants' request to "alternatively" enter a temporary stay if the Court agrees with the Respondents that there is no automatic stay in effect because of the exception of Rule 241(b)(4). If the Appellants wish to make a new Motion for a Supersedeas, the Rules are clear on the procedure and do not envision any temporary stay without bond.

CONCLUSION

The Plaintiffs/Respondents, who together own an undivided 98.828122 percent interest in this 26.462 acres of heirs' property, have carefully and sensitively moved through the statutory process of quieting title and partitioning the land by sale, and have a contract in hand which will pay all of the landowners, including the 1.171878 percent interest owners appearing as Defendants, a generous amount above Fair Market Value for the land. Having assiduously followed the requirements of the law, the Plaintiffs now find themselves facing the prospect of losing a deal "of

a lifetime” for all, because of the actions of the 1.171878 percent interest owners who have chosen to file an appeal in this matter just at the time the economy seems ready to swoon with possible concomitant real estate loss of value. If the Defendants wish to continue to play this game of “chicken” in a clear attempt to force the majority owners to pay them in excess of their legal entitlement, this Court should require the Appellants to appropriately place a security bond as envisioned under the Rules.

The Motion Pursuant To Rule 241(A) should be denied, or only granted with the placement of a bond in the amount of \$9,750,000 conditioned to make the Respondents whole should they lose the Rotunda contract during the pendency of the appeal and then prevail on the merits of this Appeal.

LAW OFFICE OF THOMAS C. TAYLOR,
LLC

s/Thomas C. Taylor
Thomas C. Taylor
Attorney for Plaintiffs
SC Bar No.: 5499
PO Box 5550
Hilton Head Island, SC 29938
1-843-785-5050
tom@thomastaylorlaw.com

LAW OFFICE OF CHESTER C.
WILLIAMS, LLC

s/Chester C. Williams
Chester C. Williams
Attorney for Plaintiffs
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1-843-842-5411
firm@ccwlaw.net

Hilton Head Island, South Carolina
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The Honorable Marvin H. Dukes, III
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AFFIDAVIT OF THOMAS CALVIN TAYLOR

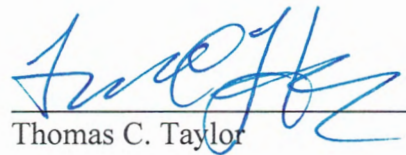
BEFORE THE UNDERSIGNED OFFICER duly authorized to take and administer oaths came Thomas C. Taylor, who, being duly sworn, deposed, and stated as follows:

1. My name is Thomas C. Taylor. I am a practicing lawyer in the State of South Carolina and represent the Respondents in this case. I am of majority, of sound mind and body, a member of the South Carolina Bar and fully capable to providing this sworn testimony.

2. I give this Affidavit to identify the attached Exhibit A for this Court's consideration of the Respondents' Return to Appellants' Motion Pursuant To Rule 241(A), as was filed on March 17, 2022.

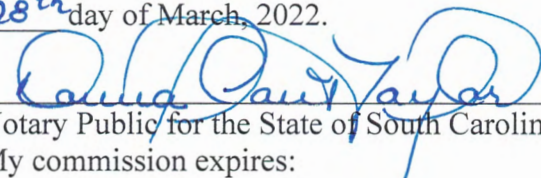
3. On March 10, 2022, I drafted and sent a letter to Charles Houston as counsel for the Appellants, advising him and the Appellants of the Respondents' position regarding closing on the contract of sale for the property at issue. A true and correct copy of that letter, sent via email and US Mail to Mr. Houston, is attached as Exhibit A.

FURTHER AFFIANT SAYETH NOT.


Thomas C. Taylor

Sworn to before me this

28th day of March, 2022.


Notary Public for the State of South Carolina
My commission expires:



ADMITTED TO THE UNITED STATES
SUPREME COURT BAR

ADMITTED IN SOUTH CAROLINA,
COLORADO AND GEORGIA

CERTIFIED SC CIRCUIT
COURT MEDIATOR

LAW OFFICE OF
THOMAS C. TAYLOR, LLC

22 BOW CIRCLE
SUITE A
HILTON HEAD ISLAND, SC 29928

TELEPHONE 843-785-5050

TELECOPIER 843-785-5030

www.thomastaylorlaw.com • tom@thomastaylorlaw.com



MAILING ADDRESS
P.O. BOX 5550
HILTON HEAD ISLAND, SC
29938

March 10, 2022

Via U.S. Mail and E-Mail Attachment to: chouston@houstonlawfirm.net

Charles E. Houston, Jr., Esq.
The Houston Law Firm
1000 Main Street, Suite 200C
Hilton Head Island, SC 29926

Re: Harrison et al v. Kirkland et al, 2020-CP-07-2301, Your Amended Notice of Appeal filed with the Clerk of the Court of Appeals on March 9, 2022

Dear Mr. Houston:

As you know, Chet Williams and I represent the Plaintiffs in this case. I write you today in your capacity as counsel for Defendants Stephanie Lorraine Kirkland, Gary Lamont Kirkland, Keita Nicole White, Cheryl Kirkland, William Charles Kirkland, Paulette Kirkland, Paul T. Allbright, Christopher Kirkland and Shawn Kirkland regarding the Notice of Appeal and Amended Notice of Appeal you filed yesterday with the Court of Appeals.

On behalf of the Plaintiffs, you are hereby notified that the mere filing of your Notice of Appeal does not act as an automatic stay of the Orders cited in your Amended Notice nor of any other Orders in case number 2020-CP-07-2301. While Rule 241 of the South Carolina Appellate Court Rules provides that a notice of appeal creates an automatic stay in some situations, there are numerous exceptions to that general rule and our case falls squarely within one.

Rule 241(b)(4) provides that judgments directing the sale or delivery of possession of real property as provided in S.C. Code Annot. Section 18-9-170, are an exception to the general "automatic stay" rule. Code Section 18-9-170 specifically provides that "the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking."

Charles E. Houston, Jr., Esq.

Re: Harrison et al v. Kirkland et al, 2020-CP-07-2301, Your Amended Notice of Appeal filed with the Clerk of the Court of Appeals on March 9, 2022

March 10, 2022

Page 2

Mr. Houston, as you and your clients know well, Judge Dukes has repeatedly acknowledged the danger of a fluctuating real estate market and given your clients' very small ownership interest (less than 2 percent), he has repeatedly stated that he would not want to see the benefit of this very good contract lost to every owner—including your clients. Thus, please understand that the Plaintiffs are moving forward toward an anticipated closing with Rotunda on March 22, 2022, and we will shortly be petitioning the Court to execute a Master's Deed to tender at closing, along with an order directing that the closing proceeds of those owners who have died during the pendency of this action, be held by the Clerk of Court pending resolution of those estates.

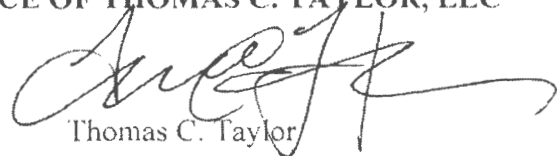
Should you or your clients elect to petition the Court for a stay of the proceedings, please understand that we will argue strenuously for the setting of a surety bond totaling at least 9.1 million dollars to guarantee that the benefit of the bargain of the Rotunda contract is not lost to all owners in the event your appeal were to unduly delay the closing and give Rotunda an opportunity to walk away from the contract. Tom Johnson affirmed this morning that Rotunda will be ready, willing and able and close on or about March 22, 2022, and if you and your clients seek to stay the lower Court orders that quieted title and have partitioned the land by sale, we will insist upon these bonding assurances called for by the South Carolina Code that will protect all of our clients.

Absent our receipt of a Court order staying the process, the Plaintiffs' will continue toward a closing date of March 22, 2022. Please be governed accordingly.

Please let me know if you have any questions. Thank you.

Cordially yours,

LAW OFFICE OF THOMAS C. TAYLOR, LLC



Thomas C. Taylor

TCT/dpt

cc: All Plaintiffs via email transmittal
Chester C. Williams, Esq., and Andre White via email transmittal

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Mar 28 2022

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

The Honorable Marvin H. Dukes, III
Beaufort County
Trial Court Case No. 2020-CP-07-0231

APPELLATE CASE NO. 2022-000277

Georgia Harrison, Barbara Harrison,
Joyce Ellen Harrison, William S. Harrison III,
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Diana Mendheim Individually And As Attorney In Fact,

Respondents,

vs.

Stephanie Lorraine Kirkland, Gary Lamont Kirkland,
Kieta Nicole White, And Cheryl Kirkland,

Appellants.

AFFIDAVIT OF ANDRE JOHNNY WHITE

BEFORE THE UNDERSIGNED OFFICER duly authorized to take and administer oaths
came Andre Johnny White, who, being duly sworn, deposed, and stated as follows:


1. My name is Andre Johnny White. I am a resident of Los Angeles County, California. I am of majority, of sound mind and body, and fully capable to providing this sworn testimony.

2. I give this Affidavit based upon my personal knowledge and in support of Respondents' Return to Appellants' pending Motion Pursuant To Rule 241(A) that was filed on March 18, 2022.
3. I have been retained by the Plaintiffs in this case to serve as a business consultant because of my background in real estate development. During the pendency of this case, I have been personally involved with the Plaintiffs and their legal counsel and am familiar with the negotiations between the Plaintiffs and Rotunda Land & Development Group, LLC, the contracted purchaser of the land here at issue. In addition, I am familiar with the pleadings and Orders that have been filed in this case.
4. Attached to this Affidavit are true and correct copies of the following documents as exhibits:
 - Exhibit A: The original filed Summons and Complaint dated November 24, 2020.
 - Exhibit B: The original contract of purchase and sale between the Plaintiffs and Rotunda Land & Development Group, LLC, dated September 14, 2020.
 - Exhibit C: The original Answer as filed by the Defendants on January 7, 2021.
 - Exhibit D: The original Referral to the Master as filed on April 21, 2021.
 - Exhibit E: The original Consent Order quieting title as filed on May 21, 2021.
 - Exhibit F: The original Order dated September 15, 2021.
 - Exhibit G: The original of the contract extension dated October 19, 2021.
 - Exhibit H: The original October 20, 2021 Order.
 - Exhibit I: The original of the contract extension dated December 7, 2021.

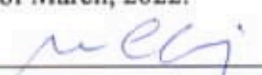
- Exhibit J: The original of the Defendants' Motion For Relief as filed December 22, 2021.
- Exhibit K: The original of the Defendants' Supplemental Motion as filed on January 5, 2022.
- Exhibit L: The original of the Defendants' Second Supplement Motion as filed on January 5, 2022.
- Exhibit M: The original Order dated January 20, 2022.
- Exhibit N: The original of the Defendants' Motion for Reconsideration as filed on January 31, 2022.
- Exhibit O: The original Order of March 7, 2022.

5. On March 21, 2022, Tom Johnson, legal counsel for Rotunda Land & Development Group, LLC, advised me and legal counsel for the Respondents, that Rotunda would not close on the property until this appeal is resolved. The contract of sale was not closed on March 22, 2022 as required by the Sixth Extension dated December 7, 2021, and has not been closed as of the date of the filing of this Affidavit.
6. The Plaintiffs are currently engaged in good-faith negotiations with Rotunda Land & Development Group, LLC, in hopes of executing an additional extension of time on the contract to close.

FURTHER AFFIANT SAYETH NOT.



 Andre Johnny White

Sworn to before me this
28th day of March, 2022.


 Notary Public for the State of California
 My commission expires: May 7, 2022





STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 GEORGIA HARRISON, BARBARA)
 HARRISON, JOYCE ELLEN)
 HARRISON, WILLIAM S.)
 HARRISON, III, STANLEY)
 ROBERTS, and DIANA MENDHEIM,)
 individually and as agent and attorney)
 in fact,)
)
 Plaintiffs,)
 vs.)
)
 STEPHANIE LORRAINE)
 KIRKLAND, GARY LAMONT)
 KIRKLAND, KEITA NICOLE)
 WHITE, and CHERYL KIRKLAND,)
)
 Defendants)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO. 2020-CP-07-_____

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the **Complaint** herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Complaint upon Thomas C. Taylor, Esq., at Post Office Box 5550, Hilton Head Island, South Carolina 29938, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default may be rendered against you for the relief demanded in the Complaint.

Law Office of Thomas C. Taylor, LLC
s/ Thomas C. Taylor
 Thomas C. Taylor (S.C. Bar 5499)
 P.O. Box 5550, Hilton Head Isl., SC 29938
 Phone:(843)785-5050-Fax:(843)785-5030
 Email: tom@thomastaylorlaw.com

Law Office Of Chester C. Williams, LLC
s/Chester C. Williams
 Chester C. Williams
 P.O. Box 6028, Hilton Head Isl., SC 29938
 Phone:(843)842-5411
 Email: firm@ccwlaw.net

ATTORNEY FOR PLAINTIFFS

ATTORNEY FOR PLAINTIFFS

Hilton Head Island, South Carolina
 November 24, 2020

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 GEORGIA HARRISON, BARBARA)
 HARRISON, JOYCE ELLEN)
 HARRISON, WILLIAM S.)
 HARRISON, III, STANLEY)
 ROBERTS, and DIANA MENDHEIM,)
 individually and as agent and attorney)
 in fact,)
)
 Plaintiffs,)
 vs.)
)
 STEPHANIE LORRAINE)
 KIRKLAND, GARY LAMONT)
 KIRKLAND, KEITA NICOLE)
 WHITE, and CHERYL KIRKLAND,)
)
 Defendants)
)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO. 2020-CP-07-_____

COMPLAINT
 FOR
 QUIET TITLE
 (SC Code Annot. Sec. 15-67-10, et seq.)
 AND
 PARTITION
 (SC Code Annot. Sec. 15-61-10, et seq.)
 (A NON-JURY MATTER TO BE
 REFERRED TO THE MASTER IN
 EQUITY PURSUANT TO SC CODE
 ANNOT. SECTION 15-67-60)

The Plaintiffs, complaining of the Defendants herein, would respectfully show unto this Honorable Court and allege that:

1. Plaintiff Georgia Harrison is a resident of and is domiciled in Cobb County, Georgia; Plaintiff Barbara Harrison is a resident of and is domiciled in Alamance County, North Carolina; Plaintiff Joyce Ellen Harrison is a resident of and is domiciled in Guilford County, North Carolina; Plaintiff William S. Harrison, III is a resident of and is domiciled in Carroll Count, Maryland; Plaintiff Stanley Roberts is a resident of and is domiciled in Kings County, New York; and Plaintiff Diana Mendheim is a resident of and is domiciled in Essex County, New Jersey.
2. Georgia Harrison, Barbara Harrison, Joyce Ellen Harrison, William S. Harrison, III, and Stanley Roberts are Plaintiffs herein in their respective individual capacities.
3. Diana Mendheim is a Plaintiff herein in her individual capacity, and also in her capacity as agent and attorney in fact for eighteen other co-owners of the Real Property (collectively, the "Represented Co-Owners") pursuant to those certain Durable Powers of Attorney recorded in the Office of the Register of Deeds for Beaufort County, as follows:

Co-Owner	Recording Information (Record Book and Page Number)	Date of Recording
Denise Davidson	RB3795p0408	19 September 2019
Robert M. Young	RB3796p2592	25 September 2019
Carol Bush	RB3801p2322	9 October 2019
Rose Hampton	RB3803p2670	17 October 2019
Shawn Kirkland	RB3809p2426	6 November 2019
William Charles Kirkland	RB3811p1583	13 November 2019
Vanessa Coleman	RB3811p1585	13 November 2019
Richard Hodges	RB3816p0271	27 November 2019
Tyrone Hodges	RB3817p3005	6 December 2019
Paulette Kirkland	RB3820p1670	16 December 2019
Jason Young	RB3828p0291	13 January 2020
Corey Hodges	RB3828p0293	13 January 2020
Christopher Kirkland	RB3849p2458	26 March 2020
Joanne Elizabeth Carver	RB3865p1843	20 May 2020
Donna Mosby	RB3870p0381	3 June 2020
Diamond Moseley	RB3898p2726	20 August 2020
Derrick Hodges	RB3917p3140	6 October 2020
Paul T. Allbright	RB3925p2070	23 October 2020

4. Defendant Stephanie Lorraine Kirkland is a resident of and is domiciled in Chatham County, Georgia; Defendant Gary Lamont Kirkland is a resident of and is domiciled in Bronx County, New York; Defendant Keita Nicole White is a resident of and is domiciled in Kings County, New York; and Defendant Cheryl Kirkland is a resident of and is domiciled in Queens County, New York.
5. This is an action to quiet title to, and to partition, a tract of real property located in the Town of Hilton Head Island, Beaufort County, South Carolina, over which this Honorable Court has jurisdiction.
6. The tract of real property that is the subject of this action (the "Real Property") is described as follows:

ALL that certain piece, parcel, or lot of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 28.127 acres, more or less, and is specifically shown as Lot B on the unrecorded plat of 165¼ Acres on Hilton Head Island, Formerly Property of March Gardner, prepared by Arthur O. Christianson, RLS, entitled "Plat of Survey Number Two, No Sale", dated April 6-8, 1921, and also on that certain plat of prepared by Millard Dunham, RLS entitled "Plat Prepared for Heirs of Clara Wigfall" dated January 29, 1988, last revised on January 18, 1990,

and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 38 at Page 29.

BEING the same property shown and designated as "Parcel 7", containing 26.462 acres, more or less, on that certain unrecorded plat of survey entitled "Boundary, Wetland Survey of: Parcel 7, Mitchelville Road" prepared by Sea Island Land Survey, LLC, William E. Mixon, Jr., SCRLS 17573, dated February 7, 2005.

7. Title to the Real Property has twice been quieted in the past.
8. As evidenced by that certain Amended Order of the Honorable Thomas J. Kemmerlin, Master in Equity for Beaufort County filed on 24 June 1991 as Judgment Roll 79831 in that certain action styled *Fleet Finance, Inc. of Georgia v. Curtis Leander Gillerson, et al.*, Civil Action No. 88-CP-07-0974, title to the Real Property was quieted in Ethel Rivers, owning a 50.00% undivided interest, and Rose Young, Sadie M. Harrison, Stanley Roberts, and Mary Roberts, each owning a 12.50% undivided interest.
9. As evidenced by that certain Deed recorded on 13 May 1992 in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 598 at Page 1461, Ethel Rivers conveyed her interest in the Real Property to Peter Harrison, Ross L. Harrison, and William S. Harrison, as tenants in common.
10. As evidenced by that certain Title to Real Estate recorded on 8 April 2008 in the Office of the Register of Deeds for Beaufort County, South Carolina in Record Book 2706 at Page 1227, Sadie M. Harrison conveyed her interest in the Real Property to Peter Harrison, Ross L. Harrison, and William S. Harrison, as tenants in common.
11. Rose Young, also known as Rose Elizabeth Young, died intestate on 27 December 1999 in East Orange, New Jersey, leaving as her only heirs at law her spouse, Charles Elmer Young, who disclaimed any interest in the Estate of Rose Elizabeth Young, and her eight children, Charles Edward Young, Carol Bush, Adrienne Kirkland, Diana Mendheim, Robert Young, Denise Davidson, Rose Hampton, and Victoria Young.
12. The Estate of Rose Elizabeth Young was fully probated and administered in the Probate Court for Beaufort County as Case No. 2007ES0700300.
13. As evidenced by that certain Corrective Deed of Distribution in the Estate of Rose Elizabeth Young recorded on 26 November 2008 in the Office of the Register of Deeds for Beaufort County, South Carolina in Record Book 2786 at Page 2256, Rose Young's interest in the Real Property was conveyed to Charles Edward Young, Carol Bush, Adrienne Kirkland, Diana Mendheim, Robert Young, Denise Davidson, Rose Hampton, and Victoria Young.

14. Ross L. Harrison, also known as Ross Lee Harrison, died testate on 10 June 2008 in Cobb County, Georgia, leaving as his sole devisee his spouse, Georgia Harrison.
15. The Estate of Ross Lee Harrison was probated and administered in the Probate Court of Cobb County, Georgia, and an ancillary probate of the Estate of Ross Lee Harrison was opened in the Probate Court for Beaufort County as Case No. 2009ES0700163.
16. As evidenced by that certain Order of the Honorable Marvin Dukes, III, Master in Equity and Special Circuit Judge for Beaufort County filed on 25 July 2009 in that certain action styled *Peter Harrison v. Rose Young, et al.*, Civil Action No. 2008-CP-07-04542, which Order was further filed with the Probate Court for Beaufort County on 5 August 2009, and recorded on 6 June 2016 in the Office of the Register of Deeds for Beaufort County, South Carolina in Record Book 3488 at Page 1724 (the "2009 Order"), Mary Roberts died intestate, having been pre-deceased by her spouse, Gerald Roberts, and leaving as her sole heir at law her son, Stanley Roberts.
17. As further evidenced by the 2009 Order, Ross L. Harrison died testate leaving as his only beneficiary his spouse, Georgia Harrison.
18. As further evidenced by the 2009 Order, William S. Harrison died intestate leaving as his only surviving heirs at law his spouse, Joyce Ellen Harrison, and his son, William S. Harrison, III.
19. As further evidenced by the 2009 Order, title to the Real Property was again quieted in the following persons, each having the respective undivided ownership interests:
- | | |
|--------------------------|---------|
| Peter Harrison | 20.833% |
| Georgia Harrison | 20.833% |
| Joyce Ellen Harrison | 10.416% |
| William S. Harrison, III | 10.416% |
| Stanley Roberts | 25.000% |
| Adrienne Kirkland | 1.5625% |
| Carol Bush | 1.5625% |
| Diane Mendheim | 1.5625% |
| Charles Edward Young | 1.5625% |
| Robert Young | 1.5625% |
| Denise Davidson | 1.5625% |
| Rose Hampton | 1.5625% |
| Victoria Young | 1.5625% |
20. Victoria Young, also known as Victoria Ruth Young, died intestate on 9 January 2013 in Atlanta, Georgia, leaving as her only heirs at law her six children, Tyrone D. Hodges,

- Derrick D. Hodges, Corey G. Hodges, Vanessa A. Coleman, Richard L. Hodges, and Diamond W. Young-Moseley.
21. The Estate of Victoria Ruth Young is currently being probated and administered in the Probate Court for Beaufort County as Case No. 2020ES0700710, and Tyrone D. Hodges has been appointed as the Personal Representative of the Estate of Victoria Ruth Young.
 22. Peter Harrison, also known as Peter Hamilton Harrison, died on 8 December 2013 leaving as his only heirs his spouse, Barbara Harrison, and his two children, Bruce Harrison, and Kimberly Lakea Harrison.
 23. The Estate of Peter Hamilton Harrison was probated and administered in the Probate Court for Beaufort County as Case No. 2015ES0700274.
 24. As evidenced by that certain Deed of Distribution in the Estate of Peter Hamilton Harrison recorded on 18 December 2015 in the Office of the Register of Deeds for Beaufort County, South Carolina in Record Book 3450 at Page 380, Peter Harrison's interest in the Real Property was conveyed to Barbara Harrison, Bruce Harrison, and Kimberly Lakea Harrison.
 25. As evidenced by that certain Title to Real Estate recorded on 29 December 2015 in the Office of the Register of Deeds for Beaufort County, South Carolina in Record Book 3452 at Page 538, Bruce Harrison and Kimberly Lakea Harrison conveyed their interests in the Real Property to Barbara Harrison.
 26. Upon information and belief, Adrienne Kirkland, also known as Adrienne P. Kirkland, died intestate on 27 December 2016 in Atlanta, Georgia, leaving as her only heirs at law her six children, Joanne Elizabeth Carver, William Charles Kirkland, Stephanie Lorraine Kirkland, Gary Lamont Kirkland, Keita Nicole White, and Paul Edward Kirkland.
 27. Joanne Elizabeth Carver has attempted to open an informal appointment for the Estate of Adrienne P. Kirkland in the Probate Court for Beaufort County; however, the Defendants have refused to cooperate with the efforts to open the Estate of Adrienne P. Kirkland for probate and administration.
 28. Upon information and belief, Paul Edward Kirkland died intestate on 8 May 2017 in New York, New York, leaving as his only heirs at law his spouse, Donna Mosby, and his five children, Paulette Kirkland, Paul T. Allbright, Cheryl Kirkland, Christopher Kirkland, and Shawn Kirkland.
 29. The Defendants have refused to cooperate with efforts to open the Estate of Paul Edward Kirkland for probate and administration.

30. Charles Edward Young died intestate on 3 August 2019 in Atlanta, Georgia, leaving as his sole heir at law his son, Jason Young.
31. The Estate of Charles Edward Young is currently being probated and administered in the Probate Court of Gwinnett County, Georgia as Estate No. 20-E-000272, and Jason Young has been appointed as the Administrator of the Estate of Charles Edward Young.
32. An ancillary probate of the Estate of Charles Edward Young has been opened in the Probate Court for Beaufort County as Case No. 2020ES0700991.
33. As evidenced by that certain Deed of Distribution in the Estate of Charles Edward Young recorded on 12 November 2020 in the Office of the Register of Deeds for Beaufort County, South Carolina in Record Book 3933 at Page 867, Charles Edward Young's interest in the Real Property was conveyed to Jason Young.
34. Pursuant to SCRCP Rule 71(e), because this action includes a partition action, this Honorable Court is empowered to determine the title and interests in the Real Property of the several parties to this action.
35. The Plaintiffs allege that the Real Property is owned in indivision by the Plaintiffs, the Represented Co-Owners, and the Defendants, and that their respective undivided interests in the Real Property are as set forth in Exhibit A attached hereto.

FOR A FIRST CAUSE OF ACTION
QUIET TITLE (RECOVERY OF REAL PROPERTY)
(SC CODE ANNOT. SECTION 15-67-10, et seq.)

36. The allegations of Paragraphs 1 through 35 are incorporated herein as if restated verbatim.
37. The Plaintiffs claim title to their respective undivided interests in the Real Property, and bring this action pursuant to Section 15-67-10, *et seq.* of the Code of Laws of South Carolina (1976), as amended, for the purpose of determining adverse claims and the rights of the Plaintiffs and the Defendants.
38. No Plaintiff has previously brought an action for recovery of the Real Property.
39. The Plaintiffs ask that this action be referred to the Master in Equity for Beaufort County pursuant to Section 15-67-60 of the Code of Laws of South Carolina (1976), as amended.
40. The Plaintiffs know of no other person or persons under disability, persons in the military service, incompetents or minors, or any other individuals who may have or claim any interest in the Real Property, other than the Plaintiffs and the Defendants.
41. The Plaintiffs are informed and believe that they are entitled to an equitable lien on the interests of all owners of the Real Property in proportion to their respective interests for

the costs and attorney's fees incurred in the maintenance and prosecution of this action on the basis this action, by its very nature, provides benefits to all owners in clearing and establishing title to the Real Property.

FOR A SECOND CAUSE OF ACTION
PARTITION
(SC CODE ANNOT. SECTION 15-61-10, et seq.)

42. The allegations of Paragraphs 1 through 41 are incorporated herein as if restated verbatim.
43. On information and belief, there are no encumbrancers of the estates of deceased owners of an interest in the Real Property whose estate has not been administered or is not being administered.
44. The Plaintiffs allege that the issuance of a writ of partition by this Honorable Court would involve unnecessary expense.
45. The Plaintiffs allege that due to the location, size, shape, topography, and condition of the Real Property, and given the wide disparity in the respective undivided interests in the Real Property held by the various Plaintiffs, Represented Co-Owners, and Defendants, and the relatively small undivided interests in the Real Property held by some of the various Plaintiffs, Represented Co-Owners, and Defendants, the Real Property is not susceptible to partition in kind.
46. The Plaintiffs have entered into that certain Purchase and Sale Agreement of 14 September 2020 with Rotunda Land & Development Group, LLC for the sale of the Real Property (the "Rotunda Contract") for a purchase price of \$9,100,000.00, which the Plaintiffs believe is a fair and equitable price for the Real Property.
47. All of the Plaintiffs and the Represented Co-Owners have agreed to the sale of the Real Property pursuant to the Rotunda Contract; however, the Defendants have failed or refused to enter into discussions or negotiations regarding the Rotunda Contract.
48. The Plaintiffs ask that this Honorable Court approve the partition of the Real Property by sale pursuant to the Rotunda Contract.
49. The Plaintiffs are informed and believe that they are entitled to an equitable lien on the interests of all owners of the Real Property in proportion to their respective interests for the costs and attorney's fees incurred in the maintenance and prosecution of this action on the basis this action, by its very nature, provides benefits to all owners by partitioning the Real Property.
50. The Plaintiffs are informed and believe that they are entitled to an award of attorney's fees and costs from any common fund generated by the partition of the Real Property to the

extent the Plaintiffs' attorneys' efforts benefited all parties, pursuant to Section 15-61-110 of the Code of Laws of South Carolina (1976) and SCRCP Rule 71(d)(3).

WHEREFORE, the Plaintiffs pray that this Honorable Court inquire fully into the matters raised by the pleadings and issue an Order:

A. Holding that the owners of the Real Property, and their respective undivided interests therein, are as set forth in Exhibit A attached hereto;

B. Holding that the issuance of a writ of partition in this action would involve unnecessary expense;

C. Holding that, upon the failure or refusal of the Defendants to timely notify this Honorable Court of their interest in purchasing the Plaintiffs' and the Represented Co-Owners' interest in the Real Property at the purchase price established by the Rotunda Contract, and to timely pay into this Honorable Court such purchase price, the Plaintiffs are authorized to close on the Rotunda Contract and sell the Real Property pursuant thereto, including the Defendants' interests therein, in order to effect a partition by sale of the Real Property;

D. Holding that the Plaintiffs have an equitable lien on the interests of all owners of the Real Property in proportion to their respective undivided interests for the costs and attorney's fees incurred in the maintenance and prosecution of this action;

E. Awarding the Plaintiffs' attorney's fees and costs from the common fund generated by the partition by sale of the Real Property;

F. Holding that, subject to the payment of any attorney's fees and costs awarded in this action, the net proceeds of the sale of the Real Property be distributed to the Plaintiffs, the Represented Co-Owners, and the Defendants in accordance with their respective undivided interests in the Real Property; and

G. Providing for such other and further relief as is just and proper.

LAW OFFICE OF THOMAS C. TAYLOR,
LLC

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Hilton Head Island, South Carolina
November 24, 2020

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PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is made and entered into as of the Effective Date (as hereinafter defined in Section 13(a) below) by and between **GEORGIA HARRISON, BARBARA HARRISON, JOYCE ELLEN HARRISON, WILLIAM HARRISON III, STANLEY ROBERTS, all individually, and DIANA MENDHEIM, individually and as agent for various other co-owners** (collectively "Seller") and **ROTUNDA LAND & DEVELOPMENT GROUP, LLC**, a Georgia limited liability company ("Purchaser").

WITNESSETH:

WHEREAS, Seller is the owner of the majority interests in and to that certain parcel of land comprised of 26.48 acres, more or less, located at Mitchelville and Fish Haul Road, Hilton Head Island, South Carolina (tax parcel R510-005-000-0007), as more particularly described on Exhibit "A" attached hereto and incorporated herein, together with all improvements, fixtures and landscaping thereon and all rights, privileges, easements, benefits and agreements appurtenant thereto (collectively, the "Property").

WHEREAS, Seller desires to sell the Property and Purchaser desires to purchase the Property in accordance with the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definition of Key Terms. The following defined terms shall have the meanings set forth below:

- (a) "Purchase Price": Nine Million and One Hundred Thousand and No/100 Dollars (\$9,100,000.00), for a 100% fee simple interest in Property which is insurable with only standard exceptions.
- (b) "Earnest Money": Fifty Thousand and No/100 Dollars (\$50,000.00).
- (c) "Inspection Period": that period that commences on the Effective Date and ends 90 days thereafter.
- (d) "Closing Date": that date that is on or before the earlier of (i) 30 days after Seller can convey 100% fee simple title which the Title Company will insure with only standard exceptions; or (ii) 30 days after the end of the Inspection Period; or (iii) 180 days after the Effective Date.

- (e) "Project": 26.48 acres, more or less, to be developed by Purchaser as a residential rental community.

2. **Earnest Money.**

(a) Within three (3) business days after the Effective Date, Purchaser shall deposit the Initial Earnest Money in escrow with the Southeastern Title and Escrow Company (the "Escrow Agent").

(b) The Earnest Money shall be paid in the form of a certified or cashier's check or by wire transferred funds confirmed received in the bank or savings institution of the Escrow Agent. The Escrow Agent shall hold the Earnest Money in a federally insured interest-bearing account at a bank or other financial institution reasonably acceptable to Seller and Purchaser. All interest which accrues on the Earnest Money shall become and be part of the Earnest Money for purposes of this Agreement. At Closing, the Earnest Money shall be applied for Purchaser's benefit against the Purchase Price at Closing. If this Agreement is terminated prior to Closing pursuant to the terms of this Agreement, then the Earnest Money shall be returned to Purchaser or paid to Seller as provided in this Agreement.

(c) The Law Office of Darrell Thomas Johnson, Jr., LLC (the "Title Company") shall perform title work for this transaction.

(d) The Escrow Agent shall make disbursements of the Earnest Money in accordance with this Agreement. Upon the Escrow Agent's receipt of a written notice from either Purchaser or Seller claiming that they are entitled to the Earnest Money pursuant to the provisions of this Agreement, the Escrow Agent shall promptly forward a copy thereof to the other party and unless such party, within ten (10) business days after the receipt thereof, notifies the Escrow Agent of any objection to such requested disbursement of the Earnest Money, the Escrow Agent shall disburse the Earnest Money in accordance with the provisions of this Agreement based upon the demand of the party demanding the same, and thereupon the Escrow Agent shall be released and discharged from any further duty or obligation hereunder. Notwithstanding the foregoing, upon written notice from Purchaser that Purchaser has terminated the Agreement prior to the end of the Inspection Period, then the Escrow Agent shall promptly disburse the Earnest Money to Purchaser (and the foregoing provision shall not apply).

(e) In the event that a dispute arises with respect to the distribution of any funds held, the Escrow Agent may apply to a court of competent jurisdiction for an order determining the party to whom such Earnest Money shall be paid. All costs of such proceedings (together with all reasonable attorneys' fees) incurred by the Escrow Agent and the successful party in connection therewith shall be paid by the unsuccessful party. In performing its duties as escrow agent holding the Earnest Money, the Escrow Agent shall not be liable for any act or failure to act under the provisions of this Agreement except where its acts are the result of gross negligence or willful wrongdoing. In the event of a dispute between any of the parties, the Escrow Agent shall be entitled to tender into the registry or custody of any court of competent jurisdiction, all Earnest Money held under this Agreement, together with such legal pleadings as it deems appropriate, and thereupon be discharged from all further duties hereunder.

3. Inspection Period.

(a) Within 5 days of the Effective Date, Seller will deliver to Purchaser all topographical, engineering, environmental and other studies, reports, title policies, surveys, engineering plans, wetland delineations, reports, studies, or other documentation or correspondence relating to any wetlands at the Property, development agreements, geotechnical or soil reports, licenses, permits, maps, certificates of occupancy, correspondence, notices, court filings, plans, tax statements, and other like materials with regard to the Property in Seller's possession or control (the "**Due Diligence Materials**").

(b) Purchaser and its representatives, consultants and contractors shall at all times before the Closing have the right to enter upon the Property and any buildings and other improvements located thereon, in order to inspect and examine the same and perform boundary, topographic and like surveys and inspections of the Property, as well as other tests and inspections (including, without limitation, geotechnical and environmental tests, studies and examinations, soil tests, borings, percolation tests and other tests needed to determine surface, subsurface and topographic conditions). Purchaser agrees that it will repair any damage to the Property resulting from surveys, tests and inspections performed in accordance herewith if Purchaser does not purchase the Property, exclusive of normal wear and tear and customary effects of the surveys, tests, and inspections. Purchaser shall also defend, indemnify, and hold harmless Seller from and against any and all loss, cost, damage, expense or liability arising out of any negligence or willful misconduct of Purchaser in performing the surveys, tests and inspections contemplated hereby, provided that the foregoing agreement to indemnify and hold harmless shall not apply to any loss, cost, damage, expense, or liability arising out of or related to (i) any condition upon or under the Property not caused by Purchaser, (ii) any violation of law existing with respect to the Property not caused by Purchaser, or (iii) the negligence or willful misconduct of Seller or its shareholders, officers, directors, employees, agents or contractors. The foregoing indemnity shall survive the termination of this Agreement. Purchaser will incur all costs associated with due diligence items including, but not limited to, wetlands delineation, mitigation credits, etc.

(c) In the event that Purchaser determines, in its sole and absolute discretion, for any or no reason, that the Property is not suitable for Purchaser's intended use thereof, then Purchaser shall have the right to terminate this Agreement by delivering written notice thereof to Seller on or before the expiration of the Inspection Period, in which event this Agreement shall terminate, the Earnest Money shall be refunded to Purchaser, and Purchaser and Seller shall have no further rights, obligations or liabilities hereunder (except for those that expressly survive termination of this Agreement). If Purchaser terminates this Agreement prior to Closing, any title, survey, and Phase I reports, if any, generated by Purchaser for Property shall be given to Seller for no additional consideration.

4. Title.

(a) It shall be a condition of Closing that title to the Property shall be good of record and in fact, fully insurable by Title Company at standard rates without unusual or extraordinary exception, except for (i) the Permitted Exceptions, and (ii) such matters which Purchaser determines, in its sole and absolute discretion, do not affect the insurability of the title to the Property or the use of the Property for the Project.

(b) The Property currently has various title issues concerning unprobated estates and small adverse claimants to title which prevent 100% fee simple from being conveyed at this time. Seller shall take such steps as are necessary to cure said title problems so that Seller shall be able to convey 100% fee simple title insurable with only standard exceptions to Buyer. Seller shall bear the cost of clearing said title issues.

(c) The Permitted Exceptions are:

(i) the lien of all ad valorem real estate taxes and assessments not yet due and payable as of the Closing Date, subject to adjustment as herein provided;

(ii) local, state, and federal laws, ordinances, and governmental regulations, including but not limited to, building and zoning laws, ordinances, and regulations, now or hereafter in effect relating to the Property;

(iii) claims of governmental entities and the public to lands lying below the mean high water mark of abutting tidal waters, and limitations imposed under state and federal coastal management laws and regulations;

(iv) matters of record in the Office of the Register of Deeds for Beaufort County, South Carolina to which Purchaser does not timely object in writing to Seller (but excluding any matters, including easements, deed restrictions, other restrictions, rights-of-way, covenants, reservations, and other conditions, if any, affecting the Property that appear of record or as a matter of survey between the Effective Date and Closing);

(v) such state of facts as may be revealed by an accurate survey and inspection of the Property to which Purchaser does not timely object in writing to Seller (but excluding any matters, including easements, deed restrictions, other restrictions, rights-of-way, covenants, reservations, and other conditions, if any, affecting the Property that appear of record or as a matter of survey between the Effective Date and Closing);

(vi) rights of others to use and maintain the right-of-way of Mitchelville Road and utility lines, wires, pipes, and related facilities existing on the Property; and

(vii) the standard preprinted form exceptions set forth in an ALTA Owner's Title Policy.

(c) Purchaser shall obtain a title commitment or report covering the Property (the "**Title Commitment**") within 20 days of the Effective Date, to be written by Title Company. The cost of providing the Title Commitment shall be paid by Purchaser. Purchaser shall identify in writing to Seller (the "**Title Objection Notice**") within 10 days of Purchaser's receipt of the Title Commitment any matters reflected on the Title Commitment which is unacceptable to Purchaser in accordance with the foregoing provision ("**Title Objections**"). Seller may, but shall not have any obligation to, remedy all Title Objections identified by Purchaser as set forth above. If Seller is unable or unwilling to cure all such Title Objections within 10 days of receiving the Title Objection Notice then Purchaser may at its option: (i) waive such Title Objections and proceed to close the transaction, (ii) terminate this Agreement by delivering written notice to

Seller, in which event the Earnest Money shall be immediately returned to Purchaser, or (iii) extend the Inspection Period and Closing Date by 30 days, without Purchaser waiving its right to exercise the options described in clauses (i) and (ii) above in the event that Purchaser determines that the Title Objections cannot be cured to Purchaser's satisfaction.

(d) Notwithstanding anything herein contained to the contrary (1) all mortgages, deeds of trust, deeds to secure debt, mechanics' or materialmen's liens, judgment liens or similar monetary liens and encumbrances encumbering all or any part of the Property, (2) all ad valorem real or personal property taxes, assessments and governmental charges affecting all or any portion of the Property which are delinquent, (3) any judgment of record against Seller in the county or other applicable jurisdiction in which the Property is located, and (4) any new title exceptions or survey matters disclosed by any updates of the Title Commitment or Survey or other title "date-downs" shall be automatically deemed to be Title Objections that (x) need not be included in Purchaser's Title Objection Notice and (y) which the Seller may, but shall not have any obligation to satisfy, correct, or cure on or before the date of Closing (hereinafter the "**Mandatory Cure Objections**"). In the event that Seller fails or declines to satisfy, correct, or cure all of the Mandatory Cure Objections on or before the date of Closing, Purchaser may: (i) waive such Mandatory Cure Objections and proceed to close the transaction, (ii) terminate this Agreement by delivering written notice to Seller, in which event the Earnest Money shall be immediately returned to Purchaser, or (iii) extend the Inspection Period and Closing Date by 30 days, without Purchaser waiving its right to exercise the options described in clauses (i) and (ii) above in the event that Purchaser determines that the Mandatory Cure Objections cannot be or are not cured to Purchaser's satisfaction. Notwithstanding the foregoing, Purchaser may, at its option, cure the Mandatory Cure Objections, in which event (i) Seller shall provide reasonable cooperation with Purchaser's efforts and (ii) the Purchase Price shall be reduced by all costs (including attorney's fees) incurred by Purchaser or on behalf of Purchaser and approved by Seller prior to expenditure in curing the Mandatory Cure Objections.

5. **Intentionally Omitted.**

6. **Closing.**

(a) Closing. Provided that all conditions precedent to Purchaser's obligation to proceed to closing hereunder have been satisfied or waived, closing under the terms of this Agreement (the "**Closing**") shall be held on or before the Closing Date. Closing shall be held at an exact date and time designated by Purchaser to Seller in the offices of the Title Company or at another location agreed to by Purchaser and Seller. Seller and Purchaser agree to cooperate with one another to deliver documents in escrow to Title Company in order to eliminate the need for representatives of Seller and Purchaser to attend the Closing. Subject to the terms and provisions of this Agreement, if Purchaser elects to close earlier than the date specified above, then Purchaser shall give Seller at least ten (10) days advance written notice of the date of Closing. The Earnest Money shall be applicable to the Purchase Price.

At Closing, Seller shall sell and transfer their interests in and to the Property to Purchaser and Purchaser shall purchase the Property from Seller. At Closing, Seller shall deliver possession of the Property to Purchaser in an unoccupied condition free of any right of possession or claim to right of possession by any party other than Purchaser; *provided, however*, that Seller has disclosed

to Purchaser that Seller does not represent the interests of five co-owners who collectively own an undivided 0.833 percent interest in the Property. The Seller and Purchaser do not need to be physically present at the offices of Title Company for Closing as long as they each cause their requisite closing documents and funds to be deposited with the Title Company by the Closing date pursuant to the terms of this Agreement.

(b) Closing Documents and Purchase Price.

(i) At Closing, Seller shall deliver to Title Company: (A)(1) a limited warranty deed (“**Deed**”) conveying the Property to the Purchaser with a legal description prepared pursuant to the current deed of what Seller owns, and (2) a quitclaim deed based on a new survey completed by Purchaser if Purchaser so desires; (B) an affidavit in a form acceptable to Title Company that Seller is not a “foreign person” and containing such information as required by Sections 1445 and 6045 of the Internal Revenue Code and the regulations issued thereunder; (C) an owner’s affidavit in a form reasonably acceptable to Title Company and to Seller’s counsel; (D) a certificate that all of Seller’s representations, warranties, and covenants as set forth in Section 8 of this Agreement are true and accurate as of Closing; and (E) such other documents, instruments, tax forms and the like documents (including, but not limited to, broker lien waivers and any state forms related to tax payments or withholding) as are reasonably required by the Title Company, the terms of this Agreement, or reasonably necessary to complete the transaction contemplated by the terms of this Agreement. All documents to be delivered as provided above shall be duly authorized, fully executed, and, if required, acknowledged before a notary.

(ii) At Closing, Purchaser shall deliver to Title Company: (A) the Purchase Price, in the form of immediately available and collectible funds, less the Earnest Money and subject to any adjustments as provided under this Agreement; (B) a certificate that all of Purchaser’s representations, warranties, and covenants as set forth in Section 9 of this Agreement are true and accurate as of Closing; and (C) such tax forms and the like documents as are usual, customary or necessary for commercial real estate closings in the town, where the Property is located.

(c) Closing Costs. Seller shall pay such costs and expenses customarily paid by sellers of real estate on Hilton Head Island, Beaufort County, South Carolina, including, their own attorney’s fees and costs, and the recording fee provided for in Title 12 of the Code of Laws of South Carolina (1976), as amended, applicable to the Deed, and their attorney’s fees and all recording fees on any title clearance documents, and preparation of the Deed and quitclaim deed. Purchaser shall pay such costs and expenses customarily paid by purchasers of real estate on Hilton Head Island, Beaufort County, South Carolina, including, without limitation, its own attorney’s fees and costs, the Town of Hilton Head Island transfer tax, survey costs, any premiums charged for the Title Policy, and title examination costs.

(d) Prorations. All real estate taxes, special taxes, owner’s association dues, and other assessments or utility charges, if any, applicable to the Property shall be prorated (employing a 365-day year) between Purchaser and Seller as of the Closing Date. All real estate taxes shall be prorated based upon the most recently available property assessment for the Property. If such assessment is not available for the year in question, taxes shall be re-prorated after Closing when the amount thereof can be ascertained. If the most recently available tax

assessment for the Property includes land or improvements that are not within the bounds of the Property because the Property is being subdivided from a larger parcel of land, then the real estate taxes shall be pro-rated on a per-acre basis so that Purchaser pays no taxes attributable to land or improvements not within the bounds of the Property. All assessments levied against the Property shall be paid in full by Seller on or before Closing, even if said assessments are due in installments subsequent to Closing. In addition, Seller shall be responsible for the payment of any and all "roll-back" taxes assessed against the Property prior to or at Closing, as well as any expenses incurred with the termination of any existing preferential tax programs. If any errors or omissions are made regarding any proration, the parties shall make the appropriate corrections promptly upon discovery thereof by paying cash to the party entitled thereto.

7. Conditions Precedent to Closing.

(a) The obligation of Purchaser to close under this Agreement is subject to all of the following:

(i) Seller shall not have breached any of its representations, warranties, or covenants under this Agreement; Seller's representations and warranties shall be true and correct as of the Closing date; and Seller shall have complied with all of the obligations required to be performed by Seller under this Agreement at or prior to Closing.

(ii) The Title Company shall be unconditionally prepared to issue an owner's title insurance policy on the ALTA form and with such endorsements as selected by Purchaser in an amount equal to the Purchase Price insuring Purchaser's ownership of the Property subject to no exceptions, except for the Permitted Exceptions and those Title Objections which Purchaser elects to waive pursuant to Section 4 above.

(iii) **[Intentionally omitted]**

(iv) The absence of any material change in the status of the use, title, occupancy, or physical condition of the Property (unless caused or consented to by Purchaser).

(b) In the event that any of the conditions precedent set forth in Section 7(a) above have not been fulfilled on the Closing Date, Purchaser shall have the right, at its option, to (i) waive the unsatisfied condition(s) precedent and proceed to Closing, or (ii) terminate this Agreement by delivering written notice to Seller, in which event the Earnest Money shall be immediately returned to Purchaser and Purchaser and Seller shall have no further rights, obligations or liabilities hereunder (except for those that expressly survive termination of this Agreement). Notwithstanding the foregoing provision, in the event that any of the conditions precedent set forth in Section 7(a) above have not been fulfilled by the date of Closing due to breach or default by Seller, then Purchaser may, in addition to the remedies set forth above, pursue any and all of its rights set forth in Section 10(a) below (and any termination pursuant to (ii) above shall not prevent Purchaser from exercising any and all of its rights set forth in Section 10(a) below).

8. Seller's Representations, Warranties, and Covenants.

(a) Seller represents, warrants, and covenants to Purchaser that:

(i) To the best of Seller's information, knowledge, and belief, without investigation, water, telephone, and electricity utilities are located at the property line of the Property.

(ii) All assessments that are liens against the Property are shown in the official records of the taxing authorities where the Property is located. Seller has no knowledge of any special assessments having been levied, threatened, or pending against all or any part of the Property and Seller has no knowledge of any intended special assessments. No improvements have been constructed or installed by any public authority, the cost of which may be assessed in whole or in part against any part of the Property in the future. Seller has not been notified of any possible future improvements that might create an assessment against any part of the Property.

(iii) At the time of closing, the Property shall be free of any right of possession or claim of right of possession by any party other than Seller and as provided for in the Permitted Exceptions, and there are no leases or occupancy agreements currently affecting any portion of the Property. There are no exclusive use agreements that would affect or otherwise restrict in any way the use of the Property for the Project. There are no commitments, proffers, obligations, or other agreements of any kind which relate to or otherwise affect the Property which are not recorded among the land records where the Property is located.

(iv) Seller has received no notice of and has no knowledge of any violations of law, municipal, or county ordinances, or other legal requirements with respect to the Property or with respect to the use, occupancy, or construction thereon. Seller shall be required to comply with any such notices, laws, or requirements noted or issued prior to the date of Closing. Neither the entering into of this Agreement nor the consummation of the transactions contemplated hereby will constitute or result in a violation or breach by Seller of any judgment, order, writ, injunction or decree issued against or imposed upon it, or result in a violation of any applicable law, order, rule or regulation of any governmental authority.

(v) Seller has no knowledge of, nor has Seller received any notice of, any actual or threatened action, litigation, proceeding by any organization, person, governmental agency (including, without limitation, any condemnation proceedings, creditor claims or bankruptcy proceedings) against the Property or Seller, nor has any such organization, person, or governmental agency communicated to Seller anything that Seller believes to be a threat of any such action, litigation or proceeding.

(vi) No third party consents or approvals are required to be obtained with respect to the construction or operation of the Project on the Property. Any and all approvals, consents and/or licenses necessary to allow Purchaser to enter upon the Property to perform the tests, studies and examinations contemplated by Section 3 above, if any, have been obtained.

(vii) To the best of Seller's information, knowledge, and belief, without investigation, during Seller's ownership of the Property, (1) none of the Property has been excavated, (2) no landfill has been deposited on, or taken from, the Property, (3) no construction

debris or other debris (including, without limitation, rocks, stumps, or concrete) has been buried upon any of the Property, (4) no Hazardous Materials have been deposited on or about the Property, and (5) no asbestos-containing materials have been placed or introduced in any buildings or other improvements on the Property. **“Hazardous Materials”** or similar terms shall mean and include asbestos, asbestos-containing materials, petroleum and petroleum products, the group of organic compounds known as polychlorinated biphenyls, and any substances or materials that are regulated, controlled or prohibited under the Resource Conservation and Recovery Act of 1976 (“RCRA”), 42 U.S.C. § 690, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), 42 U.S.C. Sections 9601-9657, as amended by the Superfund Amendments and Reauthorization Act of 1986 (“SARA”), or any similar State law or local ordinance or any other environmental law, the Federal Water Pollution Control Act, 33 U.S.C. §1251, the Clean Air Act, 42 U.S.C. § 7401, the Toxic Substances Control Act (“TCSA”), 15 U.S.C. § 2601, or any similar State law or local ordinance, or any other Federal, State or local environmental statutes, regulations, ordinances or other environmental regulatory requirements. To the best of Seller’s knowledge, none of the foregoing occurred prior to the time Seller became the owner of the Property.

(viii) Seller is not a “foreign person”, “foreign corporation”, “foreign trust” or “foreign estate” as those terms are defined in the I.R.C., Section 1445, nor is the sale of the Property subject to any withholding requirements imposed by the Internal Revenue Code (including, but not limited to, Section 1445 thereof) or any comparable laws of the State. If the foregoing is not the case such that Purchaser is obligated to withhold from the Purchase Price under any such laws, Seller shall cooperate with Purchaser in connection with Closing to allow for withholding and compliance with such laws, as necessary.

(ix) To the best of Seller’s information, knowledge, and belief, without investigation, there are no billboards or other signs nor are there cemeteries, grave sites, or burial sites or grounds, located on the Property.

(x) Seller is not aware of any pending or threatened rezoning of all or any part of the Property (except for any rezoning efforts that may be conducted by or on behalf of Purchaser in connection with the permitting of the Projcct): *provided, however*, that Seller has disclosed to Purchaser that the Town of Hilton Head Island has instituted an application to amend the Town’s Land Management Ordinance (the “LMO”) to add Workforce Housing as a conditional use in certain zoning districts (the “Workforce Housing Amendments”), including the zoning districts in which the Property is located.

(xi) During the term of this Agreement, upon compliance with applicable provisions of the LMO, Purchaser shall have the right to install and maintain professionally prepared temporary signs and banners on the Property, including but not limited to signs such as the following: “Coming Soon”, “Now Hiring” and “Now Open”.

(xii) Neither the individuals comprising the Seller nor any broker with whom the Seller has dealt regarding the Property are or will be (a) conducting any business or engaging in any transaction or dealing with any person appearing on the U.S. Treasury Department’s OFAC list of prohibited countries, territories, “specifically designated nationals” or “blocked person” (each a “Prohibited Person”), including the making or receiving of any

contribution of funds, goods or services to or for the benefit of any such Prohibited Person; (b) engaging in certain dealings with countries and organizations designated under Section 311 of the USA PATRIOT Act as warranting special measures due to money laundering concerns; (c) dealing in, or otherwise engaging in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224 dated 24 September 2001, relating to "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism"; (d) a foreign shell bank or any person that a financial institution would be prohibited from transacting with under the USA PATRIOT Act; or (e) engaging in or conspiring to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempting to violate, any of the prohibitions set forth in (i) any U.S. anti-money laundering law, (ii) the Foreign Corrupt Practices Act, (iii) the U.S. mail and wire fraud statutes, (iv) the Travel Act, (v) any similar or successor statutes or (vi) any regulations promulgated under the foregoing statutes.

(b) At all times prior to Closing, Seller shall (i) maintain the Property free from waste and neglect; (ii) maintain all existing insurance coverages on the Property; and (iii) cause all obligations under any recorded title documents, applicable laws, and mortgage affecting the Property to be performed. After the Effective Date, Seller shall not do, suffer, permit, or agree to do, any of the following: (1) enter into any transaction, take any action, or fail to take any action, with respect to the Property that would in any way prevent Seller's full performance hereunder, or limit or adversely affect Purchaser's rights hereunder or as an owner of the Property following Closing including, without limitation, anything that may subject Purchaser to any cost, liability, loss, or expense or otherwise interfere with, adversely affect, delay or increase the cost of Purchaser's acquisition, development, construction or operation of the Project on the Property; (2) sell, encumber, or grant any interest in the Property or any portion thereof in any form or manner whatsoever; (3) restrict the use of all or any part of the Property; (4) take or allow to be taken any action in conflict with this Agreement; (5) enter into, amend, waive any rights under, terminate, or extend any agreements, documents, or proffers affecting the Property; (6) change the grade or other physical characteristics of the Property; (7) construct or install any improvements or allow any existing improvements or natural deposits to be wasted, removed, sold or in any way encumbered; or (8) consent to or apply for any zoning, platting, development or other governmental approval, other than the Workforce Housing Amendments, with respect to the Property or that would otherwise affect the Property or the acquisition, development, construction or operation of the Project, without the prior written consent of Purchaser, which consent may be withheld by Purchaser in its sole and absolute discretion.

(c) Seller shall indemnify, defend (with counsel satisfactory to Purchaser) and hold harmless Purchaser, its employees, officers, members, managers, attorneys, directors, agents, contractors, assigns and successors-in-interest, from and against any and all claims, actions, loss, cost, damage and expense (including reasonable attorneys' fees) resulting from a breach by Seller of any of the representations, warranties, covenants, and obligations contained in this Agreement. The terms of Section 8 shall all survive the termination of this Agreement and Closing and delivery of the Deed.

(d) The individual sellers are all legally competent to enter into this Agreement and to consummate the transaction contemplated herein. The individual sellers have not entered

into this Agreement through duress of any kind and have had an adequate opportunity to consult with counsel and understand this Agreement and the agreed upon performances by Seller.

9. Representations and Warranties of the Purchaser.

(a) The Purchaser makes the following representations and warranties:

(i) The Purchaser is a limited liability company which is validly existing and in good standing under the laws of the State of Georgia and is authorized to transact business in the State of South Carolina. As of the Closing Date, all necessary company actions regarding the purchase of the Property will have been taken, given, or properly waived.

(ii) The Purchaser has full power, authority, and legal right to execute, deliver, and perform its obligations under this Agreement.

(iii) The Purchaser has the financial ability to fully perform its obligations under this Agreement.

(iv) This Agreement and the Purchaser's obligations are legal, valid, and binding obligations of the Purchaser, enforceable in accordance with their terms.

(v) The Purchaser shall not place or cause or allow to be placed any lien on the Property prior to the Closing Date, and if any such lien or liens arising by, through or under the Purchaser are filed of record, the Purchaser shall promptly cause the same to be released, bonded, or satisfied of record.

(vi) Neither the Purchaser nor any of its affiliates, nor any broker with whom the Purchaser has dealt regarding the Property, is or will be (a) conducting any business or engaging in any transaction or dealing with any Prohibited Person, including the making or receiving of any contribution of funds, goods or services to or for the benefit of any such Prohibited Person; (b) engaging in certain dealings with countries and organizations designated under Section 311 of the USA PATRIOT Act as warranting special measures due to money laundering concerns; (c) dealing in, or otherwise engaging in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224 dated 24 September 2001, relating to "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism"; (d) a foreign shell bank or any person that a financial institution would be prohibited from transacting with under the USA PATRIOT Act; or (e) engaging in or conspiring to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempting to violate, any of the prohibitions set forth in (i) any U.S. anti-money laundering law, (ii) the Foreign Corrupt Practices Act, (iii) the U.S. mail and wire fraud statutes, (iv) the Travel Act, (v) any similar or successor statutes or (vi) any regulations promulgated under the foregoing statutes.

(vii) All representations and warranties of the Purchaser contained in this Agreement are true and correct as of the date hereof and will be true and correct as of the

Closing Date, except as may be modified in a bringdown certificate.

10. Notices. All notices or other communications hereunder shall be in writing and deemed given when delivered personally, when sent via facsimile or e-mail, when deposited with a nationally-recognized overnight courier keeping receipts of delivery, service prepaid or billed to sender, or on the day said communication is deposited in the U.S. mail, by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Seller: Mrs. Georgia Harrison
3365 Old Lost Mountain Road
Powder Springs, GA 30127
E-mail: rosmis2@AOL.com

and to: Mrs. Barbara Harrison
325 East Harden Street
Graham, NC 27253
E-mail: WendyHarrison@Gmail.com

and to: Mrs. Diana Mendheim
20 Glenridge Ave., Apt. L12
Montclair, NJ 07942
E-mail: LDMendheim@AOL.com

and to: Mr. Andre J. White
2331 Galbreth Road
Pasadena, CA 91104
E-mail: AndreWhite@Mitchelville.com

and to: Law Office of Chester C. Williams, LLC
Attention: Chester C. Williams, Esq.
PO Box 6028
Hilton Head Island, SC 29938-6028
E-mail: Firm@CCWLaw.net

If to Purchaser: Rotunda Land & Development Group, LLC
5 Concourse Parkway, Suite 400
Atlanta, Georgia 30328
Attention: Paul Lange
E-mail: plange@rotundaland.com

and to: Seyfarth Shaw, LLC
1075 Peachtree Street NE, Suite 2500
Atlanta, Georgia 30309
Attention: Steve Kennedy
E-mail: skennedy@seyfarth.com

If to Title Company: Law Offices of Darrell Thomas Johnson, Jr., LLC
Attn: Darrell Thomas Johnson, Jr.
Post Office Box 1125
Hardceville, South Carolina 29927
Email: tdjohnson1@hargray.com

or to such other address as the parties may from time to time designate by notice in writing to the other parties. While notice given by courier service or mail shall be effective when deposited with the courier service or in the mail, properly addressed and postage paid or shipping charges paid or billed to the sender, all as aforesaid, the period in which a response to such a notice must be given or taken shall run from the date of receipt by the addressee. Rejection, refusal to accept delivery, or inability to deliver due to changed address of which no notice has been given, shall all be deemed receipt by the addressee.

11. Default.

(a) Seller's Default; Purchaser's Remedy. In the event Purchaser performs all of its obligations hereunder and Seller fails to close on the Property pursuant to the terms of this Agreement, or in the event Seller otherwise breaches any term of this Agreement and fails to cure the breach within ten (10) days after receipt of written notice of the breach from Purchaser, then Purchaser may: (i) seek to specifically enforce performance of Seller's obligation(s) under this Agreement, but if specific performance is not available due to the willful or intentional breach of this Agreement by Seller, Purchaser shall have the right to pursue any and all actual damages incurred by Purchaser as a result of such willful and intentional breach by Seller not to exceed \$100,000.00; (ii) terminate this Agreement (if such default occurs prior to Closing) by delivery of written notice thereof to Seller, in which event the Earnest Money shall be immediately returned to Purchaser and Purchaser shall be entitled to recover from Seller Purchaser's actual out-of-pocket costs incurred in connection with this Agreement including, without limitation, costs for attorneys' fees, engineers' fees, consulting fees, site plan, subdivision, and approval and permitting costs, title examination and survey fees, and all costs and expenses related to environmental, soil and feasibility tests and examinations; and (iii) if the default was intentional on the part of Seller, then Purchaser may exercise any other remedies available to Purchaser at law or in equity. The foregoing remedies shall survive the termination of this Agreement and Closing and delivery of the Deed.

(b) Purchaser's Default; Seller's Remedy. In the event that all of the conditions precedent to Purchaser's obligations to close hereunder have been satisfied or waived and Seller performs all of its obligations hereunder and Purchaser fails to close on the Property in breach of the terms of this Agreement and within ten (10) days after receipt of written notice of the same from Seller, then Seller, as its sole and exclusive remedy, may terminate this Agreement by delivery of written notice to Purchaser. In such event, the Earnest Money shall be delivered to Seller and retained by Seller as full liquidated damages and in lieu of any other claims or causes of action which may be available to Seller at law or in equity by reason of such default hereunder by Purchaser; the foregoing amount being agreed upon as liquidated damages by the parties hereto because of the difficulty of ascertaining the actual damages Seller may suffer by reason of Purchaser's breach of this Agreement.

12. Condemnation; Casualty.

(a) Condemnation. If, prior to Closing, all or any portion of Property is condemned by any authority having the power of eminent domain, or if written notice of any condemnation is issued, or if any proceedings are instituted, by any authority having the power of eminent domain, then Purchaser may elect: (i) to terminate this Agreement by delivering written notice to Seller, in which event the Escrow Agent shall immediately refund to Purchaser all Earnest Money and neither Purchaser nor Seller shall have any further liabilities, obligations or rights with regard to this Agreement (except for those that by the express terms hereof survive termination); or (ii) to proceed to Closing, in which event Seller shall assign to Purchaser at Closing all of its interest in and to all proceeds from any condemnation authority and thereupon Purchaser shall control all negotiations and proceedings undertaken with the condemning authority; Purchaser shall receive a credit at Closing in the amount of any condemnation proceeds paid to Seller with respect to the Property prior to Closing.

(b) Casualty. If, prior to Closing, any casualty (including without limitation an earthquake, sinkhole, contamination by Hazardous Materials or act of God) damages the Property, or otherwise affects or threatens to affect the Property, then Purchaser may elect: (i) to terminate this Agreement by delivering written notice to Seller, in which event the Escrow Agent shall immediately refund to Purchaser all Earnest Money and neither Purchaser nor Seller shall have any further liabilities, obligations or rights with regard to this Agreement (except for those that by the express terms hereof survive termination); or (ii) to proceed to Closing, in which event Purchaser shall receive at Closing a credit in the amount of any proceeds paid to Seller prior to Closing from any insurance policies insuring the Property from damage or destruction, plus the amount of any deductibles and the amount of any uninsured casualty.

(c) Notice. Seller shall provide Purchaser with prompt notice of: (i) any actual or threatened taking by condemnation of all or any portion of the Property; and (ii) any damage or threatened damage to the Property as a result of any casualty of which Seller has knowledge.

13. Assignment. This Agreement may be assigned or transferred by Purchaser at any time provided the assignee agrees to be specifically bound by the terms hereof. Seller shall not assign its interest under this Agreement.

14. Miscellaneous.

(a) Effective Date. The date upon which this Agreement is accepted by the party to whom the offer is made shall be the "Effective Date" (as evidenced by the "Date of Execution" of such accepting party). If this Agreement is not signed simultaneously by both parties, it shall be considered to be an offer made by the party first executing it to the other party.

(b) Dates. All references to a number of days shall mean calendar days unless business days are expressly referred to. A "business day" is any Monday, Tuesday, Wednesday, Thursday or Friday other than a legal holiday. Any date specified in this Agreement for the performance of an obligation or expiration of a time period which is a Saturday, Sunday, or legal holiday shall be extended to the first regular business day after such date which is not a Saturday, Sunday, or legal holiday.

(c) Counterparts. This Agreement may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together shall constitute one and the same Agreement.

(d) Severability. The invalidity or unenforceability of a particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

(e) No Obligations to Third Parties. Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties hereto, to any person or entity other than the parties hereto.

(f) Entire Agreement; Amendments. This Agreement contains the entire agreement between the Seller and Purchaser with respect to the sale and purchase of the Property. This Agreement supersedes all prior agreements and communications by or between the Purchaser and the Seller. Neither this Agreement nor any provision hereof may be changed, amended, modified, waived, or discharged orally or by any course of dealing, but only by an instrument in writing signed by the party against which enforcement of the change, amendment, modification, waiver, or discharge is sought.

(g) Time. Time is of the essence of this Agreement.

(h) Governing Law. This Agreement shall be governed by the laws of the State where the Property is located.

(i) Joint and Several Liability. In the event more than one individual or entity comprises Seller, each individual or entity executing this Agreement shall be jointly and severally liable for the obligations of Seller under this Agreement.

(j) Successors and Assigns. Subject to the terms of Section 12 above, this Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto.

(k) Attorneys' Fees. If Purchaser or Seller brings an action at law or equity against the other in order to enforce the provisions of this Agreement or as a result of an alleged default under this Agreement, the prevailing party in such action will be entitled to recover from the non-prevailing party court costs and reasonable attorneys' fees actually incurred by the prevailing party in connection with such dispute, with any right to have the amount of "reasonable" attorneys' fees determined in accordance with O.C.G.A. § 13-1-11 or any similar statutory provision being hereby expressly waived by both Seller and Purchaser.

(l) Reciprocal Indemnity. Purchaser shall indemnify, protect, defend, and hold Seller harmless from all claims, costs, liabilities, judgments, losses, or expenses (including, without limitation, reasonable attorneys' fees and costs) arising out of, resulting from, or connected with any matters or conditions first occurring on or around the Property following the Closing and during Purchaser's ownership of the Property. Seller shall indemnify, protect, defend, and hold Purchaser harmless from all claims, costs, liabilities, judgments, losses, or expenses (including,

without limitation, reasonable attorneys' fees and costs) arising out of, resulting from, or connected with any matters or conditions first occurring on or around the Property prior to the Closing.

(m) Confidentiality. Seller agrees that neither Seller nor Seller's directors, officers, employees, affiliates, partners, members, brokers, agents or other representatives ("**Seller's Representatives**") shall, at any time or in any manner, either directly or indirectly, divulge, disclose, or communicate to any third party any information (i) relating to this Agreement, or (ii) otherwise acquired by Seller or Seller's Representatives in connection with this Agreement that relates to Purchaser's business (including, without limitation, information relating to Purchaser's business model, architectural plans, pro formas, logos, signage, inventory and stocking plans, site plans, building specifications, or expansion plans) (the "**Information**"). Seller shall direct Seller's Representatives not to make any public announcements, grant interviews or issue press releases regarding Purchaser, the Information, or this Agreement to any third party. Notwithstanding the foregoing, Seller may disclose such of the Information as required by law or court order or rule (provided prior written notice of such disclosure shall be provided to Purchaser) or as expressly agreed to by Purchaser in writing.

(n) Non-Merger. Notwithstanding any other terms of this Agreement, the provisions of this Agreement (including without limitations the representatives, warranties, and covenants set forth in Sections 8 and 9 above) shall survive Closing hereunder and shall not be merged into the Deed.

(o) Construction. The parties hereto hereby acknowledge and agree that (i) each party hereto is of equal bargaining strength, (ii) each such party has actively participated in the drafting and negotiation of this Agreement, and (iii) any rule of construction to the effect that ambiguities are to be resolved against the drafting parties shall not apply in the interpretation of this Agreement.

(p) Brokers; Consultant. Each party represents and warrants to the other that no real estate broker or agent has been instrumental in the procurement of this Agreement, ~~except~~^a John Campbell of ReMax Island Realty ("ReMax") and ~~Gordon Waters and Cory Galloway of Lighthouse Realty ("Lighthouse")~~^a. Seller shall be responsible for the payment of a commission of two and one-half percent (2.5%) of the Purchase Price to be paid to ReMax. The Seller shall pay a real estate consultant advisory fee to Mitchelville Real Estate Group SC, LLC (the "Consultant"), in the amount of Seven and One-half (7.5%) percent of the Purchase Price paid at Closing pursuant to that certain Real Estate Management Agreement by and between certain individuals constituting the Sellers and the Consultant. ReMax, ~~Lighthouse~~^a, and the Consultant acknowledge and agree that the real estate commission and the real estate consultant advisory fee described in this Section are contingent on the actual receipt of the Purchase Price by the Seller at Closing and, therefore, ReMax and the Consultant shall not be entitled to any real estate commissions, real estate consultant advisory fees, or other remuneration for brokerage or consultancy services in the event that this Agreement is terminated or if the Purchaser defaults under this Agreement or otherwise fails or refuses to close the acquisition of the Property for any other reason. Purchaser and Seller represent and warrant that no party has agreed to pay any persons other than ReMax and the Consultant any real estate commissions or real estate consultant advisory fees on the sale or purchase of the Property. Except for ReMax, ~~Lighthouse~~^a, the Consultant, and legal counsel, the Purchaser and the Sellers represent and warrant each to the other

that they have not discussed this Agreement or the subject matter hereof with, and have not engaged in any fashion or any connection with this transaction the services of, any real estate or other broker, agent, or salesman or consultant so as to create any legal right in any such broker, agent, or salesman or consultant to claim a commission, consultancy fee, or similar fee with respect to the purchase and sale of the Property contemplated by this Agreement. Except for the commission due to ReMax and the real estate consultant advisory fee due to the Consultant, Purchaser and Seller each hereby indemnify the other against, and agree to hold harmless the other from, any and all claims for real estate commissions, consultancy fees, or similar fees arising out of or in any way connected with any claimed agency relationship with the indemnitor and relating to the purchase and sale of the Property contemplated by this Agreement. The provisions of this Section shall survive the Closing or any termination of this Agreement for a period of one (1) year.

(q) Risk of Loss. The risk of loss for damage to the Property or any improvements or fixtures located thereon by fire or other casualty is hereby assumed by the Seller until Closing hereunder and recordation of the Deed conveying the Property.

(r) 1031 Exchange. Each party shall cooperate, at no cost to the cooperating party, with the other and shall execute any and all documents necessary to allow such party (or its affiliates) to effectuate the conveyance of the Property as an exchange under Section 1031 of the Internal Revenue Code ("**Exchange**"); provided however, that at no time shall the cooperating party be required to take title to real estate other than the Property or incur any obligations other than those set forth elsewhere in this Agreement. The exchanging party shall pay all reasonable costs which may be incurred by the cooperating party in connection with such tax deferred exchange and the exchanging party shall indemnify the cooperating party and hold it harmless from any loss, cost, damage, expense, or liability incurred in connection therewith.

[Signatures Begin on Next Page]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year written below.

SELLER:
GEORGIA HARRISON

SELLER:
BARBARA HARRISON

Georgia Harrison
Georgia Harrison
Date of Execution: 9/15/2020

Barbara Harrison
Date of Execution: _____

SELLER:
JOYCE ELLEN HARRISON

SELLER:
WILLIAM HARRISON, III

Joyce Ellen Harrison
Date of Execution: _____

William Harrison, III
Date of Execution: _____

SELLER:
STANLEY ROBERTS

SELLER:
DIANA MENDHEIM

Stanley Roberts
Date of Execution: _____

Diana Mendheim, individually and as agent
and attorney in fact for the Sellers listed on
Exhibit B
Date of Execution: _____

PURCHASER:
**ROTUNDA LAND & DEVELOPMENT
GROUP, LLC, a Georgia limited
liability company**


By: _____
Paul Lange, Manager
Date of Execution: _____

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year written below.

SELLER:
GEORGIA HARRISON

Georgia Harrison
Date of Execution: _____

SELLER:
BARBARA HARRISON



Barbara Harrison
Date of Execution: 9/11/20

SELLER:
JOYCE ELLEN HARRISON

Joyce Ellen Harrison
Date of Execution: _____

SELLER:
WILLIAM HARRISON, III

William Harrison, III
Date of Execution: _____

SELLER:
STANLEY ROBERTS

Stanley Roberts
Date of Execution: _____

SELLER:
DIANA MENDHEIM

Diana Mendheim, individually and as agent
and attorney in fact for the Sellers listed on
Exhibit B
Date of Execution: _____

PURCHASER:
**ROTUNDA LAND & DEVELOPMENT
GROUP, LLC, a Georgia limited
liability company**

By: _____
Paul Lange, Manager
Date of Execution: _____

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year written below.

SELLER:
GEORGIA HARRISON

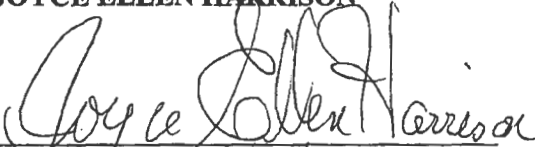
SELLER:
BARBARA HARRISON

Georgia Harrison
Date of Execution: _____

Barbara Harrison
Date of Execution: _____

SELLER:
JOYCE ELLEN HARRISON

SELLER:
WILLIAM HARRISON, III



Joyce Ellen Harrison
Date of Execution: 9/11/20

William Harrison, III
Date of Execution: _____

SELLER:
STANLEY ROBERTS

SELLER:
DIANA MENDHEIM

Stanley Roberts
Date of Execution: _____

Diana Mendheim, individually and as agent
and attorney in fact for the Sellers listed on
Exhibit B
Date of Execution: _____

PURCHASER:
**ROTUNDA LAND & DEVELOPMENT
GROUP, LLC, a Georgia limited
liability company**

By: _____
Paul Lange, Manager
Date of Execution: _____

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year written below.

SELLER:
GEORGIA HARRISON

SELLER:
BARBARA HARRISON

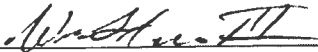
Georgia Harrison
Date of Execution: _____

Barbara Harrison
Date of Execution: _____

SELLER:
JOYCE ELLEN HARRISON

SELLER:
WILLIAM HARRISON, III

Joyce Ellen Harrison
Date of Execution: _____


William Harrison, III
Date of Execution: 9/11/20

SELLER:
STANLEY ROBERTS

SELLER:
DIANA MENDHEIM

Stanley Roberts
Date of Execution: _____

Diana Mendheim, individually and as agent
and attorney in fact for the Sellers listed on
Exhibit B
Date of Execution: _____

PURCHASER:
**ROTUNDA LAND & DEVELOPMENT
GROUP, LLC, a Georgia limited
liability company**

By: _____
Paul Lange, Manager
Date of Execution: _____

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year written below.

SELLER:
GEORGIA HARRISON

SELLER:
BARBARA HARRISON

Georgia Harrison
Date of Execution: _____

Barbara Harrison
Date of Execution: _____

SELLER:
JOYCE ELLEN HARRISON

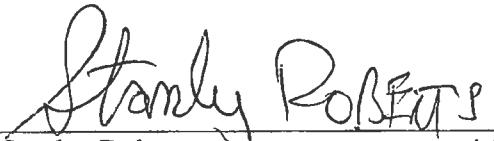
SELLER:
WILLIAM HARRISON, III

Joyce Ellen Harrison
Date of Execution: _____

William Harrison, III
Date of Execution: _____

SELLER:
STANLEY ROBERTS

SELLER:
DIANA MENDHEIM


Stanley Roberts
Date of Execution: SEPTEMBER 14TH 2020

Diana Mendheim, individually and as agent
and attorney in fact for the Sellers listed on
Exhibit B
Date of Execution: _____

PURCHASER:
**ROTUNDA LAND & DEVELOPMENT
GROUP, LLC, a Georgia limited
liability company**

By: _____
Paul Lange, Manager
Date of Execution: _____

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year written below.

SELLER:
GEORGIA HARRISON

SELLER:
BARBARA HARRISON

Georgia Harrison
Date of Execution: _____

Barbara Harrison
Date of Execution: _____

SELLER:
JOYCE ELLEN HARRISON

SELLER:
WILLIAM HARRISON, III


Joyce Ellen Harrison
Date of Execution: _____

William Harrison, III
Date of Execution: _____

SELLER:
STANLEY ROBERTS

SELLER:
DIANA MENDHEIM

Stanley Roberts
Date of Execution: _____



Diana Mendheim, individually and as agent
and attorney in fact for the Sellers listed on
Exhibit B
Date of Execution: Sept. 11, 2020

PURCHASER:
**ROTUNDA LAND & DEVELOPMENT
GROUP, LLC, a Georgia limited
liability company**

By: _____
Paul Lange, Manager
Date of Execution: _____

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year written below.

SELLER:
GEORGIA HARRISON

SELLER:
BARBARA HARRISON

Georgia Harrison
Date of Execution: _____

Barbara Harrison
Date of Execution: _____

SELLER:
JOYCE ELLEN HARRISON

SELLER:
WILLIAM HARRISON, III

Joyce Ellen Harrison
Date of Execution: _____

William Harrison, III
Date of Execution: _____

SELLER:
STANLEY ROBERTS

SELLER:
DIANA MENDHEIM

Stanley Roberts
Date of Execution: _____

Diana Mendheim, individually and as agent
and attorney in fact for the Sellers listed on
Exhibit B
Date of Execution: _____

PURCHASER:
**ROTUNDA LAND & DEVELOPMENT
GROUP, LLC, a Georgia limited
liability company**

By: _____
Paul Lange, Manager
Date of Execution: 9/9/20

EXHIBIT "A"

Property Description

ALL that certain piece, parcel, or lot of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 28.127 acres, more or less, and is specifically shown as Lot B on the unrecorded plat of 165¼ Acres on Hilton Head Island, Formerly Property of March Gardner, prepared by Arthur O. Christianson, RLS, entitled "Plat of Survey Number Two, No Sale", dated April 6-8, 1921, and also on that certain plat of prepared by Millard Dunham, RLS entitled "Plat Prepared for Heirs of Clara Wigfall" dated January 29, 1988, last revised on January 18, 1990, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 38 at Page 29.

BEING the same property shown and designated as "Parcel 7", containing 26.462 acres, more or less, on that certain unrecorded plat of survey entitled "Boundary, Wetland Survey of: Parcel 7, Mitchelville Road" prepared by Sea Island Land Survey, LLC, William E. Mixon, Jr., SCRLS 17573, dated February 7, 2005.

EXHIBIT "B"

Sellers who have given their Powers of Attorney to Diana Mendheim

Joanne Elizabeth Carver, William Charles Kirkland, Donna Mosby, Paulette Kirkland, Christopher Kirkland, Shawn Kirkland, Carol Bush, Jason Young, Robert Young, Denise Davidson, Rose Hampton, Tyrone Hodges, Derrick Hodges, Corey Hodges, Vanessa Coleman, Richard Hodges, and Diamond Moseley.



STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT
 COUNTY OF BEAUFORT) CIVIL ACTION NO.: 2020-CP-07-02301

GEORGIA HARRISON, BARBARA)
 HARRISON, JOYCE ELLEN)
 HARRISON, WILLIAM S.)
 HARRISON, III, STANLEY)
 ROBERTS, and DIANA)
 MENDHEIM, individually and as)
 Agent and attorney in fact,)
) ANSWER TO PLAINTIFFS' COMPLAINT
 Plaintiffs,)
)
 vs.)
)
 STEPHANIE LORRAINE)
 KIRKLAND, GARY LAMONT)
 KIRKLAND, KEITA NICOLE)
 WHITE, and CHERYL KIRKLAND,)
)
 Defendants.)

The Defendants, answering the complaint of the Plaintiffs would show unto this Honorable Court:

1. The Defendants deny each and every allegation contained in the complaint unless specifically admitted herein and demands strict proof thereof.
2. The Defendants have insufficient information with which to admit or deny the allegations contained in Paragraphs 1, 2, 3, 11, 14, 15, 20 22, 26, 28, 30, and 31, and therefore deny same.
3. The Defendants admit the allegations contained in Paragraphs 5, 6, 8, 9, 10, .12, 13, 16, 17, 18, 19, 21, 23, 24, 25, 32, and 33.
4. The Defendants deny the allegations contained in Paragraphs 4. 27, and 29,
5. With regard Paragraph 7, the any Orders issued by the Court speak for themselves.
6. With regard to Paragraph 34, SCRCP 71(c) speaks for itself and this Court's jurisdiction is set by statute.

FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION

7. The Defendants incorporate into this Defense the allegations contained elsewhere in this pleading by reference thereto.
8. Paragraph 36 is administrative and does not require a response, but to the extent a response is required it is denied.
9. The allegations contained in Paragraphs 37, 40, and 41 are denied
10. The allegations contained in Paragraph 38 and 39 are admitted.

FOR A FIRST DEFENSE TO THE SECOND CASUE OF ACTION

11. The Defendants incorporate into this Defense the allegations contained elsewhere in this pleading by reference thereto.
12. Paragraph 42 is administrative and does not require a response, but to the extent a response is required it is denied.
13. The allegations contained in Paragraphs 43, 44, 45, 48, 49, and 50.
14. The Defendants have insufficient information or belief with which to admit or deny the allegations contained in Paragraphs 46 and 47 and therefore deny same and demand strict proof thereof.

FOR A SECOND DEFENSE TO ALL CAUSES OF ACTION

15. The Defendants incorporate into this Defense the allegations contained elsewhere in this pleading by reference thereto.
16. The Plaintiffs have failed to join necessary parties and therefore the Complaint is subject to being dismissed pursuant to SCRCP 12(b)(7).

FOR A THIRD DEFENSE TO ALL CAUSES OF ACTION

17. The Defendants incorporate into this Defense the allegations contained elsewhere in this pleading by reference thereto.
18. The Plaintiffs Complaint on its face admits that there are at least two un-probated estates, with unknown heirs, that have not been established to include persons who are or may be under some disability or a minor and thus the Complaint is subject to being dismissed pursuant to SCRCP 12(b)(6).

FOR A FOURTH DEFENSE TO ALL CAUSES OF ACTION

19. The Defendants incorporate into this Defense the allegations contained elsewhere in this pleading by reference thereto.
20. The Plaintiffs Complaint on its face admits that there are at least two un-probated estates, with unknown heirs, and thus the Complaint is subject to being dismissed pursuant to the provisions of SCRCP 12(b)(2).

FOR A FIFTH DEFENSE TO ALL CAUSES OF ACTION

21. The Defendants incorporate into this Defense the allegations contained elsewhere in this pleading by reference thereto.
22. The Plaintiffs Complaint on its face admits that there are at least two un-probated estates, with unknown heirs, that have not been established to include persons who are or may be under some disability or a minor and thus the Complaint is subject to being dismissed pursuant to SCRCP 12(b)(4).

FOR A SIXTH DEFENSE TO ALL SECOND CAUSE OF ACTION

23. The Defendants incorporate into this Defense the allegations contained elsewhere in this pleading by reference thereto.
24. The Plaintiffs allege that they have entered into a contract to sell the real property described in the Complaint, without attaching a copy of the contract, alleging the value of the property, without attaching a copy of any appraisal or even setting forth the terms and conditions of the proposed sale.
25. That as a result of the acts of the Plaintiffs are so extreme, prejudicial and in total disregard of the equities that the Complaint should be dismissed.

FOR A FIFTH DEFENSE TO ALL CAUSES OF ACTION

26. The Defendants incorporate into this Defense the allegations contained elsewhere in this pleading by reference thereto.
27. The real property described in the Complaint contains 28.127 acres.
28. The interests of the Defendants, assuming the facts alleged are true, then the real property is subject to being divided in kind.

WHEREFORE, the Defendants pray that the Complaint be dismissed with costs and assessments, in the alternative that the property be divided in kind, that the heirs of the various deceased persons be established, that the property be appraised and that a Writ of Partition be issued, and for such further and other relief as this Honorable Court deems just and appropriate.

VAUX MARSCHER BERGLIND, P.A.

By: *S/ ROBERTS VAUX*

Attorneys for Defendants

Roberts Vaux, SC Bar No. 5702 – Fed. No. 4459

Stephen Meyer, SC Bar No. 102322; Fed. No 12237

Post Office Box 769

Bluffton, South Carolina 29910

Telephone 843-757-2888

Facsimile 843-757-2889

January 7, 2021



STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 GEORGIA HARRISON, BARBARA)
 HARRISON, JOYCE ELLEN)
 HARRISON, WILLIAM S.)
 HARRISON, III, STANLEY)
 ROBERTS, and DIANA MENDHEIM,)
 individually and as agent and attorney)
 in fact,)
)
 Plaintiffs,)
 vs.)
)
 STEPHANIE LORRAINE)
 KIRKLAND, GARY LAMONT)
 KIRKLAND, KEITA NICOLE)
 WHITE, and CHERYL KIRKLAND,)
)
 Defendants)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO. 2020-CP-07-02301

ORDER OF REFERENCE

Upon motion of the undersigned attorney for the Plaintiffs, and with consent of all other parties to the action; and it further appearing, pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, that this is a proper matter to refer to the Honorable Marvin H. Dukes, III, as Master in Equity for Beaufort County;

Now therefore, IT IS ORDERED that the above-entitled cause be, and the same if hereby, referred to the Honorable Marvin H. Dukes, III, as Master in Equity for Beaufort County for the purpose of conducting a bench trial on this matter and entering a final judgment thereon, as well as conducting hearings or entering orders prior to and after the bench trial.

Any appeal from the final judgment in this cause shall be to the South Carolina Court of Appeals.

The Plaintiffs are responsible for paying the Reference Fee set forth in South Carolina Code of Laws Section 14-11-310; however, if the Plaintiffs' case has ended, any remaining party seeking Affirmative Relief shall be responsible for paying the fee. If the case is a Partition Action or Lien

Foreclosure, the fee amount is \$100.00; for all other types of cases the fee is \$50.00. The Reference Fee shall be paid to the Office of the Master in Equity for Beaufort County within 30 days of the date of this Order or the Master will dismiss the case for non-payment of the Reference Fee without further notice.

I Consent:

s/Roberts Vaux

Roberts Vaux, Esq.

P.O. Box 769

Bluffton, South Carolina, 29910

(843) 757-2889

roberts.vaux@vmbllawfirm.com

Attorney for the Defendants

I SO MOVE:

s/Thomas C. Taylor

Thomas C. Taylor, Esq.

SC Bar No.: 5499

PO Box 5550

Hilton Head Island, SC 29938

(843) 785-5050

tom@thomastaylorlaw.com

Attorney for the Plaintiffs



Beaufort Common Pleas

Case Caption: Georgia Harrison , plaintiff, et al VS Stephanie Lorraine Kirkland ,
defendant, et al
Case Number: 2020CP0702301
Type: Order/Referred to Master or Special Referee

So Ordered

s/Jerri Ann Roseneau, Beaufort County Clerk of
Court



STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 GEORGIA HARRISON, BARBARA)
 HARRISON, JOYCE ELLEN)
 HARRISON, WILLIAM S.)
 HARRISON, III, STANLEY)
 ROBERTS, and DIANA MENDHEIM,)
 individually and as agent and attorney)
 in fact,)
)
 Plaintiffs,)
 vs.)
)
 STEPHANIE LORRAINE)
 KIRKLAND, GARY LAMONT)
 KIRKLAND, KEITA NICOLE)
 WHITE, and CHERYL KIRKLAND,)
)
 Defendants)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO. 2020-CP-07-02301

CONSENT ORDER

THIS MATTER COMES BEFORE THE COURT for consideration of the Plaintiffs' Complaint to Quiet Title to certain land located on Hilton Head Island, South Carolina, as is more particularly described in the Complaint filed November 24, 2020. Based upon the consent of the Plaintiffs and the Defendants, as indicated by the signatures of their attorneys below, it is ORDERED:

That the tract of real property described in metes and bounds in paragraph 6 of the original Complaint dated November 24, 2020, is owned in indivision by the Plaintiffs, the represented Co-Owners and the Defendants, and that their respective undivided interests in the real property are as set forth in Exhibit A attached hereto.

AND IT IS SO ORDERED.

s/ _____
 Marvin H. Dukes III
 Beaufort County Master in Equity and
 Special Circuit Judge

WE CONSENT:

/s/ Thomas C. Taylor
Thomas C. Taylor (SC Bar No. 5499)
Law Office of Thomas C. Taylor, LLC
22 Bow Circle, Suite A
Hilton Head Island, South Carolina 29928
(843) 785-5050
tom@thomastaylorlaw.com
CO-COUNSEL FOR PLAINTIFFS

May 21, 2021

/s/ Chester C. Williams
Chester C. Williams
Law Office of Chester C. Williams, LLC
17 Executive Park Road, #2
Hilton Head Island, South Carolina 29928
(843) 842-5411
firm@ccwlaw.net
CO-COUNSEL FOR PLAINTIFFS

May 21, 2021

s/Roberts Vaux
Roberts Vaux, Esq. (SC Bar No. 5702)
Vaux Marscher Berglind, PA
P.O. Box 769
Bluffton, South Carolina, 29910
(843) 757-2889
roberts.vaux@vmblawfirm.com
ATTORNEY FOR THE DEFENDANTS

May 21, 2021

**EXHIBIT A
TO
CONSENT ORDER
SETTING FORTH THE
UNDIVIDED INTERESTS IN THE REAL PROPERTY**

Stanley Roberts	25.000000%
Georgia Harrison	20.833333%
Barbara Harrison	20.833333%
Joyce Ellen Harrison	10.416667%
William S. Harrison, III	10.416667%
Carol Bush	1.562500%
Diana Mendheim	1.562500%
Robert Young	1.562500%
Denise Davidson	1.562500%
Rose Hampton	1.562500%
Jason Young	1.562500%
Joanne Elizabeth Carver	0.260417%
William Charles Kirkland	0.260417%
Stephanie Lorraine Kirkland	0.260417%
Gary Lamont Kirkland	0.260417%
Keita Nicole White	0.260417%
Tyrone D. Hodges	0.260417%
Derrick Hodges	0.260417%
Corey Hodges	0.260417%
Vanessa Coleman	0.260417%
Richard Hodges	0.260417%
Diamond Moseley	0.260417%
Donna Mosby	0.130208%
Paulette Kirkland	0.026042%
Paul T. Allbright	0.026042%
Cheryl Kirkland	0.026042%
Christopher Kirkland	0.026042%
Shawn Kirkland	<u>0.026042%</u>
Total	100.000000%



Beaufort Common Pleas

Case Caption: Georgia Harrison , plaintiff, et al VS Stephanie Lorraine Kirkland ,
defendant, et al
Case Number: 2020CP0702301
Type: Order/Consent Order

So Ordered:

s/Marvin H. Dukes III #3069



STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 GEORGIA HARRISON, BARBARA)
 HARRISON, JOYCE ELLEN)
 HARRISON, WILLIAM S.)
 HARRISON, III, STANLEY)
 ROBERTS, and DIANA MENDHEIM,)
 individually and as agent and attorney)
 in fact,)
)
 Plaintiffs,)
 vs.)
)
 STEPHANIE LORRAINE)
 KIRKLAND, GARY LAMONT)
 KIRKLAND, KEITA NICOLE)
 WHITE, and CHERYL KIRKLAND,)
)
 Defendants)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO. 2020-CP-07-02301

ORDER

THIS MATTER CAME BEFORE THE COURT for consideration of the Plaintiffs' Motion to Set Fair Market Value, on September 9, 2021 at 3:00 p.m. via WebEx video hearing. Present at the hearing via video conference were Thomas C. Taylor and Chester C. Williams, counsel for the Plaintiffs, Roberts Vaux, counsel for the Defendants, Plaintiff Georgia Harrison, Plaintiff Diana Mendheim, Plaintiffs' consultant Andre White, and Defendant Keita Nicole White.

This hearing was a continuation of two previous hearings on the same matter, and the Court had previously taken testimony from Andre White and accepted as evidence (without objection), copies of an appraisal of the property dated February 28, 2021 and a copy of a contract for the purchase and sale of the land, dated September 14, 2020. During the September 9, 2021 hearing, counsel for the Plaintiffs and the Defendants, and Defendant Keita Nicole White, advised the Court that they all agreed the current fair market value of the property is Nine Million, One Hundred Thousand (\$9,100,000.00) Dollars.

Having heard the testimony, and considered the exhibits and the arguments of counsel, I make the following findings and conclusions:

FINDINGS OF FACT

1. This is an action initiated by the Plaintiffs on November 24, 2020, to quiet title and partition the land by sale pursuant to the Clementa C. Pinckney Uniform Partition of Heirs' Property Act, codified at S.C. Code Annot. Section 15-61-310 et. seq.
2. All Defendants were properly served or acknowledged service.
3. This case was referred to me as the Master on April 21, 2021.
4. By a Consent Order entered on May 21, 2021, the parties agreed the property is owned in indivision by the Plaintiffs, the represented Co-Owners, and the Defendants, and that their respective undivided interests in the real property are as set forth in Exhibit A to that Consent Order.
5. The parties agree that the current Fair Market Value for the 26.462 acres, more or less, of land described in the Complaint, is \$9,100,000.00.
6. The Defendants wish to retain new counsel in substitution of Mr. Vaux, and neither Mr. Vaux nor the Plaintiffs object. The Defendants advised the Court that they may be contacted directly at 1570 East New York Avenue, Apt. 2A, Brooklyn, New York, 11212 once Mr. Vaux is relieved as counsel of record. Further, the Defendants agreed to retain new counsel and advise the Court of the new counsel, within twenty (20) days of the filing of this Order.

CONCLUSIONS OF LAW

1. Pursuant to S.C. Code Annot. Section 15-61-360(B), the Court adopts the agreed upon Nine Million, One Hundred Thousand (\$9,100,000.00) Dollar valuation as the current Fair Market Value of the 26.462 acres, more or less, of land described in the Complaint.

2. A partition trial of this matter is hereby set for October 6, 2021 at 10 a.m. before the undersigned Master in Equity of Beaufort County, South Carolina, at the Beaufort County Courthouse, 102 Ribaut Road, Room 212, Beaufort, SC.
3. Copies of this filed Order shall be served upon all Defendants by the Plaintiffs' counsel within five (5) days of its filing, and notice therein given to each Defendant that any Defendant may buy all the interests of the Plaintiffs and the represented Co-Owners who have requested partition by sale.
4. Any Defendant who is interested in purchasing the interests of the Plaintiffs and the represented Cotenants that requested partition by sale, shall notify the court of that interest no later than September 26, 2021, which is ten (10) days prior to the scheduled partition trial. Such notice shall be made as follows:

Hon. Marvin H. Dukes III
Master in Equity
Post Office Drawer 1228
Beaufort, SC 29901-1228

With a copy to the Plaintiffs' counsel:

Thomas C. Taylor, Esq.
Law Office of Thomas C. Taylor
P.O. Box 5550
Hilton Head Island, SC, 29938-5550

and,

Chester C. Williams, Esq.
Law Office of Chester C. Williams. LLC
P.O. Box 6028
Hilton Head Island, SC 29938-6028.

The notice to the Court shall reference the caption and case number as set forth above.

5. The purchase price for each of the interests of the cotenants that requested partition by sale is Nine Million, One Hundred Thousand (\$9,100,000.00) multiplied by the cotenant's fractional ownership of the entire parcel.

6. At the Defendants' request, Roberts Vaux, Esq. is hereby relieved as counsel for the Defendants. To ensure that the case moves forward in a timely fashion, the Defendants shall retain new counsel and notify the Court of the name and address of the new counsel, within twenty (20) days of this Order. Further, in the event new counsel is not retained within that time period, the Plaintiffs, the Court, and all interested parties may contact the Defendants directly at 1570 East New York Avenue, Apt. 2A, Brooklyn, New York, 11212. Notice properly mailed via the US Postal Service to such address shall be presumed as service upon the Defendants consistent with the South Carolina Rules of Civil Procedure and the common law.

AND IT IS SO ORDERED.

s/
Marvin Dukes, III
Master In Equity and Special Circuit
Court Judge of Beaufort County



Beaufort Common Pleas

Case Caption: Georgia Harrison , plaintiff, et al VS Stephanie Lorraine Kirkland ,
defendant, et al
Case Number: 2020CP0702301
Type: Order/Other

So Ordered:

s/Marvin H. Dukes III #3069



STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 GEORGIA HARRISON, BARBARA)
 HARRISON, JOYCE ELLEN)
 HARRISON, WILLIAM S.)
 HARRISON, III, STANLEY)
 ROBERTS, and DIANA MENDHEIM,)
 individually and as agent and attorney)
 in fact,)
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 Plaintiffs,)
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)
 STEPHANIE LORRAINE)
 KIRKLAND, GARY LAMONT)
 KIRKLAND, KEITA NICOLE)
 WHITE, CHERYL KIRKLAND,)
 WILLIAM CHARLES KIRKLAND,)
 PAULETTE KIRKLAND, PAUL T.)
 ALLBRIGHT, CHRISTOPHER)
 KIRKLAND AND SHAWN)
 KIRKLAND,)
 Defendants.

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO. 2020-CP-07-02301

ORDER

On September 27, 2021, Defendants Keita Nicole White, Gary Lamont Kirkland, Stephanie Lorraine Kirkland, and Cheryl Kirkland, by and through their counsel of record, Charles E. Houston, Jr., notified the Court pursuant to S.C. Code Annot. Section 15-61-370 (B), that they are interested in purchasing the ownership interests of the cotenants that requested partition by sale in this case. Said Notice was made via the filing of a “Notice of Exercise of Right of First Refusal” by Attorney Houston with the Clerk of Court on September 27, 2021.

On October 5, 2021, Attorney Houston, current counsel for the original four (4) Defendants, notified counsel for the Plaintiffs that five of the original Represented Co-Owners, namely Christopher Kirkland, Shawn Kirkland, William Charles Kirkland, Paulette Kirkland, and Paul T. Allbright, had revoked their respective Powers of Attorney earlier given to Plaintiff Diana

Mendheim, and that they wish to now be positioned as Defendants in this action and that Mr. Houston now also represents these individuals. Attorney Houston also advised the Plaintiffs that these five individuals also are interested in purchasing the ownership interests of the cotenants that requested partition by sale in this case pursuant to South Carolina Code Annot. Section 15-61-370(B). In response, the Plaintiffs have advised the Court that the Plaintiffs consent to William Charles Kirkland, Paulette Kirkland, Paul T. Allbright, Christopher Kirkland, and Shawn Kirkland being re-aligned as Defendants in this action and further that the Plaintiffs, for purposes of this action, agree that these new Defendants William Charles Kirkland, Paulette Kirkland, Paul T. Allbright, Christopher Kirkland, and Shawn Kirkland have timely notified the Court and the Plaintiffs of their interest in purchasing the ownership interests of the cotenants that requested partition by sale in this case pursuant to South Carolina Code Annot. Section 15-61-370 (B).

The Court held a status conference in this matter via WebEx on October 19, 2021. The Plaintiffs were represented by Thomas C. Taylor and Chester C. Williams. The Defendants (including the five new Defendants above-named) were represented by Attorney Houston. Also present via WebEx were the Plaintiffs' advisor Andre White, and Plaintiffs Georgia Harrison and Diana Mendheim. Also present in the WebEx hearing was Attorney Tom Johnson of Hardeeville, who represents a third party that currently has a contract with the Plaintiffs to purchase the property.

During the status conference, counsel for the Plaintiffs and the Defendants affirmed their consent to the realignment of the parties as above described and confirmed the timeliness of these Defendants' notice to the Court and the Plaintiffs of their intended South Carolina Code Annot. Section 15-61-370 (B) rights of purchase. Further, all counsel agreed that each and every owner of an undivided interest in the land as were identified in this Court's Order of May 21, 2021, have been notified of their South Carolina Code Annot. Section 15-61-370 (B) rights of purchase, and that only the nine Defendants herein have timely notified the Court of their interest in purchasing the ownership interests of the cotenants that requested partition by sale in this case.

The parties have agreed that they will publish a notice of the pendency of this action in a newspaper of general circulation in Beaufort County, once a week for three successive weeks

following the entry of this Order, in order to provide additional notice to the public of the pendency of the action and provide an opportunity for any other person who might claim some interest in the property, to petition the Court for inclusion in the suit if such claim is well founded. However, all parties agree that there are no other known individuals or entities with any interest in the property other than those identified in this Court's May 21, 2021 Order.

Further, although not required under the statutes, at the Defendants' request, this Court and the Plaintiffs and other petitioning co-owners, agree that the appointment of a Guardian ad Litem Nisi would be appropriate to protect the interests of any infants, insane or incompetent persons, persons in the military, and any other persons who may claim a right, title, interest in or lien on the parcel of land identified in the Complaint. Thus, the Court hereby appoints Maria Belbas Parker, Esq., of the Law Office of Maria B. Parker, Post Office Box 7926, Hilton Head Island, SC, 29938, as the Guardian ad Litem Nisi of any infants, insane or incompetent persons, persons in the military, and any other persons who may claim a right, title, interest in or lien on the parcel of land identified in the Complaint, and her appointment and contact information shall be contained in the published Notice of Pendency of Action. If any infants, insane or incompetent persons, persons in the military, and any other persons who may claim a right, title, interest in or lien on the parcel of land identified in the Complaint, contact Ms. Parker, or are brought to her attention, she shall advise this Court in writing by December 1, 2021 of the specifics of the claimant.

The Court having received timely notice of the intention of the nine Defendants to purchase the interests of the cotenants who initiated this action, the Court hereby, pursuant to S.C. Code Annot. Section 15-61-370 (D)(2), allocates the right to buy those interests among the electing Defendant cotenants based upon their respective existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy as follows:

<u>ELECTING COTENTANT</u>	<u>PERCENTAGE OWNERSHIP INTEREST</u>	<u>ALLOCATED RIGHT TO BUY INTEREST</u>
Stephanie Lorraine Kirkland	0.260417%	22.22220%
Gary Lamont Kirkland	0.260417%	22.22220%
Keita Nicole White	0.260417%	22.22220%
William Charles Kirkland	0.260417%	22.22220%

Cheryl Kirkland	0.026042%	2.22224%
Christopher Kirkland	0.026042%	2.22224%
Shawn Kirkland	0.026042%	2.22224%
Paulette Kirkland	0.026042%	2.22224%
Paul T. Allbright	0.026042%	2.22224%
<u>TOTAL</u>	<u>1.171878%</u>	<u>100.00%</u>

<u>ELECTING COTENANT</u>	FAIR MARKET VALUE OF THE PROPERTY	FAIR MARKET VALUE OF THE NON-ELECTING COTENANTS' INTERESTS IN THE PROPERTY (98.82813%)	<u>PRICE TO BE PAID</u>
	\$9,100,000.00	\$8,993,359.10	
Stephanie Lorraine Kirkland			\$1,998,522.25
Gary Lamont Kirkland			\$1,998,522.25
Keita Nicole White			\$1,998,522.25
William Charles Kirkland			\$1,998,522.25
Cheryl Kirkland			\$199,854.02
Christopher Kirkland			\$199,854.02
Shawn Kirkland			\$199,854.02
Paulette Kirkland			\$199,854.02
Paul T. Allbright			\$199,854.02
<u>TOTAL</u>			<u>\$8,993,359.10</u>

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Christopher Kirkland, Shawn Kirkland, William Charles Kirkland, Paulette Kirkland, and Paul T. Allbright, who previously appeared in this action as represented parties (by the Plaintiff Diana Mendheim via Powers of Attorney), are hereby realigned in this case as Defendants, represented by Attorney Houston.

Further, the nine (9) Defendants (specifically Stephanie Lorraine Kirkland, Gary Lamont Kirkland, Keita Nicole White, Cheryl Kirkland, Christopher Kirkland, Shawn Kirkland, William Charles Kirkland, Paulette Kirkland, and Paul T. Allbright) are notified by this Order of their rights

to purchase all of the petitioning cotenants' ownership upon the payments into the Court as set forth above.

Further, because the petitioning Plaintiffs compose or represent all of the cotenants of the property except the nine (9) Defendants set forth above, the filing of this Order satisfies the notice requirement to all other cotenants set forth in S.C. Code Section 15-61-370 (D)(2). No further notice to the cotenants is necessary. Should any other currently unknown individuals claiming some ownership interest in the parcel, petition the Court for recognition in this case, or should Ms. Parker report to the Court that an infant, or insane or incompetent person claiming some ownership interest in the parcel has been identified in her capacity as the Guardian ad Litem Nisi, the Court will consider those claims/notices in a timely fashion.

IT IS FURHTER ORDERED, ADJUDGED, AND DECREED that, pursuant to S.C. Code Section 15-61-370 (E), the Court hereby sets the date of December 22, 2021 as the date by which the Defendants must pay their apportioned prices into the Court. Payment shall be made by deposit of the appropriate amounts in collected funds with the Beaufort County Clerk of Court on or before 5:00 p.m. EST December 22, 2021.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that if the Defendants fail to timely pay their apportioned prices into the Court, then the property that is the subject of this action shall be partitioned by sale at a purchase price of not less than \$9,100,000.00, and that the Plaintiffs shall be authorized to enter into, or ratify, a contract of sale for not less than such price, and including such other commercially reasonable terms and conditions as are deemed appropriate.

AND IT IS SO ORDERED.

s/_____
Marvin Dukes, III
Master In Equity and Special Circuit
Court Judge of Beaufort County

October___, 2021



Beaufort Common Pleas

Case Caption: Georgia Harrison , plaintiff, et al VS Stephanie Lorraine Kirkland ,
defendant, et al
Case Number: 2020CP0702301
Type: Order/Other

So Ordered:

s/Marvin H. Dukes III #3069



STATE OF SOUTH CAROLINA)
) SIXTH AMENDMENT TO PURCHASE AND
) SALE AGREEMENT
 COUNTY OF BEAUFORT)

THIS SIXTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this “Sixth Amendment”) is made and entered into as of 15 November 2021 by and between **GEORGIA HARRISON**, individually and on behalf of **BARBARA HARRISON, JOYCE ELLEN HARRISON, WILLIAM HARRISON III, STANLEY ROBERTS**, and **DIANA MENDHEIM**, individually and as agent for various other co-owners (collectively, the “Seller”) and **ROTUNDA LAND & DEVELOPMENT GROUP, LLC**, a Georgia limited liability company (the “Purchaser”).

WHEREAS, the Seller and the Purchaser previously entered into that certain Purchase and Sale Agreement of 14 September 2020 (the “Agreement”) for the purchase and sale of real property located at Mitchelville and Fish Haul Road, Hilton Head Island, South Carolina, as more particularly described in Exhibit “A” to the Agreement (the “Property”); and

WHEREAS, the Seller and the Purchaser have previously agreed to amend and modify the Agreement five times to extend the Closing Date under the Agreement, on 12 March 2021, on 6 May 2021, on 26 June 2021, on 25 August 2021, and on 10 September 2021; and

WHEREAS, the Seller and the Purchaser desire to further amend and modify the Agreement as more specifically set forth herein.

NOW THEREFORE, for and in consideration of Ten Dollars (\$10.00) paid by the Seller to the Purchaser, and of other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Seller and the Purchaser hereby agree as follows:

1. Recitals; Defined Terms. The foregoing recitals are hereby incorporated herein to the same extent as if hereinafter fully set forth. Capitalized words and phrases used herein which are not defined herein but which are defined in the Agreement shall have the meanings ascribed thereto in the Agreement and any of the previous amendments to the Agreement entered into by and between the Seller and the Purchaser.

2. Further Amendment of the Agreement. The Seller and the Purchaser hereby agree to amend, modify, and supplement the Agreement, as previously amended, as follows:



A. Earnest Money Deposit. Section 2.B of the Fifth Amendment to Purchase and Sale Agreement previously entered into by and between the Seller and the Purchase is amended to provide that the Fifty Thousand and No/100 (\$50,000.00) Dollars additional Earnest Money shall be deposited with the Escrow Agent not later than three business days after the expiration of the period within which the defendants in the Partition Action, who have exercised their right of first refusal to purchase the Property, must deposit the purchase price for the Property with the Court of Common Pleas, as set forth in the Order entered in the Partition Action by Judge Marvin Dukes on 20 October 2021, which date is 22 December 2021; *provided, however*, that if the defendants do timely deposit the purchase price for the Property with the Court by 22 December 2021, then the Agreement shall terminate, and neither the Seller nor the Purchaser shall thereafter have any obligation to the other, and the Earnest Money deposit then held by the Escrow Agent shall be returned to the Purchaser.

B. Closing Date. Notwithstanding anything to the contrary contained in the Agreement as previously amended, provided that the defendants in the Partition Action do not timely deposit the purchase price for the Property with the Court, the Closing Date under the Agreement is extended to 22 March 2022.

3. Ratification and Affirmation. The Seller and the Purchaser hereby ratify and affirm the Agreement, as previously amended and as further amended by this Sixth Amendment, and acknowledge that the Agreement, as previously amended, continues in full force and effect.

4. Binding. The Agreement, as modified through this Sixth Amendment, shall be binding upon the Purchaser and the Seller and their respective heirs, successors, and assigns.

5. Counterparts and Delivery. This Sixth Amendment may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Sixth Amendment may be executed by a party's signature transmitted by e-mail, and copies of this ^{SIXTH} ~~Fifth~~ Amendment executed and delivered by means of e-mailed signatures shall have the same force and effect as copies hereof executed and delivered with original signatures. All parties hereto may rely upon e-mailed signatures as if such signatures were originals. All parties hereto agree that an e-mailed signature page may be introduced into evidence in any proceeding arising out of or related to this ^{SIXTH} ~~Fifth~~ Amendment as if it were an original signature page.

[Signature page follows]



IN WITNESS WHEREOF, we have set our hands and seals effective as of
___ December 2021.

THE SELLER:

 (L.S.)

GEORGIA HARRISON, individually
and on behalf of **BARBARA
HARRISON, JOYCE ELLEN
HARRISON, WILLIAM
HARRISON III, STANLEY
ROBERTS**

Date of execution: 6 December
2021

(L.S.)
DIANA MENDHEIM, individually
and as agent for various other
co-owners

Date of execution: ___ December
2021

THE PURCHASER:

**ROTUNDA LAND &
DEVELOPMENT GROUP, LLC**, a
Georgia limited liability company

By: _____ (L.S.)

Paul Lange, Manager

Date of execution: 2 December
2021



IN WITNESS WHEREOF, we have set our hands and seals effective as of
____ December 2021.

THE SELLER:

____ (L.S.)
GEORGIA HARRISON, individually
and on behalf of **BARBARA**
HARRISON, JOYCE ELLEN
HARRISON, WILLIAM
HARRISON III, STANLEY
ROBERTS

Date of execution: ____ December
2021

Diana Mendheim (L.S.)

DIANA MENDHEIM, individually
and as agent for various other
co-owners

Date of execution: 7 December
2021

THE PURCHASER:

ROTUNDA LAND &
DEVELOPMENT GROUP, LLC, a
Georgia limited liability company

By: _____ (L.S.)
Paul Lange, Manager

Date of execution: 2 December
2021





STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL DISTRICT
CIVIL ACTION # 2020-CP-07-02301

GEORGIA HARRISON, BARBARA
HARRISSON, JOYCE ELLEN HARRISON
WILLIAM S. HARRISSON, III, STANLEY
ROBERTS AND DIANA MENDHEIM
INDIVIDUALLY AND AS AGENT AND
ATTORNEY IN FACT

Plaintiffs

Vs.

**DEFENDANT'S
MOTION FOR RELIEF OF JUDGMENT
AND FOR EXTENSION OF TIME TO
TENDER PURCHASE PRICE UNDER
RIGHT OF FIRST REFUSAL AND
MOTION FOR REALIGNMENT OF
PARTIES**

STEPHANIE LORRAINE
KIRKLAND, GARYY LAMONT
KIRKLAND, KEITA NICOLE
WHITE, AND CHERYL KIRKLAND

Defendants

Comes now the Defendants, through their undersigned counsel, who respectfully moves this Honorable Court, for the following relief pursuant to the South Carolina Rules of Civil Procedure, Rule 60(b)(1) and (3). Additionally, the Defendants seek appropriate relief as provided by § 15-1-320 Code of Laws of South Carolina defined as 'Manifest prejudice' or 'Manifest injury' which is defined as a result that is obviously unfair or shocking to the conscience and is direct, obvious, and observable when considering the factors under § 15-61-390(A) of the 'Clement C. Pinckney Uniform Partition of Heirs' Property Act' codified as §15-61-310 et. seq Code of Laws of South Carolina. Further, the Defendants seek the privileges and immunities of citizens of this State as furnished upon them by Article 1 § 3 of the Constitution of the State of South Carolina;

especially the provision, ". . . nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws." (1970 (56) 2684; 1971 (57) 315.)

The Defendants have not received due process and the equal protection of the laws of South Carolina as is hereinafter shown, and the redress sought by this motion is for the Court to issue an order extending the time for a period of Forty-five (45) days from the issuance of its order for the Court to 1) issue its order certifying that parties to this action hold as tenants in common a fee simple absolute marketable title to the property and 2) for the Defendants to tender the purchase price as herein before set by the Court.

The grounds for this motion are as follows:

INADEQUATE NOTICE OF RIGHT OF FIRST REFUSAL

Prior to commencing this action, the plaintiffs had contracted with Rotunda Land and Development Corporation LLC to sell the property which is subject to this action. This contract was entered into on or about September 15, 2020. On November 24, 2020 the plaintiffs instituted this action by the filing of their Summons and Complaint. The plaintiffs filed the action under §15 -67-10 of the Code of Laws of South Carolina rather than under the controlling Clementa C. Pinckney Act.(hereinafter referred to as Pinckney) This, upon information and belief, was deliberately calculated, as §15-67-10 does not provide for the Right of First Refusal as contained in the Pinckney Act. Section 15-61-330 (A) of the Pinckney reads as follows:

(A) For the purposes of this section, joint tenants and tenants in common" include heirs or devisees. Upon the filing of a petition for partition of real property owned by joint tenants or tenants in common, the court shall provide for the non-petitioning joint tenants or tenants in common who are interested in purchasing the property to notify the court of that interest no later than ten days prior to the date set for the trial of the case. The non-petitioning joint tenants or tenants in

common shall be allowed to purchase the interests in the property as provided in this section whether default has been entered against them or not.

Under 15-61-330 (A) of the Pinckney Act, the court upon the filing of the Summons and Complaint is required to give notice of the right of first refusal to all of the parties not desiring to sell the property. It was not until a year later that notice of the right of first refusal was granted to the defendants by order of the court dated October 20, 2021.

The prejudicial effect of this misapplication of the law deprived the plaintiff of a full year to prepare for the purchase of the property and defeats the purposes and goals for which Pinckney Act was enacted to accomplish. Requiring the defendants, as purchasers, to tender the purchase price of \$9.1 Million Dollars within 60 days is a farce, an arbitrary and unconscionable requirement not sanctioned or specifically required under the Pinckney Act and extremely commercially untenable; especially when the property cannot serve as collateral for a loan since the Court has not as yet issued an Order declaring the fee simple absolute title to the property is vested in the parties to this action as Tenants in Common.

CLOUD OF TITLE REMAINS UPON PROPERTY

The property subject to this action has had a voluminous and storied history. As stated by the Plaintiffs in their Complaint, two previous actions to quiet title have been brought before this Court. (Plaintiffs' Original Complaint). In both instances, a new action had to be brought due to either un-probated or opened uncompleted probate estates. Presently, there are four estates that are at various procedural stages with none having been completed.

A marketable land title is one which a reasonably prudent man would be willing to accept. *Chicago Title Ins. Co. v. Arkansas Riverview Development, LLC*, 573 F Supp. 2d 1152 (ED. Ark. 2008). *Sanders v. Coastal Capital Ventures, Inc.*, 296 S.C. 132, 370 S.E.2d 903 (Ct. App. 1988) (encroachments caused by unauthorized relocation of streets and lots within plat rendered title unmarketable). A purchaser is entitled to demand a title which will give him reasonable security against either loss or annoyance by litigation. Thus, a marketable title enables a purchaser to

hold title in peace during his period of ownership and to have the title accepted from him by a subsequent purchaser who employs the same marketability standards. Bruzzese v. Chesapeake Exploration, LLC, 998 F Supp. 2d 663 (S.D. Ohio 2014).

A "merchantable title" is one that can be readily sold or mortgaged in the ordinary course of business by a reasonable person familiar with the facts and questions involved. The terms "marketable title," "good title" and "merchantable title" are used interchangeably. Stauffer v. Benson, 288 Neb. 683, 850 N.W.2d 759 (2014) ("marketable" and "merchantable" title are practically synonymous, and such title need not be free from every technical defect); Holoubek v. Romshek, 16 Neb. App. 677, 749 N.W.2d 901 (2008) ("clear title" means good title, and "good title" means marketable or merchantable title; terms are practically synonymous, and mean title in which there is no doubt involved, either as to matter of law or fact).

One may not have a marketable title even though the title appears to be good from the records. For example, forged deeds, lack of legal capacity of certain grantors, lack of delivery of deeds and possession of the land by third parties do not appear on the record, but any of these defects would impair marketability. On the other hand, one may have a marketable title, even though ownership does not appear on the records. Thus, a title acquired by adverse possession is treated as marketable, although that fact does not appear on the records.

A marketable title may be dependent upon a question of law; it may involve the construction of a deed, of a will, or even of a statute. Marketability may also be dependent upon a question of fact. Peterson v. McAndrew, 160 Conn. App. 180, 125 A.3d 241 (Conn. App. 2015) (it is possible to have unfettered title without having marketable title). Determining marketable title is a multiple-step-process that demands both investigation of the record at the registry of deeds and analysis of all title-related information relating to the property, with the goal of making sure that the seller or mortgagor actually owns the property to be mortgaged and that there are no other legal claims on the property that might otherwise frustrate or jeopardize the conveyance. "Marketable" means the title to the property is not subject to a claim that could result in the property holder being dispossessed. Carr v. Acacia Country Club Co., 2012-Ohio-1940, 970 N.E.2d 1075 (Ohio Ct. App. 2012).

For purposes of determining whether title to a property is free of encumbrances, there is a difference between economic lack of marketability, which concerns conditions that affect the use of land, and title marketability, which relates to defects affecting legally recognized rights and incidents of ownership; an individual can hold clear title to a parcel of land, although the same parcel is valueless or considered economically unmarketable because of some restriction or regulation on its use. Fidelity National Title Insurance Company v. Woody Creek Ventures, LLC, 830 F.3d 1209 (10th Cir. 2016)

The Defendants have consistently raised their objection to the Court's requirement to tender the purchase price within 60 days while the Plaintiffs who have the primary responsibility of prosecuting this action alone have remained dilatory in addressing and remedying this defect. The Defendants in their proposed order to the Court filed on October 18, 2021 stated, in part, the following:

The Defendants' second objection is to that section or portion of the proposed order that would require the Defendants, who have exercised their Right of First Refusal, to tender the purchase price of the property at 9.1 million Dollars within a 60 day period of time; being by December 1221 2021. This required performance is premature, untenable, unreasonable, inequitable and judicially prejudicial; (an abuse of discretion) especially in an arm's length transaction with a regulated commercial institution where "Heirs' Title and not the Fee Simple Absolute (marketable) title, as collateral for the loan, cannot, as yet, be tendered. Financing cannot be reasonably procured for the purchase of the property pursuant to § 15-61-25 until the Court issues an Order stating that the parties identified in the proposed order, are vested with the fee simple absolute title to the property by adverse possession since title by chain of title does not exist."

The Defendants by only being informed of their right of first refusal a year after the Plaintiffs had already contracted with their buyer to purchase the property and then being further required to secure the purchase price upon property that remains "heirs title" property and useless as commercial collateral nullifies their property right of first refusal which is a taking of a property right prohibited under both the 'Manifest prejudice' or 'Manifest injury' provisions of the Pinckney

Act when considering the factors under § 15-61-390(A) and is a taking of a property right without just compensation as prohibited under Article 1 §3 of the Constitution of South Carolina.

BALANCING OF THE EQUITIES

These are factors proffered for the Court to consider in drafting an equitable Order.

1. The intent of the statute is to allow the heirs to participate in the development of the property in which they hold an interest. The Defendants heirs have come to an agreement with a developer that allows for their participation in a joint venture to develop the property.
2. The Master-in -Equity has expressed concern that he needed verification that the Defendants' financial partner (SRE) was qualified and had the capacity to close. Additionally, he proposed an earnest money deposit with the court of 10% of purchase price and proof of funds required to complete the remaining balance at closing, both which minority heir's developer is willing to do, subject to the contingency that the Master-in Equity allows for an extension to facilitate a 45-day inspection period with similar rights granted to the other party.
 - a. With respect to buyer qualifications, Singerman Real Estate (SRE) fulfills all the Judge's requirements. SRE would be investing in this Property out of a \$850 million, fully discretionary fund. (See Exhibit 1)
 - b. SRE has extensive experiences in the Hilton Head residential market, and currently owns a multifamily project located within one (1) mile of the subject Property.
 - c. Due to SRE's fiduciary responsibilities to its investors, SRE cannot post the proposed earnest money deposit **without** the proposed inspection period, which further reinforces the unreasonableness of the Court's request regarding the 10% deposit.
 - d. Furthermore, while SRE is willing to post this amount to secure the Property, it is far larger than is customary for a transaction of this nature and the Defendants believe is an unfair requirement, given that it is far in excess of the deposit required in the third-party contract.

3. This will also allow the court a suitable amount of time to consummate the probate process or utilize further legal procedures and measures prerequisite to issuing an order certifying fee simple title to the property in an effort for sellers to be able to perform deliverables specified in the existing contract. The customary transactional work has been completed to initiate the formalizing of the joint venture entity formation with the heirs. (See Exhibit 2, REDACTED JV Terms)

4. The Plaintiffs' counsel represented that in the event the judge grants an extension of time to allow the minority heirs to execute their Right of First Refusal, that the other buyer could walk away. It is important to note that Plaintiffs' contract with the other buyer has the option to walk away at any time, and even recoup the entirety of their earnest money (provided the seller is not in a position to perform their obligations). For example, pursuant to Section 7(b) of the third-party contract (Conditions Precedent to Closing), the third-party has the right to terminate the agreement essentially at any time and have its deposit refunded — as long as the contract's closing conditions have not been satisfied due to Seller's inability to deliver clean title. Due to the pending resolution of the probate process, the third-party is still entitled to have its \$50k deposit refunded. Additionally, the existing contract calls for a delivery of a warranty deed and ALTA survey as conditions to closing, so regardless of which buyer consummates the transaction, the probate process must be resolved with finality for the seller to fulfill their obligation to provide those specific deliverables identified in the existing contract to either buyer.

5. Buyer Comparisons (See Exhibit B to JV Terms for complete description)

- a. The Defendants' proposed \$899,335.91 deposit is nearly 20 times larger than the third-party's deposit of Fifty Thousand Dollars.
- b. Defendants' proposed inspection period and closing timeline is one half (1/2%) of the timeline in the third-party contract.

c. Defendants' financial partners have agreed to pay minority heirs' and Plaintiff's legal expenses up to \$125,000 for each party (\$250,000 total) in exchange for and conditioned on all the parties signing an indemnification and settlement agreement prohibiting any Plaintiffs from appealing the Master -in- Equity's order.

d. The Defendants are partnering with their financial partners in accordance with the purposes and goals of statute while the third-party buyer is not.

e. Defendants' equity partners have agreed to acknowledge the entire family with a commemorative plaque on location in the new development.

6. Defendants understand that the third-party contract has undergone multiple revisions to which Defendants are not privy to the pertinent terms.

7. The proposed 45-day inspection period requested allows for the other buyer to preserve the existing agreement and still consummate their transaction in the event that Defendants were unable to close for reasons unforeseen as of today, such as an appeal of a court order or for other unforeseen circumstance, as the-party's existing 60-day window would still be in effect, with nothing lost.

8. In the event the Court agrees to issue a consent order allowing for the 45-day inspection period after posting the requested deposit, and the other party decides to appeal that decision, Defendants would ask for the ability to be able to notify the court in writing of its desire to terminate at any time during Inspection Period.

MOTION FOR REALIGNMENT OF PARTIES REQUIRED DUE TO DEATH OF HEIR

On November 27, 2021 and subsequent to the Court's October 20, 2021 Order, Plaintiff Heir Joanne Carver died. Upon information and belief, her sole heirs are Michael Carver and Craig Carver. Upon information and belief, Craig Carver wants to become a member of the Plaintiff Heirs. However, Michael Carver, wants to become a member of the Defendant Heirs and be represented by the undersigned counsel,. The undersigned counsel petitions the Court to approve this realignment of the parties. Thereupon, Michael Carver elects to exercise his right of purchase

under South Carolina Code Annot. Section 15-61-370(B). The Defendants seek an order from this Court to realign the parties, so Michael Carver becomes a member of Defendant heirs.

CONCLUSION

The Plaintiffs were under contract to sell the family property for over a year prior to properly notifying the Defendants of their right of first refusal provided under the Pinckney Act and then entrapped the defendants into a 60-day period of time to secure the 9.1 million Dollars purchase price without the required fee simple title to the property as collateral. This action by Plaintiffs is in derogation of the Pinckney Act and repugnant to the constitutional guarantees of the South Carolina Constitution. Despite this derogation, the Defendants have entered into an Letter of Intent with a financial partner/developer with the funds available to tender with the proviso for a 45 day extension of time that a marketable title can be procured through this current partition action.

Respectfully submitted

The Houston Law Firm, LLC
1000 Main Steet, Suite 200C
Hilton Head Island, SC 29926
843-715-9078
chouston@houstonlwfir.net

By: S/ Charles E. Houston Jr.
Charles E. Houston Jr.
SC Bar # 2663

December 22, 2021
Hilton Head Island, SC

**BOUHAN
FALLIGANT**
ATTORNEYS & COUNSELORS AT LAW

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Via e-mail:
chouston@houstonlwfir.net

December 22, 2021

Charles Houston
The Houston Law Firm, LLC
1000 Main Street, Suite 200C
Hilton Head Island, SC 29926

Re: SRE Acquisitions IV, LLC ("SRE") / Joint venture with Kirkland Heirs

Dear Charles:

As we discussed, I have been asked to represent SRE in the above joint venture for the purpose of purchasing 28.17 acres on Hilton Head Island, Beaufort County, South Carolina (the "Property"). In particular, I have been asked to confirm that the joint venture will be able to receive good and marketable title to the Property.

I understand that you are filing a motion asking for an extension of time that will allow us to properly investigate the title to the Property and the steps that will need to be taken to insure good title. In anticipation of said motion, I have attached a memo outlining the inspection period that we need and the closing terms for incorporation in your motion. Please call me if you have any questions.

I look forward to working with you on this.

Very truly yours,



Robert B. Brannen, Jr., Esq.

Cc: Luke Lopatka
Stephen Duncan

4894-4722-2791, v. 1

The nine Defendants and Michael Carver, the heir of a Plaintiff (“Purchaser Heirs”) in that action filed in the Court of Common Pleas Fourteenth Judicial Circuit, Civil Action No. 2020-CP-07-02301, have located a financial partner, SRE Acquisitions IV, LLC (“SRE”) and a consulting partner, Nassau Investments, LLC (“Nassau”) to assist them in the acquisition from Plaintiffs of the Property described on Exhibit “A” for a purchase price of \$8,993,359.10 (including the Deposit, the “Closing Funds”) and entered into the attached letter of intent outlining the terms of a joint venture with SRE and Nassau (the “Joint Venture”).

SRE has provided the attached financial information confirming their ability to provide the Joint Venture with sufficient funds to purchase the Property, and SRE shall deposit with the Court 10% of the purchase price in the amount of \$899,335.91 (the “Deposit”) no later than two (2) business days after entry of an order by the Court adopting the following conditions (the “Court’s Order”) for the sale of the Property to the Joint Venture, and requiring the Plaintiffs and Purchasers Heirs to enter into a purchase and sales agreement, assignable to the Joint Venture, that contains the following conditions:

1. Inspection:

1.1 SRE shall have until **forty-five (45) days** from the date of the Court’s Order (hereinafter referred to as the “Inspection Period”) to research the title records for the Property, to inspect the Property and to conduct all other due diligence matters. During the Inspection Period, SRE shall identify and provide to Plaintiffs for execution copies of documentation required to convey to the Joint Venture “good and marketable fee simple title”, as defined in Section 2.1 below, to 100% of the Property (together with other documents required to close the transaction, the “Closing Documents”). The Court’s Order shall specifically grant SRE the right to terminate its involvement for any reason by giving written notice to the Court on or before the later to occur of (a) the last day of the Inspection Period, or (b) two (2) business days after the delivery by Plaintiffs of the Closing Documents into escrow with the Court, in which event the Deposit shall be promptly refunded to SRE and SRE shall be relieved of all rights and obligations hereunder.

1.2 SRE shall have the privilege at any time during the term of this Agreement to go upon the Property with SRE’s agents, representatives or designees to inspect, examine and survey the Property. SRE indemnifies and holds Plaintiffs harmless from and against physical loss or damage to the Property Plaintiffs may incur and any and all liens that may arise as a result of SRE’s inspection of the Property, or the activities of SRE’s agents, representatives or designees on the Property and against any and all claims for death or injury to persons or properties arising out of or connected with SRE’s (or its agents, representatives or designees) going upon the Property pursuant to the provisions of this Section, and against all costs, expenses and liabilities occurring in or in connection with any such claim or proceeding directly resulting therefrom, including, without limitation, court costs and reasonable attorney’s fees. This indemnity shall survive the Closing.

1.3 Within five (5) business days after the date of the Court’s Order, Plaintiff’s counsel shall deliver to SRE copies of the most recent surveys, plans, engineering reports, title reports, title insurance policies, environmental assessments and other similar documents concerning the Property which Plaintiffs may possess.

2. Transfer of Title:

2.1 At the Closing, the Plaintiffs and/or the Court (if required) shall convey to the Joint Venture "good and marketable fee simple title" to the entire Property, (except for the portion already owned by Purchaser Heirs, which shall also be conveyed to the Joint Venture), by limited warranty deed. "Good and marketable fee simple title" shall be such title as is acceptable to a reasonable purchaser and is insurable by a national title insurance company (the "Title Company") acceptable to Purchaser at standard rates and without exception other than easements, covenants and restrictions of record that will not adversely affect the Joint Venture's development of the Property, and real property ad valorem taxes for the current year, not yet due and payable. For purposes of clarification, this condition requires that the Joint Venture receive 100% of the fee simple title to the Property.

2.2 Prior to expiration of the Inspection Period, the Plaintiffs shall execute and deliver the Closing Documents into escrow with the Court and such other documents as the Title Company may reasonably request to effect or complete the transaction contemplated by this Agreement and to obtain an owner's policy of title insurance in accordance with the standards set forth above.

2.3 At the Closing, the Plaintiffs shall pay the balance of any liens on the Property, their own attorneys' fees, and any costs of delivering good and marketable fee simple title, except as provided below. Real estate ad valorem taxes and assessments shall be prorated as of the date of Closing. The Joint Venture shall pay all other costs and expenses.

2.4 At the Closing, SRE shall reimburse Plaintiffs for legal fees and expenses actually incurred by Plaintiffs up to the amount of \$125,000.00, provided that the Plaintiffs promptly execute and deliver to the Court all of the required Closing Documents, and provided that the Plaintiffs agree in writing prior to expiration of the Inspection Period not to appeal any order issued by the Court, or challenge the title to the Property granted to the Joint Venture. If either of said conditions is not satisfied in SRE's sole discretion, the Joint Venture may still proceed to Closing, but SRE will not reimburse Plaintiff's legal fees and expenses.

3. Release of Funds:

3.1 Provided that SRE's obligations have not been terminated prior to expiration of the Inspection Period, all other conditions stated above have been satisfied for the Joint Venture to purchase the Property, and the Closing Documents have been placed into escrow with the Court, the Joint Venture shall deposit the balance of the Purchase Price with the Court **within fifteen (15) days after expiration of the Inspection Period.**

3.2 The Court shall hold the Closing Funds and Closing Documents in escrow until all appeal periods related to the issuance of the Court's Order have been waived or expired, and, provided that all conditions for closing are still satisfied, the Court shall then deliver the Closing Documents to the Joint Venture for recording and distribute the Closing Funds per the Court's Order.

3.3 In the event that the Court's Order is appealed, the Court will retain the Closing Funds and Closing Documents in escrow until the first to occur of (i) the appeal is resolved in

favor of the Joint Venture, in which case the Court will proceed with disbursement of the Closing Funds and Closing Documents; (2) the appeal is resolved against the Joint Venture, in which case the Closing Funds (including the Deposit) will be refunded to SRE and the Closing Documents will be returned to Plaintiffs; or (3) the Court receives written notice from SRE at any time prior to resolution of the appeal that it is terminating its involvement in the transaction, in which case the Closing Funds (including the Deposit) will be refunded to SRE and the Closing Documents will be returned to Plaintiffs.

4. Indemnification:

In the event SRE and Nassau have elected not to purchase the Property, or in the event SRE and Nassau have decided to terminate their involvement in the transaction, or in the event of an appeal resolved against the Joint Venture, the Plaintiffs and Purchaser Heirs understand and agree that SRE and Nassau shall have no liability or responsibility whatsoever (other than the obligation set out in Section 1.2 above). Plaintiffs and Purchaser Heirs covenant not to sue SRE and Nassau in the event of any of the foregoing and agree to indemnify, defend and hold harmless SRE and Nassau and their affiliates and related entities, members and managers from and against any and all claims, losses, damages and liabilities arising directly or indirectly therefrom.

EXHIBIT "A"

Property Description

ALL that certain piece, parcel, or lot of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 28.17 acres, more or less, and is specifically shown as Lot B on the unrecorded plat of 165¼ Acres on Hilton Head Island, Formerly Property of March Gardner, prepared by Arthur O. Christianson, RLS, entitled "Plat of Survey Number Two, No Sale", dated April 6-8, 1921, and also on that certain plat of prepared by Millard Dunham, RLS, entitled "Plat Prepared for Heirs of Clara Wigfall" dated January 29, 1988, last revised on January 18, 1990, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 38 at Page 29.

BEING the same property shown and designated as "Parcel 7", containing 26.462 acres, more or less, on that certain unrecorded plat of survey entitled "Boundary, Wetland Survey of: Parcel 7, Mitchelville Road" prepared by Sea Island Land Survey, LLC, William E. Mixon, Jr., SCRLS 17573, dated February 7, 2005.



SINGERMAN REAL ESTATE, LLC is an opportunistic real estate investment firm that has deep experience executing complex transactions and unlocking embedded value through the ownership of properties, real estate loans and operating companies. SRE focuses on maximizing risk-adjusted returns through investments in both debt and equity across all major asset classes including office, retail, hotel, industrial, and multifamily, in addition to secondary real estate asset classes including student housing and senior housing. Since 2010, SRE sourced and executed, with partners, over \$3.0 billion of investments across the major property types.

Currently, SRE is pursuing investments on behalf of SRE Opportunity Fund IV, L.P. a fully discretionary fund with over \$850 million of commitments and additional co-investment capacity through existing LPs of over \$250 million. To provide the flexibility necessary in order to generate attractive risk-adjusted returns, SRE maintains the following investment strategy:

Capital structure agnostic. Depending on the investment environment, attractive investment opportunities may present themselves as debt or equity investments.

Investment across all major asset classes. SRE believes sector-oriented funds create unnecessary pressure to commit capital to a targeted strategy. Having the depth of experience in all major asset classes, including office, retail, hotel, multi-family, student housing, and senior housing enhances the potential to find optimal risk-adjusted returns.

Flexibility of investment size. SRE has the capacity and relationships to execute deals deemed too small for large real estate private equity funds relative to their fund size, while also capitalizing on the ability to partner with its direct co-investors for larger deals. SRE Principals have experience executing acquisitions ranging in size from \$1 million to over \$600 million.

Broad geographic scope. SRE will focus on the top 30 U.S. Metropolitan Statistical Areas (“MSAs”) and has direct investment experience investing in major markets such as San Francisco, Los Angeles, San Diego, Portland, Denver, Dallas, Houston, Chicago, Boston, Washington DC, Raleigh-Durham, Atlanta, and Miami. SRE has a deep breadth of relationships in each of these locations in order to leverage market specific insight.

CONTACTS:

SETH SINGERMAN
Managing Principal

JOSEPH CONCEPCION
*Principal, Head of Asset
Management*

KILEY CARTER
*Principal, Acquisitions/
Business Development*

STEPHEN DUNCAN
*Principal, Acquisitions/
Capital Markets*

CHARLES KELLOGG
*Chief Financial Officer/
Chief Operating Officer*

SINGERMAN

980 North Michigan Avenue • Suite 1700 • Chicago, IL 60611

December 22, 2021

via email

Keita Nicole White, individually and as POWER OF ATTORNEY for STEPHANIE LORRAINE KIRKLAND, GARY LAMONT KIRKLAND, CHERYL KIRKLAND, WILLIAM CHARLES KIRKLAND, CHRISTOPHER KIRKLAND, PAULETTE KIRKLAND, PAUL T. ALLBRIGHT, SHAWN KIRKLAND and MICHAEL CARVER, the heir of a Plaintiff, or a limited liability company formed thereby (collectively, the “Purchaser Heirs”)

Re: Joint Venture – Fish Haul Road Residential Development (the “Project” or the “Property”)

Dear Ms. White:

SRE Acquisitions IV, LLC or its successor funds and affiliates (“SRE”) and Nassau Investments HHI, LLC (“Nassau”) (collectively, the “Sponsor”) are pleased to present the following term sheet to form a joint venture with Purchaser Heirs or its designated affiliate entity to acquire and develop the Project. Except as set forth below, this term sheet is a non-binding expression of the parties’ current intent.

Documentation:	<ul style="list-style-type: none">• The parties’ obligations with respect to the transaction will be set forth in definitive documentation (“Definitive Documents”) in a manner mutually satisfactory to SRE, Nassau and Purchaser Heirs. The Definitive Documents include, without limitation, the JV Agreement (as defined below), a development management agreement, and an asset management agreement.• SRE’s counsel will prepare the Definitive Documents. The parties anticipate that the Definitive Documents will be ready for execution forty-five (45) days after the Approval Date (defined below).
Property Acquisition:	<ul style="list-style-type: none">• Purchaser Heirs hereby agree to cooperate and assist with the process of obtaining clear title to the Property to consummate the acquisition by the Owner (defined below).• Sponsor will provide 100% of the cash required for closing as shown in Exhibit A.• Purchaser Heirs will convey their interests in the Property to the Owner before the expiration of the Inspection Period.
Owner:	<ul style="list-style-type: none">• A to-be-formed Delaware LLC, whose members will be Purchaser Heirs and Sponsor (collectively “Members”) to be governed by an operating agreement (the “JV Agreement”). Sponsor will be responsible for entity formation during the Inspection Period.
Estimated Project Capitalization:	<ul style="list-style-type: none">• See Exhibit A.
Financing Guarantees:	<ul style="list-style-type: none">• Sponsor shall provide any required guarantees necessary to obtain financing for the Project.
Additional Capital:	<ul style="list-style-type: none">• Sponsor shall provide all funds necessary for the planning, permitting, development, financing, management and operation of the Project.

Management:	<ul style="list-style-type: none"> • Sponsor will be the managing member of the Owner (the “Manager”). • Sponsor shall prepare and deliver to Purchaser Heirs quarterly balance sheet and income statement accounts including the supporting documentation. • Sponsor will serve as the tax matters representative.
Right to Cause Sale or Refinance:	<ul style="list-style-type: none"> • [REDACTED]
Development Management:	<ul style="list-style-type: none"> • [REDACTED]
Asset Management:	<ul style="list-style-type: none"> • [REDACTED]
Distributions:	<ul style="list-style-type: none"> • [REDACTED]
Inspection Period:	<ul style="list-style-type: none"> • See Exhibit B. • Purchaser Heirs shall provide SRE with access to the Project and all available information regarding the Project to the extent in Purchaser Heirs’ control or possession for the purpose of performing its due diligence with respect to the Transaction to SRE’s sole satisfaction. • At any time prior to the date that is forty-five (45) days from the date this LOI is fully executed (the “Approval Date”), SRE may give notice as to whether (i) SRE desires to proceed with the transaction subject to satisfaction of the closing conditions specified in this LOI or the Definitive Documentation or (ii) SRE desires to terminate this letter (which SRE may elect to do in SRE’s sole and absolute discretion). If SRE elects to proceed, SRE shall provide Purchaser Heirs written notice of such election no later than the Approval Date. If SRE does not elect to proceed by the close of business (5:00pm Eastern Time) on the Approval Date, this letter shall automatically terminate. If SRE elects to terminate, Purchaser Heirs will use commercially reasonable efforts to assist SRE in the return of its deposit.
Pursuit & Diligence Costs:	<ul style="list-style-type: none"> • Sponsor will reimburse Purchaser Heirs for \$125,000 of legal and other expenses incurred in connection with the suit involving the Property upon a successful Closing. Sponsor’s reimbursement of Purchaser Heirs legal expenses upon a successful Closing shall be deemed due consideration for Purchaser Heirs’ agreement to sign indemnification agreement to be provided by Sponsor.

	<ul style="list-style-type: none">The parties agree to bear their own attorney's fees associated with the negotiation of the JV Agreement until closing, at which time these expenditures will be reimbursed by the Owner.
Exclusivity:	<ul style="list-style-type: none">From the date of mutual execution of this letter of intent until the earlier to occur of the signing of the Definitive Documents or the expiration of the Inspection Period (see Exhibit B), neither Purchaser Heirs nor any of its agents or representatives, will, directly or indirectly, enter into any agreement, discussion, or negotiation with, or provide information to, any other person or entity, or solicit, encourage, entertain or consider any inquiries or proposals, with respect to the possible acquisition and the development of the Project and any existing discussions relating to any of the foregoing shall cease immediately. In the event SRE decides not to move forward with the transaction, Purchaser Heirs will be released from this exclusivity clause.
Confidentiality:	<ul style="list-style-type: none">Purchaser Heirs, Nassau, and SRE agree to keep all terms and conditions of this letter agreement confidential except that information may be disclosed to those representatives, officers, financing sources, partners, employees and consultants who need to know such information for the purpose of negotiating and closing this transaction.
Non-Binding:	<ul style="list-style-type: none">This letter outlines the present intentions of Sponsor and Purchaser Heirs. Other than the sections entitled "Confidentiality", and "Exclusivity", which shall be binding upon the parties, this letter is non-binding.
Acceptance Date	<ul style="list-style-type: none">If this offer is acceptable to Purchaser Heirs, Purchaser Heirs must notify Sponsor and sign this letter of intent no later than December 22, 2021 ("Acceptance Date").
Brokerage	<ul style="list-style-type: none">Purchaser Heirs and Sponsor represent and warrant that neither Purchaser Heirs nor Sponsor have dealt with any equity placement agent, broker, finder or intermediary, and indemnify one another from any breach of their respective representations and warranties contained within this section.


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Fish Haul Road Multifamily Development
December 2021


If the terms and conditions set forth above are acceptable to you, please indicate your acceptance by signing this letter of intent and returning it to the undersigned. By executing this letter of intent, Purchaser Heirs and Sponsor agree to make good faith efforts to enter into an agreement. Nevertheless, except for the "Exclusivity" and "Confidentiality" provisions above, this letter of intent does not constitute a legally binding agreement and neither party shall be under any binding obligation until such time as a mutually agreeable contract is fully executed by the appropriate officers and or partners in our respective organizations.

We are pleased to make this offer and we look forward to working with you to complete this transaction.

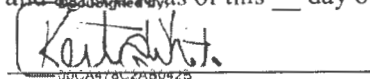
SRE Acquisitions IV, LLC

By: 
Name: Luke Lopatka
Its: Senior Vice President

Nassau Investments HHI, LLC

By: 
Name: Nick Bergelt
Its: President

Accepted and agreed to as of this ²² day of December 2021:

By: 

Name: **KEITA NICOLE WHITE**, individually and as POWER OF ATTORNEY for
STEPHANIE LORRAINE KIRKLAND, GARY LAMONT KIRKLAND,
CHERYL KIRKLAND, WILLIAM CHARLES KIRKLAND, PAULETTE KIRKLAND,
PAUL T. ALLBRIGHT, CHRISTOHER KIRKLAND, SHAWN KIRKLAND and MICHAEL
CARVER, the heir of a Plaintiff.

ELECTRONICALLY FILED - 2021 Dec 22 7:54 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0702301

Exhibit A
PROJECT CAPITALIZATION

Sources & Uses - Land Acquisition			
Sources		Uses	
Sponsor Cash Contribution	\$9,430,000	Price Paid to Non-Electing Heirs ¹	\$8,993,359
Purchaser Heirs Cash Contribution		Legal Expenses	\$250,000
		Other DD & Closing Costs	\$186,641
Total Sources	\$9,430,000	Total Uses	\$9,430,000

1) Amount paid to all non-electing heirs upon a successful closing

Initial Equity Capital Account		
	Equity	% Ownership
Sponsor		
Purchaser Heirs		
Total		

Sources & Uses - Total Project			
Sources		Uses	
Advances for Construction Costs		Land Cost	
Capitalized Interest		Hard Costs	
Fully Funded Construction Loan		Soft Costs	
% LTC		Development Mgmt. Fee	
		Financing Costs	
Sponsor Equity			
Purchaser Heirs Equity			
Total Equity			
Total Sources		Total Uses	

Projected Equity Capital Account at Stabilization		
	Equity	% Ownership
Sponsor		
Purchaser Heirs		
Total		

Exhibit B
MEMO RE CLOSING TERMS

See Attached

**EXHIBIT A
TO
COMPLAINT FOR QUIET TITLE AND PARTITION
UNDIVIDED INTERESTS IN THE REAL PROPERTY**

Stanley Roberts	25.000000%
Georgia Harrison	20.833333%
Barbara Harrison	20.833333%
Joyce Ellen Harrison	10.416667%
William S. Harrison, III	10.416667%
Carol Bush	1.562500%
Diana Mendheim	1.562500%
Robert Young	1.562500%
Denise Davidson	1.562500%
Rose Hampton	1.562500%
Jason Young	1.562500%
Joanne Elizabeth Carver	0.260417%
William Charles Kirkland	0.260417%
Stephanie Lorraine Kirkland	0.260417%
Gary Lamont Kirkland	0.260417%
Keita Nicole White	0.260417%
Tyrone D. Hodges	0.260417%
Derrick Hodges	0.260417%
Corey Hodges	0.260417%
Vanessa Coleman	0.260417%
Richard Hodges	0.260417%
Diamond Moseley	0.260417%
Donna Mosby	0.130208%
Paulette Kirkland	0.026042%
Paul T. Allbright	0.026042%
Cheryl Kirkland	0.026042%
Christopher Kirkland	0.026042%
Shawn Kirkland	<u>0.026042%</u>
Total	100.000000%



STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORD

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL DISTRICT
CIVIL ACTION # 2020-CP-07-02301

GEORGIA HARRISON, BARBARA
HARRISON, JOYCE ELLEN HARRISON,
WILLIAM S. HARRISON, III, STANLEY
ROBERTS AND DIANA MENDHEIM
INDIVIDUALLY AND AS AGENT AND
ATTORNEY IN FACT,

Plaintiffs,

vs.

STEPHANIE LORRAINE KIRKLAND, GARY
LAMONT KIRKLAND, KIETA NICOLE
WHITE, AND CHERYL KIRKLAND,

Defendants.

DEFENDANT’S SUPPLEMENTAL
MOTION FOR RELIEF OF
JUDGMENT AND FOR EXTENSION
OF TIME TO TENDER PURCHASE
PRICE UNDER RIGHT OF FIRST
REFUSAL

TO: Thomas Taylor, Esq. and Chester Williams Esq. Attorneys for Plaintiffs

Comes now the Defendants who would further set forth sustaining grounds for the relief requested in its original motion filed on December 22, 2021.

**SIXTY (60) DAY ALLOCATION OF TIME TO TENDER
PURCHASE PRICE IS UNCONSCIONABLE**

According to §15-61-370 (E) of the Code of Laws of South Carolina commonly referred to as the “Right of First Refusal” under the **Clementa C. Pinckney Uniform Partition of Heirs’ Property Act**

*(E) If notices are sent to the parties under subsection (D)(1) or (2), the court shall set a date, **not sooner** than sixty days after the date the notice was sent, by which electing cotenants must pay their apportioned price into the court.*

The Plaintiffs are arguing that there is a “statutory 60-day requirement” for the heirs to post the funds upon notice from the Judge; however, this is an unfair mis-representation and inaccurate characterization of the statute. Sixty days is the statutory *minimum amount of time* that must be granted to heirs that have exercised their right to purchase a cotenant property. Given the (a) large size of the transaction (nearly \$10 million is likely one of the largest such cases in the history of the state of South Carolina) and (b) the incomplete state of the quiet title action, Defendants should have been granted longer than 60 days to pay their apportioned price into the court’s registry. Requiring the Defendants to raise such a large sum with unmarketable title was near impossible. Yet, Defendants have presented the Court with a funding partner which stands ready to complete this transaction once Defendants are able to provide marketable title.

Additionally, the Defendants (exercisers of the Right of First Refusal) are extremely concerned about the fact that Defendants were not timely made privy to the 6th amendment to the purchase contract that increased the price to \$9.75 million given the heirs were working under the assumption of the purchase price established by this Court in its October 2021 Order. According to said Order, the purchase price is \$9.1 million. Plaintiffs are attempting to force the Court to rush through the option process so that Defendants do not have a chance to buy the property at the \$9.1 million price. Therefore, and alternatively, the 60-day period should re-start at the date the new price is properly before the Court if the Court is inclined to establish a new purchase price.

The nine Defendants and Michael Carver, the heir of a now deceased Plaintiff Joanne Elizabeth Carver (“Purchaser Heirs”) in that action filed in the Court of Common Pleas Fourteenth Judicial Circuit, Civil Action No. 2020-CP-07-02301, have located a financial partner, SRE Acquisitions IV, LLC (“SRE”) and a consulting partner, Nassau Investments, LLC (“Nassau”) to assist them in the acquisition from Plaintiffs of the Property subject to this action for a purchase price **equal to the greater of \$8,993,359.10, or Plaintiff’s pro rata share of the purchase price contained in any legally binding contract between Plaintiffs and a third party for the Property, not to exceed \$9,750,000** (including the Deposit, the “Closing Funds”). Further, Purchaser Heirs, SRE

and Nassau have entered into a letter of intent outlining the terms of a joint venture between the parties which was attached to Defendant's December 22, 2021 Motion and incorporated herein by reference (the "Joint Venture").

SRE has provided the attached financial information confirming their ability to provide the Joint Venture with sufficient funds to purchase the Property (See Exhibit B), and SRE shall deposit with the Court 10% of the purchase price in the **estimated** amount of \$899,335.91 (the "Deposit") no later than two (2) business days after entry of an order by the Court adopting the following conditions (the "Court's Order") for the sale of the Property to the Joint Venture, and requiring the Plaintiffs and Purchasers Heirs to enter into a purchase and sales agreement, assignable to the Joint Venture, that contains the following conditions:

1. Inspection:

1.1 SRE shall have until **forty-five (45) days** from the date of the Court's Order (hereinafter referred to as the "Inspection Period") to research the title records for the Property, to inspect the Property and to conduct all other due diligence matters. During the Inspection Period, SRE shall identify and provide to Plaintiffs for execution copies of documentation required to convey to the Joint Venture "good and marketable fee simple title," as defined in Section 2.1 below, to 100% of the Property (together with other documents required to close the transaction (the "Closing Documents"). The Court's Order shall specifically grant SRE the right to terminate its involvement for any reason by giving written notice to the Court on or before the later to occur of (a) the last day of the Inspection Period, or (b) two (2) business days after the delivery by Plaintiffs of the Closing Documents into escrow with the Court, in which event the Deposit shall be promptly refunded to SRE and SRE shall be relieved of all rights and obligations hereunder.

1.2 SRE shall have the privilege at any time during the term of this Agreement to go upon the Property with SRE's agents, representatives or designees to inspect, examine and survey the Property. SRE indemnifies and holds Plaintiffs harmless from and against physical loss or damage to the Property Plaintiffs may incur and any and all liens that may arise as a result of SRE's inspection of the Property, or the activities of SRE's agents, representatives or designees on the Property and against any and all

claims for death or injury to persons or properties arising out of or connected with SRE's (or its agents, representatives or designees) going upon the Property pursuant to the provisions of this Section, and against all costs, expenses and liabilities occurring in or in connection with any such claim or proceeding directly resulting therefrom, including, without limitation, court costs and reasonable attorney's fees. This indemnity shall survive the Closing.

1.3 Within five (5) business days after the date of the Court's Order, Plaintiff's counsel shall deliver to SRE copies of the most recent surveys, plans, engineering reports, title reports, title insurance policies, environmental assessments and other similar documents concerning the Property which Plaintiffs may possess.

2. Transfer of Title:

2.1 At the Closing, the Plaintiffs and/or the Court (if required) shall convey to the Joint Venture "good and marketable fee simple title" to the entire Property, (except for the portion already owned by Purchaser Heirs, which shall also be conveyed to the Joint Venture), by limited warranty deed. "Good and marketable fee simple title" shall be such title as is acceptable to a reasonable purchaser and is insurable by a national title insurance company (the "Title Company") acceptable to Purchaser at standard rates and without exception other than easements, covenants and restrictions of record that will not adversely affect the Joint Venture's development of the Property, and real property ad valorem taxes for the current year, not yet due and payable. For purposes of clarification, this condition requires that the Joint Venture receive 100% of the fee simple title to the Property.

2.2 Prior to expiration of the Inspection Period, the Plaintiffs shall execute and deliver the Closing Documents into escrow with the Court and such other documents as the Title Company may reasonably request to effect or complete the transaction contemplated by this Agreement and to obtain an owner's policy of title insurance in accordance with the standards set forth above.

2.3 At the Closing, the Plaintiffs shall pay the balance of any liens on the Property, their own attorneys' fees, and any costs of delivering good and marketable fee simple title, except as provided below. Real estate ad valorem taxes and assessments shall be prorated as of the date of Closing. The Joint Venture shall pay all other costs and

expenses.

2.4 At the Closing, SRE shall reimburse Plaintiffs for legal fees and expenses actually incurred by Plaintiffs up to the amount of \$125,000.00, provided that the Plaintiffs promptly execute and deliver to the Court all of the required Closing Documents, and provided that the Plaintiffs agree in writing prior to expiration of the Inspection Period not to appeal any order issued by the Court or challenge the title to the Property granted to the Joint Venture. If either of said conditions is not satisfied in SRE's sole discretion, the Joint Venture may still proceed to Closing, but SRE will not reimburse Plaintiff's legal fees and expenses.

3. Release of Funds:

3.1 Provided that SRE's obligations have not been terminated prior to expiration of the Inspection Period, all other conditions stated above have been satisfied for the Joint Venture to purchase the Property, and the Closing Documents have been placed into escrow with the Court, the Joint Venture shall deposit the balance of the Purchase Price with the Court **within ten (10) days after expiration of the Inspection Period.**

3.2 The Court shall hold the Closing Funds and Closing Documents in escrow until all appeal periods related to the issuance of the Court's Order have been waived or expired, and, provided that all conditions for closing are still satisfied, the Court shall then deliver the Closing Documents to the Joint Venture for recording and distribute the Closing Funds per the Court's Order.

3.3 In the event that the Court's Order is appealed, the Court will retain the Closing Funds and Closing Documents in escrow until the first to occur of (i) the appeal is resolved in favor of the Joint Venture, in which case the Court will proceed with disbursement of the Closing Funds and Closing Documents; (2) the appeal is resolved against the Joint Venture, in which case the Closing Funds (including the Deposit) will be refunded to SRE and the Closing Documents will be returned to Plaintiffs; or (3) the Court receives written notice from SRE at any time prior to resolution of the appeal that it is terminating its involvement in the transaction, in which case the Closing Funds (including the Deposit) will be refunded to SRE and the Closing Documents will be returned to Plaintiffs.

4. Indemnification:

In the event SRE and Nassau have elected not to purchase the Property, or in the event SRE and Nassau have decided to terminate their involvement in the transaction, or in the event of an appeal resolved against the Joint Venture, the Plaintiffs and Purchaser Heirs understand and agree that SRE and Nassau shall have no liability or responsibility whatsoever (other than the obligation set out in Section 1.2 above). Plaintiffs and Purchaser Heirs covenant not to sue SRE and Nassau in the event of any of the foregoing and agree to indemnify, defend and hold harmless SRE and Nassau and their affiliates and related entities, members and managers from and against any and all claims, losses, damages and liabilities arising directly or indirectly therefrom. The resolute equity partners additionally have the required finances currently in place not only to complete the purchase of the property but have budgeted over \$73 million for this cultural resort development in historically renown Mitchellville Community of Hilton Head Island.

ABSENCE OF MARKETABLE TITLE AND PROFFERED SOLUTION

The caption of this action commenced by the Plaintiffs is entitled Action to Quiet Title and Partition.

Paragraph 5 of their Complaint reads as follows:

5. *This is an action to quiet title to, and to partition, a tract of real property located in the Town of Hilton Head Island, Beaufort County, South Carolina, over which this Honorable Court has jurisdiction.*

A “marketable title” is one free from encumbrances and any reasonable doubt to its validity; it is a title which a reasonable purchaser, well-informed as to the facts and their legal significance, is ready and willing to accept. Scalise Dev., Inc. v. Tidelands Investments, LLC, 392 S.C. 27, 707 S.E.2d 440 (Ct. App. 2011). In a 199 case arising out of Beaufort County, SC. Though the Master in Equity decision was reversed on appeal the central issue in this case was the principle that to have the cloud on the title removed is to receive fee simple title to property. Clark v. Hargrave, 323 S.C. 84, 87, 473 S.E.2d 474, 476 (Ct. App. 1996). To quiet title to property is to commence an action against all adverse claimants asserting fee simple title to the tract of land and seeking to quiet her title thereto. May v. Jeter, 245 S.C. 529, 534, 141 S.E.2d 655, 658 (1965) In

another quiet title action arising out of Beaufort County Major v. Penn Community Services, Inc., 395 S.C. 175, 717 S.E.2d 70 (Ct. App. 2011) the Court of Appeals held that the evidence was sufficient to support the Master-in-Equity's finding that disputed 6.2-acre lot was conveyed in fee simple to record owner. The gavelman and principal point that these collective cases establish is that in an action to quiet title all impediments that place a cloud upon title to property need to be removed in order for the fee simple title to be invested by a court.

The existence of four deceased persons who appeared within the chain of title to the property whose estates have not been completed is a cloud upon the fee simple title to the property that has not been removed or resolved in this quiet title action presently leaving the court without authority to decree a finding of fee simple title. Without the fee simple title judicial decreed upon the property the Defendants cannot transact any business pertaining to it. The Defendants conjecture that it is highly inequitable to require them to complete their transaction to buy out the Plaintiff Heirs when this action brought by and under the control of the Plaintiffs has failed to remove all of the impediments upon the title to the property that is the subject of this action.

PROFFERED SOUTION

In South Carolina, a ten year period of time must have elapsed since a decedent's death to preclude the commencing of a probate proceeding upon their estate. § 62-3-108 (2009 & Supp. 2015) SC Code Ann. (establishing, subject to certain exceptions, a time limitation of ten years after a decedent's death for commencement of any proceeding to determine whether a decedent died testate or for commencing administration of the decedent's estate. Afterwards, an action to quiet title must be commenced to determine their legal heirs. In an action to quiet title a hearing is held by the Court after publication of the Summons and Complaint where evidentiary testimony is tendered establishing the genealogy of the deceased intestate. From the evidence produced at the hearing the Court makes its findings of fact identifying the heirs of the deceased intestate and the order and extent of each heir's

inheritance according to the Statute or Descent and Distribution. By implementing this same and required procedure in this present action would cure the cloud that remains upon the subject property. A hearing could be scheduled immediately, and the evidence produced at the hearing would provide a sufficient basis for the Court to determine who are the heirs to the four deceased persons whose estate have not been commenced or remain open pending completion are. This would clean up the impediments now clouding the title to the subject property and the Court may then properly issue its declaratory order stating that the persons designated in the order are possessed with the fee simple title to the property as tenants in common with each holding a specific percentage interest as determined by the Statute of Descent and distribution.

The Houston Law Firm LLC
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Hilton Head Island, SC 29926
Phone: 843-715-9078
chouston@houstonlawfirm.net

By: Charles E. Houston Jr.
Charles E. Houston Jr.

January 4, 2022
Hilton Head Island, SC



STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORD

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL DISTRICT
CIVIL ACTION # 2020-CP-07-02301

GEORGIA HARRISON, BARBARA
HARRISON, JOYCE ELLEN HARRISON,
WILLIAM S. HARRISON, III, STANLEY
ROBERTS AND DIANA MENDHEIM
INDIVIDUALLY AND AS AGENT AND
ATTORNEY IN FACT,

Plaintiffs,

DEFENDANT'S AMENDED
SUPPLEMENTAL MOTION FOR
RELIEF OF JUDGMENT AND FOR
EXTENSION OF TIME TO TENDER
PURCHASE PRICE UNDER RIGHT
OF FIRST REFUSAL

vs.

STEPHANIE LORRAINE KIRKLAND, GARY
LAMONT KIRKLAND, KIETA NICOLE
WHITE, AND CHERYL KIRKLAND,

Defendants.

TO: Thomas Taylor, Esq. and Chester Williams Esq. Attorneys for Plaintiffs

Comes now the Defendants who would further set forth sustaining grounds for the relief requested in its original motion filed on December 22, 2021.

**SIXTY (60) DAY ALLOCATION OF TIME TO TENDER
PURCHASE PRICE IS UNCONSCIONABLE**

According to §15-61-370 (E) of the Code of Laws of South Carolina commonly referred to as the "Right of First Refusal" under the Clementa Pinckney Act,

*(E) If notices are sent to the parties under subsection (D)(1) or (2), the court shall set a date, **not sooner** than sixty days after the date the notice was sent, by which electing cotenants must pay their apportioned price into the court. The Plaintiffs are arguing that there is a "statutory 60-day requirement" for the heirs to post the funds upon notice from the Judge; however, this is an unfair mis-representation and inaccurate characterization of the statute. Sixty days is the statutory **minimum amount of time** that*

must be granted to heirs that have exercised their right to purchase a cotenant property. Given the (a) large size of the transaction (nearly \$10 million is likely one of the largest such cases in the history of the state of South Carolina) and (b) the incomplete state of the quiet title action, Defendants should have been granted longer than 60 days to pay their apportioned price into the court's registry. Requiring the Defendants to raise such a large sum with unmarketable title was near impossible. Yet, Defendants have presented the Court with a funding partner which stands ready to complete this transaction once Defendants are able to provide marketable title.

Additionally, the Defendants (exercisers of the Right of First Refusal) are extremely concerned about the fact that Defendants were not timely made privy to the 6th amendment to the purchase contract that increased the price to \$9.75 million given the heirs were working under the assumption of the purchase price established by this Court in its October 2021 Order. According to said Order, the purchase price is \$9.1 million. Plaintiffs are attempting to force the Court to rush through the option process so that Defendants do not have a chance to buy the property at the \$9.1 million price. Therefore, and alternatively, the 60-day period should re-start at the date the new price is properly before the Court if the Court is inclined to establish a new purchase price.

BALANCING THE EQUITIES

The nine Defendants and Michael Carver, the heir of a now deceased Plaintiff Joanne Elizabeth Carver ("Purchaser Heirs") in that action filed in the Court of Common Pleas Fourteenth Judicial Circuit, Civil Action No. 2020-CP-07-02301, have located a financial partner, SRE Acquisitions IV, LLC ("SRE") and a consulting partner, Nassau Investments HHI, LLC ("Nassau") to assist them in the acquisition from Plaintiffs of the Property described on **Exhibit "A"** for a purchase price **equal to the greater of \$8,993,359.10, or Plaintiff's pro rata share of the purchase price contained in any legally binding contract between Plaintiffs and a third party for the Property, not to exceed \$9,750,000** (including the Deposit, the "Closing Funds"). Further, Purchaser Heirs, SRE and Nassau have entered into a letter of intent outlining the terms of a joint venture between the parties which was attached to Defendant's December 22, 2021 Motion and incorporated herein by reference (the "Joint Venture").

SRE has provided the attached financial information confirming their ability to

provide the Joint Venture with sufficient funds to purchase the Property (See Exhibit B), and SRE shall deposit with the Court 10% of the purchase price in the **estimated** amount of \$899,335.91 (the "Deposit") no later than two (2) business days after entry of an order by the Court adopting the following conditions (the "Court's Order") for the sale of the Property to the Joint Venture, and requiring the Plaintiffs and Purchasers Heirs to enter into a purchase and sales agreement, assignable to the Joint Venture, that contains the following conditions:

1. Inspection:

1.1 SRE shall have until **forty-five (45) days** from the date of the Court's Order (hereinafter referred to as the "Inspection Period") to research the title records for the Property, to inspect the Property and to conduct all other due diligence matters. During the Inspection Period, SRE shall identify and provide to Plaintiffs for execution copies of documentation required to convey to the Joint Venture "good and marketable fee simple title," as defined in Section 2.1 below, to 100% of the Property (together with other documents required to close the transaction (the "Closing Documents"). The Court's Order shall specifically grant SRE the right to terminate its involvement for any reason by giving written notice to the Court on or before the later to occur of (a) the last day of the Inspection Period, or (b) two (2) business days after the delivery by Plaintiffs of the Closing Documents into escrow with the Court, in which event the Deposit shall be promptly refunded to SRE and SRE shall be relieved of all rights and obligations hereunder.

1.2 SRE shall have the privilege at any time during the term of this Agreement to go upon the Property with SRE's agents, representatives or designees to inspect, examine and survey the Property. SRE indemnifies and holds Plaintiffs harmless from and against physical loss or damage to the Property Plaintiffs may incur and any and all liens that may arise as a result of SRE's inspection of the Property, or the activities of SRE's agents, representatives or designees on the Property and against any and all claims for death or injury to persons or properties arising out of or connected with SRE's (or its agents, representatives or designees) going upon the Property pursuant to the provisions of this Section, and against all costs, expenses and liabilities occurring in or in connection with any such claim or proceeding directly resulting therefrom, including,

without limitation, court costs and reasonable attorney's fees. This indemnity shall survive the Closing.

1.3 Within five (5) business days after the date of the Court's Order, Plaintiff's counsel shall deliver to SRE copies of the most recent surveys, plans, engineering reports, title reports, title insurance policies, environmental assessments and other similar documents concerning the Property which Plaintiffs may possess.

2. Transfer of Title:

2.1 At the Closing, the Plaintiffs and/or the Court (if required) shall convey to the Joint Venture "good and marketable fee simple title" to the entire Property, (except for the portion already owned by Purchaser Heirs, which shall also be conveyed to the Joint Venture), by limited warranty deed. "Good and marketable fee simple title" shall be such title as is acceptable to a reasonable purchaser and is insurable by a national title insurance company (the "Title Company") acceptable to Purchaser at standard rates and without exception other than easements, covenants and restrictions of record that will not adversely affect the Joint Venture's development of the Property, and real property ad valorem taxes for the current year, not yet due and payable. For purposes of clarification, this condition requires that the Joint Venture receive 100% of the fee simple title to the Property.

2.2 Prior to expiration of the Inspection Period, the Plaintiffs shall execute and deliver the Closing Documents into escrow with the Court and such other documents as the Title Company may reasonably request to effect or complete the transaction contemplated by this Agreement and to obtain an owner's policy of title insurance in accordance with the standards set forth above.

2.3 At the Closing, the Plaintiffs shall pay the balance of any liens on the Property, their own attorneys' fees, and any costs of delivering good and marketable fee simple title, except as provided below. Real estate ad valorem taxes and assessments shall be prorated as of the date of Closing. The Joint Venture shall pay all other costs and expenses.

2.4 At the Closing, SRE shall reimburse Plaintiffs for legal fees and expenses actually incurred by Plaintiffs up to the amount of \$125,000.00, provided that the Plaintiffs promptly execute and deliver to the Court all of the required Closing Documents, and

provided that the Plaintiffs agree in writing prior to expiration of the Inspection Period not to appeal any order issued by the Court or challenge the title to the Property granted to the Joint Venture. If either of said conditions is not satisfied in SRE's sole discretion, the Joint Venture may still proceed to Closing, but SRE will not reimburse Plaintiff's legal fees and expenses.

3. Release of Funds:

3.1 Provided that SRE's obligations have not been terminated prior to expiration of the Inspection Period, all other conditions stated above have been satisfied for the Joint Venture to purchase the Property, and the Closing Documents have been placed into escrow with the Court, the Joint Venture shall deposit the balance of the Purchase Price with the Court **within ten (10) days after expiration of the Inspection Period.**

3.2 The Court shall hold the Closing Funds and Closing Documents in escrow until all appeal periods related to the issuance of the Court's Order have been waived or expired, and, provided that all conditions for closing are still satisfied, the Court shall then deliver the Closing Documents to the Joint Venture for recording and distribute the Closing Funds per the Court's Order.

3.3 In the event that the Court's Order is appealed, the Court will retain the Closing Funds and Closing Documents in escrow until the first to occur of (i) the appeal is resolved in favor of the Joint Venture, in which case the Court will proceed with disbursement of the Closing Funds and Closing Documents; (2) the appeal is resolved against the Joint Venture, in which case the Closing Funds (including the Deposit) will be refunded to SRE and the Closing Documents will be returned to Plaintiffs; or (3) the Court receives written notice from SRE at any time prior to resolution of the appeal that it is terminating its involvement in the transaction, in which case the Closing Funds (including the Deposit) will be refunded to SRE and the Closing Documents will be returned to Plaintiffs.

4. Indemnification:

In the event SRE and Nassau have elected not to purchase the Property, or in the event SRE and Nassau have decided to terminate their involvement in the transaction, or in the event of an appeal resolved against the Joint Venture, the Plaintiffs and Purchaser Heirs understand and agree that SRE and Nassau shall have no liability or responsibility

whatsoever (other than the obligation set out in Section 1.2 above). Plaintiffs and Purchaser Heirs covenant not to sue SRE and Nassau in the event of any of the foregoing and agree to indemnify, defend and hold harmless SRE and Nassau and their affiliates and related entities, members and managers from and against any and all claims, losses, damages and liabilities arising directly or indirectly therefrom. The resolute equity partners additionally have the required finances currently in place not only to complete the purchase of the property but have budgeted over \$73 million for this cultural resort development in historically renown Mitchellville Community of Hilton Head Island.

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The existence of four deceased persons who appeared within the chain of title to the property whose estates have not been completed is a cloud upon the fee simple title to the property that has not been removed or resolved in this quiet title action presently leaving the court without authority to decree a finding of fee simple title. Without the fee simple title judicially decreed upon the property, the Defendants cannot transact any business pertaining to it. The Defendants' conjecture that it is highly inequitable to require them to complete their transaction to buy out the Plaintiff Heirs when this action brought by and under the control of the Plaintiffs has failed to remove all of the impediments upon the title to the property that is the subject of this action.

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holding a specific percentage interest as determined by the Statute of Descent and Distribution.

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By: *SI Charles E. Houston, Jr.*
Charles E. Houston, Jr.

January 5, 2022
Hilton Head Island, SC



STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 GEORGIA HARRISON, BARBARA)
 HARRISON, JOYCE ELLEN)
 HARRISON, WILLIAM S.)
 HARRISON, III, STANLEY)
 ROBERTS, and DIANA MENDHEIM,)
 individually and as agent and attorney)
 in fact,)
)
 Plaintiffs,)
 vs.)
)
 STEPHANIE LORRAINE)
 KIRKLAND, GARY LAMONT)
 KIRKLAND, KEITA NICOLE)
 WHITE, and CHERYL KIRKLAND,)
)
 Defendants)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO. 2020-CP-07-02301

ORDER

THIS MATTER CAME BEFORE THE COURT for a status conference and consideration of the Defendants’ recently filed three motions, on January 6, 2022 via a WebEx hearing. Present at the hearing via video conference were Thomas C. Taylor and Chester C. Williams, counsel for the Plaintiffs, Charles Houston, counsel for the Defendants, Plaintiff Georgia Harrison, Plaintiff Diana Mendheim, Plaintiffs’ consultant Andre White, and Defendant Keita Nicole White. Also on the video hearing were Earsa Jackson, of the Texas Bar, who according to Mr. Houston, is representing the Defendants in negotiations with one or more potential third-party developers, and Robert Brennen, Jr., who represents one or more potential third party developers that the Defendants have contacted. Also present on the video hearing were Luke Lopatka, of Singerman Real Estate and Nick Bergelt of Nassau Investments HHI, LLC, both identified by Mr. Houston as “Financial Partner/Developer” for the Defendants.

Mr. Taylor advised the Court that Beaufort County Clerk of Court Jerri Ann Roseneau had confirmed that no funds were tendered by the Defendants by 5:00 p.m. December 22, 2021, in

payment of the Defendants' apportioned prices pursuant to this Court's Order of October 20, 2021, pursuant to S.C. Code Section 15-61-370 (D)(2). Mr. Houston also confirmed to the Court that none of the Defendants had paid in money to the Court by 5 p.m. December 22, 2021.

Mr. Houston then argued in support of his Motion For Relief of Judgment and For Extension of Time to Tender Purchase Price Under Right of First Refusal and Motion for Realignment of Parties as filed on December 22, 2021 at 7:54 p.m.; the Defendants' Supplemental Motion For Relief Of Judgment and For Extension of Time to Tender Purchase Price Under Right of First Refusal filed January 5, 2022; and the Defendants' Amended Supplemental Motion for Relief Of Judgment And For Extension of Time To Tender Purchase Price Under Right of First Refusal, filed later in the day on January 5, 2022. All counsel were then heard in reply.

Having heard the arguments of counsel and considered the pleadings and Orders of record, I deny the Defendants' pending Motions identified above. The October 20, 2021 Order in this case, which set a date of December 22, 2021 for the Defendants to pay their apportioned prices into the Court, was not appealed nor was a timely Motion to Alter or Amend pursuant to Rule 59 SCRCP filed. Therefore, the October 20, 2021 Order is final and I am without jurisdiction to reconsider or amend that Order, even if I desired to do so. To the extent that any of the three Motions identified above are construed to seek relief or remedy from this Court in addition to reconsideration or amendment to my October 20, 2021 Order, I also respectfully deny those requests.

THEREFORE, IT IS ORDERED AND ADJUDGED that the Defendants' Motions are denied.

AND IT IS SO ORDERED this _____ day of January, 2022.

s/ _____
Marvin Dukes, III
Master In Equity and Special Circuit
Court Judge of Beaufort County



Beaufort Common Pleas

Case Caption: Georgia Harrison , plaintiff, et al VS Stephanie Lorraine Kirkland ,
defendant, et al
Case Number: 2020CP0702301
Type: Master/Order/Other

So Ordered:

s/Marvin H. Dukes III #3069



STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL DISTRICT
CIVIL ACTION # 2020-CP-07-02301

**GEORGIA HARRISON, BARBARA
HARRISSON, JOYCE ELLEN HARRISON
WILLIAM S. HARRISSON, III, STANLEY
ROBERTS AND DIANA MENDHEIM
(Individually and as agent
and attorney in fact**

Plaintiffs,

vs.

**DEFENDANTS' MOTION FOR
RECONSIDERATION**

**STEPHANIE LORRAINE
KIRKLAND, GARYY LAMONT
KIRKLAND, KEITA NICOLE
WHITE, AND CHERYL KIRKLAND**

Defendants.

To: Thomas Taylor, Esq., and Chester –Williams, Esq., Attorneys for the Plaintiffs

YOU WILL PLEASE TAKE NOTICE that the Defendant, pursuant to Rule 52(b), Rule 54(b), Rule 59 (a)2) and (e), Rule 60(b)(2), SCRCF, move before the Honorable Marvin H. Dukes, Master In Equity, Fourteenth Judicial Circuit, at the Beaufort County Judicial Center, 102 Ribault Road, Beaufort South Carolina upon ten (10) days after service hereof, or at such other time and place as may be convenient to the Court and Counsel to alter or amend the Orders of the Court entered on January 20, 2022, October 20, 2021 and May 21, 2021 the action herein in the following particulars:

1. To amend the findings of fact and conclusions of law or make new findings and conclusions and direct the entry of a new judgment in

the case herein;

2. Request the court to reconsider matters properly encompassed in a decision on the merits;
3. To rule upon motions that have not been addressed upon the merits of the issues raised in this proceeding;
4. To set forth the court's findings, the reasons for those findings and conclusion of law;
5. To open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law;
6. Receive newly discovered evidence; and
7. Make new findings and conclusions and direct the entry of a new judgment.

On January 6, 2022, this court heard Defendants' Motion for Relief & Extension for Relief & Extension of Time & Realignment of Heirs, and Defendants. Defendants reassert and incorporate by reference said motion in its entirety. Attached hereto is the transcript of said hearing in its entirety as **Exhibit A**. The trial court specifically erred in concluding during the January 6, 2022 hearing that the provisions of the October 20, 2021 order were unappealed nor had a motion for reconsideration been filed, such that the order of October 20, 2021 could not be modified. (Tr. p. 15, line 15 – p. 16, line 2). Rule 54(b) specifically provides that “any order. . . however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties . . . is subject to revision at any time before the entry of judgment adjudicating all of the claims and the rights and liabilities of all the parties.”

On January 20, 2022, the Court entered an order generally denying relief without making specific findings, rulings and conclusions of law as required by Rule

52(a), SCRCP, and without sufficiently addressing:

1. Defendants' Motion to modify the terms of the October 20, 2021 order. Additionally, the Court did not rule on Defendants' Motion for Relief of Judgment and for Extension of Time to Tender Purchase Price and Right of First Refusal filed December 22, 2021;

2. Defendants' Amended Supplemental Motion for Relief of Judgment and for extension of time to Tender Purchase Price under Right of First Refusal filed January 5, 2022; and

3. Defendants' Objections to Proposed Order filed January 11, 2022.

To the extent that the January 20, 2022 order addressed its inability to modify the October 20, 2021 order, it was in error. *See* Rule 54(b), *cited above*. Defendants' appeal from the order of January 20, 2022 will also include an appeal of the orders of May 21, 2021 order and the October 22, 2021 orders, neither of which were appealable at the time they were issued but are now subject to appellate review (combined with an appeal from a final order) pursuant to S.C. Code Ann. §14-3-330(1),(2) and (3).

Among the issues to be raised on appeal (and which this Court is asked to consider on rehearing pursuant to this instant motion are:

- A. How can the May 21, 2021 order have been issued without all parties to the action having been served with the pleadings? *See* Clerk's docket, affidavit of non-service on Stephanie Kirkland, and the absence of any proof of service on Garry Lamont Kirkland, Keita Nicole White and Cheryl Kirkland.
- B. How can the May 21, 2021 order have been issued without consent from all defendants?
- C. To the extent that the October 22, 2021 order stated there had been a revocation of a power of attorney, how can the order be valid without the filing of the revocation of power of attorney and a determination of the validity of

the revocation of the power of attorney?

D. To the extent that the October 22, 2021 order constituted a voluntary appearance of certain defendants without proof of service having been filed, what evidence was presented of record that they had authorized counsel to appear?

At the heart of this matter is determining how this court, in equity, may effectuate the purpose and intent of the Pinckney Act. As specifically set forth in Defendants' motion to the court dated December 22, 2022 and the hearing on January 6, 2022, Defendants within a 60-day window identified a partner to purchase the heir property and participate in the development of the property. The proposal put forth put the plaintiffs in a better position than the contract plaintiffs previously brought before the court. Additionally, defendants' developer partner has the financial wherewithal to quickly close on the purchase of the property once technical impediments are removed. Defendants request specific finding of facts, conclusions of law and rulings of the Court set forth below.

1

The Plaintiffs' Complaint on its face admits that there are at least two unprobated estates, with unknown heirs, which have not been established to include persons who are or may be under some disability or a minor and thus the Complaint is subject to being dismissed pursuant to SCRCP 12(b)(4).

2

There are at least four un-probated estates of heirs, two coming into existence since the Publication of the Summons and with unknown heirs, which have not been established to include persons who are or may be under some disability or a minor and thus the Complaint should be dismissed pursuant to SCRCP 12(b)(6). Defendants seek a ruling from the Court upon this issue.

3

Defendants seek a ruling that the Plaintiffs have failed to join necessary parties and, therefore, the Complaint should be dismissed pursuant to SCRCP 12(b)(7).

4

Defendants seek a finding of fact or ruling that an evidentiary hearing has not been provided to the Defendants, though requested and as required by receive evidence pertaining to their factual denials of Paragraphs 1, 2, 3, 4 11, 14, 15, 20 22, 26, 27 28, 29,30, and 31, of the Complaint. In fact, the Pinckney Act contemplates a trial will be set (15-61-370(B) states that cotenant shall have until ten days prior to trial setting to elect option to purchase property). Once valuation of the property is established, Plaintiffs were required to serve all co-tenants, this relates to even cotenants who have not made an appearance in the case. Section 15-61-370(A). The Pinckney Act event contemplates that a cotenant in default still has the ability to purchase the heir property. No service by publication occurred prior to the court's order purporting to quiet title. Months after the purported quieting of title, the court ordered publication. See Affidavit of Maria Belbus Parker, individual designated by the court to procure publication in October 20, 2021 order. Ms. Parker sets forth that publication was made on October 25, 2021 and November 8, 2021. Defendants seek a ruling that the court's May 21, 2021 Order is void, set aside and of no further effect.

5

Defendants seek a finding of fact and ruling by the Court that the Plaintiff's Complaint never requested the court to certify that the co-tenants be bestowed or endowed with the fee simple absolute title to the property subject to this action.

6

Defendants seek a finding of fact and ruling by the Court whether the title to the property subject to this action has been at all times from the commencement of this action been and remains "Heirs Title" property.

7

Defendants seek a finding of fact and ruling by the Court that the present title status of the property does not meet the "marketable title standard as set forth in *Scalise Dev., Inc. v. Tidelands Investments., LLC*, 392 S.C. 27, 707 S.E.2d 440 (Ct. App. 2011). (Principle that to have the cloud on the title removed is to receive fee simple title to property. *Clark v. Hargrave*, 323 S.C. 84, 87, 473 S.E.2d 474, 476 (Ct. App. 1996). *May v. Jeter*, 245 S.C. 529, 534, 141 S.E.2d 655, 658 (1965), *Major v. Penn Community. Services., Inc.*, 395 S.C. 175, 717 S.E.2d 70 (Ct. App. 2011)).

8

Defendants seek a finding of fact and ruling by the Court whether the tendered contract between the Defendants and SRE that, among other things, provides for the Defendants to hold and retain an equity participation in the development of the property is more consistent with the legislative goals and purposes of the Clementa Pinckney Act than the straight contract for purchase proffered by the Plaintiffs under which they would be bought out and then permanently removed from their heritage land.

9

Defendants seek a finding of fact and ruling by the Court whether that SRE has demonstrated a sufficient showing of its capabilities and financial resources to

fulfill the purchase of the property.

10

Defendants seek a finding of fact and ruling by the Court whether a deed of conveyance either with or without marketable title was in preparedness to be delivered to SRE on December 23, 2021.

11

Defendants seek a finding of fact and ruling by the Court whether the property was available to be mortgaged by SRE on December 23, 2021.

12

Defendants seek a finding of fact and ruling by the Court whether a conflict of interest exist with counsel for the Plaintiffs who represents parties both in this action and in one or more of the open estates; (see Affidavit of Keita White) especially where the relief sought by their clients solely seeks to confirm the percentage ownership among the family heirs and not clear the title to the land knowing that without a marketable title and is unjust impediment has been created to prevent SRE from purchasing the property.

13

Did the Court commit an abuse of discretion as a matter of law by not granting the Defendants request for 45 days to have a hearing to receive testimonial evidence to determine the heirs of the estates of the four deceased heirs and to tender the purchase price, with the Defendants depositing 10%percent down with the court and also paying to the Plaintiffs the amount of 9.7 million in lieu of the appraisal price.

14

Did the Court commit an abuse of discretion as a matter of law by not granting the Defendants an extension of time to tender the purchase price in light of the fact that the Clementa C. Pinckney Act provides for a minimum of 60 days for heirs

exercising their Right of First Refusal to complete the purchase especially where the 60 day period allotted to the Defendants is commercially impossible to achieve, especially considering the large purchase price and the cloudy title encumbered upon the property rendering it useless for loan collateral purposes?

15

Have the Defendants property rights under the provisions of Article 1 Section 3 of the SC Constitution and the enumerated Amendments of the U.S. Constitution been infringed upon by having been denied due process of law and the equal protection of the laws in this proceeding.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully pray that this Motion for Reconsideration be considered and after review that the Court set aside its Orders of May 21, 2021, October 20, 2021 and January 20, 2022 and grant defendants' their requested relief here before requested.

Respectfully submitted,

The Houston Law Firm, LLC
1000 Main Street, Suite 200C
Hilton Head Island, SC 29926
843-715-9078
chouston@houstonlawfirm.net

By: Charles E. Houston Jr.
Charles E. Houston, Jr.
SC Bar #2663

January 31, 2022
Hilton Head Island, SC



STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS

Georgia Harrison, et al.,)

CASE NO: 2020-CP-07-02301

Plaintiff(s),)

vs.)

ORDER DENYING DEFENDANT'S
MOTION FOR RECONSIDERATION

Stephanie Lorraine Kirkland, et al.,)

Defendant(s).)

This came before me February 11th, 2022, on Defendants' Motion for Reconsideration, filed January 31st, 2022. After hearing from parties and reviewing the filings, the motion is respectfully denied.

IT IS SO ORDERED:

Honorable Marvin H. Dukes, III
Master in Equity and Special Circuit Court
Judge for Beaufort County

March _____, 2022
Beaufort, South Carolina



Beaufort Common Pleas

Case Caption: Georgia Harrison , plaintiff, et al VS Stephanie Lorraine Kirkland ,
defendant, et al

Case Number: 2020CP0702301

Type: Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Mar 28 2022

SC Court of Appeals

The Honorable Marvin H. Dukes, III
Beaufort County
Trial Court Case No. 2020-CP-07-0231

APPELLATE CASE NO. 2022-000277

Georgia Harrison, Barbara Harrison,
Joyce Ellen Harrison, William S. Harrison III,
Stanley Roberts and
Diana Mendheim Individually And As Attorney In Fact,

Respondents,

vs.

Stephanie Lorraine Kirkland, Gary Lamont Kirkland,
Kieta Nicole White, And Cheryl Kirkland,

Appellants.

PROOF OF SERVICE

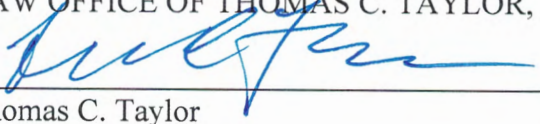
I hereby certify that this law firm represents the Respondents in the above-captioned matter and that on the date below, in Hilton Head Island, South Carolina, I served a copy of the forgoing on the following person via U.S. Mail, first class postage pre-paid, and electronic mail to his AIS E-mail address:

**Documents Served: RESPONDENTS' RETURN TO APPELLANTS' MOTION
PURSUANT TO RULE 241(A)**

Parties Served: Charles E. Houston, Esquire
The Houston Law Firm, LLC
1000 Main Street, Suite 200C
Hilton head Island, SC 29926;
chouston@houstonlawfirm.net

ATTORNEY FOR APPELLANTS

LAW OFFICE OF THOMAS C. TAYLOR, LLC



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ATTORNEY FOR RESPONDENTS

Hilton Head Island, South Carolina
March 28, 2022

LAW OFFICE OF
THOMAS C. TAYLOR, LLC

ADMITTED TO THE UNITED STATES
SUPREME COURT BAR

ADMITTED IN SOUTH CAROLINA,
COLORADO AND GEORGIA

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29938

RECEIVED

Mar 28 2022

SC Court of Appeals

March 28, 2022

Via E-Mail Attachment to: msingleton@sccourts.org

Ms. Mary-Caitlyn Singleton, SC Court of Appeals Specialist
1220 Senate Street
Columbia, SC 29201

**Re: Georgia Harrison, et al. vs. Stephanie Lorraine Kirkland, et al.; Appellate Case
No.: 2022-000277; Respondents' Return to Appellants' pending Motion Pursuant
To Rule 241(A)**

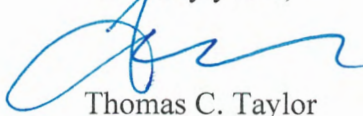
Dear Ms. Singleton,

As your file indicates, Chet Williams and I represent the Respondents in this appeal. Pursuant to instructions from the Court, it is my pleasure to attach hereto for electronic filing the following:

- a. Respondents' Return to Motion Pursuant To Rule 241(A);
- b. Affidavit of Andre Johnny White and Exhibits A-O;
- c. Affidavit of Thomas C. Taylor and Exhibit A; and,
- d. Proof of Service of a copy of the documents upon Appellants' counsel.

Because of the volume of the Exhibits to the White Affidavit, I may need to send them via two or three separate emails, but you've never had a problem with that in the recent Covid past and I assume it will be acceptable again today. Thank you. Please let me know if you have any questions.

Cordially yours,



Thomas C. Taylor

TCT/dpt

Enclosures

cc: Chester C. Williams, Esq., via email transmittal
Andre J. White, via email transmittal
Charles E. Houston, Esq., via email transmittal
Terry A. Finger, Esq., via email transmittal
Darrell Thomas Johnson, Jr., via email transmittal