

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Master in Equity

Marvin H. Dukes, III, Master in Equity
Case No.: 2020-CP-07-01547

RECEIVED

Mar 31 2022

SC Court of Appeals

Appellate Case No. 2022-000301

Todd E. Taylor,.....Respondent,

v.

Amar and Kennie Gill Living Trust Dated March 15, 2019; Kennie Lee Miller Gill, Trustee of the Amar and Kennie Gill Living Trust Dated March 15, 2019; Kenneth V.L. Miller; and Anna M. Miller.....Appellants,

v.

South Beach Village Lagoon Villas, II, Horizontal Property Regime, LVII,
.....Respondent.

MOTION TO DISMISS APPEAL

COMES NOW Respondent South Beach Village Lagoon Villas, II, Horizontal Property Regime, LVII (hereinafter “Respondent Regime” or “Regime”), by and through undersigned counsel, pursuant to Rule 201, Rule 240 and Rule 222, SCACR, and moves this Court for an order dismissing the Appeal filed by Appellants Amar and Kennie Gill Living Trust Dated March 15, 2019, Kennie Lee Miller Gill, Trustee of the Amar and Kennie Gill Living Trust dated March 15, 2019, Kenneth V. L. Miller, and Anna M. Miller (hereinafter “Appellants”) as it is procedurally improper and does not seek review of appealable rulings.

BACKGROUND AND STATEMENT OF RELEVANT FACTS

This appeal concerns property within the South Beach Village Lagoon Villas II Horizontal Property Regime LVII, located in Beaufort County, South Carolina. Appellants have filed a Notice of Appeal of two (2) Orders entered by the Honorable Marvin H. Dukes, Master in Equity for Beaufort County: (1) Order Granting Respondent Regime's Petition for Relief Pursuant to S.C. Code § 33-31-160 dated February 3, 2022 (hereinafter "2-3-22 Order"), attached hereto as **Exhibit A**; and (2) Order Denying Appellants' Rule 59(E) Motion to Reconsider and Alter or Amend dated March 10, 2022 (hereinafter "3-10-22 Order"), attached hereto as **Exhibit B**.

The Regime property includes a total of six (6) individual dwelling units. [Exhibit A at P. 2]. Respondent Todd E. Taylor, Plaintiff below (hereinafter "Respondent Taylor"), is the owner of residential real property in the Regime located at 226 Sea Pines Drive, Apt. 1596, Hilton Head Island, South Carolina. [Exhibit A at P. 2]. Appellants, Defendants below, are the owners of residential real property in the Regime which adjoins Respondent Taylor's property, located at 226 Sea Pines Drive, Apt. 1595, Hilton Head Island, South Carolina. [Exhibit A at P. 2]. Following the renovation and expansion of three (3) of the six (6) dwelling units into the common elements of the Regime, all co-owners of the Regime agree that the Master Deed identifying, describing and governing the Regime requires an amendment in order to lawfully and properly describe the property and rights of the co-owners. [Exhibit A at P. 3;7]. Since at least 2018, the Regime attempted to pursue an Amendment to the Master Deed with the required approval of 100% of the co-owners. [Exhibit A at P. 4]. However, the Regime was unable to reach a solution to which all co-owners agreed. [Exhibit A at P. 4;7].

On July 31, 2020, after the failed attempts to reach consensus on an amendment to the Master Deed, Respondent Taylor filed the instant lawsuit against Appellants, asserting, *inter alia*,

that Appellants illegally expanded Unit 1595 into the Common Area of the Regime, and the encroaching structure must be removed. [Exhibit A at P. 5]. On December 3, 2020, Appellants filed an Amended Answer and Third Party Complaint against the Respondent Regime, seeking, *inter alia*, a Declaratory Judgment that the Regime approved Appellants' addition, and that a valid and enforceable encroachment agreement exists between Appellants and the Regime. [Exhibit A at P. 5]. On August 26, 2021, the Respondent Regime filed a Petition for Relief pursuant to S.C. Code § 33-31-160 (hereinafter "Petition"), seeking an Order from the court requiring, *inter alia*, the Regime to hold a meeting of the members for the purpose of approving an amendment to the Master Deed, and to alter the voting percentage required to approve an amendment to the Master Deed at the meeting. A true and correct copy of the Petition is attached hereto as **Exhibit C**.

On February 3, 2022, the lower court entered the 2-3-22 Order granting the Regime's Petition. Pursuant to the 2-3-22 Order, the lower court found that "the intervention of the Court is warranted to order a special meeting of the Regime members for the purpose of voting on an amendment to the Master Deed" and "that it is necessary and appropriate to modify the voting requirement for the passage of an amendment to the Master Deed." [Exhibit A at P. 7]. The 2-3-22 Order directed the Regime to hold a Special Meeting within 45 days of the Court's Order for the purpose of voting on a proposed amendment to the Master Deed, subject to a number of procedural requirements, and instructions for the submission of proposed amendments and the manner in which to conduct a vote upon the same. [Exhibit A at P. 7-12]. The 2-3-22 Order provided for a structure in which both Respondent Taylor and Appellants could submit proposed Master Deed amendments for the consideration and vote of the co-owners. [Exhibit A at P. 9].

Most pertinently for purposes of this motion, the 2-3-22 Order provided that at the contemplated Special Meeting, "if a proposed amendment to the Master Deed receives a **majority**

vote, the Court shall order the amendment to constitute a valid and lawful amendment by subsequent order.” [Exhibit A at P. 8]. The Order further provides:

Should a majority of co-owners approve an amendment to the Master Deed at the Special Meeting, the Court shall issue a subsequent Order, ordering the Amendment to constitute a valid and lawful amendment to the Master Deed, with the same force and effect as if it complied with all otherwise applicable legal requirements, and the Court will order the same to be filed in the public records of Beaufort County.

[Exhibit A at P. 12].

On March 10, 2022, the lower court denied Appellants’ Rule 59(E) Motion to Reconsider and Alter or Amend. The first party claims asserted by Respondent Taylor against Appellants have not been adjudicated; Appellants have a pending Motion for Summary Judgment seeking judgment as a matter of law on those claims. The Declaratory Judgment action asserted by Appellants against Respondent Regime has likewise not been adjudicated. On March 15, 2022, Appellants filed the instant appeal of the 2-3-22 Order and the 3-10-22 Order (hereinafter sometimes collectively the “Appealed Orders”).¹ Respondent Regime files this Motion to Dismiss Appellants’ Appeal because the appealed Orders are not immediately appealable rulings.

MEMORANDUM AND CITATION OF AUTHORITIES

Rule 201, SCACR provides “[a]ppel may be taken, as provided by law, from any final judgment, appealable order or decision.” “The determination of whether a party may immediately appeal an order issued before or during trial is governed primarily by [S.C. Code Ann. § 14–3–330]....An order generally must fall into one of several categories set forth in that statute in order to be immediately appealable.” *Pocisk v. Sea Coast Const. of Beaufort*, 380 S.C. 584, 587–88, 671 S.E.2d 98, 100 (Ct. App. 2008) (internal citations and quotations omitted). “Absent some

¹ On March 17, 2022, the Regime held the Special Meeting as ordered pursuant to the 2-3-22 Order. The proposed amendment submitted by Respondent Taylor passed by a greater than majority vote.

specialized statute, the immediate appealability of an interlocutory or intermediate order depends on whether the order falls within S.C. Code Ann. § 14-3-330.” *Edwards v. SunCom*, 369 S.C. 91, 93, 631 S.E.2d 529, 530 (2006). The Supreme Court has further noted that, absent a specialized statute, the appellate courts are “not permitted to hear a case on appeal not comporting with the requirements of [S.C. Code Ann. § 14-3-330].” *Tatnall v. Gardner*, 350 S.C. 135, 137, 564 S.E.2d 377, 379 (Ct. App. 2002). “The provisions of section 14-3-330... have been narrowly construed.” *State v. Wilson*, 387 S.C. 597, 601, 693 S.E.2d 923, 925 (2010).

S.C. Code Ann. § 14-3-330 provides for the following categories of immediately appealable orders:

- (1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions; provided, that if no appeal be taken until final judgment is entered the court may upon appeal from such final judgment review any intermediate order or decree necessarily affecting the judgment not before appealed from;
- (2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action;
- (3) A final order affecting a substantial right made in any special proceeding or upon a summary application in any action after judgment; and
- (4) An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction or granting, continuing, modifying, or refusing the appointment of a receiver.

The Appealed Orders do not fall into any of these categories. The Appealed Orders do not “involve the merits, affect a substantial right, or prevent a judgment from which an appeal may later be taken.” *See Edwards*, 369 S.C. 91, 94.

S.C. Code Ann. § 14-3-330(1) is inapplicable to the Appealed Orders. “To involve the merits, the order must **finally determine** some substantial matter forming the whole or part of some cause of action or defense....*Peterkin v. Brigman*, 319 S.C. 367, 368-69, 461 S.E.2d 809, 809-10 (1995) (quoting *Mid-State Distribs., Inc. v. Century Importers, Inc.*, 310 S.C. 330, 334, 426 S.E.2d 777, 780 (1993)) (emphasis added). “If a judgment leaves some further act to be done by the court before the rights of the parties are determined, the judgment is not final....If a judgment determines the applicable law while leaving open questions of fact, it is not a final judgment.” *S.C. Dep’t of Transp. v. Faulkenberry*, 337 S.C. 140, 146-47, 522 S.E.2d 822, 825 (Ct. App. 1999) (citations and quotations omitted). Simply put, the 2-3-22 Order did not “finally determine” any matters where the lower court directed the Regime to hold a special meeting, at which multiple proposed amendments to the Regime’s Master Deed, including that submitted by Appellants, could be proposed, and **if** a proposed amendment were to receive a majority vote, the court contemplated it would enter a subsequent order declaring the amendment to be lawful and valid. [Exhibit A]. The 3-10-22 Order merely confirmed the ruling set out in the 2-3-22 Order. At the time Appellants filed their Notice of Appeal, there were multiple conditions which would have to occur before the lower court would entertain a subsequent order declaring any passed amendment to be valid and lawful. [*Id.*]. Thus, the Appealed Orders do not fall within Section (1) of the appealability statute.

Under S.C. Code Ann. § 14-3-330(2), premitting whether the Appealed Orders affected a “substantial right”² of Appellants, none of the criteria listed in subsections (a)-(c) are met. As

²In *Mid-State Distributors*, Chief Justice Toal defined “an order affecting a substantial right” and states, “(t)his is when such an order would discontinue an action, prevent an appeal, grant or refuse a new trial, or strike out an action or defense.” 310 S.C. 330, 336, footnote 4; *see also Edwards*, 369 S.C. 91, 94. Thus whether an order affects a “substantial right” appears to be based on the same criteria stated in the remainder of S.C. Code Ann. § 14-3-330(2). For the same reasons those

above regarding S.C. Code Ann. § 14-3-330(1), the Appealed Orders do not make any rulings which could possibly be characterized as determinative of the action or as striking out any pleadings where the 2-3-22 Order by its terms contemplates multiple future events and conditions necessary to occur before the lower court would entertain a subsequent order declaring any passed amendment to be valid and lawful. Furthermore, the Appealed Orders do not prevent a judgment from which an appeal may later be taken. *See Edwards*, 369 S.C. 91, 91 (“Under 14-3-330, however, an order must affect a substantial right **and** prevent a judgment from which an appeal may later be taken in order to be immediately appealed.”) (emphasis in original); *see also Tatnall*, 350 S.C. 135, 137–39 (“Pursuant to section 14–3–330(2), this Court may not review an order that does not prevent a judgment from being rendered in the action, and from which the appellant can seek review in any appeal from the final judgment.”) (internal citations and quotations omitted). Thus, the Appealed Orders do not fall within Section (2) of the appealability statute. Moreover, Sections (3) and (4) of the Statute are inapplicable on their face.

The Appealed Orders are intermediary orders which on their face and by their terms contemplate multiple future contingencies and a future ruling before even the matters addressed in the Appealed Orders would or could take effect. These are precisely the type of Orders this Court routinely declines, and should decline, to review. The Appealed Orders are interlocutory orders which do not satisfy any of the criteria set forth in S.C. Code Ann. § 14–3–330, and are therefore not appealable.

criteria are not present with respect to the Appealed Orders as set forth above, the Appealed Orders do not affect a substantial right of Appellants.

CONCLUSION

Based upon the foregoing, Respondent Regime respectfully requests an Order of this Honorable Court dismissing Appellants' appeal in its entirety. Respondent Regime further respectfully requests that costs and fees be taxed against Appellants to the fullest extent permitted under Rule 222, SCACR.

This 31st day of March, 2022.



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.....Respondent.

PROOF OF SERVICE

I certify that I have served **Regime Respondent's Motion to Dismiss Appeal**, upon the parties below by depositing a copy of it in the United States Mail, postage prepaid and/or via electronic mail, on March 31, 2022, addressed as follows:

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and the entire record in this case, the Court **GRANTS** the Regime's Petition for the reasons set forth herein.

Factual Background

This action concerns property within the South Beach Village Lagoon Villas II Horizontal Property Regime LVII, established pursuant to the Master Deed filed in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 215 at Page 1092 (the "Master Deed"). The Regime and Regime property are subject to and governed by and in accordance with the Master Deed, Bylaws and amendments thereto. The Regime is subject to the provisions of the Horizontal Property Act, S.C. Code Ann. § 27-31-10, et. seq. (the "Act"). The Regime is a non-profit corporation formed and existing under the laws of the State of South Carolina, and subject to the provisions of the South Carolina Non-Profit Code, S.C. Code Ann. § 33-31-101, et seq. The Plaintiff in this action is the owner of residential real property in the Regime located at 226 Sea Pines Drive, Apt. 1596, Hilton Head Island, South Carolina. Defendants are the owners of residential real property in the Regime which adjoins Plaintiff's property, located at 226 Sea Pines Drive, Apt. 1595, Hilton Head Island, South Carolina.

The Regime property is located on Hilton Head Island, in Beaufort County, South Carolina, and includes three (3) buildings, containing six (6) individual dwelling units. The six (6) dwelling units are owned by co-owners, each of whom has a particular and exclusive property right to their dwelling unit, as well as an undivided interest in the general and limited common elements of the Regime. As defined in the Master Deed, the general common elements and the limited common elements together comprise the "Common Elements" of the Regime. The general common

elements include all Regime property, excluding the limited common elements and the dwelling units. The limited common elements are further specifically defined in the Master Deed.

Over the past many years, Dwelling Unit 1591, Dwelling Unit 1594 and Dwelling Unit 1595 (the “Encroaching Units”) were expanded such that they encroach into common elements of the Regime. Thus three (3) of the six (6) dwelling units that make up the Regime now encroach into the common elements of the Regime. The expansion to Defendant’s Unit (1595) was completed in approximately 1998; the expansion to unit 1594 was completed in approximately 2003; the expansion to Unit 1591 was completed in approximately 2004. As a result of the encroachment, the description and depiction of the Regime property and the Encroaching Units as set forth in the Master Deed no longer conform to the physical layout of Regime property as it currently exists.

The Master Deed establishes the proportionate ownership percentage interests of each co-owner of a Dwelling Unit in the common elements. This percentage also governs each co-owner’s proportionate share in the profits and expenses of the Regime, and proportionate representation for voting purposes. At various points and as the expansions to some of the Encroaching Units were completed, the Regime co-owners modified these proportionate percentage interests, and conducted the business of the Regime, including payment of assessments based on proportionate percentage interests which were different from those set out in the Master Deed.

Pursuant to the Master Deed, “the percentage of the undivided interest in the common elements (both general and limited) established herein shall not be changed except with the unanimous consent of all of the co-owners expressed in an amendment to this Deed duly recorded.” *See* Master Deed at Eleventh Paragraph; *see also* S.C. Code Ann. § 27-31-60. Additionally, the

Master Deed requires unanimous consent of “all of the co-owners and the mortgagees of all the mortgages covering Dwelling Units” of the Regime to amend any provisions thereof. *See* Master Deed at Fourteenth Paragraph.

The Regime has discussed the need to amend the Master Deed so that it properly and lawfully describes the Regime property and rights of the co-owners as far back as 2001. In 2018, the Regime commenced a concerted effort to effectuate an amendment to its Master Deed. Since that time the Regime has worked diligently to address the problem regarding the Master Deed. The Regime retained counsel for this purpose, Novit & Scarminach, P.A., and a surveying group, to prepare proposed amendment documents and a revised survey reflecting the current property. The Regime continued to discuss the need for an amendment to the Master Deed, and debate the particular content thereof, throughout 2018 and 2019. Via letter dated October 9, 2019, in an attempt to secure an amendment to the Master Deed, Regime counsel Novit & Scarminach, P.A. sent the co-owners a proposed Consent Resolution, proposed Amendment to Master Deed, and Boundary and As-Built survey (“October 9, 2019 Proposed Amendment”). All co-owners signed the October 9, 2019 Proposed Amendment prepared by Regime Counsel, except for Defendants Kennie Lee Miller Gill and Mr. Amar Singh Gill. After the filing of this lawsuit, Defendants Ken Miller and Anna Miller and the owners of Unit 1592 withdrew their consent to the October 9, 2019 Proposed Amendment. Since that time the Regime has continued to work to procure unanimous consent of all co-owners to the October 9, 2019 Proposed Amendment, as reflected in Regime Meeting Minutes, correspondence, and the Affidavits submitted by the Parties. The Regime has incurred not less than \$20,017.50 in expenses, paid to Regime Counsel, Surveyors, and other charges, associated with its efforts to procure a valid amendment to the Master Deed.

Procedural History

On July 31, 2020, after the failed attempts to pass the October 9, 2019 Proposed Amendment, Plaintiff Taylor filed the instant lawsuit against the Defendants, asserting, *inter alia*, that Defendants illegally expanded Unit 1595 into the Common Area of the Regime, and the encroaching structure must be removed. On December 3, 2020, Defendants filed an Amended Answer and Third Party Complaint against the Regime, seeking, *inter alia*, a Declaratory Judgment that the Regime approved Defendants' addition, and that a valid and enforceable encroachment agreement exists between Defendants and the Regime. On August 26, 2021, the Regime filed a Petition for Relief pursuant to S.C. Code § 33-31-160, seeking an Order from the court requiring, *inter alia*, the Regime to hold a meeting of the members for the purpose of approving an amendment to the Master Deed, to vote on the October 9, 2019 Proposed Amendment, and to alter the voting percentage required to approve an amendment to the Master Deed at the meeting. Plaintiff filed no opposition to the Regime's Petition, and at the hearing held November 22, 2021, supported the Regime's Petition. On November 11, 2021, Defendants/Third Party Plaintiffs filed a Response to the Regime's Petition. Defendants/Third Party Plaintiffs joined in the request (1) for a special meeting to be held for the purpose of consideration by the Council of Co-Owners of the October 9, 2019 Proposed Amendment and any alternatives thereto, and for voting to amend the Master Deed; (2) that the Court order proper notice be provided to the co-owners of the meeting; and (3) that all co-owners be required to attend the special meeting, which may be held via video-conferencing platform or other means to allow for remote attendance in an ADA compliant format. Plaintiffs/Third Party Defendants requested that the Regime's Petition be denied insofar as it seeks to alter the unanimous voting requirement to amend the Master Deed.

Applicable Law and Analysis

The South Carolina Non-Profit Code, S.C. Code § 33-31-160, entitled “Judicial Relief” provides in its entirety:

(a) If for any reason it is impractical or impossible for a corporation to call or conduct a meeting of its members, delegates, or directors, or otherwise obtain their consent, in the manner prescribed by its articles, bylaws, or this chapter, then upon petition of a director, officer, delegate, member, or the Attorney General, the court of common pleas... may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates, or directors be authored, in such a manner as the court finds fair and equitable under the circumstances.

(b) The court, in an order issued pursuant to this section, shall provide for a method of notice reasonably designed to give actual notice to all persons who would be entitled to notice of a meeting held pursuant to the articles, bylaws, and this chapter, whether or not the method results in actual notice to all such persons or conforms to the notice requirements that would otherwise apply. In a proceeding under this section, the court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of or voting at meetings or obtaining votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this chapter.

(d) Whenever practical, any order issued pursuant to this section shall limit the subject matter of meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section. However, an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, or sale of assets.

(e) Any meeting or other method of obtaining the vote of members, delegates, or directors conducted pursuant to an order issued under this section and that complies with all the provisions of such order, is a valid meeting or vote, as the case may be, and has the same force and effect as if it complied with every requirement imposed by the articles, bylaws, and this chapter.

(emphasis added).

The Master Deed requires an amendment in order to lawfully and properly describe the Regime property, dwelling units, common elements, and the rights of the co-owners. All Parties to this Action agree and concede that the Master Deed requires an amendment, and that the Council of Co-Owners and the Board of Administration have a duty to pass an amendment to the Master Deed. I find that the Regime has shown, based on the lengthy history of attempts to amend the Master Deed, the expenses incurred, the discussions and efforts which have taken place since 2018, and the instant lawsuit, that it is impossible or impractical for the Regime to call or conduct a meeting of its members or otherwise obtain their consent in order to vote on a valid amendment to the Master Deed. I further find that the intervention of the Court is warranted to order that a special meeting of the Regime members be called for the purpose of voting on an amendment to the Master Deed under circumstances this Court finds fair and equitable as set forth herein, that notice shall be provided of the special meeting as set forth herein, that it is necessary and appropriate to modify the voting requirement for passage of an amendment to the Master Deed as set forth herein, and that the subject matter of the special meeting shall be limited as set forth herein.

IT IS THEREFORE ORDERED, pursuant to S.C. Code § 33-31-160 and the equitable powers of this Court, that the Regime's Petition for Relief pursuant to S.C. Code § 33-31-160 is hereby **GRANTED** and the Parties are directed and ordered as follows:

1. Within forty-five (45) days of the date of this Order, the Regime shall hold a Special Meeting for the purpose of voting on a proposed amendment to the Master Deed in accordance with the conditions set forth herein. The Special Meeting may be held virtually

via the video-conferencing platform “Zoom” and shall provide closed captioning or live transcription service;

2. At the Special Meeting, if a proposed amendment to the Master Deed receives a majority vote, the Court shall order the amendment to constitute a valid and lawful amendment by subsequent order. Pursuant to the Regime Bylaws, Section 2, a “majority” of co-owners shall mean those co-owners holding 51% or more of the total value of the Property, in accordance with the percentages assigned in the current Master Deed;
3. Prior to the meeting and on a form created by the Regime, each dwelling unit shall select one representative for purposes of speaking on behalf of that dwelling unit and exercising voting rights on behalf of the dwelling unit at the Special Meeting;
4. All co-owners of the Regime shall be entitled to attend the Special Meeting, but the designated representative for each dwelling unit shall attend the Special Meeting ordered herein. If no representative appears on behalf of a dwelling unit at the Special Meeting, they shall forfeit their right to vote on any proposed amendment;
5. The Regime Property Management Company shall issue a Notice of the Special Meeting on behalf of the Regime at least 30 days prior to the date of the meeting, which shall be mailed and electronically mailed to each co-owner of record. The notice shall state the date and time of the Special Meeting. The Notice shall further state the purpose of the meeting is for discussion of proposals for amendment of the Master Deed and for a vote of the co-owners to approve or disapprove the same. The Notice shall enclose a copy of this Order.
6. The following procedures shall apply to the submission of proposed amendments to the Master Deed and voting:

- a. Defendants shall be permitted to present a proposed amendment to the Master Deed. If Defendants wish to submit a proposed amendment to the Master Deed for the consideration of the ownership, Defendants shall submit the proposed amendment to the Master Deed to the Regime Property Management Company via electronic mail at least 10 days prior to the date of the Special Meeting, for distribution to the co-owners via electronic mail;
- b. Plaintiff shall also be permitted to submit a proposed amendment to the Master Deed, which shall be submitted to the Regime Property Management Company at least 10 days prior to the date of the Special Meeting via electronic mail, for distribution to the co-owners via electronic mail;
- c. At the Special Meeting, Defendants shall be entitled to submit a proposed amendment to the Master Deed to the ownership for consideration, if such proposed amendment was provided ten days in advance of the Special Meeting to the co-owners for consideration, pursuant to the following procedures:
 - i. Defendants shall have a maximum of ten minutes to present a proposed Amendment to the Master Deed.
 - ii. At the conclusion of such presentation, if there is a motion to place the proposed amendment up for discussion of the co-owners and a vote, and the motion is seconded, the proposed Amendment shall be submitted to the co-owners for discussion and vote.

- iii. The appointed representative for each Dwelling Unit shall be entitled to a maximum of 10 minutes to speak in support of or in opposition to Defendants' proposed amendment to the Master Deed.
 - iv. There is no requirement that any Dwelling Unit comment on any proposal.
 - v. Following the conclusion of comments, if any, by the representatives of each Dwelling Unit, the Regime shall vote on Defendants' proposed amendment to the Master Deed.
 - vi. If the proposed amendment receives a majority vote, the meeting shall conclude.
- d. If Defendants' proposed amendment to the Master Deed does not receive a majority vote, Plaintiff shall be permitted to present the Regime's proposed amendment to the Master Deed, subject to the following procedures:
- i. Plaintiff shall have a maximum of ten minutes to present a proposed Amendment to the Master Deed.
 - ii. At the conclusion of such presentation, if there is a motion to place the proposed amendment up for discussion of the co-owners and a vote, and the motion is seconded, the proposed Amendment shall be submitted to the co-owners for discussion and vote.
 - iii. The appointed representative for each Dwelling Unit shall be entitled to a maximum of 10 minutes to speak in support of or in opposition to Plaintiff's proposed amendment to the Master Deed.
 - iv. There is no requirement that any Dwelling Unit comment on any proposal.

- v. Following the conclusion of comment by the representatives of each Dwelling Unit, the Regime shall vote on Plaintiff's proposed amendment to the Master Deed.
 - vi. If the proposed amendment receives a majority vote, the meeting shall conclude.
 - e. If no proposed amendments receive a majority vote, the meeting shall conclude.
7. The Regime shall also request a response from each co-owner who is not currently a party to this action, as to whether the co-owner consents to the procedures stated in this Order and the Special Meeting Notice, and if such co-owner waives any and all interests and rights in challenging or objecting to this Order. All responses shall be due at least ten days prior to the date of the Special Meeting. The co-owners shall be notified that failure to respond to the request for such consent shall be deemed consent to the procedures stated in this Order and the Special Meeting Notice, and deemed a waiver of any and all interests and rights in challenging or objecting to this Order. If any co-Owner provides a response affirmatively objecting to the procedures stated in this Order and the Special Meeting Notice, the Regime will have an obligation to join any such co-owner as a third party defendant in this action, for the purpose of stating their objections and being heard by the Court regarding their objections to this Order, within ten days of the date consent responses were due as set forth herein. If a non-party co-owner makes an affirmative objection, the Special Meeting contemplated herein shall be postponed until the Court has heard and ruled upon the objections of the non-consenting co-owner, subject to further Order of the Court;

8. A true and correct copy of the Notice and attachments, which are expressly approved by the Court as complying with the Court's order, are attached hereto as **Exhibit A**.
9. A transcript of the Special Meeting shall be taken by a Court Reporter;
10. The Special Meeting shall be presided over by a third party neutral, to be designated by mutual agreement of the parties, or by the Court in the event the parties cannot agree. The third party neutral shall ensure the Special Meeting is conducted in accordance with the procedures herein;
11. Should a majority of co-owners approve an amendment to the Master Deed at the Special Meeting, the Court shall issue a subsequent Order, ordering the Amendment to constitute a lawful and valid amendment to the Master Deed, with the same force and effect as if it complied with all otherwise applicable legal requirements, and the Court will order the same to be filed in the public records of Beaufort County.

IT IS SO ORDERED:

The Honorable Marvin H. Dukes, III

Beaufort, South Carolina
February, _____, 2022.



Beaufort Common Pleas

Case Caption: Todd E Taylor VS Amar And Kennie Gill Living Trust , defendant, et al
Case Number: 2020CP0701547
Type: Order/Relief

So Ordered:

s/Marvin H. Dukes III #3069

LAGOON VILLAS II, HPR

Notice of Court Ordered Special Meeting of the Owners Day, Month Date, 2022 | 0:00 PM *Virtual Meeting*

DATE: Month Date, 2022
TO: Lagoon Villas II, HPR Property Owners
FROM: The Lagoon Villas II, HPR Board of Directors
RE: The Lagoon Villas II, HPR 2022 Court Ordered Special Meeting

Notice is hereby given to all Owners of record that a Special Meeting of Lagoon Villas II, HPR will be held **Day, Month Date, 2022**, electronically via Zoom.

The purpose of the meeting is for **discussion of proposals for amendment of the Master Deed and for a vote of the co-owners to approve or disapprove the same, in accordance with the conditions set forth in the Order of the Master in Equity of Beaufort County dated _____**, entered in pending Civil Action No. 2020-CP-07-01547, *Todd E. Taylor v. Amar and Kennie Gill Living Trust Dated March 15, 2019; Kennie Lee Miller Gill, Trustee of the Amar and Kennie Gill Living Trust Dated March 15, 2019; Kenneth V.L. Miller; and Anna M. Miller v. South Beach Village Lagoon Villas, II, Horizontal Property Regime LVII.*

This Notice is being sent to you pursuant to the instructions of the Court, and includes important information regarding the Special Meeting and the Court-ordered process for submission and vote on proposed amendments to the Master Deed.

The following Special Meeting materials are enclosed for your review;

- ◆ Agenda for the Meeting
- ◆ Villa Representative Voter Designation Form (Response required)
- ◆ Non-Party Consent and Waiver (Response required)
- ◆ Court Order dated _____ (the "Order")

Under the terms of the Court Order, electronic attendance is REQUIRED by a Villa Representative who shall serve as the designated voter for each unit. No proxies will be accepted, and FAILURE TO APPEAR ELECTRONICALLY WILL RESULT IN YOUR VOTE BEING FORFEITED.

To attend the Special Meeting: [Insert Zoom instructions here]

Please find attached hereto: (1) Villa Representative Voter Designation Form; and (2) Non-Party Consent and Waiver Designation. Please complete both forms and return the forms by _____, via email to Regime Property Management at Bryan@IMCHHI.com.

Pursuant to Section 5(f) of the Order, and via the Non-Party consent and Waiver form, the Regime requests a response from each co-owner as to whether the co-owner consents to the



6712633v.1 Going Green: Please bring this package with you to the annual meeting as extra copies of its contents will not be provided.

LAGOON VILLAS II, HPR

Notice of Court Ordered Special Meeting of the Owners
Day, Month Date, 2022 | 0:00 PM
Virtual Meeting

procedures stated in the Order and this Special Meeting Notice, and if such co-owner waives any and all interests and rights in challenging or objecting to the Order. **All responses shall be due at least ten days prior to the date of the Special Meeting.** Further:

The co-owners shall be notified that **failure to respond to the request for such consent shall be deemed consent to the procedures stated in this Order and the Special Meeting Notice, and deemed a waiver of any and all interests and rights in challenging or objecting to [the] Order. If any co-Owner provides a response affirmatively objecting to the procedures stated in this Order and the Special Meeting Notice, the Regime will have an obligation to join any such co-owner as a third party defendant in this action, for the purpose of stating their objections and being heard by the Court regarding their objections to the Order, within ten days.**

Pursuant to the Order:

At the Special Meeting, if a proposed amendment to the Master Deed receives a majority vote, the Court shall order the amendment to constitute a valid and lawful amendment by subsequent order. Pursuant to the Regime Bylaws, Section 2, a "majority" of co-owners shall mean those co-owners holding 51% or more of the total value of the Property, in accordance with the percentages assigned in the current Master Deed.

Please review the enclosed Court Order for the full statement of applicable procedures prior to and at the Special Meeting, including procedures for the submission of proposed amendments to the Master Deed and for voting at the Special Meeting.

Please contact, Bryan Dorshimer, our Association Manager at 843-785-4775 ext. 108 or via e-mail at Bryan@IMCHHI.com if you have any questions or would like any additional information.



6712633v.1 Going Green: Please bring this package with you to the annual meeting as extra copies of its contents will not be provided.

Lagoon Villas, II HPR

2022 Court Ordered Special Meeting of the Owners Villa Representative Voter Designation Form

I am a member of the **LAGOON VILLAS II** and owner of Villa _____. I/We hereby designate _____ to act as my Villa Representative at the **2022 Court Ordered Special Meeting of the Owners held on Day, Month Date, 2022. I understand that the Villa Representative shall exercise voting powers on behalf of my Villa and shall speak on behalf of my Villa in accordance with the procedures as stated in the Court Order dated ____ and Special Meeting Notice dated ____.** This Voter Designation is valid only for the 2022 Court Ordered Special Meeting any lawful adjournment thereto.

Date: _____

Villa Number: _____

Print
Owner
Name: _____

Print
Co-Owner
Name: _____

Sign
Owner
Name: _____

Sign
Co-Owner
Name: _____

ELECTRONICALLY FILED - 2022 Feb 02 12:33 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0701547
ELECTRONICALLY FILED - 2022 Feb 03 10:00 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0701547

6712668v.1 PLEASE RETURN THIS VOTER DESIGNATION BY Time, Day, Month Date,
2022.

WHEREAS, on _____, the Master in Equity for Beaufort County entered an Order granting the Regime’s Petition (“Order”);

WHEREAS, I am a co-owner of a Villa located in the Regime, and I have received a copy of the Order;

Whereas, the Order states

The Regime shall also request a response from each co-owner who is not currently a party to this action, as to whether the co-owner consents to the procedures stated in this Order and the Special Meeting Notice, and if such co-owner waives any and all interests and rights in challenging or objecting to this Order. All responses shall be due at least ten days prior to the date of the Special Meeting. The co-owners shall be notified that failure to respond to the request for such consent shall be deemed consent to the procedures stated in this Order and the Special Meeting Notice, and deemed a waiver of any and all interests and rights in challenging or objecting to this Order. If any co-Owner provides a response affirmatively objecting to the procedures stated in this Order and the Special Meeting Notice, The Regime will have an obligation to join any such co-owner as a third party defendant in this action, for the purpose of stating their objections and being heard by the Court regarding their objections to the Order, within ten days of the date consent responses were due as set forth herein;

WHEREAS, I have received a copy of the Special Meeting Notice dated_____.

Following Review of this matter and the Court’s Order and the Special Meeting Notice:

(check one)

_____: I consent to the procedures stated in the Court’s Order and the Special Meeting Notice dated [date]. I waive any and all interests and rights in challenging or objecting to the Order.

Or

_____: I do not consent to the procedures stated in the Court’s Order and Special Meeting Notice. I wish to be heard by the Court regarding my objections to the Court’s Order and Special Meeting Notice. I understand that by making this objection, I will be joined as a party in the pending civil action for the purpose of stating my objections and being heard by the Court regarding my objections to the Court’s Order.

Date: _____ **Villa Number:** _____

**Print
Owner Name:** _____

Sign Owner Name: _____

Date: _____ **Villa Number:** _____

**Print
Owner Name:** _____

Sign Owner Name: _____

Date: _____ **Villa Number:** _____

**Print
Owner Name:** _____

Sign Owner Name: _____



Beaufort Common Pleas

Case Caption: Todd E Taylor VS Amar And Kennie Gill Living Trust , defendant, et al
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s/Marvin H. Dukes III #3069

consent of 100% of the co-owners of the Regime in order to effect such an amendment. Per Regime Meeting Minutes, the Regime membership has acknowledged the necessity of an amendment to the Master Deed as far back as 2003. Since 2018, the Regime has incurred approximately \$25,000.00 in expenses representing attorney's fees, surveying fees and other costs in pursuing an amendment to the Master Deed. Despite these efforts, the Regime has been unable to effect the necessary amendment to the Master Deed due to the 100% co-owner approval requirement. The Regime seeks relief from the Court pursuant to S.C. Code § 33-31-160 in order to effect the necessary amendment to the Master Deed, showing the Court as follows:

1. This action concerns property within the South Beach Village Lagoon Villas II Horizontal Property Regime LVII, established pursuant to the Master Deed filed in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 215 at Page 1092 (the "Master Deed"). The Master Deed and Bylaws are attached hereto as **Exhibit A**.

2. The Regime and Regime property are subject to and governed by and in accordance with the Master Deed, Bylaws, amendments thereto, and various rules and regulations ("Governing Documents"). *See* Exhibit A.

3. The Regime is subject to the provisions of the Horizontal Property Act, S.C. Code Ann. § 27-31-10, et. seq. (the "Act").

4. The Regime is a non-profit corporation formed and existing under the laws of the State of South Carolina, and subject to the provisions of the South Carolina Non-Profit Code, S.C. Code Ann. § 33-31-101, et seq.

5. The Regime property is located on Hilton Head Island, in Beaufort County, South Carolina, and includes three (3) buildings, containing six (6) individual dwelling units.

6. The six (6) dwelling units are owned by co-owners, each of whom has a particular and exclusive property right to their dwelling unit, as well as an undivided interest in the general and limited common elements of the Regime.

7. Pursuant to the Governing Documents, the co-owners of the dwelling units constitute the Council of Co-Owners, who have the responsibility of administering the Regime property. The affairs of the Council of Co-Owners are governed by a Board of Administration comprised of five persons, all of whom must be co-owners of dwelling units.

8. The Plaintiff in this action is the owner of residential real property in the Regime located at 226 Sea Pines Drive, Apt. 1596, Hilton Head Island, South Carolina.

9. Defendants are the owners of residential real property in the Regime which adjoins Plaintiff's property, located at 226 Sea Pines Drive, Apt. 1595, Hilton Head Island, South Carolina.

10. The Act sets out various requirements as to the contents of a Master Deed establishing and governing a Horizontal Property Regime, including:

- (a) The description of the land...and the building or buildings in existence or to be constructed, if applicable, expressing their respective areas;
- (b) The general description and number of each apartment, expressing its area, location...;
- (c) The description of the general common elements of the property, and in proper cases, of the limited common elements restricted to a given number of apartments...

See S.C. Code Ann. § 27-31-100. Additionally, The Master Deed must include:

a map or plat showing the horizontal and vertical location of any building which is proposed or in existence and other improvements within the property boundary, which shall have the seal and signature of a registered land surveyor licensed to practice in this State. There must also be attached a plot plan of the completed or proposed construction showing the location of the building which is proposed or in existence and other improvements, and a set of floor plans of the building which must show graphically the dimensions, area, and location of each apartment therein and the dimension, area, and location of common elements affording access to each apartment. Other common elements, both limited and general, must be shown graphically insofar as possible and must be described in detail in words and figures. The building plans must be certified to by an engineer or architect authorized and licensed to practice his profession in this State.

See S.C. Code Ann. § 27-31-110.

11. The Master Deed incorporates and/or includes a plat and plans showing and describing the Regime property, including individual dwelling units and common elements.

12. Pursuant to the Master Deed, the Regime property is defined and specified as having “a total area of 0.77 acres of which 8,071.21 square feet will constitute Dwelling Units, and 25,469.99 square feet will constitute common elements.” See Master Deed at Fourth Paragraph.

13. Further, the dwelling units making up Regime property are described and the measurements of the various units are identified.

1. Building 1: This buildings contains two (2) Dwelling Units (hereinafter referred to as “Villas”) and commonly referred to as Villas 1591 and 1592.
2. Building 2: This building contains two (2) Dwelling Units commonly referred to as Villas 1593 and 1594.
3. Building 3: This building contains two (2) Dwelling Units commonly referred to as Villas 1595 and 1596.

...[T]he Villas, as shown on the plans of the Property, are composed of four (4) 2 bedroom Type A Villas, and two (2) three bedroom Type B Villas.

1. Two-bedroom Type A Villas: (Units 1591, 1592, 1595, and 1596). These Villas measure 39.83 feet wide and 36.66 feet deep in their maximum interior dimensions and contain a net interior area of 1,086 square feet.
2. Three-bedroom Type B Villas: (Units 1593 and 1594) These Villas measure 44.83 feet wide and 44 feet deep in their maximum interior dimensions and contain a net interior area of 1,400 square feet.

See Master Deed at Fifth Paragraph.

14. As defined in the Master Deed, the general common elements and the limited common elements together comprise the “Common Elements” of the Regime. The general common elements include all Regime property, excluding the limited common elements and the

dwelling units. *See* Master Deed at Third Paragraph, Fifth Paragraph. The limited common elements include pertinently, “the rear and front yards and service areas...adjacent to each dwelling unit...” *See* Master Deed at Fifth Paragraph.

15. Pursuant to the Act, the owner of a dwelling unit,

shall have the exclusive ownership of his apartment and shall have a common right to a share, with the other co-owners, in the common elements of the property, equivalent to the percentage representing the value of the individual apartment, with relation to the value of the whole property. This percentage shall be computed by taking as a basis the value of the individual apartment in relation to the value of the property as a whole....

The basic value, which shall be fixed for the sole purpose of this chapter and irrespectively of the actual value, shall not prevent each co-owner from fixing a different circumstantial value to his apartment in all types of acts and contracts.

See S.C. Code Ann. § 27-31-60.

16. Thus, in accordance with the Act, the Master Deed provides:

The title and interest of each co-owner of a Dwelling Unit in the common elements...and their proportionate share in the profits and common elements (both general and limited), as well as the proportionate representation for voting purposes ...is based on the proportionate value of each Dwelling Unit to the total value of the Property. The total value of the Property is Four Hundred Fifty-Eight Thousand Dollars (\$458,000). The value of each Dwelling Unit and its proportionate percentage interest is set forth below. Such values shall not be deemed to limit the price for which the Property of any Dwelling Unit may be sold or exchanged are as follows:

- A. Dwelling Units 1591, 1592, 1595 and 1596: 15.939 percent each based on a value of \$73,000 for each of said Dwelling Units.
- B. Dwelling Units 1593 and 1594: 18.122 percent each based on a value of \$93,000 for each of said Dwelling Units.

See Master Deed at Sixth Paragraph.

17. Pursuant to the Master Deed, “the common elements shall remain undivided.” *See* Master Deed at Tenth Paragraph; *see also* S.C. Code Ann. § 27-31-70.

18. Pursuant to S.C. Code Ann. § 27-31-80, “Each co-owner may use the elements held in common in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other co-owners.”

19. Pursuant to the Master Deed, “the percentage of the undivided interest in the common elements (both general and limited) established herein shall not be changed except with the unanimous consent of all of the co-owners expressed in an amendment to this Deed duly recorded.” *See* Master Deed at Eleventh Paragraph; *see also* S.C. Code Ann. § 27-31-60.

20. Additionally, the Master Deed requires unanimous consent of all co-owners of the Regime to amend any provisions thereof. *See* Master Deed at Fourteenth Paragraph.

Expansion of Encroaching Units and Discussion of Attempts to Amend the Master Deed to Reflect Changes to Regime Property

21. Over the past many years, owners of Dwelling Unit 1591, Dwelling Unit 1594 and Dwelling Unit 1595 (the “Encroaching Units”) were expanded such that they encroach into common elements of the Regime. Thus three (3) of the six (6) dwelling units that make up the Regime now encroach into the Common Elements of the Regime.

22. The expansion of the Encroaching Units into the common elements is prohibited under the Master Deed and the Act, regardless of whether the expansions were done with the consent of the Regime’s Board of Administration.¹

23. As a result, the description and depiction of the Regime property and the Encroaching Units as set forth in the Master Deed no longer conform to the physical layout of Regime property as it currently exists. Additionally, the Encroaching Units have in effect subdivided the Common Elements of the Regime.

¹ Upon information and belief the Regime and owners approved the expansion projects. Due to the passage of time, however, it is unclear if documents exist showing that written requests for all units were submitted for approval and that such requests were formally approved.

24. Upon information and belief, the expansion to Defendant's Unit (1595) was completed in approximately 1998; the expansion to unit 1594 was completed in approximately 2002; the expansion to Unit 1591 was completed in approximately 2004.

25. At various points and as the expansions of the Encroaching Units were completed, the Regime co-owners agreed among themselves to change the ownership percentages of the various units, such that the owners of the Encroaching Units would be re-assessed and would pay an increased share of common expenses reflecting the larger portion of the total Regime property the Encroaching Units now comprised. At various times, the Regime operated by mutual agreement using these informally adopted ownership percentages, rather the ownership percentages set forth in the Master Deed.

26. As far back as 2003, Regime Meeting Minutes reflect a discussion among the co-owners of the need to amend the Master Deed in order to reflect additions to the various Encroaching Units, and attempts to retain professionals to prepare the necessary amendments for the Regime.

27. On October 16, 2003, the co-owners requested that Unit 1594 be re-assessed in light of its expansion, and that there be an amendment to the Master Deed reflecting this change.

28. On October 14, 2004, meeting minutes reflect counsel was retained to prepare an amendment:

[R]egarding additions to the units such as those at 1594 and 1595, when those additions are recorded as changes to the Master Deed, they will also be included under the regime's master policy. [A co-owner] noted that when [counsel] was contracted to file an amendment to the deed for unit 1594 he discovered that there had never been one file for the addition to unit 1595. As there is a request before the owners for an addition to 1591, [property management] suggested that the deed be amended one time, inclusive of all 3 unit renovations, which will keep the cost down. All members were in agreement with this plan."...

...The...owners of unit [1591] presented a plan for an addition to their unit for approval. They explained that the integrity of the footprint of the unit

would not change, but that they would partially enclose the rear and extend the deck area...

29. Despite attempts to retain counsel and move forward with the necessary amendments in 2004, no such amendment was filed. In 2012, the issue re-surfaced, and the co-owners again discussed the Master Deed discrepancies, in the context of concern about whether the expansions of the 3 Encroaching Units were covered under the Regime's insurance policies.

30. On October 20, 2017, the co-owners again discussed the need to amend the Master Deed. Meeting Minutes reflect the following:

Unfinished Business

[Defendant] Kennie Gill updated the ownership with stating she did some more research on the Master Deed and By-laws. She explained they were out of date, and they would eventually need to be updated. In addition, the percentage of ownership was not current, with the patio additions and improvements, and suggested to have them included for the insurance coverage...[property management] advised most Regimes pay around \$5,000 for legal assistance pertaining to Master Deeds and By-Law changes. After some discussion, it suggested to have the Master Deed and Bylaws updated when the funds were available.

31. Following the October 20, 2017 Regime meeting, Defendant Kennie Miller Gill contacted Novit & Scarminach, P.A. for a legal opinion "regarding the title issues resulting from enlargements to certain Dwelling Units located within the [Regime] and the legal requirements for bringing the Regime into compliance with the Master Deed and applicable South Carolina law."

32. Throughout 2017, 2018, and 2019, and Regime was advised by Counsel that an amendment to the Master Deed is required to reflect the expansion of the Encroaching Units and the changes to the Regime property².

² The advice provided by counsel to the Regime has been shared and discussed among the Regime ownership, in order to discuss the basis and need for an amendment to the Master Deed. However, the Regime does not broadly waive the attorney-client privilege as to the advice rendered by Novit & Scarminach, P.A.

33. In May 2018, Defendant Kennie Miller Gill raised concerns via email that immediate corrective action was required to address the problems regarding the Encroaching Units and the Master Deed.

34. Throughout 2018 and 2019, the Regime continued to work with counsel to prepare proposed amendment documents to satisfy the ownership and address the issues created by the Encroaching Units.

35. The Regime engaged Survey Consultants to provide a revised survey of the Regime Property reflecting the current property, including the Encroaching Units, for use in the amendment process.

36. On May 9, 2019, Regime Meeting Minutes reflect continued discussion of the proposed Master Deed amendments, and the necessity of the same:

Master Deed and By Laws Status – [President/Plaintiff Taylor] reported the Association has been working on Master Deed and By Law amendments for a little over a year. Attorney Novit & Scarminach and Survey Consultants have both been retained during this process. Attorney Charles Scarminach advised that 100% agreement by the owners must be obtained to approve Master Deed amendments. [President] read 2 letters and an email from Attorney Charles Scarminach. [President/Plaintiff] referenced plat “Exhibit A” originally filed with the Master Deed. He reported the original dwelling descriptions are no longer accurate due to villa remodeling and adding on to the square footage. [President/Plaintiff] then went on to reference an “Interior/Exterior Measurements” excel spreadsheet as measured by Survey Consultants....There are (2) options to reallocate and define values proportionately; 1.) use interior dimensions as measured by Survey Consultants. 2.) use exterior dimensions as measured by Survey Consultants. Discussion ensued regarding the (2) options. A special meeting will be called to officially vote on the proposed amendments. [President/Plaintiff] thanked Kennie Gill for her work on this project.

37. By letter dated August 2, 2019, the Regime was contacted by attorney John A. Elder, IV, representing owner Bill Tatum. Mr. Elder asserted that the Regime’s Master Deed was in violation of the South Carolina Horizontal property Act, and that the Regime has a duty to

correct the issues with the Master Deed. Mr. Elder further advised he intended to explore judicial alternatives to effectuating a correction and amendment to the Master Deed.

38. Following this correspondence, then-Regime President corresponded with the co-owners about the continuing need to correct the Master Deed, and available options for doing so.

39. Via letter dated October 9, 2019, in an attempt to secure an amendment to the Master Deed, Regime counsel Charles Scarminach sent the co-owners a proposed Consent Resolution, proposed Amendment to Master Deed, and Boundary and As-Built survey showing the correct interior area of each Dwelling Unit (“October 9, 2019 Proposed Amendment”). A true and correct copy of the October 9, 2019 Proposed Amendment is attached hereto as **Exhibit B**.

40. All co-owners signed the October 9, 2019 Proposed Amendment prepared by Mr. Scarminach, except for Defendants Kennie Lee Miller Gill and Mr. Amar Singh Gill. True and correct copies of the co-owner signatures consenting to the October 9, 2019 are attached to the October 9, 2019 Proposed Amendment attached hereto as **Exhibit C**.

41. At the Annual Meeting held October 17, 2019, the co-owners discussed the continuing need to amend the Master Deed and the difficulties created by the delay.

42. The Regime held a special meeting on January 29, 2020, and discussed the continuing need to amend the Master Deed and the challenges posed in continuing to conduct the business and necessary maintenance of the Regime in light of the issues created by the Encroaching Units.

43. Throughout 2020, the co-owners continued to discuss the need to amend the Master Deed, and disputes regarding the content of the amendment.

44. All owners have not attended the meetings of the Association, preventing the ability to hold a vote at which 100% approval could be obtained per the requirements of the Governing Documents.

45. To date, the Regime has incurred the following expenses in its attempt to effectuate an amendment to the Master Deed, in a total amount not less than \$24,855.00:

- a. Attorney's fees paid to Novit & Scarminach, P.A.: \$7,825.00;
- b. Fees paid to Surveying Consultants, Inc.: \$16,030.00; and
- c. Insurance Deductible following being named as party to instant action: \$1,000.

Development of Dispute and Filing of Instant Lawsuit

46. On July 31, 2020, following the inability of the Regime to effectuate an amendment to the Master Deed, Plaintiff Taylor filed the instant lawsuit against the Defendant, asserting, *inter alia*, that Defendant illegally expanded Unit 1595 into the Common Area of the Regime, and the encroaching structure must be removed.

47. On December 3, 2020, Defendant filed an Amended Answer and Third Party Complaint against the Regime, seeking, *inter alia*, a Declaratory Judgment that the Regime approved Defendant's addition, and that a valid and enforceable encroachment agreement exists between Defendant and the Regime.

48. Following the filing of the instant action, some of the co-owners who previously consented to the October 9, 2019 Proposed Amendment withdrew their consent.

Relief Requested by Regime

49. The South Carolina Non-Profit Code, S.C. Code § 33-31-160, entitled "Judicial Relief" provides in its entirety:

- (a) If for any reason it is impractical or impossible for a corporation to call or conduct a meeting of its members, delegates, or directors, or **otherwise obtain their consent**, in the manner prescribed by its articles, bylaws, or this chapter, then upon petition of a director, officer, delegate, member, or the Attorney General, the court of common pleas... may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates, or directors be authored, in such a manner as the court finds fair and equitable under the circumstances.

(b) The court, in an order issued pursuant to this section, shall provide for a method of notice reasonably designed to give actual notice to all persons who would be entitled to notice of a meeting held pursuant to the articles, bylaws, and this chapter, whether or not the method results in actual notice to all such persons or conforms to the notice requirements that would otherwise apply. In a proceeding under this section, the court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of or voting at meetings or obtaining votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this chapter.

(d) Whenever practical, any order issued pursuant to this section shall limit the subject matter of meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section. However, an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, or sale of assets.

(e) Any meeting or other method of obtaining the vote of members, delegates, or directors conducted pursuant to an order issued under this section and that complies with all the provisions of such order, is a valid meeting or vote, as the case may be, and has the same force and effect as if it complied with every requirement imposed by the articles, bylaws, and this chapter.

(emphasis added).

50. The Master Deed requires an amendment in order to lawfully and properly describe the Regime property, dwelling units, common elements, and the rights of the co-owners.

51. The Regime shows, based on the lengthy history of attempts to amend the Master Deed, the expenses incurred, the protracted discussion and efforts which have taken place since 2018, and the instant lawsuit, that it is impossible and impractical for the Regime to call or conduct a meeting of its members or otherwise obtain their consent in order to vote on a valid amendment to the Master Deed.

52. The Regime submits this Petition, praying that this Court order that such a meeting be called or that a written ballot of other form of obtaining the vote of the members be authored,

in such a manner as the Court finds fair and equitable under the circumstances. The Regime further requests that the Court dispense with requirements relating to the holding of or voting at meetings or obtaining votes, including the requirements relating to quorums and percentage of votes needed for approval.

53. Specifically, the Regime requests the following relief:

- a. That the Court order the Regime to hold a special meeting for the purpose of approving an amendment to the Master Deed;
- b. That the Court order proper notice be provided to the co-owners of the Special Meeting;
- c. That the October 9, 2019 Proposed Amendment will be provided to the co-owners for a vote at the Special Meeting.
- d. That all co-owners be required to attend the Special Meeting, which may be held via video-conferencing platform or other means to allow for remote attendance;
- e. That the Court will alter the voting requirement, and order that should the amendment receive a majority approval of the co-owners based on voting percentages expressed in the Sixth paragraph of the current Master Deed, the amendment will be ordered by the Court to constitute a valid and lawful amendment to the Master Deed, with the same force and effect as if it complied with all otherwise applicable legal requirements, and the Court will order the same to be filed in the public records of Beaufort County.

54. The Regime further requests such other relief as the Court may deem appropriate, under S.C. Code § 33-31-160 and otherwise.

[SIGNATURE PAGE TO FOLLOW]

This 25th day of August, 2021.

Respectfully submitted,

COPELAND, STAIR, KINGMA & LOVELL, LLP

40 Calhoun Street, Suite 400
Charleston, South Carolina 29401-3531
dmackelcan@cskl.law
lhoughton@cskl.law
Ph: 843-727-0307

By: *s/Douglas W. MacKelcan*
DOUGLAS W. MACKELCAN
State Bar No.: 76332
LACEY L. HOUGHTON
State Bar No.: 102968
Attorneys for Third-Party Defendant

ELECTRONICALLY FILED - 2021 AUG 25 5:33 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0701547

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

1092

SEA PINES PLANTATION COMPANY)
)
TO) MASTER DEED
)
SOUTH BEACH VILLAGE LAGOON VILLAS II) HORIZONTAL PROPERTY REGIME
HORIZONTAL PROPERTY REGIME LVII)

At Hilton Head Island, County of Beaufort, and State of South Carolina, on this 19th day of October, 1973, Sea Pines Plantation Company, a South Carolina Corporation, whose principal office is situated on Hilton Head Island, State of South Carolina, (hereinafter referred to as "Grantor"), does hereby declare:

FIRST: That Grantor owns a property situated at Hilton Head Island, County of Beaufort, State of South Carolina, which is described as follows:

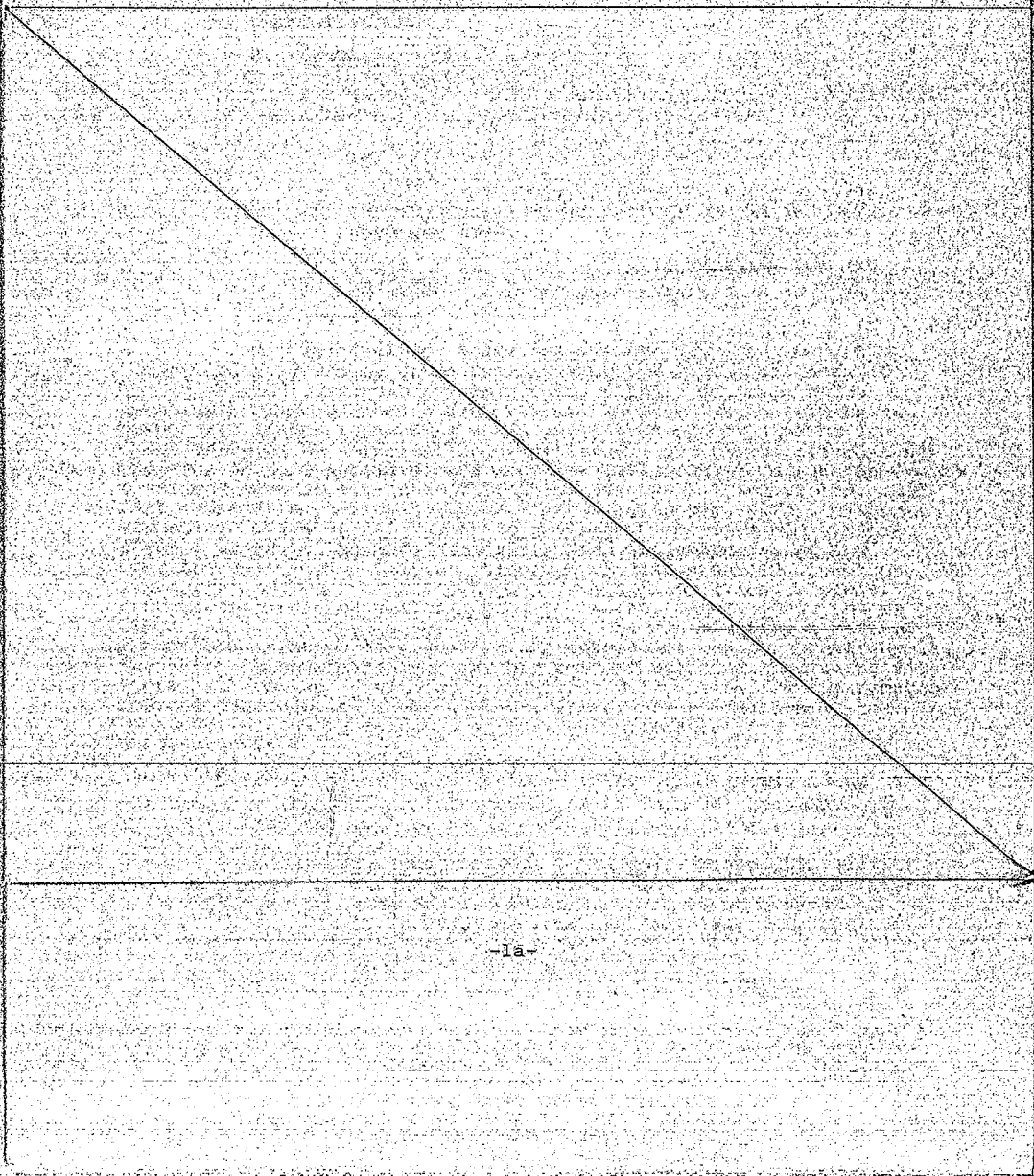
ALL that certian piece, parcel or lot of land, with improvements thereon, situate, lying and being in Sea Pines Plantation on Hilton Head Island, Beaufort County, South Carolina, known as South Beach Village Lagoon Villas II, Horizontal Property Regime LVII as shown on a plat thereof prepared by Calvert Surveying Company, Inc., R.L.S., which said plat is dated October 2, 1973, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina, in Plat Book 21 at Page 149; said herein described property commencing at a Point of Beginning which said Point of Beginning is the generally northernmost point of the above described South Beach Village Lagoon Villas II property and its intersection with a portion of lands identified as Port Villas; thence S 44° E a distance of 46 feet to a point; thence S 17° 45' W a distance of 239 feet to a point; thence S 46° W a distance of 112 feet to a point; thence N 44° W a distance of 77 feet to a point; thence N 46° E a distance of 37 feet to a point; thence N 3° 43' E a distance of 74.34 feet to a point; thence N 51° 32' W a distance of 65.58 feet to a point; thence S 63° 30' E a distance of 48.18 feet to a point; thence N 67° 30' E a distance of 30 feet to a point; thence N 33° 14' E a distance of 30 feet to a point; thence N 18° 42' E a distance of 30 feet to a point; thence N 3° 35' W a distance of 30 feet to a point; thence N 45° 51' E a distance of 57.70 feet to a point; thence S 49° 09' E a distance of 20 feet to a point; thence N 45° 51' E a distance of 62 feet to the Point of Beginning of the within described property. Said property is generally bounded on its East by a lagoon, on its West by Lagoon Villas Phase I, an access roadway, and Port Villas all being located within Sea Pines Plantation, Hilton Head Island, Beaufort County, South Carolina. For a more detailed description as to location, courses, metes, bounds and distances, reference to said plat of record is craved.

AND ALSO, a nonexclusive easement for ingress and egress on all existing roads within Sea Pines Plantation Company including, but not limited to, roads in existence running from the eastern portion of the above described property to South Sea Pines Drive said ingress and egress roads having their center lines shown and indicated on the

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above referred to plat of record which said plat was prepared by Calvert Surveying Company, Inc., R.L.S., and entitled "Lagoon Villas Phase II."

SECOND: That Grantor (intending to create a horizontal property regime that shall be known as South Beach Village Lagoon Villas II, Horizontal Property Regime LVII hereinafter called the "Regime") has constructed on the parcel of land described above certain buildings and other improvements (which, together with the land described in Paragraph "FIRST", all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto and hereinafter usually referred to as the "Property"), according to the plans attached hereto and identified as Exhibit "B", which were certified to by Richard E. Collins, Jr., A.T.A., an architectural firm duly authorized and licensed to practice in the State of South Carolina, on the 27th day of September, 1973, and which are made a part hereof.



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THIRD: That the Property includes three (3) buildings, containing six (6) individual dwelling units (hereinafter referred to as "Dwelling Units") all of which are to be used for residential purposes. The Dwelling Units are all capable of individual utilization on account of having their own exits to the common elements of the Property, and they will be sold to one or more co-owners, each co-owner obtaining a particular and exclusive property right thereto, and also undivided interest in the general and limited common elements of the Property, as listed hereinafter in this Deed, necessary for their adequate use and enjoyment (hereinafter referred to as "common elements"), all of the above in accordance with the Horizontal Property Act of South Carolina.

FOURTH: That Property has a total area of 0.77 acres of which 8,071.21 square feet will constitute Dwelling Units, and 25,469.99 square feet will constitute common elements.

FIFTH:

I. DWELLING UNITS.

A. General:

1. Building #1: This building contains two (2) Dwelling Units (hereinafter referred to as "Villas") and commonly referred to as Villas 1591 and 1592.
2. Building #2: This building contains two (2) Dwelling Units commonly referred to as Villas 1593 and 1594.
3. Building #3: This building contains two (2) Dwelling Units commonly referred to as Villas 1595 and 1596.

B. The Dwelling Units include the space enclosed by the unfinished surfaces of perimeter and interior walls, ceilings and floors thereof, including vents, doors, windows and such other structural elements that ordinarily are regarded as enclosures of space; all interior dividing walls and partitions (including the space occupied by such walls or partitions); and the decorated inner surfaces of said perimeter and interior walls (including the decorated inner surfaces of all interior load-bearing walls) and floors, ceilings, consisting, as the case may be, of wallpaper, paint, plaster, carpeting, tiles and all other furnishings, materials and fixtures affixed or installed and for the sole and exclusive use of any Dwelling Unit, commencing at the point of disconnection from the structural body of the building and from utility lines, pipes or systems serving the Dwelling Unit. No pipes, wires, conduits, or other public utility lines or installations constituting a part of the overall systems designed for the service of any particular Dwelling Unit of a building, nor any property of any kind, including fixtures and appliances within any Dwelling Unit, which are not removable without jeopardizing the soundness, safety, or usefulness of the remainder of the building, shall be deemed to be a part of any Dwelling Unit.

C. Villas: That the Villas, as shown on the plans of the Property (EXHIBIT "B") are composed of four (4) two-bedroom Type A Villas; and two (2) three-bedroom Type B Villas.

1. Two-bedroom Type A Villas: (Units 1591, 1592, 1595 and 1596) These Villas measure 39.83 feet wide and 36.66 feet deep in their maximum interior dimensions and contain a net interior area of 1,086 square feet.

2. Three-bedroom Type B Villas: (Units 1593 and 1594) These Villas measure 44.83 feet wide and 44 feet deep in their maximum interior dimensions and contain a net interior area of 1,400 square feet.

II. COMMON ELEMENTS:

A. The General Common Elements are as follows:

1. The Property, excluding the limited common elements and the Dwelling Units, and including, but not limited to, the foundations, roofs, floors, ceilings, perimeter walls, load-bearing interior walls and partitions, slabs, stairways, pipes, wires, conduits, air ducts, and public utility lines, including the space actually occupied by the above.
2. Tanks, pumps, motors, fans, compressors, ducts, and, in general, all apparatus and installation existing for common use, including a substitution of same or additional equipment which may be acquired by the Council of Co-Owners or the Regime.
3. Parking facilities located on the Property, which parking facilities consist of approximately 1,701 square feet, and are shown on the Plat of the Property (attached hereto and identified as Exhibit "A").
4. All roads, walkways, paths, trees, shrubs, yards, gardens, etc., located on the Property.
5. All other elements of the Property, constructed or to be constructed, rationally of common use or necessary or convenient to the existence, upkeep, and safety of the Property, and, in general, all other devices or installations existing for common use.

B. The Limited Common Elements are as follows:

1. The rear and front yards and service areas (shown on the plat attached hereto and identified as Exhibit "A") adjacent to each Dwelling Unit, the storage cabinets located in the service yards, and the fences screening the service areas are limited common elements and are each restricted to the use of the Dwelling Unit adjacent to such limited common elements, respectively.

SIXTH:

I. That the title and interest of each co-owner of a Dwelling Unit in the common elements listed in Sub-Paragraph II of Paragraph "FIFTH" and their proportionate share in the profits and common elements (both general and limited), as well as the proportionate representation for voting purposes in the meeting of the Council of Co-Owners (hereinafter referred to as "Council") of the Regime is based on the proportionate value of each Dwelling Unit to the total value of the Property. The total value of the Property is Four Hundred Fifty-eight Thousand Dollars (\$458,000.00). The value of each Dwelling Unit and its proportionate percentage interest is set forth below. Such values shall not be deemed to limit the price for which the Property or any Dwelling Unit may be sold or exchanged are as follows:

A. Dwelling Units 1591, 1592, 1595 and 1596: 15.939 per cent each based on a value of \$73,000 for each of said Dwelling Units.

B. Dwelling Units 1593 (and 1594): 18.122 per cent each based on a value of \$83,000 for each of said Dwelling Units.

SEVENTH: That the administration of the Regime consisting as aforesaid of the Property described in Paragraphs "FIRST" and "FIFTH" of this Deed shall be in accordance with the provisions of the By-Laws which are made a part hereof of this Deed and are attached hereto as Exhibit "C".

EIGHTH: That, as appears above, a Horizontal Property Regime is hereby constituted under and subject to the provisions of the Horizontal Property Act of the State of South Carolina, so that Dwelling Units may be conveyed and recorded as individual properties capable of independent use, and each having its own exit to the common elements of the Property, and each Dwelling Unit co-owner having an exclusive and particular right over his respective Dwelling Unit and in addition the specified undivided interest in the common elements of the Property.

NINTH: That so long as the Grantor owns one or more of the Dwelling Units, the Grantor shall be subject to the provisions of this Deed and of Exhibits "A", "B", and "C" attached hereto and the Grantor covenants to take no action which will adversely affect the rights of the Regime with respect to the assurances against latent defects in the Property or other rights assigned to the Regime by reason of the establishment of said Horizontal Property Regime.

TENTH: That the common elements shall remain undivided and no co-owner shall bring any action for partition and/or division.

ELEVENTH: That the percentage of the undivided interest in the common elements (both general and limited) established herein shall not be changed except with the unanimous consent of all of the co-owners expressed in amendment to this Deed duly recorded.

TWELFTH: That the undivided interest in the common elements (both general and limited) shall not be separated from the Dwelling Unit to which it appertains and shall be deemed conveyed or encumbered with the Dwelling Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

THIRTEENTH: That each co-owner shall comply with the provisions of this Master Deed, the Declaration of Covenants, Restrictions, and Affirmative Obligations Applicable to all Class "B" Multi-Family Residential Areas by Sea Pines Plantation Company dated July 9, 1964, and recorded in the Office of the Clerk of Court for Beaufort County at Book 124 of Deeds, Page 35, and any applicable recorded additions or amendments thereto, the Regime By-Laws, decisions resolutions of the Council of Co-Owners, Board of Administration and their representatives, as lawfully amended from time to time, and failure to comply with any such provisions, decisions, or resolutions shall be grounds for an action to recover sums due, for damages or for injunctive relief; provided that nothing contained herein shall limit the rights of the Sea Pines Plantation Company, its successors and assigns, as set forth in Covenants, Restrictions, and Affirmative Obligations dated August 20, 1967, declared by Sea Pines Land Company, Inc., Sea Pines Plantation Company, Inc., and Lighthouse Beach Company recorded in the Office of the Clerk of Court for Beaufort County at Book 150 of Deeds, Page 41. The Dwelling Unit shall also be conveyed subject to the recorded plat and plan of the Property. In addition, the Dwelling Units shall be conveyed subject to the South Beach Owners Association Restrictive Covenants recorded in the Office of the Clerk of Court, County of Beaufort, South Carolina, in Book 176 of Deeds, at Page 203, and to the By-Laws of the South Beach Owners Association, Inc.

FOURTEENTH: That the dedication of the Property to the Horizontal Property Regime herein shall not be revoked, or the Property removed from the Horizontal Property Regime, or any of the provisions herein amended unless all of the co-owners and the mortgagees of all the mortgages covering the Dwelling Units unanimously agree to such revocation, or amendment, or removal of the Property from the Horizontal Property Regime by duly recorded instrument.

FIFTEENTH: That no co-owner of a Dwelling Unit may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common elements or by the abandonment of his Dwelling Unit.

SIXTEENTH: That all present or future co-owners, tenants, future tenants, or any other person that might use the facilities of the Property in any manner, are subject to the provisions of this Deed, and that the mere acquisition or rental of any of the Dwelling Units shall signify that the provisions of this Deed are accepted and ratified.

SEVENTEENTH: That if the Property is totally or substantially damaged or destroyed, the repair, reconstruction, or disposition of the Property shall be as provided by the above-mentioned Statute of South Carolina.

EIGHTEENTH: That, where a mortgagee or other purchaser of a Dwelling Unit obtains title by reason of foreclosure of a mortgage covering a Dwelling Unit, such acquirer of title, his successors or assigns, shall not be liable for assessments by the Regime which became due prior to the acquisition of title by such acquirer, it being understood, however, that the above shall not be construed to prevent the Regime from filing and claiming liens for such assessments and enforcing same as provided by law, and that such assessment liens shall be subordinate to such mortgage.

NINETEENTH: That in a voluntary conveyance of a Dwelling Unit, the Grantee of the unit shall be jointly and severally liable with the Grantor for all unpaid assessments by the Regime against the latter for his share of the common expenses up until the time of the grant or conveyance without prejudice to the Grantees right to recover from the Grantor the amounts paid by the Grantee therefor. However, any such Grantee shall be entitled to a statement from the manager or Council of Co-Owners, as the case may be, setting forth the amount of the unpaid assessments against the Grantor due the Regime and such Grantees shall not be liable for, nor shall the Dwelling Unit conveyed be subject to a lien for, any unpaid assessments made by the Council of Co-Owners against the Grantor in excess of the amount therein set forth.

TWENTIETH: That the Board of Administration of the Regime or the Management Agent, or Manager, shall obtain and continue in effect blanket property insurance in form and amounts satisfactory to mortgagees holding first mortgages covering Dwelling Units, but without prejudice to the right of the co-owners to obtain additional individual Dwelling Unit insurance.

TWENTY-FIRST: That insurance premiums for blanket insurance coverage of the Property shall be a common expense to be paid by periodic assessments levied by the Regime and that such payments shall be held in a separate escrow account of the Regime and used solely for the payment of the Blanket Property Insurance premiums as such premiums become due.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed by the duly authorized officers the day and year first above written.

Signed, sealed and delivered
in the presence of:

SEA PINES PLANTATION COMPANY

Mary Duncan
Kristine L. McClain

BY: Richard S. Woods (L.S.)

ATTEST: Richard Werth (L.S.)

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

P R O B A T E

PERSONALLY appeared before me Mary Duncan and made oath that she saw the within named Sea Pines Plantation Company by Richard S. Woods its Vice President and H. Richard Werth its Assistant Secretary sign and affix the corporate seal, and as its act and deed, deliver the within instrument dated the 17th day of October, 1973, and that she with Kristine L. McClain witnessed the execution thereof.

Mary Duncan

SWORN TO before me this 17th
day of October, 1973.

Kristine L. McClain
Notary Public for South Carolina
My Commission Expires: 4/10/83

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BY-LAWS OF:
SOUTH BEACH VILLAGE LAGOON VILLAS
HORIZONTAL PROPERTY REGIME LVII

ARTICLE I
PLAN OF APARTMENT OWNERSHIP

Section 1. Horizontal Property Regime. The Property (the term "Property" as used herein means and includes the land, the buildings, all improvements and structures thereto) located in Sea Pines Plantation, Hilton Head Island, in Beaufort County, State of South Carolina, known as South Beach Village Lagoon Villas, has been, by Master Deed, submitted to the provisions of the Horizontal Property Act of South Carolina, and is to be henceforth known as South Beach Village Lagoon Villas, Horizontal Property Regime LVII (hereinafter referred to as the "Regime").

Section 2. By-Laws Applicability. The provisions of these By-Laws are applicable to the Property and the Regime.

Section 3. Personal Application. All present or future co-owners, tenants, furnished tenants, or their employees, or any other person that might use the facilities of the Property in any manner, are subject to the regulations set forth in these By-Laws and in the Master Deed establishing said Regime. The mere acquisition or rental of any of the Dwelling Units (hereinafter usually referred to as "Dwelling Unit") as defined in the Master Deed of the Property or the mere act of occupancy of any of said Dwelling Units will signify that these By-Laws and the provisions of the Master Deed are accepted and ratified, and will be complied with.

ARTICLE II
VOTING, MAJORITY OF CO-OWNERS QUORUM, PROXIES

Section 1. Voting. Voting shall be on a percentage basis and the percentage of the vote to which the co-owner is entitled is the percentage assigned to the Dwelling Unit or Dwelling Units in the Master Deed.

Section 2. Majority of Co-owners. As used in these By-Laws the term "majority of co-owners" shall mean those co-owners holding 51% or more of the total value of the Property, in accordance with the percentages assigned in the Master Deed.

Section 3. Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a majority of co-owners as defined in Section 2 of this Article shall constitute a quorum.

Section 4. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting.

ARTICLE III
ADMINISTRATION

Section 1. Council Responsibilities. The co-owners of the Dwelling Units will constitute the Council of Co-owners (hereinafter usually referred to as "Council") who will have the responsibility of administering the Property, approving the annual budget, establishing and collecting periodic assessments, and arranging for the management of the Property pursuant to an agreement, containing provisions relating to the duties, obligations, removal and compensation of the management agent. Except as otherwise provided, decisions and resolutions of the Council shall require approval by a majority of co-owners.

Section 2. Place of Meetings. Meetings of the Council shall be held at such place convenient to the co-owners as may be designated by the Council.

Section 3. Annual Meetings. The annual meetings of the Council shall be held at the call of the Regime President once a year on the third Saturday in October. At such meetings there shall be elected by ballot of the co-owners a Board of Administration in accordance with the requirements of Section 5 of Article IV of these By-Laws. The co-owners may also transact such other business of the Council as may properly come before them.

Section 4. Special Meetings. It shall be the duty of the Secretary to call a special meeting of the co-owners as directed by resolution of the Board of Administration or upon a petition signed by a majority of co-owners and having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths of the votes present, either in person or by proxy.

Section 5. Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each co-owner or record, at least five but not more than ten days prior to such meeting. The mailing of a notice in the manner provided in this Section shall be considered notice served.

Section 6. Adjourned Meeting. If any meeting of the Council cannot be organized because a quorum has not attended, the co-owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 7. Order of Business. The order of business at all Annual Meetings of the Council shall be as follows:

- (a) Roll Call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meetings.
- (d) Reports of officers.
- (e) Report of committees.
- (f) Election of inspectors of election.
- (g) Election of administrators.
- (h) Unfinished business.
- (i) New business.

The order of business at all Special Meetings of the Council shall include items (a) through (d) above, and thereafter, the agenda shall consist of the items specified in the notice of meeting.

ARTICLE IV BOARD OF ADMINISTRATION

Section 1. Number and Qualification. The affairs of the Council shall be governed by a Board of Administration (hereinafter referred to as "Board") comprised of five persons, all of whom must be co-owners of Dwelling Units in the Property.

Section 2. General Powers and Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Council and may do all such acts and things as are not by law or by these By-Laws directed to be executed and done by the Council or individual owners.

Section 3. Other Duties. In addition to duties imposed by these By-Laws, or by resolutions of the Council, the Board shall be responsible for the following:

- (a) Compliance with all of the terms and conditions of the Master Deed and enforcement of same.
- (b) Care, upkeep and surveillance of the Property and the common elements.
- (c) Collection of assessments from the co-owners.
- (d) Employment, dismissal and control of the personnel necessary for the maintenance and operation of the common elements.
- (e) Performing repairs caused by any natural disaster or man-made damage from the escrow account and any special assessment.

Section 4. Management Agent. The Board may employ a Management Agent at a compensation established by the Board to perform such duties and services as the Board shall authorize including, but not limited to, the duties listed in Section 3 of this Article.

Section 5. Election and Term of Office. At the first Annual Meeting of the Council, the initial term of office of two members of the Board shall be fixed at three (3) years. The term of office of two members of the Board shall be fixed at two (2) years, and the term of office of one member of the Board shall be fixed at one (1) year. At the expiration of the initial term of office of each member of the Board, his successor shall be elected to serve a term of three (3) years. The members of the Board shall hold office until their successors have been elected and hold their first meeting.

Section 6. Vacancies. Vacancies in the Board of Administration caused by reason other than the removal of a member of the Board by a vote of the Council shall be filled by vote of the majority of the remaining members, even though they may constitute less than a quorum; and each person so elected shall be a member of the Board until a successor is elected at the next meeting of the Council.

Section 7. Removal of Members of the Board. At any regular or special meeting of the Council duly called, any one or more of the members of the Board may be removed with or without cause by a majority of co-owners and a successor may then and there be elected to fill the vacancy thus created. Any member of the Board whose removal has been proposed to the Council shall be given an opportunity to be heard at the meeting.

Section 8. Organization Meeting. The first meeting of a newly elected Board shall be held within ten (10) days of election at such place as shall be fixed by the Board at the meeting at which such Board members were elected by the Council, and no notice shall be necessary to the newly elected Board members in order legally to constitute such meeting, providing a majority of the Board shall be present.

Section 9. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Board, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the Board shall be given by the Secretary-Treasurer, or other designated person, to each Board member, personally or by mail, telephone or telegraph, at least ten (10) days prior to the day named for such meeting.

Section 10. Special Meetings. Special meetings of the Board may be called by the President on three days' notice to each Board member, given personally or by mail, telephone, or telegraph, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary-Treasurer in like manner and on like notice on the written request of at least two Board members.

Section 11. Waiver of Notice. Before or at any meeting of the Board, any Board member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Board member at any meeting of the Board shall be a waiver of notice by him of the time, place and purpose thereof. If all the members are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 12. Board Quorum. At all meetings of the Board, a majority of the Board members shall constitute a quorum for the transaction of business, and the acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board. If, at any meeting of the Board, there is less than a quorum present, the majority of the Board members present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 13. Fidelity Bonds. The Board may require that any and all officers and employees of the Regime handling or responsible for Regime funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Regime.

ARTICLE V OFFICERS

Section 1. Designation. The principal officers of the Regime shall be a President, a Vice President, and a Secretary-Treasurer all of whom shall be elected by and from the Board. The Board may appoint an assistant treasurer, and an assistant secretary, and such other officers as in their judgment may be necessary.

Section 2. Election of Officers. The officers of the Regime shall be elected annually by the Board at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Regime. He shall preside at all Council meetings of the Regime and of the Board. He shall have all of the general powers and duties which are usually vested in the office of President of a Regime, including but not limited to the power to appoint committees from among the co-owners from time to time as he may in his discretion decide are appropriate to assist in the conduct of the affairs of the Regime.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board.

Section 6. Secretary-Treasurer. The Secretary-Treasurer shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Council; he shall have charge of such books and papers as the Board may direct; and he shall have responsibility for Regime funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books

belonging to the Regime. He shall be responsible for the deposit of all moneys and other valuable effects in the name, and to the credit, of the Regime in such depositories as may from time to time be designated by the Board. He shall, in general, perform all the duties incident to the offices of Secretary and Treasurer.

ARTICLE VI
OBLIGATIONS OF THE CO-OWNERS

Section 1. Assessments. All co-owners are obligated to pay periodic assessments imposed by the Regime to meet all Regime expenses, which shall include a liability insurance policy premium and an insurance premium for a policy to cover repair and reconstruction work in case of hurricane, fire, earthquake, and other hazards. The assessments shall be made pro rata according to the value of the Dwelling Unit owned, and as stipulated in the Master Deed.

Escrow Account. The transfer of ownership of an individual villa within the Regime carries with it the proportionate equity of that villa ownership in the Regime Escrow Account. Each villa owner will be assessed for the Regime Escrow Account in accordance with a set schedule in order to provide for a contingency fund for maintenance and repair of the Regime Property.

Section 2. Maintenance and Repair.

(a) Every co-owner must perform promptly all maintenance and repair work within his own Dwelling Unit, which if omitted would affect the Property in its entirety or in a part belonging to other co-owners, being expressly responsible for the damages and liabilities that his failure to do so may engender.

(b) All the repairs of internal installations of the Dwelling Unit such as water, light, gas, power, sewage, telephones, air conditioners, sanitary installations, doors, windows, lamps, and all other accessories belonging to the Dwelling Unit shall be at the expense of the co-owner.

(c) A co-owner shall reimburse the Regime for any expenditures incurred in repairing or replacing any common elements damaged through his fault.

Section 3. Use of Dwelling Units -- Internal Changes.

(a) All Dwelling Units shall be utilized for residential purposes only.

(b) A co-owner shall not make structural modifications or alterations in his Dwelling Unit or installations located therein without previously notifying the Regime in writing, through the management agent, if any, or through the President if no management agent is employed. The Regime shall have the obligation to answer within thirty (30) days and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification or alteration.

Section 4. Use of Common Elements. A co-owner shall not place or cause to be placed in the passages or roads any furniture, packages, or obstructions of any kind. Such areas shall be used for no other purpose than for normal transit through them.

Section 5. Right of Entry.

(a) A co-owner shall grant the right of entry to the management agent or to any other person authorized by the Board in case of any emergency originating or threatening his Dwelling Unit, whether the co-owner is present at the time or not.

(b) A co-owner shall permit other co-owners, or their representatives, when so required, to enter his Dwelling Unit for the purpose of performing installations, alterations, or repairs to the mechanical or electrical services, provided that such requests for entry are made in advance and that such entry is at a time convenient to the co-owner. In case of an emergency, such right of entry shall be immediate.

Section 6. Rules of Conduct.

(a) Residents shall exercise extreme care to avoid unnecessary noise or the use of musical instruments, radios, television and amplifiers that may disturb other residents.

(b) No residents of the Property shall:

- (1) Post any advertisements, or posters of any kind, in or on the Property except as authorized by the Regime;
- (2) Hang garments, towels, rugs, or similar objects, from the windows or from any of the facades of the Property;
- (3) Dust rugs, mops or similar objects from the windows or clean rugs or similar objects by beating on the exterior part of the Property;
- (4) Throw garbage or trash outside the disposal installations provided for such purposes in the service areas;
- (5) Act so as to interfere unreasonably with the peace and enjoyment of the residents of the other Dwelling Units in the Property;
- (6) Maintain any pets which cause distress to co-owners through barking, biting, scratching or damaging of property.

(c) No co-owner, resident, or lessee shall install wiring for electrical or telephone installations, television antennae, machines or air conditioning units, or similar objects outside of his dwelling or which protrude through the walls or the roof of his dwelling unit except as authorized by the Board.

ARTICLE VII AMENDMENTS

Section 1. By-Laws. These By-Laws may be amended by the Council in a duly constituted meeting held for such purpose, and no amendment shall take effect unless approved by co-owners representing at least two-thirds of the total value of the Property as shown in the Master Deed.

ARTICLE VIII MORTGAGES

Section 1. Notice to Board. A co-owner who mortgages his Dwelling Unit shall notify the Board through the management agent, if any, or the President if there is no management agent of the name and address of his mortgagee, and the Regime shall maintain such information in a book entitled "Mortgages of Dwelling Units".

Section 2. Notice of Unpaid Assessments. The Board shall at the request of a mortgagee of a Dwelling Unit report any unpaid assessments due to the Regime from the co-owner of such Dwelling Unit.

ARTICLE IX
COMPLIANCE

These By-Laws are intended to comply with the requirements of the Horizontal Property Act of South Carolina. In case any of these By-Laws conflict with the provisions of said Statute, it is hereby agreed and accepted that the provisions of the Statute will control.

H.L.W.

FILED	BEAUFORT	RECORDED
AT	COUNTY	IN
<i>9:30</i>	S. C.	BOOK
O'CL CK	NOV 2 1973	<i>215</i>
<i>A.M.</i>		PAGE
		<i>1092</i>
<i>m. S. Rodgers Dep.</i> CLERK OF COURT OF COMMON PLEAS		

ELECTRONICALLY FILED - 2021 AUG 25 5:33 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0701547

2021 AUG 25 5:33 PM

A PLAT OF
LAGOON VILLAS
'PHASE II'
EXHIBIT

A SECTION OF
SEA PINES PLANTATION
HILTON HEAD ISLAND
SOUTH CAROLINA
COUNTY OF BEAUFORT

CALVERT SURVEYING
COMPANY, INC.
CHARLESTON, S.C.

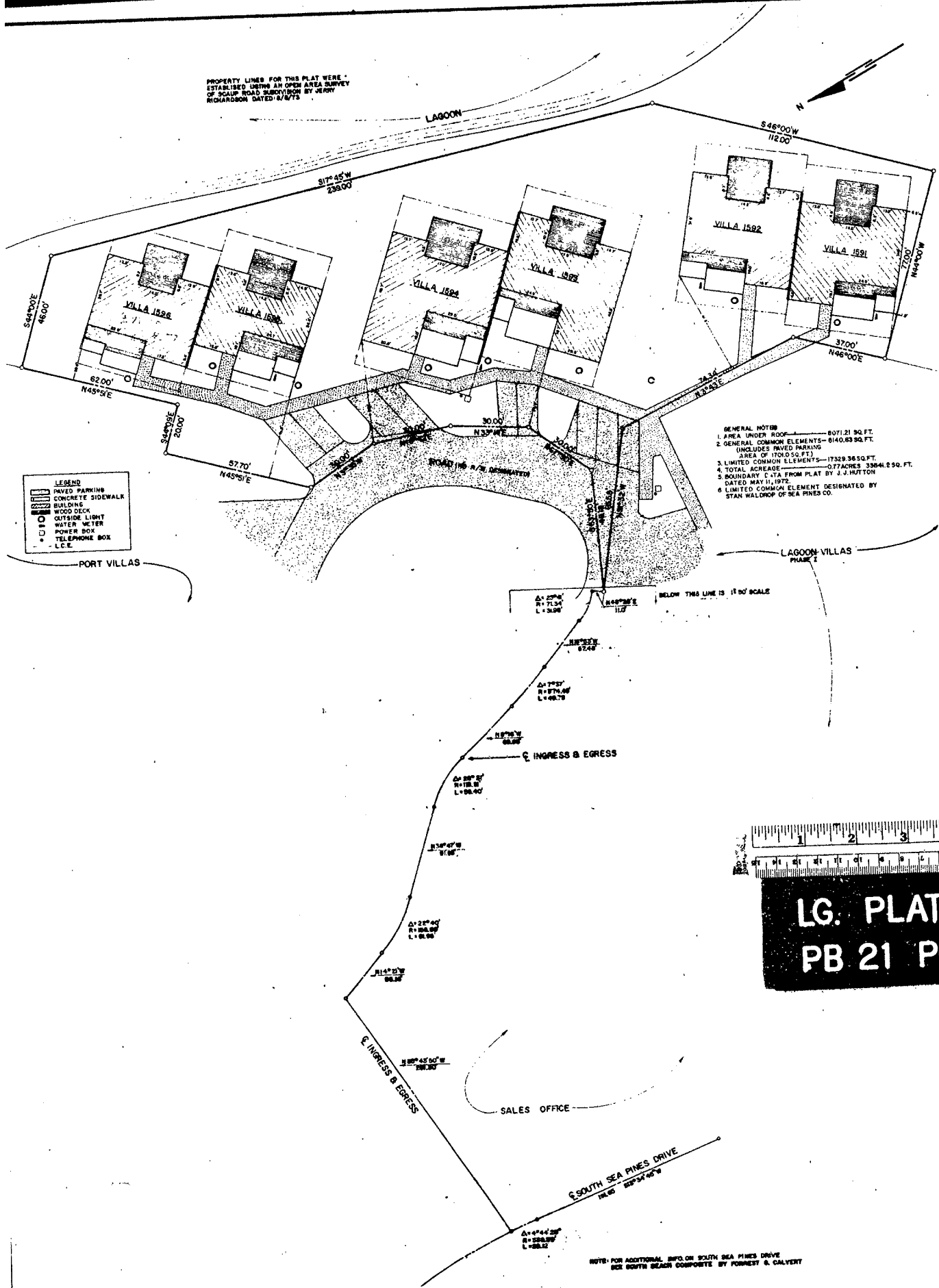
FORREST G. CALVERT, L.S. NO. 4170

RECORDED IN
BOOK 21 PAGE 149
IN THE OFFICE OF
CLERK OF COURT
BEAUFORT, S.C.

SCALE 1" = 100'
FILE:
DATE: 05/11/1975

ELECTRONICALLY FILED - 2022 JUN 25 09:15 AM - BEAUFORT COMMON PLEAS - CASE#2020CE0974

PROPERTY LINES FOR THIS PLAT WERE ESTABLISHED UNDER AN OPEN AREA SURVEY OF SCALP ROAD SUBDIVISION BY JERRY RICHARDSON DATED 8/4/73



LG. PLAT FILE
PB 21 PG. 149

**CONSENT RESOLUTION
COUNCIL OF CO-OWNERS
SOUTH BEACH LAGOON VILLAS II HORIZONTAL PROPERTY REGIME LVII**

THE UNDERSIGNED being 100% of the Dwelling Unit Owners in the South Beach Lagoon Villas II Horizontal Property Regime LVII do hereby approve and consent to the following resolution:

”BE IT RESOLVED that the Declaration of Amendment to Master Deed for South Beach Villas II Horizontal Property Regime LVII attached hereto which conveys certain common elements to owners of Dwelling Unit 1591, 1594 and 1595 and adjusts the proportionate share of ownership in the common elements be and hereby is approved;

BE IT FURTHER RESOLVED that the revised As-Built Survey referenced in the aforesaid Declaration of Amendment be and hereby is approved; and

BE IT FURTHER RESOLVED that Todd E. Taylor as President and Kennie Lee Miller Gill as Secretary or their duly elected successors be and hereby are authorized to execute the Declaration of Amendment on behalf of the South Beach Lagoon Villas II Horizontal Property Regime LVII and record the Declaration of Amendment and the revised As-Built Survey in the Office of the Register of Deeds for Beaufort County, South Carolina.”

[Signatures Follow on the Following Page]

IN WITNESS WHEREOF, the undersigned has this ___ day of _____ 2019, signed, sealed, and delivered the within document.

WITNESSES:

DWELLING UNIT 1591

Kenneth E. Nyquist, Jr., Owner

Jennifer Ann Nyquist-Bivins, Owner

DWELLING UNIT 1592

226 Trust, Owner

By: _____
John C. Hadley
Its: Trustee of the 226 Trust u/a/d
January 4, 2013

DWELLING UNIT 1593

Sizemore Properties, LLC, Owner

By: _____
Kathy Sizemore Anderson
Its: Member

DWELLING UNIT 1594

Maple Mont South, LLC, Owner

By: _____
William Tatum, Jr.
Its: Member

DWELLING UNIT 1595

Amar and Kennie Gill Living Trust, Owner

By: _____
Kennie Lee Miller Gill
Its: Trustee

By: _____
Amar Singh Gill
Its: Trustee

Kenneth V.L. Miller, Owner

Anna M. Miller, Owner

DWELLING UNIT 1596

Todd E. Taylor, Owner

Catherine C. Taylor, Owner

NOW THEREFORE, KNOW ALL MEN THESE PRESENTS that the co-owners of the South Beach Villas Lagoon Villas II Horizontal Property Regime LVII do hereby state and declare:

1. The above "WHEREAS" clauses are hereby incorporated herein as if fully set forth hereinbelow.
2. Section FIRST is amended to restate the legal description of the Regime property by reference to the revised As-Built Survey as follows:

"FIRST: The Grantor owns a property situated at Hilton Head Island, county of Beaufort, State of South Carolina, which is described as follows:

All that certain piece, parcel or lot of land with improvements thereon, situate, lying and being in Sea Pines Plantation on Hilton Head Island, Beaufort County, South Carolina, known as South Beach Village Lagoon Villas II, Horizontal Property Regime LVII, as shown on Plat thereof prepared by Surveying Consultants, Inc. certified to by Terry G. Hatchell RLS#11059 and recorded in the office of the Register of Deeds for Beaufort County, South Carolina in Book ____ at Page _____ described as follows:

Beginning at a ½" Rebar on the southeast corner of the property, said rebar having South Carolina State Plane Coordinates of North 101455.26 and East 2054826.34; Thence running along the line with lands now or formerly of Community Services Associates, N45°38'58"W for a distance of 77.00 to a ½" rebar; Thence running along the line with South Beach Village Lagoon Villas HPR I, N44°21'02"E for a distance of 37.00 to a X marked in the sidewalk; Thence running along the line with South Beach Village Lagoon Villas HPR I, N02°04'02" E for a distance of 74.34' to a nail; Thence running along the line with South Beach Village Lagoon Villas N53°10'58W for a distance of 65.58' to a ½" rebar; Thence running along the right of way of Portside Drive, S65°08'58"E for a distance of 48.18' to a point; Thence running along the right of way of Portside Drive, N65°51'02"E for a distance of 30.00' to a point; Thence running along the right of way of Portside Drive, N38°35'02"E for a distance of 30.00' to a point; Thence running along the right of way of Portside Drive, N17°03'02"E for a distance of 30.00' to a point; Thence running long the right of way of Portside Drive, N05°13'58"W for a distance of 30.00' to a nail; Thence running along the right of way of Portside Drive, N44°12'02"E for a distance of 57.70' to a ⅓" rebar; Thence running along the line with South Beach Villas Port Villas HPR III, S45°47'58"E for a distance of 20.00 to a ½" rebar; Thence running along the line with South Beach Village Port Villas HPR, III, N44°12'02"E for a distance of 62.00' to a ½" rebar; Thence running along the line with Community Services Associates S45°38'58"E for a distance of 46.00' to a ½" rebar; Thence running along the line with Community

Services Associates S16°06'02"W for a distance of 239.00' to a ½" rebar; Thence running along the line with Community Services Associates, S44°21'02"W for a distance of 112.00' to a ½" rebar, said rebar being the Point of Beginning.

Said parcel contains 0.77 Acres more or less.

ALSO, a non-exclusive easement for ingress and egress on all existing roads within Sea Pines Plantation, including but not limited to roads in existence running from the eastern portion of the above described property to South Sea Pines Drive."

3. Section FOURTH is amended and restated as follows:

"FOURTH: That Property has a total area of 0.77 acres of which 7,890 square feet constitutes Dwelling Units, and 25,651 square feet will constitute common elements."

4. Section FIFTH Subparagraph I. C. is amended and restated as follows:

"C. Villas: That the Villas as shown on the plat of record are composed of the following:

1. Two-bedroom Type "A" Villas: (Unit 1591) This Villas measures 40.50 feet wide and 43.30 feet deep in their maximum interior dimensions and contains a net interior area of 1,280 feet.
2. Two-bedroom Type "B" Villas: (Unit 1592) This Villas measures 39.90 feet wide and 41.10 feet deep in their maximum interior dimensions and contains a net interior area of 1,138 feet.
3. Three-bedroom Type "C" Villas: (Unit 1593) This Villas measures 45.40 feet wide and 48.60 feet deep in their maximum interior dimensions and contains a net interior area of 1,342 feet.
4. Three-bedroom Type "D" Villas: (Unit 1594) This Villas measures 45.40 feet wide and 54.30 feet deep in their maximum interior dimensions and contains a net interior area of 1,799 feet.
5. Two-bedroom Type "E" Villas: (Unit 1595) This Villas measures 41.40 feet wide and 52.40 feet deep in their maximum interior dimensions and contains a net interior area of 1,262 feet.
6. Two-bedroom Type "F" Villas: (Unit 1596) This Villas measures 40.50 feet wide and 38.60 feet deep in their maximum interior dimensions and contains a net interior area of 1,069 feet."

5. Section SIXTH Subparagraph I is amended and restated as follows:

"SIXTH:

I. That the title and interest of each co-owner of a Dwelling Unit in the common elements listed in Sub-Paragraph II of Paragraph "FIFTH" and their proportionate share in the profits and common elements (both general and limited), as well as the proportionate representation for voting purposes in the meeting or the Council of Co-Owners (the "Council") of the Regime is based on the proportionate value of each Dwelling Unit to the total value of the Property. The total value of the Property is Four Hundred Fifty-Eight Thousand and No/100 (\$458,000.00) Dollars. The value of each Dwelling Unit and its proportionate percentage interest is set forth below. Such values shall not be deemed to limit the purchase price for which the Property or any Dwelling Units may be sold or exchanged. The values are as follows:

- A. Dwelling Unit 1591: 16.223 per cent based on a value of \$74,302.00
- B. Dwelling Unit 1592: 14.423 per cent based on a value of \$66,059.00
- C. Dwelling Unit 1593: 17.009 per cent based on a value of \$77,901.00
- D. Dwelling Unit 1594: 22.801 per cent based on a value of \$104,429.00
- E. Dwelling Unit 1595: 15.995 per cent based on a value of \$73,257.00
- F. Dwelling Unit 1596: 13.549 per cent based on a value of \$62,053.00"

6. By execution hereof, the undersigned Todd E. Taylor as President and Kennie Lee Miller Gill as Secretary of the Regime, swear and attest that the aforementioned modifications were approved by unanimous consent of the co-owners of the Regime as provided for in the Master Deed of the Regime.

7. This document is intended to comply with the provisions of the Master Deed and Horizontal Property Act of the State of South Carolina. In case any of the provisions state above conflict with the Horizontal Property Act, the provisions of said statute shall be deemed controlling. The provisions herein shall be deemed independent and severable, and the invalidity in whole or in part of any section, subsection, sentence, clause, phrase or word, or other provisions thereof shall not affect the validity or enforceability of the remaining portions hereof and in such an event all other provisions of this document shall continue in full force and effect as if such invalid provisions had never been included herein.

8. All other terms, conditions and provisions of Master Deed, as amended, remain in full force and effect.

[Signatures Follow on the Next Page]

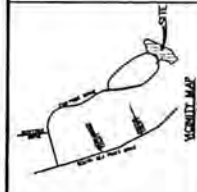


SECTION OF
SOUTH BEACH VILLAGES II
#228 SOUTH SEA PINES DRIVE
& PORTSIDE DRIVE
SEA PINES PLANTATION
 A SECTION OF
 BEAUFORT COUNTY, SOUTH CAROLINA
 DATE: 11/17/2018
 SCALE: 1" = 20'
 REVISIONS: 01/24/2019 TO ADD WATER DESCRIPTION
 REVISIONS: 09/17/2018 TO SHOW INTERIOR AREA OF LOTS
SURVEYING CONSULTANTS
 SCS
 1000 W. BROADWAY, SUITE 100
 BEAUFORT, SOUTH CAROLINA 29516
 TEL: 843.733.1111
 FAX: 843.733.1112
 WWW.SCSURVEYING.COM

SURVEYED LOCAL DESCRIPTION
 All land contained within the general boundaries of South Beach Villages II, with the exception of the area shown in red on the attached plat, is hereby confirmed and the same is hereby confirmed to be the same as shown on the attached plat. The survey was conducted on 11/17/2018. The survey was conducted by SCS, a professional surveying firm, and the results of the survey are shown on the attached plat. The survey was conducted in accordance with the standards and practices of the Surveying and Mapping Board of South Carolina. The survey was conducted in accordance with the standards and practices of the Surveying and Mapping Board of South Carolina. The survey was conducted in accordance with the standards and practices of the Surveying and Mapping Board of South Carolina.

INTERIOR AREA OF VILLAGES

LOT NO.	AREA (SQ. FT.)	AREA (SQ. YD.)
1	1,234.56	28.45
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**CONSENT RESOLUTION
COUNCIL OF CO-OWNERS
SOUTH BEACH LAGOON VILLAS II HORIZONTAL PROPERTY REGIME LVII**

THE UNDERSIGNED being 100% of the Dwelling Unit Owners in the South Beach Lagoon Villas II Horizontal Property Regime LVII do hereby approve and consent to the following resolution:

"BE IT RESOLVED that the Declaration of Amendment to Master Deed for South Beach Villas II Horizontal Property Regime LVII attached hereto which conveys certain common elements to owners of Dwelling Unit 1591, 1594 and 1595 and adjusts the proportionate share of ownership in the common elements be and hereby is approved;

BE IT FURTHER RESOLVED that the revised As-Built Survey referenced in the aforesaid Declaration of Amendment be and hereby is approved; and

BE IT FURTHER RESOLVED that Todd E. Taylor as President and Kennie Lee Miller Gill as Secretary or their duly elected successors be and hereby are authorized to execute the Declaration of Amendment on behalf of the South Beach Lagoon Villas II Horizontal Property Regime LVII and record the Declaration of Amendment and the revised As-Built Survey in the Office of the Register of Deeds for Beaufort County, South Carolina."

[Signatures Follow on the Following Page]

IN WITNESS WHEREOF, the undersigned has this 14th day of October 2019, signed, sealed, and delivered the within document.

WITNESSES:

DWELLING UNIT 1591

Kenneth E. Nyquist, Jr., Owner

Jennifer Ann Nyquist-Bivins, Owner

DWELLING UNIT 1592

226 Trust, Owner

By: _____
John C. Hadley
Its: Trustee of the 226 Trust w/a/d
January 4, 2013

DWELLING UNIT 1593

Sizemore Properties, LLC, Owner

By: Kathy Sizemore Anderson
Kathy Sizemore Anderson
Its: Member

DWELLING UNIT 1594

Maple Mont South, LLC, Owner

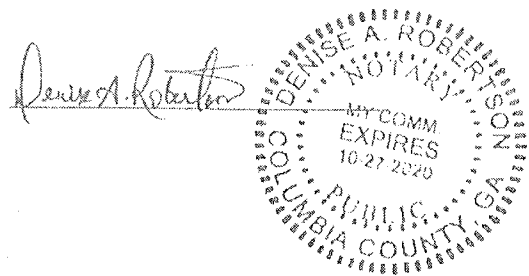
By: _____
William Tatum, Jr.
Its: Member

DWELLING UNIT 1595

Amar and Kennie Gill Living Trust, Owner

By: _____
Kennie Lee Miller Gill
Its: Trustee

By: _____
Amar Singh Gill
Its: Trustee



IN WITNESS WHEREOF, the undersigned has this ____ day of _____ 2019, signed, sealed, and delivered the within document.

WITNESSES:

DWELLING UNIT 1591

Kenneth E. Nyquist, Jr., Owner

Jennifer Ann Nyquist-Bivins, Owner

DWELLING UNIT 1592

226 TRUST UAD JANUARY 4, 2013,
Owner

Nia Nyquist

By:

Lucy K. Landry

Lucy K. Landry
Its: Trustee of the 226 TRUST UAD
JANUARY 4, 2013

DWELLING UNIT 1593

Sizemore Properties, LLC, Owner

By:

Kathy Sizemore Anderson
Its: Member

DWELLING UNIT 1594

Maple Mont South, LLC, Owner

By:

William Tatum, Jr.
Its: Member

DWELLING UNIT 1595

Amar and Kennie Gill Living Trust, Owner

By:

Kennie Lee Miller Gill
Its: Trustee

By:

Amar Singh Gill
Its: Trustee

Kenneth V.L. Miller

Kenneth V.L. Miller, Owner

Anna M. Miller

Anna M. Miller, Owner

DWELLING UNIT 1596

Todd E. Taylor, Owner

Catherine C. Taylor, Owner

IN WITNESS WHEREOF, the undersigned has this ___ day of _____ 2019, signed, sealed, and delivered the within document.

WITNESSES:



DWELLING UNIT 1591


Kenneth E. Nyquist, Jr., Owner

Jennifer Ann Nyquist-Bivins, Owner

DWELLING UNIT 1592

226 Trust, Owner

By: _____
John C. Hadley
Its: Trustee of the 226 Trust u/a/d
January 4, 2013

DWELLING UNIT 1593

Sizemore Properties, LLC, Owner

By: _____
Kathy Sizemore Anderson
Its: Member

DWELLING UNIT 1594

Maple Mont South, LLC, Owner

By: _____
William Tatum, Jr.
Its: Member

DWELLING UNIT 1595

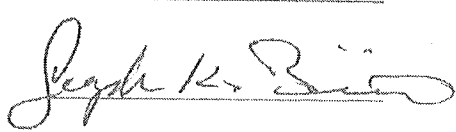
Amar and Kennie Gill Living Trust, Owner

By: _____
Kennie Lee Miller Gill
Its: Trustee

By: _____
Amar Singh Gill
Its: Trustee

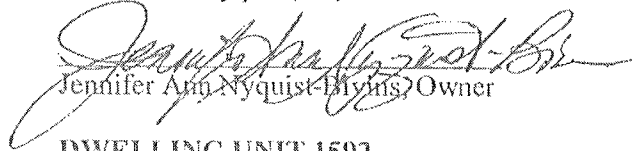
IN WITNESS WHEREOF, the undersigned has this ___ day of _____ 2019, signed, sealed, and delivered the within document.

WITNESSES:



DWELLING UNIT 1591

Kenneth E. Nyquist, Jr., Owner


Jennifer Ann Nyquist-Hyatt, Owner

DWELLING UNIT 1592

226 Trust, Owner

By: _____

John C. Hadley
Its: Trustee of the 226 Trust u/a/d
January 4, 2013

DWELLING UNIT 1593

Sizemore Properties, LLC, Owner

By: _____

Kathy Sizemore Anderson
Its: Member

DWELLING UNIT 1594

Maple Mont South, LLC, Owner

By: _____

William Tatum, Jr.
Its: Member

DWELLING UNIT 1595

Amar and Kennie Gill Living Trust, Owner

By: _____

Kennie Lee Miller Gill
Its: Trustee

By: _____

Amar Singh Gill
Its: Trustee

IN WITNESS WHEREOF, the undersigned has this ____ day of _____ 2019, signed, sealed, and delivered the within document.

WITNESSES:

DWELLING UNIT 1591

Kenneth E. Nyquist, Jr., Owner

Jennifer Ann Nyquist-Bivins, Owner

DWELLING UNIT 1592

226 Trust, Owner

By: _____
John C. Hadley
Its: Trustee of the 226 Trust u/a/d
January 4, 2013

DWELLING UNIT 1593

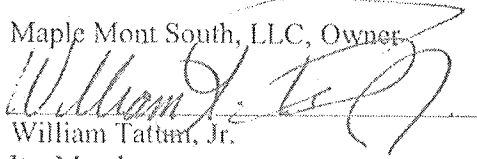
Sizemore Properties, LLC, Owner

By: _____
Kathy Sizemore Anderson
Its: Member

DWELLING UNIT 1594

Maple Mont South, LLC, Owner

Abm Nyquist Johnson

By: 
William Tatum, Jr.
Its: Member

DWELLING UNIT 1595

Amar and Kennie Gill Living Trust, Owner

By: _____
Kennie Lee Miller Gill
Its: Trustee

By: _____
Amar Singh Gill
Its: Trustee

Kenneth V.L. Miller, Owner

Anna M. Miller, Owner

DWELLING UNIT 1596

Todd E. Taylor, Owner

Todd E. Taylor, Owner

Catherine C. Taylor, Owner

LAW OFFICES

COPELAND, STAIR, VALZ & LOVELL, LLP

DOUGLAS W. MACKELCAN
Partner
LACEY L. HOUGHTON
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191 Peachtree Street, N.E.
Suite 3600
Atlanta, Georgia 30303-1740
(404) 522-8220

REPLY TO SC OFFICE

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Mar 31 2022

SC Court of Appeals

March 31, 2022

VIA EMAIL AND REGULAR MAIL

Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211
ctappfilings@sccourts.org

Re: Todd E. Taylor v. Amar and Kennie Gill Living Trust Dated March 15, 2019, et al;
Appellate Court Case No.: 2020-CP-07-01547
Beaufort County Case No.: 2020-CP-07-01547
CSVL File No.: 4692-61574

Dear Ms. Kitchings:

Enclosed please find Respondent South Beach Village Lagoon Villas, II; Horizontal Property Regime LVII's *Motion to Dismiss Appeal* in this case, together with Exhibits A-C and related *Proof of Service*. The \$50.00 filing fee is also enclosed. By copy of this letter, the enclosed Motion and Exhibits have been served on all counsel of record in this case *via electronic mail*. If anything further is required from Respondent at this time, please advise.

Sincerely,



DOUGLAS W. MACKELCAN
LACEY L. HOUGHTON

LLH:tjr

Enclosures

cc: via email only: Edward M. Kubec, Esq.; Magalie A. Creech, Esq.
ekubec@coffeykubec.com; mcreech@finkellaw.com

THIS CHECK IS VOID WITHOUT A BURGUNDY AND TAN BACKGROUND AND AN ARTIFICIAL WATERMARK ON THE BACK - HOLD AT AN ANGLE TO VIEW

CARLOCK, COPELAND & STAIR, LLP

40 CALHOUN STREET
SUITE 400
CHARLESTON, SC 29401
(843) 727-0307

Suntrust Bank
Atlanta, Georgia
64-10/610

000018265

PAY: *Fifty and 00/100 Dollars*

DATE
03/31/2022

AMOUNT
*****50.00

TO THE
ORDER
OF

S.C. Court of Appeals
P O Box 11629
Columbia, SC 29211



AUTHORIZED SIGNATURE
SIGNATURE HAS A COLORED BACKGROUND • BORDER CONTAINS MICROPRINTING

⑈0 18 26 5⑈ ⑆06 1000 104⑆ 8800 76 78 19⑈