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May 10, 2013

RECEIVED
MAY 16 2013
SC Court of Appeals

Honorable John D. Geathers
P.O. Box 11629
Columbia, SC 29211

**RE: Madeleine R. Arata and Kenneth C. Arata v Village West Owners Association, Inc.,
d/b/a Village West Horizontal Property Regime
Appellate Case No. 2012-212486**

Dear Judge Geathers:

Appellants are in the process of amending the record on appeal as directed by the second paragraph of your order filed March 26, 2013, which did not come to my attention until I was reinstated as a member of the bar the latter part of April 2013, after my membership had lapsed due to my failure to renew my membership, which was due to having pneumonia in both lungs in November and December.

Responding to paragraph three of the March 26, 2013 Order, the notice and motion for Summary Judgment dated October 3, 2005 and filed April 2, 1996 in Book 347, Page 593 and recorded April 17, 1996 in Book PC at Page 371 and Pages 6 and 7 of Village West's memorandum in support of Motion for Summary Judgment were not presented to the Master-in-Equity and designated by the parties to be included in the record on appeal. It was heard and ruled upon by Circuit Judge Jackson Gregory who addressed them in Paragraph 6 of his January 16, 2006 Order Granting Summary Judgment and Judgment of Foreclosure and Sale in the following language at Page 3 of the Record on appeal in Case No. 05-CP-07-475:

6. The Defendant in denying liability for paying the sum assessed relied on Article

IX Section (3) of the bylaws which provides that where casualty insurance proceeds are insufficient to effect required reconstruction as a result of a casualty the owner of the apartments being reconstructed must cover the shortfall. The Defendants' reliance on Article IX is misplaced. There has been no casualty, no casualty insurance proceeds have been paid to the association and all of the buildings in the regime are being reconstructed using the net proceeds of the construction defect suit settlements along with an assessment against all owners. The defense is without merit because there had been no casualty and all owners must contribute proportionately to common expenses."

This should suffice to show proof that the above two motions were in fact presented to the Lower Court, entered into the record on appeal, and ruled on.

We attempted to contact the Court of Appeals during both the morning and afternoon Friday, May 10, 2013, but no one answered.

Yours respectfully,



Jack D. Simrill

CC: Brian C. Pitts

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