

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

Canan Erdogan, Rachel E. Lindman, Dana B. Rumer,  
Corey Truesdale, Alexandra Statsenko, April Evans, and  
Pamela Anderson on behalf of themselves and those  
similarly situated,

Plaintiffs,

vs.

Preserve at Charleston Park Homeowners Association,  
Inc.; Hawthorne Ridge Homeowners' Association, Inc.;  
Pennington Square Homeowners Association, Inc.;  
Waccamaw Village Property Owners Association, Inc.;  
Cole Creek Homeowners Association, Inc.; Reedy Falls  
Homeowners Association, Inc.; Springhaven  
Homeowners Association, Inc.; McCabe, Trotter &  
Beverly, P.C.; Simons & Dean, Attorneys At Law;  
McCutchen, Mumford, Vaught & Geddie, P.A.; Black,  
Slaughter & Black, P.A.; Southern Community Services,  
LLC; Hinson Management Inc.; IMC Charleston LLC,  
Sisbro Properties, LLC; Red Rock Management  
Agency, LLC; William Douglas Management, Inc., and  
MJS, Inc.

Defendants.

**AMENDED COMPLAINT  
CLASS CERTIFICATION  
REQUESTED  
JURY TRIAL DEMANDED**

The Plaintiffs named above, complaining of the Defendants herein, would respectfully  
show unto the Court:

**PARTIES**

1. Plaintiffs Canan Erdogan, Rachel E. Lindman, Dana B. Rumer, Corey Truesdale,  
Alexandra Statsenko, April Evans, and Pamela Anderson are all owners of residential real estate  
in the various counties of South Carolina that are within the confines and control of a  
homeowners association. As a class, they represent all owners of residential real estate from all

or nearly all of the counties of the State of South Carolina who own property that is in the subject and control of a homeowners association.

2. Canan Erdogan owns property within and is a member of the Preserve at Charleston Park Homeowners Association, Inc. within the County of Dorchester, South Carolina. Ms. Erdogan is a citizen and resident of the County of Charleston, South Carolina.

3. Rachel E. Lindman owns property within and is a member of Pennington Square Homeowners Association, Inc. within the County of Richland, South Carolina. Ms. Lindman is a citizen and resident of the County of Richland, South Carolina.

4. Dana B. Rumer owns property within and is a member of Hawthorne Ridge Homeowners Association, Inc. within the County of Greenville, South Carolina. Mr. Rumer is a citizen and resident of the County of Greenville, South Carolina.

5. Corey Truesdale owns property within and is a member of Cole Creek Homeowners Association, Inc within the County of York, South Carolina. Mr. Truesdale is a citizen and resident of the County of York, South Carolina.

6. Alexandra Statsenko owns property within and is a member of Waccamaw Village Property Owners' Owners Association, Inc. within the County of Horry, South Carolina. Ms. Statsenko is a citizen and resident of the State of California.

7. April C. Evans owns property within and is a member of Reedy Falls Homeowners Association, Inc. within the County of Greenville, South Carolina. Ms. Evans is a citizen and resident of the County of Greenville, South Carolina.

8. Paula Anderson owns property within and is a member of Springhaven Homeowners Association, Inc. within the County of Richland, South Carolina. Ms. Anderson is a citizen and resident of the State of North Carolina.

9. Plaintiffs have all been sued for foreclosure for the failure to pay homeowners' association assessments. The Complaints with relevant attachments are attached hereto as Exhibits A-G are incorporated herein by reference.

10. The potential members of the class of plaintiffs (hereinafter "Plaintiff Class") are so numerous as to be impracticable to join all to the instant actions.

11. While the exact number of Plaintiff Class members is unknown to Plaintiffs at this time, a good faith estimate that approximately one-third of all South Carolinians own property subject to restrictive covenants which also establish and empower homeowners associations, including HOA Defendants, which manage more than \$100 billion in assets.<sup>1</sup> Some currently unknown portion of that number includes property owned in fee simple as separate lots of land in contrast to a "slice of air" owned by an owner of a condominium in a horizontal property regime.

12. Plaintiffs' claims are typical of the claims of the members of the Plaintiff Class as all members of the Plaintiff Class are similarly affected by Defendants' wrongful conduct in violation of the federal and state laws described herein.

13. Plaintiffs will fairly and adequately protect the interests of the members of the Plaintiff Class. Plaintiffs have retained competent counsel, experienced in class actions, homeowners' association litigation, and litigation involving breaches of fiduciary duties.

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<sup>1</sup> <http://www.myrtlebeachonline.com/news/local/article53784355.html>

14. Common questions of law and fact exist as to all members of the Plaintiff Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Plaintiff Class are:

- (a) Whether a non-condominium association has the right to issue a lien for unpaid property assessments under the laws of the State of South Carolina
- (b) Whether a non-condominium association has the right to foreclose a lien for unpaid property assessments under the laws of the State of South Carolina;
- (c) Whether Law Firm Defendants, in attempting to collect a consumer debt, have committed the predicate acts to sustain liability under the Fair Debt Collection Practices Act;
- (d) Whether Defendants' conduct alleged herein have interfered with Class Plaintiff's contracts with their mortgage companies;
- (e) The extent and measurement of the damages suffered by Plaintiffs and the Plaintiff Class.

15. The Plaintiff Class also specifically excludes the Justices of the United States Supreme Court, the Justices of the South Carolina Supreme Court, the Judges of the Fourth Circuit Court of Appeals, the Judges of the United States District Court of South Carolina, the Judges of the South Carolina Court of Appeals, Judges of the South Carolina Courts of Common Pleas, Masters-in-Equity, special referees, and all employees, officers and agents of these same courts.

16. Defendants Preserve at Charleston Park Homeowners Association, Inc.; Hawthorne Ridge Homeowners' Association, Inc.; Pennington Square Homeowners Association,

Inc.; Waccamaw Village Property Owners Association, Inc.; Cole Creek Homeowners Association, Inc., Reedy Falls Homeowners Association, and Springhaven Homeowners, Association, Inc. are homeowners associations organized as non-profit corporations under the South Carolina Nonprofit Corporation Act, S.C. Code § 33-31-101, *et. seq.*, owning property and doing business in the various counties of the State of South Carolina.

17. The above-named homeowners associations are representative of the class of homeowners associations not governed by the South Carolina Horizontal Property Regime Act, S.C. Code § 27-31-10, *et. seq.* Collectively, these defendants as a class are referred herein to as the “HOA Defendants.”

18. For the purposes the instant action, the description of HOA Defendants is meant to specifically exclude homeowners associations organized and operating pursuant to the South Carolina Horizontal Property Regime Act, S.C. Code § 27-31-10, *et. seq.*

19. McCabe, Trotter & Beverly, P.C.; Simons & Dean, Attorneys At Law; McCutchen, Mumford, Vaught & Geddie, P.A.; and Black, Slaughter & Black, P.A. are law firms operating in the various counties of the State of South Carolina. These law firms all engage in the representation of homeowners association by filing liens, filing foreclosure actions, and evicting homeowners.

20. McCabe, Trotter & Beverly, P.C.; represents Hawthorne Ridge Homeowners Association, Inc., Pennington Square Homeowners Association, Inc., Reedy Falls Homeowners Association, Inc., and Springhaven Homeownwers Association, Inc. in actions filed against Dana Rumer, Rachel E. Lindman, April Evans, and Paula Anderson.

21. Simons & Dean, Attorneys At Law; represents the Preserve at Charleston Park Homeowners, Inc. in an action filed against Canan Erdogan.

22. McCutchen, Mumford, Vaught & Geddie, P.A. represents Waccamaw Village Property Association in an action filed against Alexandra Statsenko.

23. Black, Slaughter & Black, P.A represents Cole Creek Homeowners Association, Inc. in an action filed against Corey Truesdale.

24. McCabe, Trotter & Beverly, P.C.; Simons & Dean, Attorneys At Law; McCutchen, Mumford, Vaught & Geddie, P.A.; and Black, Slaughter & Black, P.A. are representative of the class of law firms that routinely engage in the business of filing liens and foreclosure actions on behalf of HOA Defendants. Collectively, these defendants are referred to herein as the “Law Firm Defendants.” Employees, owners, officers, partners, and management of Law Firm Defendants are specifically excluded from the definition of Plaintiffs and/or Plaintiff Class.

25. Defendants Southern Community Services, LLC; Hinson Management, Inc.; IMC Charleston, LLC, Sisbro Properties, LLC; Red Rock Management Agency, LLC, William Douglas Management, Inc., MJS Inc. are in the business of managing homeowners associations in the various counties of the State of South Carolina.

26. Southern Community Services, LLC manages Pennington Square Homeowners Association, Inc.

27. Hinson Management, Inc. manages Hawthorne Ridge Homeowners Association, Inc.

28. IMC Charleston, LLC manages the Preserve at Charleston Park Homeowners Association, Inc.

29. Sisbro Properties, LLC manages Waccamaw Village Property Owners Association, Inc.

30. Red Rock Management Agency, LLC manages Cole Creek Homeowners Association, Inc.

31. William Douglas Management, Inc. manages Reedy Falls Homeowners Association, Inc.

32. MJS Inc. manages Springhaven Homeowners' Association, Inc.

33. Defendants Southern Community Services, LLC; Hinson Management, Inc.; IMC Charleston, LLC, Sisbro Properties, LLC; Red Rock Management Agency, LLC, William Douglas Management, Inc., and MJS Inc. are representative of the class of companies that routinely engage in the business of managing homeowners associations and facilitate the actions plead herein by Law Firm Defendants. Collectively, these defendants are referred to herein as the "Management Defendants." Employees, owners, officers, partners, and management of Management Defendants are specifically excluded from the definition of Plaintiffs and/or Plaintiff Class.

34. At all times relevant herein, the Law Firm Defendants and Management Defendants are agents of the HOA Defendants.

### **JURISDICTION & VENUE**

35. This Court has subject-matter jurisdiction, pursuant to 28 U.S.C.A. § 1331, over the claims in this lawsuit.

36. This Court has supplemental jurisdiction over pendant claims and parties pursuant to 28 U.S.C. § 1367(a).

37. This Court has personal jurisdiction because the events giving rise to the matter in controversy occurred within the State of South Carolina.

38. Venue is proper under 28 U.S.C. § 1391(b), as all events giving rise to the claims occurred in this district.

39. Venue is proper in this division pursuant to Local Civil Rule 3.01 DSC.

### **CLASS ALLEGATIONS**

40. Pursuant to Rule 23, FRCP, Plaintiffs seek certification as a class action because the class of plaintiffs and defendants are so numerous that joinder of all members is impracticable, there are questions of law and fact common to the class; the claims of the representative parties are typical of the entire class, injunctive relief is sought, and the damages for the causes of action exceed one hundred dollars for each member of the class.

41. Pursuant to Rule 23.1, FRCP, Plaintiff Class are also shareholders of their respective HOA Defendants and have the right under to file a declaratory judgment to cause this Court to interpret and declare their rights under the same or similar provisions of the governing documents of their respective associations.

42. The number of HOA Defendants, Law Firm Defendants, and Management Defendants are so numerous that joinder of all homeowners associations, law firm defendants, and Management Defendants in the State of South Carolina is impracticable.

43. There are common questions of law or fact common to the HOA Defendants, Law Firm Defendants, and Management Defendants including, *inter alia*:

- (a) Whether HOA Defendants can issue a lien for unpaid assessments prior to an issuance of a final judgment or adjudication by a court;
- (b) Whether Law Firm Defendant can file a lien for unpaid assessments;
- (c) Whether the issuance of a lien and the filing of a lien and foreclosure action for unpaid assessments by Law Firm Defendants with the assistance of Management Defendants on behalf of HOA Defendants are false and deceptive acts;
- (d) Whether HOA Defendants can lawfully have a homeowner evicted from their home after a foreclosure for unpaid assessments; and/or
- (e) Whether Class Plaintiffs are entitled to the rights under the Homestead Act, S.C. Code Ann. § 15-41-30, *et. seq.* to prevent the foreclosure of their homes.

44. The defenses asserted by the HOA Defendants, Law Firm Defendants, and Management Defendants are typical of the defenses of the class members of HOA Defendants, Law Firm Defendants, and Management Defendants.

45. Pursuant to FRCP 23(b)(1)(A), the prosecution of separate actions against members of the HOA Defendants, Law Firm Defendants, and Management Defendants would create a risk of inconsistent or varying adjudications with respect to individual Plaintiff Class and HOA Defendant members and would establish incompatible standards for HOA Defendants, Law Firm Defendants, and Management Defendants opposing Plaintiff Class.

46. Pursuant to FRCP 23(b)(1)(B) the prosecution of separate actions against each member of the HOA Defendants, Law Firm Defendants, and Management Defendants, as a practical matter, would be dispositive of the interests of the other members not parties to the

individual adjudications or would substantially impair or impede their ability to protect their interests.

47. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy, since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Plaintiff Class members may be relatively small, the expense and burden of individual litigation makes it impossible for members of the Plaintiff Class to individually redress the wrongs done to them by HOA Defendants, Law Firm Defendants, and Management Defendants. There will be no difficulty in the management of this action as a class action.

**FACTUAL ALLEGATIONS**

48. Plaintiffs purchased properties subject to restrictive covenants which create and empower the HOA Defendants pursuant to the South Carolina Nonprofit Corporation Act, S.C. Code § 33-31-101, *et. seq.*

49. Law Firm Defendants on behalf of HOA Defendants with the assistance of Management Defendants filed pre-suit liens against Plaintiffs for unpaid homeowners' assessments as follows:

- (a) Canan Erdogan: Dorchester
- (b) Rachel E. Lindman: Richland
- (c) Dana B. Rumer: Greenville
- (d) Corey Truesdale: York
- (e) Alexandra Statsenko: Horry
- (f) April C. Evans: Greenville

50. Law Firm Defendants on behalf of HOA Defendants with the assistance of Management Defendants filed foreclosure actions against Plaintiffs:

Exhibit	Plaintiff	HOA	S.C. Case Number	HOA's counsel	HOA Management Company	County
A	Canan Erdogan	Preserve at Charleston Park	2017-CP-18-2058	Simons & Dean	IMC Charleston, LLC	Dorchester
B	Rachel E. Lindman	Pennington Square	2017-CP-40-7629	McCabe, Trotter & Beverly	SCS	Richland
C	Dana B. Rumer	Hawthorne Ridge	2017-CP-23-7946	McCabe, Trotter & Beverly	Hinson Management	Greenville
D	Corey Truesdale	Cole Creek	2017-CP-46-3659	Black, Slaughter & Black, P.A.	Red Rock	York
E	Alexandra Statsenko	Waccamaw Village	2017-CP-26-8220	McCutchen, Mumford, Vaught & Geddie	Sisbro	Horry
F	April C. Evans	Reedy Falls	2018-CP-23-00312	McCabe, Trotter & Beverly	William Douglas Management	Greenville

51. Upon information and belief, Management Defendants are agents that manage the affairs of the HOA Defendants including, *inter alia*: the billing and receipt of payments for assessments; the management and maintenance of assets such as common areas and elements such as swimming pools, tennis courts, clubhouses, signage, etc.; the hiring and firing of agents such as landscapers, maintenance personnel, security guards, etc.; decisions regarding the collection of past due assessments; applying architectural rules and surveying the community to ensure compliance with aesthetic requirements; the levying and collection of fines when members fail to comply with architectural and/or aesthetic requirements; the production of the

annual budget for the association; the conduct the annual meeting and other meetings as required; the training of board members as to how to perform their fiduciary obligations as directors; the retention and management of legal counsel to provide legal opinions as to covenants, to pursue enforcement actions, and to pursue collection actions, etc.

52. Upon information and belief, some Management Defendants have at least one seat, usually as treasurer, on the Board of Directors on some HOA Defendants through which they exercise some influence and control.

53. Upon further information and belief, some Management Defendants even completely control the board of directors if the HOA Defendant is still under the control of the initial or subsequent developer.

54. Upon information and belief, Management Defendants have pre-existing agreements—usually oral—to use Law Firm Defendants to provide legal services to the communities that they manage.

55. Upon information and belief, Management Defendants use their position of authority, influence and trust with HOA Defendants to pick or cause HOA Defendants to pick specific Law Firm Defendants on the basis that the Law Firm Defendants agree to pursue the remedies outlined below.

56. The South Carolina Non-Profit Corporation Act empowers non-profit corporations such as HOA Defendants to impose dues and assessments pursuant to S.C. Code Ann. § 33-31-302(15).

57. The restrictive covenants controlling HOA Defendants contain provisions which purportedly creates a lien for assessments and reserves to the HOA Defendants the right to

foreclose the aforesaid lien “in the same manner as other liens for the improvement of real property” or some similar language with the same intent and effect.

58. Homeowners associations that lack the language that purportedly creates the right to create a lien and foreclose that lien for past due assessments are hereby excluded from the class of HOA Defendants to the extent they have not engaged in the practices outlined herein.

59. This purported lien is not a lien under Title 29 of the South Carolina Code of Laws, including, *inter alia*, Chapter 3 of the same. Title 29 of the South Carolina Code of Laws is incorporated herein by reference.<sup>37</sup>,

60. S.C. Code Ann. § 33-31-302 does not empower a non-profit corporation to create a lien for unpaid dues or assessments. The assertion of a lien for unpaid dues prior to a judgment would be an *ultra vires* act.

61. Upon information and belief, HOA Defendants then seek to enforce this alleged right by first filing a lien and then foreclosing this lien by and through the active participation of Law Firm Defendants and Management Defendants.

62. The foreclosure of this purported lien is not authorized by S.C. Code Ann. § 29-3-610, *et seq.* or any other statute under the laws of the State of South Carolina.

63. Law Defendants knowingly use the equitable remedy of foreclosure in an action seeking monetary damages for an alleged breach of contract.

64. The inability to use equitable remedies to collect money damages and/or contractual damages is well established in South Carolina law.

65. Law Defendants’ use of foreclosure is intended to frighten Class Plaintiffs to settle their claims for fear of losing their homes.

66. Upon information and belief, Law Defendants have followed through with foreclosure actions against delinquent homeowners up to and including eviction and sale of property subject to their liens.

67. Plaintiffs face the prospect of losing their valuable real estate over relatively trivial amounts owed for a breach of contract.

68. Law Firm Defendants have and continue to make arguments to the presiding courts which are deceitful and violate Rule 3.3 of the South Carolina Rules of Professional Conduct.

69. Upon information and belief, the HOA defendants, by and through Law Firm Defendants, certify to courts of the State of South Carolina that South Carolina Supreme Court Administrative Order 2011-05-02-01 does not apply because HOA defendant is foreclosing “on a Claim of Lien rather than a Promissory Note Secured by a Mortgage” or similar argument.

70. Upon information and belief, the HOA Defendants, by and through Law Firm Defendants at the direction and assistance of Management Defendants, then send multiple threatening communications which threaten to foreclose the property of property owners. These communications include, but are not limited to, pleadings filed against Class members in the courts of the State of South Carolina. An example of one of these threatening communications is attached hereto as Exhibit G. Upon information and belief, Plaintiffs and Class Plaintiffs have all received the same or similar threatening communication from Defendants.

71. Upon information, Law Firm Defendants offer to settle the claims on behalf of the HOA Defendants with homeowners for amounts that include the past-due assessments plus

attorneys' fees and costs. This attorneys' fees and costs includes attorneys' fees for work not yet performed by Law Firm Defendants.

72. All of the named Defendants have participated in the process of initiating and maintaining the foreclosure process against Plaintiff Class members.

73. HOA Defendants, as the principals, have the duty to monitor, supervise and control their agents Management Defendants and Law Firm Defendants.

74. HOA Defendants have also materially benefitted from the illegal actions done on its behalf by Law Firm Defendants and Management Defendants.

75. Upon information and belief, the amount of attorneys' fees demanded by Law Firm Defendants are not proportionate to the hours devoted to the specific file, results obtained, and other factor set forth under case law and the South Carolina Rules of Professional Conduct. Rule 1.5 of the South Carolina Rules of Professional is hereby incorporated by reference hereto.

76. Plaintiff Class members are under tremendous pressure to settle the claims made by HOA Defendants because of the fear of losing their homes through foreclosure.

77. Upon information and belief, the vast majority of the Plaintiff Class members their claims without seeking the advice of counsel or contesting the validity of the claims made by the HOA Defendants.

78. Upon information and belief, Defendants rely on the fact that the amount in controversy is so small that Plaintiff Class members are unable to obtain legal counsel on a cost-effective basis.

79. Upon information and belief, Plaintiff Class members who refuse to settle face foreclosure on their homes and eviction by the HOA Defendants as the prevailing party.

80. The process designed by HOA Defendants, Law Defendants and Management Defendants is based on the deception that HOA Defendants can use an equitable remedy to collect monetary damages.

81. Upon information and belief, the HOA Defendants do not name the first lien mortgage holders but still seek to evict Plaintiff Class members from their homes. Thus, class members are still or would remain contractually obligated to make payments to mortgage holders even though they are no longer in possession of their homes.

82. The value of the real estate owned by Plaintiff Class Members is negatively affected by the foreclosures brought by the Defendants as the properties become rental properties.

**FOR A FIRST CAUSE OF ACTION**  
**Violation of the Fair Debt Collection Practices Act**  
**(As to Law Firm Defendants)**

83. Each and every allegation contained in the preceding paragraphs is reiterated as if repeated verbatim to the extent it is not inconsistent with this cause of action.

84. Plaintiffs on behalf of the Plaintiff Class hereby incorporate Fair Debt Collection Practices Act, (hereinafter “FDCPA”), 15 U.S.C.A. § 1692, *et seq.*, by reference.

85. Plaintiffs and Plaintiff Class are “consumers” within the meaning of the FDCPA.

86. Homeowners’ association assessments are “consumer debt” within the meaning of the FDCPA.

87. Plaintiffs and Plaintiff Class have been the object of collection activity arising from consumer debt by Law Firm Defendants.

88. Law Firm Defendants are “debt collectors” within the meaning of the FDCPA.

89. The sending of communications to Class Plaintiffs that threaten and/or follow through with foreclosure is “an attempt to collect a debt” within the meaning of the FDCPA.

90. Law Defendants have engaged in an act or omission prohibited by the FDCPA as set forth herein

91. There is no right to use pre-suit liens or the equitable remedy of foreclosure by HOA Defendants to collect damages in the form of past due assessments.

92. The use of liens and foreclosures, the communications relating to file liens and foreclosures, the filing of liens and foreclosures, the inflation of attorneys’ fees and/or the evicting of homeowners constitute false, deceptive, or misleading representation or means in connection with the collection of any debt within the meaning of the FDCPA.

93. There is no right to obtain the equitable remedy of foreclosure in an action for money damages and/or breach of contract action.

94. There is no common law right to obtain the equitable remedy of foreclosure in an action for money damages and/or breach of contract action.

95. There is no right to obtain the equitable remedy of foreclosure in an action for money damages and/or breach of contract action without statutory authorization.

96. The use of liens and foreclosures, the communications relating to liens and foreclosures constitute false representations of the character, amount, or legal status of any debt within the meaning of the FDCPA.

97. The use of liens and foreclosures, the communications relating to liens and foreclosures, and the inflation of attorneys’ fees by the Law Firm Defendants on behalf of the HOA Defendants are misleading or deceptive within the meaning of the FDCPA.

98. The use of liens and foreclosures, the communications relating to liens and foreclosures, and the eviction of Plaintiff Class members from their homes without affording the superior lien holders of notice and/or the rights contained within the Homestead Exemption, S.C. Code Ann. § 15-41-30 are unfair and/or unconscionable means to collect or attempt to collect any debt.

99. Plaintiff Class Members have suffered damages as will be proven at trial including, but not limited to, statutory damages as allowed, actual and consequential damages.

**FOR A SECOND CAUSE OF ACTION**  
**Declaratory Judgment**  
**As to All Defendants**

100. Each and every allegation contained in the preceding paragraphs is reiterated as if repeated verbatim to the extent it is not inconsistent with this cause of action.

101. Plaintiffs on behalf of the Plaintiff Class ask this Court to issue a declaration pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and the South Carolina Declaratory Judgment Act, S.C. Code Ann. § 15-53-10, *et seq.* and enter a judgment as follows:

- a) The right of an association to create a lien—if at all—does not mature until after a judgment is entered against a party delinquent in paying homeowners association dues;
- b) The language and actions as alleged aforesaid regarding liens and foreclosure have been improperly copied from the inapplicable language from the Horizontal Property Regime Act.
- c) A restrictive covenant creates a contractual relationship between a homeowners association and the Plaintiff Class;

- d) A restrictive covenant “touches and concerns” the land meaning the covenants are binding on all future purchasers of land encumbered by the covenants including Plaintiff Class;
- e) A restrictive covenant does not create a mortgage or mortgage-like relationship between the homeowners association and Plaintiff Class.
- f) A homeowners association’s remedy against a property owner who does not pay association dues is to pursue an action by breach of contract;
- g) There is no common law right to the remedy of foreclosure in South Carolina as the remedy of foreclosure has been codified under various Titles of the Laws of South Carolina;
- h) The equitable remedy of foreclosure—if it still exists—is unavailable in a mere breach of contract action;
- i) Any lien created by a judgment against a homeowner is subject to a superior liens;
- j) A homeowner is entitled to protection against the foreclosure of their home by a homeowners association pursuant to the Homestead Exemption, S.C. Code Ann. § 15-41-30;
- k) A homeowner must be given a right to contest their expulsion for non-payment of dues pursuant to S.C. Code Ann. § 33-31-621 before the board of the homeowners association;

l) HOA Defendants have not acted in good faith by denying a homeowner the right to contest their expulsion pursuant to S.C. Code Ann. § 33-31-621 before the board of the homeowners association; and/or

m) The dispossession of homeowners from their properties for trivial amounts of money owed acts as both an unlawful penalty and a forfeiture.

**THIRD CAUSE OF ACTION**  
**Intentional Interference with a Contractual Relationship**  
**As to All Defendants**

102. Each and every allegation contained in the preceding paragraphs is reiterated as if repeated verbatim to the extent it is not inconsistent with this cause of action.

103. Plaintiffs and Plaintiff Class have a contractual relationships with their mortgage companies.

104. Defendants are aware of the existence of the contractual relationship between Plaintiffs/Plaintiff Class and the mortgage company as a result of duly filed and indexed mortgages which are public records in the counties where the properties are situated.

105. Upon information and belief, Law Firm Defendants perform a title search to discover the identity of any other lienholders.

106. Upon information and belief, Law Firm Defendants do not name the mortgage holders as Defendants when they file liens on behalf of the HOA Defendants.

107. Law Firm Defendants act in their own personal interest in bringing foreclosure suits for reasons, *inter alia*, to maximize their immediate profit from the action rather go through supplemental proceedings; to gain unfair leverage against the Class Plaintiffs by and through use of their interference with the mortgage contract.

108. These actions are outside the scope of their representation of HOA Defendants.

109. Mortgage holders have a right to be named in any action as it has an interest in the property and Defendants are attempting to impair that interest, and the existence of the mortgage holders' liens protect the homeowners' possession of their homes.

110. Defendants procured the breach of the mortgage when it has Class Plaintiffs evicted from their properties without notice to the mortgage holder and/or the benefit of the protection of the Homestead Exemption.

111. HOA Defendants come into possession of Class Plaintiffs' properties at the conclusion of the foreclosure actions and eviction actions filed by Law Firm Defendants.

112. Management Defendants actively participate and assist HOA Defendants and Law Firm Defendants in this process.

113. Class Plaintiffs then are forced to breach their agreement with their mortgage companies, *inter alia*: Class Plaintiffs must secure alternate housing; decide whether to continue to pay on property they cannot lawfully re-enter or possess; etc.

114. Class Plaintiffs then undergo a second mortgage foreclosure which further damages their credit.

115. As a result of aforesaid, Plaintiff Class has suffered actual damages, compensatory damages and consequential damages in an amount to be determined at trial plus punitive damages.

**FOURTH CAUSE OF ACTION**  
**Abuse of Process**  
**As to All Defendants**

116. Each and every allegation contained in the preceding paragraphs is reiterated as if repeated verbatim to the extent it is not inconsistent with this cause of action.

117. HOA Defendants, Law Firm Defendants, and Management Defendants have used the filing of liens and foreclosures for the ulterior purpose of extracting more money from Plaintiffs and Class Plaintiffs are allowable under the covenants, under law, and/or that conscionable.

118. The filing of liens and foreclosure actions was done for the ulterior purpose of coercing confiscatory payments from Plaintiffs and Class Plaintiffs and to instill fear in the Plaintiffs and Class Plaintiffs if they are unwilling or unable to pay the amounts demanded. These payments include, *inter alia*, fines for minor architectural violations, attorneys' fees for work not yet performed, etc.

119. These acts in filing liens and foreclosure actions are not proper in the regular course of the proceeding.

120. The filing of liens and foreclosure is improper due to existence and availability of an adequate remedy at law.

121. The Law Firm Defendants act in their own personal interest in bringing foreclosure suits for reasons, *inter alia*, to maximize their immediate profit from the action rather go through supplemental proceedings; to gain unfair leverage against the Class Plaintiffs by and through use of their abuse of process.

122. As a result of aforesaid, Plaintiff Class has suffered actual damages, compensatory damages and consequential damages in an amount to be determined at trial plus punitive damages.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that judgment be rendered against the Defendant as follows:

- a. For actual damages, compensatory damages, and consequential damages as may be proven at trial;
- b. For statutory damages and attorneys' fees for the First Cause of Action;
- c. For punitive damages as may be proven at trial if allowed;
- d. For prejudgment interest, postjudgment interest, and costs; and
- e. For such other and further relief as the Court may deem just and proper.

THE LAW OFFICES OF JASON E. TAYLOR, P.C.

s/ Brian Gambrell

Brian C. Gambrell (FED ID NO. 7632)

Office Address:

810 Dutch Square Blvd

Suite 112

Columbia, SC 29210

Telephone: (800) 351-3008

Facsimile: (828) 327-9008

[bgambrell@jasonetaylor.com](mailto:bgambrell@jasonetaylor.com)

Attorney for Plaintiff

Columbia, South Carolina

February 12, 2018

STATE OF SOUTH CAROLINA )

COUNTY OF DORCHESTER )

Preserve at Charleston Park Homeowners Association, Inc., )

Plaintiff(s) )

vs. )

Canan Erdogan, )

Defendant(s) )

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2017-CP - 18- 2058

Submitted By: Derek F. Dean, Esquire  
Address: Simons & Dean  
147 Wappoo Creek Drive, Suite 604, Charleston, SC 29412

SC Bar #: 065279  
Telephone #: 843-762-9132  
Fax #: 843-406-9913  
E-mail: dfdean@charlestonattorneys.net

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> <b>Contracts</b><br><input type="checkbox"/> Constructions (100)<br><input type="checkbox"/> Debt Collection (110)<br><input type="checkbox"/> General (130)<br><input type="checkbox"/> Breach of Contract (140)<br><input type="checkbox"/> Fraud/Bad Faith (150)<br><input type="checkbox"/> Failure to Deliver/Warranty (160)<br><input type="checkbox"/> Employment Discrim (170)<br><input type="checkbox"/> Employment (180)<br><input type="checkbox"/> Other (199) _____ | <input type="checkbox"/> <b>Torts - Professional Malpractice</b><br><input type="checkbox"/> Dental Malpractice (200)<br><input type="checkbox"/> Legal Malpractice (210)<br><input type="checkbox"/> Medical Malpractice (220)<br>Previous Notice of Intent Case #<br>20 ____-NI-_____<br><input type="checkbox"/> Notice/ File Med Mal (230)<br><input type="checkbox"/> Other (299) _____  | <input type="checkbox"/> <b>Torts - Personal Injury</b><br><input type="checkbox"/> Conversion (310)<br><input type="checkbox"/> Motor Vehicle Accident (320)<br><input type="checkbox"/> Premises Liability (330)<br><input type="checkbox"/> Products Liability (340)<br><input type="checkbox"/> Personal Injury (350)<br><input type="checkbox"/> Wrongful Death (360)<br><input type="checkbox"/> Assault/Battery (370)<br><input type="checkbox"/> Slander/Libel (380)<br><input type="checkbox"/> Other (399) _____  | <input type="checkbox"/> <b>Real Property</b><br><input type="checkbox"/> Claim & Delivery (400)<br><input type="checkbox"/> Condemnation (410)<br><input checked="" type="checkbox"/> Foreclosure (420)<br><input type="checkbox"/> Mechanic's Lien (430)<br><input type="checkbox"/> Partition (440)<br><input type="checkbox"/> Possession (450)<br><input type="checkbox"/> Building Code Violation (460)<br><input type="checkbox"/> Other (499) _____   |
| <input type="checkbox"/> <b>Inmate Petitions</b><br><input type="checkbox"/> PCR (500)<br><input type="checkbox"/> Mandamus (520)<br><input type="checkbox"/> Habeas Corpus (530)<br><input type="checkbox"/> Other (599) _____  | <input type="checkbox"/> <b>Administrative Law/Relief</b><br><input type="checkbox"/> Reinstate Drv. License (800)<br><input type="checkbox"/> Judicial Review (810)<br><input type="checkbox"/> Relief (820)<br><input type="checkbox"/> Permanent Injunction (830)<br><input type="checkbox"/> Forfeiture-Petition (840)<br><input type="checkbox"/> Forfeiture-Consent Order (850)<br><input type="checkbox"/> Other (899) _____ | <input type="checkbox"/> <b>Judgments/Settlements</b><br><input type="checkbox"/> Death Settlement (700)<br><input type="checkbox"/> Foreign Judgment (710)<br><input type="checkbox"/> Magistrate's Judgment (720)<br><input type="checkbox"/> Minor Settlement (730)<br><input type="checkbox"/> Transcript Judgment (740)<br><input type="checkbox"/> Lis Pendens (750)<br><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)<br><input type="checkbox"/> Confession of Judgment (770)<br><input type="checkbox"/> Petition for Workers Compensation Settlement (780)<br><input type="checkbox"/> Other (799) _____ | <input type="checkbox"/> <b>Appeals</b><br><input type="checkbox"/> Arbitration (900)<br><input type="checkbox"/> Magistrate-Civil (910)<br><input type="checkbox"/> Magistrate-Criminal (920)<br><input type="checkbox"/> Municipal (930)<br><input type="checkbox"/> Probate Court (940)<br><input type="checkbox"/> SCDOT (950)<br><input type="checkbox"/> Worker's Comp (960)<br><input type="checkbox"/> Zoning Board (970)<br><input type="checkbox"/> Public Service Comm. (990)<br><input type="checkbox"/> Employment Security Comm (991)<br><input type="checkbox"/> Other (999) _____ |
| <input type="checkbox"/> <b>Special/Complex /Other</b><br><input type="checkbox"/> Environmental (600)<br><input type="checkbox"/> Automobile Arb. (610)<br><input type="checkbox"/> Medical (620)<br><input type="checkbox"/> Other (699) _____<br><input type="checkbox"/> Sexual Predator (510)<br><input type="checkbox"/> Permanent Restraining Order (680)   | <input type="checkbox"/> <b>Pharmaceuticals (630)</b><br><input type="checkbox"/> Unfair Trade Practices (640)<br><input type="checkbox"/> Out-of State Depositions (650)<br><input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)<br><input type="checkbox"/> Pre-Suit Discovery (670)  |   |   |

Submitting Party Signature: \_\_\_\_\_ Date: 12/11/17

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

**Effective January 1, 2016**, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

**Pursuant to the ADR Rules, you are required to take the following action(s):**

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210<sup>th</sup> day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Requests for temporary relief;
  - c. Appeals
  - d. Post Conviction relief matters;
  - e. Contempt of Court proceedings;
  - f. Forfeiture proceedings brought by governmental entities;
  - g. Mortgage foreclosures; and
  - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF DORCHESTER )  
 )  
 PRESERVE AT CHARLESTON PARK )  
 HOMEOWNERS ASSOCIATION, INC., )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CANAN ERDOGAN, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 FOR THE FIRST JUDICIAL CIRCUIT  
 CASE NO.: 2017-CP-18-2058

**SUMMONS & NOTICE**

2017 DEC 14 PM 4:47  
 CERTIFIED COPY  
 CLERK OF COURTS  
 DORCHESTER COUNTY, SC

TO: ABOVE-NAMED DEFENDANT

**YOU ARE HEREBY SUMMONED** and required to answer the Complaint herein, a copy of which is herewith served upon you, or to otherwise appear and defend, and to serve a copy of your Answer to said Complaint upon the subscribers at their office, 147 Wappoo Creek Drive, Suite 604, Charleston, South Carolina 29412, or to otherwise appear and defend the action pursuant to applicable court rules, within thirty (30) days after service hereof, exclusive of the day of such service; except that the United States of America, if named, shall have sixty (60) days to answer after the service hereof, exclusive of such service; and if you fail to answer the Complaint or otherwise appear and defend within the time aforesaid, Plaintiff in this action will apply to the Court for relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Complaint.

**TO MINOR(S) OVER FOURTEEN YEARS OF AGE, AND/OR TO MINOR(S) UNDER FOURTEEN YEARS OF AGE AND THE PERSON WITH WHOM THE MINOR(S) RESIDE(S), AND/OR TO PERSONS UNDER SOME LEGAL DISABILITY:**

**YOU ARE FURTHER SUMMONED AND NOTIFIED** to apply for the appointment of a guardian ad litem within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by Plaintiff.

**YOU WILL ALSO TAKE NOTICE** that pursuant to Rule 53(b) of the South Carolina

Rules of Civil Procedure, as amended effective September 1, 2002, Plaintiff may move for a general Order of Reference to the Master-in-Equity for Dorchester County, which Order shall, pursuant to Rule 53(b) of the SCRCP, specifically provide that the said Master-in-Equity is authorized and empowered to enter a final judgment in this action.



---

Derek E. Dean  
SIMONS & DEAN  
147 Wappoo Creek Drive, Ste. 604  
Charleston, SC 29412  
843-762-9132  
*Attorneys for Plaintiff*

12/11, 2017  
Charleston, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF DORCHESTER )  
 )  
 PRESERVE AT CHARLESTON PARK )  
 HOMEOWNERS ASSOCIATION, INC., )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CANAN ERDOGAN, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 FOR THE FIRST JUDICIAL CIRCUIT  
 CASE NO.: 2017-CP-18-2058

**COMPLAINT**  
 (NON-JURY)  
 DEBT COLLECTION, FORECLOSURE,  
 BREACH OF CONTRACT  
 (Deficiency Judgment Demanded)

2017 DEC 14 PM 4:14  
 CLERK OF COURTS  
 DORCHESTER COUNTY

TO: ABOVE-NAMED DEFENDANT

COMES NOW above-named Plaintiff Preserve at Charleston Park Homeowners Association, Inc., complaining of Defendant Canan Erdogan and would respectfully allege and show unto this Honorable Court as follows:

1. Plaintiff Preserve at Charleston Park Homeowners Association, Inc. ("Association") is a homeowners' association created pursuant to the Declaration of Protective Covenants, Conditions, Restrictions and Easements for the Preserve at Charleston Park recorded in the Register of Deeds Office for Dorchester County, South Carolina.
2. Defendant Canan Erdogan ("Erdogan") is, upon information and belief, a resident and citizen of Dorchester County, South Carolina, and is the record owner, and has been since May 6, 2010, of certain real property commonly known as 8876 Arbor Glen Drive, North Charleston, Dorchester County, 29420, TMS No. 171-04-10-106.000, in the Preserve at Charleston Park, and more particularly described in Exhibit A, attached hereto and incorporated herein by reference ("Property").
3. Upon information and belief, Erdogan is not in the military service of the United States of America pursuant to the provisions of the Servicemembers Civil Relief Act, as amended.
4. The Property referred to above, and its owner, Erdogan, are subject to the provisions of certain documents referred to as the Declaration of Protective Covenants, Conditions, Restrictions

and Easements for the Preserve at Charleston Park recorded at Book 3689, Page 226, as may be amended, (“Declaration”), and the Bylaws of Preserve at Charleston Park Homeowners Association, Inc. recorded at Book 3689, Page 270, as may be amended, (“Bylaws”), in the Register of Deeds for Dorchester County, South Carolina.

5. This Court has jurisdiction over the subject matter and parties to this action and venue is proper.

#### **FACTUAL ALLEGATIONS**

6. The Declaration and Bylaws which outline the obligations of Erdogan to pay the monies owed to the Association are or may be public records filed with the Dorchester County Register of Deeds Office, and are incorporated by reference as if stated verbatim herein (collectively hereinafter, “Governing Documents”).

7. By accepting the deed to and being the owner of the Property, Erdogan agreed to be bound by the Governing Documents. Thus, the Governing Documents serve as the contract between the Association and Erdogan because they are an offer by the Association to provide various services for the community where the Property is located, i.e., maintaining the common areas, enforcing the Governing Documents, etc. (hereinafter the “Services”); an acceptance by Erdogan in the form of his/her/them/it paying monies related to the Property and his/her/their/its use and/or ownership of the Property; and consideration in the form of the mutual obligations between the parties (the Association providing the Services and Erdogan agreeing to pay the assessments/other charges related to the Services provided).

8. On or about November 25, 2015, the Association, via its authorized agent, and pursuant to the authority granted it under the Governing Documents and/or under the provisions of South Carolina statutory or common law, recorded in the official records of the Dorchester County Register of Deeds, a Notice of Lien (“Lien”) on the Property. The Lien includes the assessment delinquency then due, owing and unpaid, together with late fees, filing fees and other costs, accruing prior to the recordation of the Lien in the amount of \$434.18. The Association will ask leave of court to amend its Complaint to allege the full amount of the assessment delinquencies, interest, and expenses, including reasonable attorneys’ fees and costs, then due and according to proof at the time of trial. A copy of the Lien is attached hereto as Exhibit B and is incorporated by reference herein.

9. Since recording the Lien, Erdogan has allowed such amounts, and those amounts accruing since, to remain unpaid, so that in breach of the Governing Documents as of December 7, 2017, there was the sum of \$1,065.44 due, in assessments, late charges, and other collection costs.

**FOR A FIRST CAUSE OF ACTION**  
(Breach of Contract)

10. The Association incorporates the allegations of foregoing paragraphs as though fully set forth herein.

11. As stated above, the parties entered into a binding contract/agreement related to Erdogan's obligations to pay monies owed under the Governing Document for the Property. This contract was based upon the words, writings and/or conduct of the parties as stated above.

12. Despite repeated notices by the Association to pay the outstanding amount owed related to the Property, Erdogan did not keep this obligation current, and this constitutes an unjustifiable failure to perform/default/breach by Erdogan of the contract/agreement to pay the Association these monies.

13. As a direct and proximate result of Erdogan's failure to perform, default and/or breach, the Association has suffered actual, consequential and/or special damages in the form of uncollected regime fees, assessments, attorneys' fees and costs, and other allowable charges owed by Erdogan in prosecuting this matter and/or enforcing the Governing Documents.

14. Thus, the Association is informed and believes that it is entitled to a judgment against Erdogan for the monies described in Paragraph 9, plus whatever other damages, charges, attorneys' fees and costs are supplemented or amended by the Association before and/or during the trial of this action, and any other relief and/or damages deemed appropriate by the Court.

15. Alternatively, if this Court does not find a contract between the parties, there is, at the very least, an implied contract between the parties that Erdogan knew or should have known about by virtue of the Governing Documents, which are public records, the deed to the Property and the dealing between the parties.

16. Consequently, in South Carolina, the Association is entitled to recover the damages asserted herein.

17. When Erdogan owned, used and/or occupied the Property, and/or used or benefitted

from the common elements in the community where the Property is located, valuable Services were being rendered by the Association and accepted by Erdogan. These Services were supplied at the special insistence and request of Erdogan by virtue of his/her/their/its accepting the deed to and becoming the owner of the Property. Erdogan expressly and/or impliedly agreed to pay the Association the fair and reasonable value of the Services provided as evidenced by the deed to the Property, the Governing Documents and the dealing between the parties. Even if Erdogan avers that he/she/they/it did not have actual notice of the Governing Documents, which he/she/they/it did, the Association avers that he/she/they/it had constructive notice of their content and was/were reasonably notified of the Association's expectation that it would be paid for the Services rendered by virtue of their being public records and/or by virtue of copies thereof having been provided for Erdogan at the closing on the Property.

18. Erdogan is unjustly retaining the benefit of the Services provided by the Association by accepting, using and/or enjoying them without fully paying the Association the fair and reasonable value thereof.

19. The fair and reasonable value of the Services supplied by the Association for which it has not been paid is stated above in Paragraph 9.

20. Thus, the Association is informed and believes that it is entitled to a judgment against Erdogan for the monies described in Paragraph 9, plus whatever other damages, charges, attorneys' fees and costs are supplemented or amended by the Association before and/or during the trial of this action, and any other relief or damages deemed appropriate by the Court.

**FOR A SECOND CAUSE OF ACTION**  
**Foreclosure**

21. The Association incorporates the allegations of the foregoing paragraphs as though fully set forth herein.

22. Erdogan is in breach of his/her/their/its contractual relationship with the Association as set forth above.

23. The Association performed all conditions precedent to the contract which it has with Erdogan.

24. That at all times pertinent hereto, the Property was owned by Erdogan.

25. The Association gave Erdogan regular notice of statements of account for past due homeowners' fees and assessments.

26. As stated above, the Association claims a Lien on the Property.

27. In pertinent parts, the Declaration states as follows:

Article 4, §4.2:

Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) general assessments; (b) special assessments; (c) specific assessments; and (d) Master Association assessments. All such assessments, together with late charges . . . and . . . and costs of collection, including, without limitation, reasonable attorney's fees actually incurred, shall, from the times the sums become due and payable, be a charge on the land and shall be a continuing lien in favor of the Association on the Lot against which each assessment is made. . . . Each such assessment, together with such late charges, interest and costs, shall also be the personal obligation of the Person who was the Owner of the Lot at the time the assessment fell due. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

Article 4, §4.7, further states that

Any assessment . . . which are not paid when due shall be delinquent. In addition to lien rights, the personal obligation of the then Owner to pay such assessments shall remain such Owner's personal obligation and shall also pass to such Owner's successors-in-title. . . . Any assessment . . . delinquent for a period of more than ten (10) days shall incur a late charge . . . and interest . . . and costs of collection, including, without limitation, reasonable attorney's fees actually incurred. . . . Each Owner . . . vests in the Association the right and power to bring all actions against such Owner personally for the collection of such charges as a debt or to foreclose the lien. The lien . . . shall be in favor of the Association . . .

28. The Association is entitled to an order of foreclosure of its Lien on the Property for the amount of its account and costs requiring that the Property be sold, and that the proceeds of the sale after deducting all lawful charges and expenses be applied to the debt of Erdogan, including reasonable attorneys' fees and costs incurred.

29. The Association demands a personal or deficiency judgment against Erdogan.

Wherefore, Plaintiff Preserve at Charleston Park Homeowners Association, Inc. demands judgment as follows:

A. On its first Cause of Action, Plaintiff Preserve at Charleston Park Homeowners

Association, Inc. demands judgment in its favor and against Defendant Canan Erdogan in the amount of \$1,065.44 (or such other amount as may be presented at the trial of this matter), with interest at the legal rate from the date accrued, including reasonable attorneys' fees and costs, together with all assessment payments and fines accruing prior to the time of trial according to proof;

B. On its Second Cause of Action, Plaintiff Preserve at Charleston Park Homeowners Association, Inc. demands: that foreclosure be given to all proper parties; that the Property be sold and that the proceeds used to satisfy the amounts due the Association on its account and for the costs incurred in prosecuting its demands; that the named Defendant and any other party who claims an interest in the Property be compelled to set forth that interest or forever be barred from asserting it; and a personal or deficiency judgment against Defendant Canan Erdogan;

- C. Reasonable attorneys' fees and costs;
- D. Costs and disbursements of this action; and
- E. For such other relief as this Court deems just and proper.



---

Derek F. Dean  
SIMONS & DEAN  
147 Wappoo Creek Drive, Ste. 604  
Charleston, SC 29412  
843-762-9132  
*Attorneys for Plaintiff*

12/11, 2017  
Charleston, South Carolina

**NOTICE REQUIRED BY THE FAIR DEBT COLLECTION PRACTICES ACT**

**15 U.S.C. Section 1601, as amended**

1. The amount of the debt is stated in Paragraph 9 of the Complaint attached hereto.
2. Plaintiff, as named in the attached Summons and Complaint, is the creditor to whom the debt is owed.
3. The debt described in the Complaint attached hereto and evidenced by the copy of the Notice of Lien/Lien of Record attached hereto will be assumed to be valid by the creditor's law firm, unless the debtor, within thirty days after the receipt of this notice, disputes, in writing, the validity of the debt or some portion thereof.
4. If the debtor notifies the creditor's law firm in writing within thirty days of the receipt of this notice that the debt or any portion thereof is disputed, the creditor's law firm will obtain a verification of the debt and a copy of the verification will be mailed to the debtor by the creditor's law firm.
5. If the creditor named as Plaintiff in the attached Summons and Complaint is not the original creditor, and if the debtor makes a written request to the creditor's law firm within thirty days from the receipt of this notice, the name and address of the original creditor will be mailed to the debtor by the creditor's law firm. That Creditor is: Preserve at Charleston Park Homeowners Association, Inc.
6. Written requests should be addressed to Derek F. Dean, Esquire, SIMONS & DEAN, 147 Wappoo Creek Drive, Suite 604, Charleston, South Carolina 29412.
7. This notice should not be construed as a thirty (30) day grace period. Creditor may pursue collection efforts immediately and not wait thirty (30) days.

**THIS IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION  
OBTAINED WILL BE USED FOR THAT PURPOSE.**

**EXHIBIT A**

ALL that certain piece, parcel or lot of land, situate, lying and being in **THE PRESERVE AT CHARLESTON PARK**, Dorchester County, South Carolina, as more particularly shown and designated as **LOT 25, PHASE 1 B-1** on that certain Plat entitled, 'FINAL PLAT SHOWING CHARLESTON PARK PHASE 1 B-1 A GARDEN AND CLUSTER DEVELOPMENT TMS NO. 171-00-00-079 (CONTAINING 4.498 ACRES) INTO LOTS 18-41, 46-56 (3.441 ACRES), RIGHT OF WAYS (1.057 ACRE) AND ADJACENT HOA AREAS PROPERTY OF KB HOME SOUTH CAROLINA LLC LOCATED IN THE CITY OF NORTH CHARLESTON DORCHESTER COUNTY, SOUTH CAROLINA" prepared by HLA, Inc., dated August 10, 2009 and recorded in the RMC Office for Dorchester County on September 21, 2009 in Plat Cabinet L at Page 133. Said lot of land having such, size, shape, buttings and boundings as will by reference to said plat more fully appear.

THIS BEING a portion of the property as conveyed to KB Home South Carolina LLC, a South Carolina limited liability company by Deed of Dorchester Road (Charleston) Associates Limited Partnership, a South Carolina limited partnership, Deed dated April 25, 2005 and recorded in the Dorchester County RMC Office in Book 4671 at Page 146.

**TMS NO.: 171-04-10-106**

SUBJECT to any and all Restrictions, Covenants, Conditions, Easements and Rights of Way affecting subject property of record in the Office of the RMC for Dorchester County, South Carolina.

**Property Address: 8876 Arbor Glen Drive, North Charleston, SC 29420**



2017 DEC 14 PM 4:47  
RECORDED  
DORCHESTER COUNTY



Recording Date: 11/25/2015 Instrument: 17 Book: 10002 Page: 230-232

FILED-RECORDED  
RMC / ROD

2015 Nov 25 AM 9:59:53

DORCHESTER COUNTY  
SC Deed Rec Fee: .00  
Dor Co Deed Rec Fee: .00  
Filing Fee: 10.00  
Exemption #:  
MARGARET L. BAILEY  
Register of Deeds

2017 DEC 14 PM 4:47  
IDENTIFIED COPY  
Clerk of Court  
DORCHESTER COUNTY



THIS PAGE IS HEREBY ATTACHED AND MADE PART OF  
THE PERMANENT RECORD OF THIS DOCUMENT. IT IS  
NOT TO BE DETACHED OR REMOVED AND MUST BE  
CITED AS THE FIRST PAGE OF THE RECORDED  
DOCUMENT. THE TOP OF THE PAGE IS TO BE USED FOR  
RECORDING PURPOSES AND IS NOT TO BE USED FOR  
ANY OTHER PURPOSE.

REGISTER OF DEEDS  
DORCHESTER COUNTY SOUTH CAROLINA  
MARGARET L. BAILEY, REGISTER  
POST OFFICE BOX 38  
ST. GEORGE, SC 29477  
843-563-0181 or 843-832-0181



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DORCHESTER )

NOTICE OF LIEN

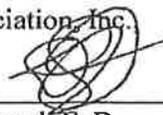
YOU WILL TAKE NOTICE that The Preserve at Charleston Park Homeowners Association, Inc., does hereby file the within Notice of Lien in connection with The Preserve at Charleston Park Homeowners Association, Inc., in the sum of \$434.18 (representing unpaid regime fees, late fees/interest, \$10.00 for filing fee & other costs and fees) justly due and owing The Preserve at Charleston Park Homeowners Association, Inc. which has not been paid, upon the premises described herein below and carried in the records of the undersigned in the name of Canan Erdogan. The premises affected by the lien is described as follows: Lot 25, Phase 1B-1, The Preserve at Charleston Park, a/k/a 8875 Arbor Glen Drive, North Charleston, SC 29420. TMS No. 171-04-10-106.

In witness whereof, The Preserve at Charleston Park Homeowners Association, Inc., has hereunto set its hand and seal by its undersigned representative, this 20 day of November, 2015.

WITNESSES:

June P. Myrman  
Debra J. Coffey

The Preserve at Charleston Park Homeowners Association, Inc.



By: Derek F. Dean  
Its: Attorney

Return to:  
Derek F. Dean, Esquire  
Simons & Dean  
147 Wappoo Creek Drive  
Charleston, SC 29412

FILED/RECORDED  
NOVEMBER 25, 2015  
DORCHESTER COUNTY  
REGISTER OF DEEDS



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DORCHESTER )  
 )  
PRESERVE AT CHARLESTON PARK )  
HOMEOWNERS ASSOCIATION, INC., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CANAN ERDOGAN, )  
 )  
Defendant. )

IN THE COURT OF COMMON PLEAS  
FOR THE FIRST JUDICIAL CIRCUIT  
CASE NO.: 2017-CP-18-~~2058~~

**LIS PENDENS**

2017 DEC 14 PM 4:47  
CERTIFIED COPY  
CLERK OF COURT  
DORCHESTER COUNTY

TO: ABOVE-NAMED DEFENDANT

NOTICE is hereby given that an action has been commenced and is pending in this Court upon Complaint of the above named Plaintiff against Defendant Canan Erdogan for breach of contract, foreclosure and other related causes of action. Plaintiff claims a lis pendens on the below described real estate to protect and enforce its interest as set forth in the pending action:

**SEE EXHIBIT A,  
ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE**

TMS #: 171-04-10-106  
Property Address: 8875 Arbor Glen Drive, North Charleston 29420

  
Derek F. Dean  
SIMONS & DEAN  
147 Wappoo Creek Drive, Ste. 604  
Charleston, SC 29412  
843-762-9132  
*Attorneys for Plaintiff*

12/11, 2017  
Charleston, South Carolina

**EXHIBIT A**

ALL that certain piece, parcel or lot of land, situate, lying and being in **THE PRESERVE AT CHARLESTON PARK**, Dorchester County, South Carolina, as more particularly shown and designated as **LOT 25, PHASE 1 B-1** on that certain Plat entitled, 'FINAL PLAT SHOWING CHARLESTON PARK PHASE 1 B-1 A GARDEN AND CLUSTER DEVELOPMENT TMS NO. 171-00-00-079 (CONTAINING 4.498 ACRES) INTO LOTS 18-41, 46-56 (3.441 ACRES), RIGHT OF WAYS (1.057 ACRE) AND ADJACENT HOA AREAS PROPERTY OF KB HOME SOUTH CAROLINA LLC LOCATED IN THE CITY OF NORTH CHARLESTON DORCHESTER COUNTY, SOUTH CAROLINA" prepared by HLA, Inc., dated August 10, 2009 and recorded in the RMC Office for Dorchester County on September 21, 2009 in Plat Cabinet L at Page 133. Said lot of land having such, size, shape, buttings and boundings as will by reference to said plat more fully appear.

THIS BEING a portion of the property as conveyed to KB Home South Carolina LLC, a South Carolina limited liability company by Deed of Dorchester Road (Charleston) Associates Limited Partnership, a South Carolina limited partnership, Deed dated April 25, 2005 and recorded in the Dorchester County RMC Office in Book 4671 at Page 146.

**TMS NO.: 171-04-10-106**

SUBJECT to any and all Restrictions, Covenants, Conditions, Easements and Rights of Way affecting subject property of record in the Office of the RMC for Dorchester County, South Carolina.

**Property Address: 8876 Arbor Glen Drive, North Charleston, SC 29420**

2017 DEC 14 PM 4:47  
RECORDED COPY  
CLERK OF COURT  
DORCHESTER COUNTY



STATE OF SOUTH CAROLINA )

COUNTY OF RICHLAND )

Pennington Square Homeowners Association, Inc. )

RACHEL E. LINDMAN )

Plaintiff(s) )  
Defendant(s) )

IN THE COURT OF COMMON PLEAS

2017CP4007629  
CIVIL ACTION COVERSHEET

-CP-

2017 DEC 19 AM 9:47

Submitted By: Stephanie C. Trotter  
Address: McCabe Trotter & Beverly, PC  
140 Stoneridge Dr. Suite 650  
Columbia SC 29210

SC Bar #: 77680  
Telephone #: 803-724-5000  
Fax #: 803-724-5001  
Other:

E-mail: Stephanie.trotter@mccabetrotter.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- |  |  |   |  |
|--|--|---|--|
| <p><b>Contracts</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Constructions (100)</li> <li><input type="checkbox"/> Debt Collection (110)</li> <li><input type="checkbox"/> General (130)</li> <li><input type="checkbox"/> Breach of Contract (140)</li> <li><input type="checkbox"/> Fraud/Bad Faith (150)</li> <li><input type="checkbox"/> Failure to Deliver/Warranty (160)</li> <li><input type="checkbox"/> Employment Discrim (170)</li> <li><input type="checkbox"/> Employment (180)</li> <li><input type="checkbox"/> Other (199)</li> </ul>  | <p><b>Torts - Professional Malpractice</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Dental Malpractice (200)</li> <li><input type="checkbox"/> Legal Malpractice (210)</li> <li><input type="checkbox"/> Medical Malpractice (220)</li> <li>Previous Notice of Intent Case #<br/>20 -NI- -</li> <li><input type="checkbox"/> Notice/ File Med Mal (230)</li> <li><input type="checkbox"/> Other (299)</li> </ul>  | <p><b>Torts - Personal Injury</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Conversion (310)</li> <li><input type="checkbox"/> Motor Vehicle Accident (320)</li> <li><input type="checkbox"/> Premises Liability (330)</li> <li><input type="checkbox"/> Products Liability (340)</li> <li><input type="checkbox"/> Personal Injury (350)</li> <li><input type="checkbox"/> Wrongful Death (360)</li> <li><input type="checkbox"/> Assault/Battery (370)</li> <li><input type="checkbox"/> Slander/Libel (380)</li> <li><input type="checkbox"/> Other (399)</li> </ul>   | <p><b>Real Property</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Claim &amp; Delivery (400)</li> <li><input type="checkbox"/> Condemnation (410)</li> <li><input checked="" type="checkbox"/> Foreclosure (420)</li> <li><input type="checkbox"/> Mechanic's Lien (430)</li> <li><input type="checkbox"/> Partition (440)</li> <li><input type="checkbox"/> Possession (450)</li> <li><input type="checkbox"/> Building Code Violation (460)</li> <li><input type="checkbox"/> Other (499)</li> </ul>   |
| <p><b>Inmate Petitions</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> PCR (500)</li> <li><input type="checkbox"/> Mandamus (520)</li> <li><input type="checkbox"/> Habeas Corpus (530)</li> <li><input type="checkbox"/> Other (599)</li> </ul>   | <p><b>Administrative Law/Relief</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reinstate Drv. License (800)</li> <li><input type="checkbox"/> Judicial Review (810)</li> <li><input type="checkbox"/> Relief (820)</li> <li><input type="checkbox"/> Permanent Injunction (830)</li> <li><input type="checkbox"/> Forfeiture-Petition (840)</li> <li><input type="checkbox"/> Forfeiture-Consent Order (850)</li> <li><input type="checkbox"/> Other (899)</li> </ul> | <p><b>Judgments/Settlements</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Death Settlement (700)</li> <li><input type="checkbox"/> Foreign Judgment (710)</li> <li><input type="checkbox"/> Magistrate's Judgment (720)</li> <li><input type="checkbox"/> Minor Settlement (730)</li> <li><input type="checkbox"/> Transcript Judgment (740)</li> <li><input type="checkbox"/> Lis Pendens (750)</li> <li><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)</li> <li><input type="checkbox"/> Confession of Judgment (770)</li> <li><input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)</li> <li><input type="checkbox"/> Other (799)</li> </ul> | <p><b>Appeals</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Arbitration (900)</li> <li><input type="checkbox"/> Magistrate-Civil (910)</li> <li><input type="checkbox"/> Magistrate-Criminal (920)</li> <li><input type="checkbox"/> Municipal (930)</li> <li><input type="checkbox"/> Probate Court (940)</li> <li><input type="checkbox"/> SCDOT (950)</li> <li><input type="checkbox"/> Worker's Comp (960)</li> <li><input type="checkbox"/> Zoning Board (970)</li> <li><input type="checkbox"/> Public Service Comm. (990)</li> <li><input type="checkbox"/> Employment Security Comm (991)</li> <li><input type="checkbox"/> Other (999)</li> </ul> |
| <p><b>Special/Complex /Other</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Environmental (600)</li> <li><input type="checkbox"/> Automobile Arb. (610)</li> <li><input type="checkbox"/> Medical (620)</li> <li><input type="checkbox"/> Other (699)</li> <li><input type="checkbox"/> Sexual Predator (510)</li> <li><input type="checkbox"/> Pharmaceuticals (630)</li> <li><input type="checkbox"/> Unfair Trade Practices (640)</li> <li><input type="checkbox"/> Out-of State Depositions (650)</li> <li><input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)</li> <li><input type="checkbox"/> Pre-Suit Discovery (670)</li> </ul> |  |   |  |

Submitting Party Signature: \_\_\_\_\_

Date: 12.13.17

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND  
PENNINGTON SQUARE HOMEOWNERS  
ASSOCIATION, INC.,

Plaintiff,

v.

RACHEL E. LINDMAN,

Defendant(s).

019133.00010

IN THE COURT OF COMMON PLEAS

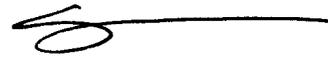
**SUMMONS  
(NON-JURY)**

**FORECLOSURE OF REAL ESTATE  
NON-ELIGIBLE FOR HOME  
MODIFICATION PROGRAM**

REC'D AND OPENED  
FILED  
DEC 19 AM 8:4  
COURT CLERK  
RICHLAND COUNTY

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend by answering the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer on the subscribers at their offices, 140 Stoneridge Drive Suite 650, Post Office Box 212069, Columbia, South Carolina 29221, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint. YOU WILL ALSO TAKE NOTICE that the Plaintiff will move for an order of reference or that the Court may issue a general order of reference of this action to a master/special referee, pursuant to Rule 53, South Carolina Rules of Civil Procedure.



Stephanie C. Trotter  
McCabe, Trotter & Beverly, P.C.  
140 Stoneridge Drive Suite 650  
Post Office Box 212069 (29221)  
Columbia, SC 29210 803-724-5002  
Email: [Stephanie.Trotter@mccabetrotter.com](mailto:Stephanie.Trotter@mccabetrotter.com)  
*Attorneys for Plaintiff*

Columbia, South Carolina  
November 28, 2017

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND  
PENNINGTON SQUARE HOMEOWNERS  
ASSOCIATION, INC.,

Plaintiff,

v.

RACHEL E. LINDMAN,

Defendant(s).

IN THE COURT OF COMMON PLEAS

**COMPLAINT  
(NON-JURY)**

**FORECLOSURE OF REAL ESTATE  
NON-ELIGIBLE FOR HOME  
MODIFICATION PROGRAM**

RICHLAND COUNTY  
FILED  
DEC 19 AM 8:17  
CLERK OF COURT

019133.00010

The Plaintiff herein, complaining of the acts or omissions of the Defendant(s) would show unto this Honorable Court as follows:

1. Upon information and belief, the Defendant(s) is/are a resident of the County of Richland, State of South Carolina and the subject of this action is real property located in the County of Richland, South Carolina.

2. Plaintiff is a corporation or other legal entity doing business in the State of South Carolina and has the right to bring this action.

3. Heretofore, on or about 06/25/2009 the Defendant(s) took possession of the property more fully described as:

**All that certain piece, parcel or lot of land, situate, lying and being in the City of Columbia, Richland County, South Carolina, being Lot 5 as more specifically shown and described on a plat thereof entitled "CORRECTIVE BONDED PLAT OF PENNINGTON SQUARE", said plat (the "Plat") dated December 29, 2006, last revised February 21, 2007, prepared by Cox and Dinkins, Inc., certified by J. Don Rawls, Jr., SCPLS #13517, which said Plat being recorded in the Office of the ROD for Richland County, South Carolina in Plat Book 1285 at Page 1311.**

**This being the same property conveyed to Rachel E. Lindman by deed of Hallmark Homes International, Inc. dated June 25, 2009 and recorded July 2, 2009 in Book 1535, Page 3784 in the Office of the ROD for Richland County, South Carolina.**

4. The herein described property is subject to governing documents for Pennington Square Homeowners Association, Inc. attached hereto as Exhibit A and incorporated herein by reference.

5. By taking possession of the property, Defendant(s) agreed to pay assessments and other charges allowed by the governing documents.

6. Pursuant to the governing documents a lien arises in favor of Plaintiff to secure payment of the unpaid charges.

7. Plaintiff's duly elected corporate directors have properly levied assessments and other charges against Defendant's property pursuant to Exhibit A. Those charges are currently unpaid.

8. Heretofore, on or about 02/21/2017, Plaintiff filed a Notice of Lien in connection with unpaid assessments on the herein referenced property owned by the Defendant(s).

9. Pursuant to the governing documents Plaintiff is entitled to foreclose on the afore-mentioned lien.

10. The Defendant(s) has failed to make consistent payments of the assessments and interest, although demand for payment has been made, and the Plaintiff after giving all required notices, has and does hereby elect to declare the entire balance payable at once. There is now due, owing and unpaid the sum of \$1,532.37 in assessments, late fees, interest and other allowable charges. Plaintiff is further entitled to recover reasonable attorney's fees and the cost of litigating this proceeding.

11. If Plaintiff secures the premises being foreclosed herein, Plaintiff's cost of securing said premises should be added to any judgment rendered on its behalf. If Plaintiff pays any utility charges constituting a lien on said premises, Plaintiff's advances should be added to any judgment rendered on its behalf.

WHEREFORE, having fully set forth its Complaint, Plaintiff prays that this Honorable Court inquire into the matters as set forth herein:

1. Under the direction of this Court, ascertain and determine the amount due to Plaintiff as outlined by the governing documents, together with interest and reasonable attorney's fees and costs as outlined in the governing documents.

2. That said Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees, and for the costs of this proceeding.

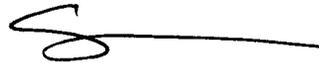
3. That the premises be sold under the direction of this Court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

- a. First, to the costs and expenses of the within proceeding and said sale;
- b. Second, to the payment and discharge of the amount due under the governing documents, together with attorney's fees as aforesaid; and

c. Third, the surplus, if any, be distributed pursuant to Rule 71, of the South Carolina Rules of Civil Procedure.

4. For such other and further relief as may be just and proper.

MCCABE, TROTTER & BEVERLY, P.C.



---

Stephanie C. Trotter  
140 Stoneridge Drive, Suite 650  
Post Office Box 212069 (29221)  
Columbia, SC 29210  
Phone: 803-724-5000  
Fax: 803-724-5001  
Email: [Stephanie.Trotter@mccabetrotter.com](mailto:Stephanie.Trotter@mccabetrotter.com)  
ATTORNEY FOR THE PLAINTIFF

Columbia, South Carolina  
November 28, 2017

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE  
HAWTHORNE RIDGE HOMEOWNERS'  
ASSOCIATION, INC.,

Plaintiff,

v.

DANA B. RUMER,

Defendant(s).

IN THE COURT OF COMMON PLEAS

**SUMMONS  
(NON-JURY)  
FORECLOSURE OF REAL ESTATE  
NON-ELIGIBLE FOR HOME  
MODIFICATION PROGRAM**

21021.4

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend by answering the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer on the subscribers at their offices, 140 Stoneridge Drive Suite 650, Post Office Box 212069, Columbia, South Carolina 29221, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint. YOU WILL ALSO TAKE NOTICE that the Plaintiff will move for an order of reference or that the Court may issue a general order of reference of this action to a master/special referee, pursuant to Rule 53, South Carolina Rules of Civil Procedure.

s/ Stephanie C. Trotter  
Stephanie C. Trotter (SC Bar 77680)  
McCabe, Trotter & Beverly, P.C.  
140 Stoneridge Drive Suite 650  
Post Office Box 212069 (29221)  
Columbia, SC 29210 803-724-5002  
Email: [Stephanie.Trotter@mccabetrotter.com](mailto:Stephanie.Trotter@mccabetrotter.com)  
*Attorneys for Plaintiff*

Columbia, South Carolina  
November 14, 2017

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE  
HAWTHORNE RIDGE HOMEOWNERS'  
ASSOCIATION, INC.,

Plaintiff,

v.

DANA B. RUMER,

Defendant(s).

IN THE COURT OF COMMON PLEAS

**COMPLAINT  
(NON-JURY)  
FORECLOSURE OF REAL ESTATE  
NON-ELIGIBLE FOR HOME  
MODIFICATION PROGRAM**

21021.4

The Plaintiff herein, complaining of the acts or omissions of the Defendant(s) would show unto this Honorable Court as follows:

1. Upon information and belief, the Defendant(s) is/are a resident of the County of Greenville, State of South Carolina and the subject of this action is real property located in the County of Greenville, South Carolina.

2. Plaintiff is a corporation or other legal entity doing business in the State of South Carolina and has the right to bring this action.

3. Heretofore, on or about 01/15/2013 the Defendant(s) took possession of the property more fully described as:

**All that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Greenville being shown and designated as Lot 3 Hawthorne Subdivision as shown on plat thereof recorded in Plat Book 1051 at Page 77 and having, according to said plat, metes and bounds as shown thereon.**

**This being the same property conveyed to Dana B. Rumer and Easterlan C. Rumer by deed of A-1 Properties, LLC dated January 15, 2013 and recorded January 23, 2013 in Book 2418, Page 1336 in the Office of the ROD for Greenville County, South Carolina. Thereafter, this being the same property conveyed to Dana B. Rumer by deed of Easterlan C. Rumer dated July 25, 2016 and recorded August 4, 2016 in Book 3248, Page 3251 in the Office of the ROD for Greenville County, South Carolina.**

4. The herein described property is subject to governing documents for Hawthorne Ridge Homeowners' Association, Inc. attached hereto as Exhibit A and incorporated herein by reference.

5. By taking possession of the property, Defendant(s) agreed to pay assessments and other charges allowed by the governing documents.

6. Pursuant to the governing documents a lien arises in favor of Plaintiff to secure payment of the unpaid charges.

7. Plaintiff's duly elected corporate directors have properly levied assessments and other charges against Defendant's property pursuant to Exhibit A. Those charges are currently unpaid.

8. Heretofore, on or about 11/03/2015, Plaintiff filed a Notice of Lien in connection with unpaid assessments on the herein referenced property owned by the Defendant(s).

9. Pursuant to the governing documents Plaintiff is entitled to foreclose on the afore-mentioned lien.

10. The Defendant(s) has failed to make consistent payments of the assessments and interest, although demand for payment has been made, and the Plaintiff after giving all required notices, has and does hereby elect to declare the entire balance payable at once. There is now due, owing and unpaid the sum of \$3,311.89 in assessments, late fees, interest and other allowable charges. Plaintiff is further entitled to recover reasonable attorney's fees and the cost of litigating this proceeding.

11. If Plaintiff secures the premises being foreclosed herein, Plaintiff's cost of securing said premises should be added to any judgment rendered on its behalf. If Plaintiff pays any utility charges constituting a lien on said premises, Plaintiff's advances should be added to any judgment rendered on its behalf.

WHEREFORE, having fully set forth its Complaint, Plaintiff prays that this Honorable Court inquire into the matters as set forth herein:

1. Under the direction of this Court, ascertain and determine the amount due to Plaintiff as outlined by the governing documents, together with interest and reasonable attorney's fees and costs as outlined in the governing documents.

2. That said Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees, and for the costs of this proceeding.

3. That the premises be sold under the direction of this Court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

a. First, to the costs and expenses of the within proceeding and said sale;

b. Second, to the payment and discharge of the amount due under the governing documents, together with attorney's fees as aforesaid; and

c. Third, the surplus, if any, be distributed pursuant to Rule 71, of the South Carolina Rules of Civil Procedure.

4. For such other and further relief as may be just and proper.

MCCABE, TROTTER & BEVERLY, P.C.

s/ Stephanie C. Trotter

Stephanie C. Trotter (SC Bar 77680)

140 Stoneridge Drive, Suite 650

Post Office Box 212069 (29221)

Columbia, SC 29210

Phone: 803-724-5000

Fax: 803-724-5001

Email: [Stephanie.Trotter@mccabetrotter.com](mailto:Stephanie.Trotter@mccabetrotter.com)

ATTORNEY FOR THE PLAINTIFF

Columbia, South Carolina

November 14, 2017

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK )

COLE CREEK HOMEOWNERS ASSOCIATION, )  
INC. )

FILED-RECEIVED  
2017 DEC 11 PM 2:17

CIVIL ACTION COVERSHEET

vs.

Plaintiff(s)  
DAVID HAMILTON  
C.C.C.P. & S.  
YORK COUNTY, NC

2017 -CP-46-3659

COREY D. TRUESDALE; MIDLAND FUNDING, )  
LLC, )

Defendant(s) )

Submitted By: David C. Wilson  
Address: 3623 N. Elm St. #200, Greensboro, NC 27455

SC Bar #: 102116  
Telephone #: 704-970-1593  
Fax #: 844-272-4694  
Other:  
E-mail: [dwilson@lawfirmcarolinas.com](mailto:dwilson@lawfirmcarolinas.com)

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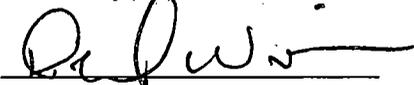
DOCKETING INFORMATION (Check all that apply)

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- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
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NATURE OF ACTION (Check One Box Below)

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|--|--|---|---|
| <p><b>Contracts</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Constructions (100)</li> <li><input type="checkbox"/> Debt Collection (110)</li> <li><input type="checkbox"/> General (130)</li> <li><input type="checkbox"/> Breach of Contract (140)</li> <li><input type="checkbox"/> Fraud/Bad Faith (150)</li> <li><input type="checkbox"/> Failure to Deliver/Warranty (160)</li> <li><input type="checkbox"/> Employment Discrim (170)</li> <li><input type="checkbox"/> Employment (180)</li> <li><input type="checkbox"/> Other (199)</li> </ul>  | <p><b>Torts - Professional Malpractice</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Dental Malpractice (200)</li> <li><input type="checkbox"/> Legal Malpractice (210)</li> <li><input type="checkbox"/> Medical Malpractice (220)</li> <li>Previous Notice of Intent Case #<br/>20__-NI-_____-</li> <li><input type="checkbox"/> Notice/ File Med Mal (230)</li> <li><input type="checkbox"/> Other (299)</li> </ul>   | <p><b>Torts - Personal Injury</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Conversion (310)</li> <li><input type="checkbox"/> Motor Vehicle Accident (320)</li> <li><input type="checkbox"/> Premises Liability (330)</li> <li><input type="checkbox"/> Products Liability (340)</li> <li><input type="checkbox"/> Personal Injury (350)</li> <li><input type="checkbox"/> Wrongful Death (360)</li> <li><input type="checkbox"/> Assault/Battery (370)</li> <li><input type="checkbox"/> Sander/Libel (380)</li> <li><input type="checkbox"/> Other (399)</li> </ul>  | <p><b>Real Property</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Claim &amp; Delivery (400)</li> <li><input type="checkbox"/> Condemnation (410)</li> <li><input checked="" type="checkbox"/> Foreclosure (420)</li> <li><input type="checkbox"/> Mechanic's Lien (430)</li> <li><input type="checkbox"/> Partition (440)</li> <li><input type="checkbox"/> Possession (450)</li> <li><input type="checkbox"/> Building Code Violation (460)</li> <li><input type="checkbox"/> Other (499)</li> </ul>  |
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Submitting Party Signature: 

Date: 12-6-2017

STATE OF SOUTH CAROLINA  
 YORK COUNTY

FILED-RECEIVED  
 2017 DEC 11 PM 2:17

IN THE COURT OF COMMON PLEAS  
 SIXTEENTH JUDICIAL CIRCUIT  
 2017-CP-46- 3659

COLE CREEK HOMEOWNERS ASSOCIATION, INC.,  
 Plaintiff,  
 v.  
 COREY D. TRUESDALE; MIDLAND FUNDING LLC,  
 Defendant(s).

YORK COUNTY, SC

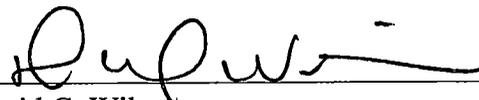
**CERTIFICATE OF EXEMPTION /  
 WITHDRAWAL FROM ARBITRATION**

I certify that this action is exempt from arbitration because:

<input type="checkbox"/>	Monetary relief requested in this case exceeds \$25,000;
<input type="checkbox"/>	This is a class action;
<input type="checkbox"/>	There is a substantial claim for injunction or declaratory relief in this case;
<input checked="" type="checkbox"/>	This case involves ( <i>check one or more of the following</i> ):
<input type="checkbox"/>	Title to real estate;
<input type="checkbox"/>	Wills, trusts, and decedents' estates;
<input checked="" type="checkbox"/>	Lien foreclosure;
<input type="checkbox"/>	Partition
<input type="checkbox"/>	This is a special proceeding or action seeking extraordinary relief such as mandamus, habeas corpus, or prohibition
<input type="checkbox"/>	Monetary relief requested in this case is unspecified but exceeds \$25,000;
<input type="checkbox"/>	This case is a companion or related to similar actions pending in other courts with which the action might be consolidated but for lack of jurisdiction or venue;
<input type="checkbox"/>	This action is appellate in nature;
<input type="checkbox"/>	This is a post-conviction relief matter;
<input type="checkbox"/>	This is a forfeiture proceeding brought by the State; or
<input type="checkbox"/>	This is a contempt of court proceeding

This the 28 day of November, 2017.

Cole Creek Homeowners Association, Inc.

By: 

David C. Wilson  
 Black, Slaughter & Black, P.A.  
 P.O. Box 41027  
 Greensboro, NC 27404-1027  
 (800)-805-0425  
 Attorneys for the Plaintiff

STATE OF SOUTH CAROLINA  
YORK COUNTY

FILED-RECEIVED  
2017 DEC 11 PM 2:17

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT  
2017-CP-46- 3659

COLE CREEK HOMEOWNERS ASSOCIATION, INC. v. COREY D. TRUESDALE; MIDLAND FUNDING LLC, Defendant(s).  
C.C.C.P. & D.S.  
YORK COUNTY, SC

**CERTIFICATION  
REGARDING SUPREME COURT  
ADMINISTRATIVE ORDER  
NO. 2011-05-02-01**

I, David C. Wilson, being first duly sworn hereby state as follows:

1. I am the attorney for the Plaintiff in the above-entitled action.
2. I am familiar with the underlying facts of this case, am authorized to execute this affidavit on behalf of the Plaintiff, and am familiar with the account referenced in the Complaint filed in this action.
3. With regard to the assessment obligations being foreclosed upon by the Plaintiff as referenced in the Complaint:
  - a. This action does not involve a promissory note or mortgage but instead involves foreclosure of a homeowners association lien for assessments;
  - b. Plaintiff in this foreclosure action does not offer any form of foreclosure intervention contemplated by South Carolina Supreme Court Administrative Order No. 2011-05-02-01;
  - c. This action is not subject to South Carolina Supreme Court Administrative Order No. 2011-05-02-01.

Further affiant saith not.

This the 28 day of November, 2017.

*Mecklenburg*  
*RMH* Guilford County, North Carolina

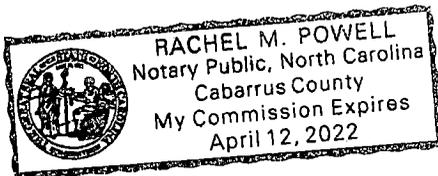
BLACK, SLAUGHTER & BLACK, P.A.  
Attorneys for Plaintiff

By:

*David C. Wilson*

David C. Wilson  
P.O. Box 41027  
Greensboro, NC 27404-1027  
p (704) 970-1593  
f (336) 378-1850

Sworn to and subscribed before me this  
28 day of November, 2017.  
*Rachel M. Powell*  
Notary Public  
My Commission Expires: 04-12-2022



STATE OF SOUTH CAROLINA

YORK COUNTY

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT  
2017-CP-46- 3659

FILED-RECEIVED

COLE CREEK HOMEOWNERS ASSOCIATION, INC.  
Plaintiff,

v.

COREY D. TRUESDALE; MIDLAND FUNDING  
LLC,  
Defendant(s).

2017 DEC 11 AM 11:17  
DAVID HAMILTON  
C.C.C.P. & S.S.  
YORK COUNTY, SC

**SUMMONS**

TO THE DEFENDANT(S) NAMED ABOVE: Corey D. Truesdale; Midland Funding, LLC

**YOU ARE HEREBY SUMMONED** and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to the Complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, or otherwise appear and defend, the Plaintiff in this action will apply to the Court for the relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Complaint.

If you are an infant over fourteen years of age or imprisoned, you are further **SUMMONED AND NOTIFIED** to apply for appointment of a Guardian ad Litem to represent you in this action within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiff herein.

If you are an infant under fourteen years of age or are incompetent or insane, you and the Guardian or committee are further **SUMMONED AND NOTIFIED** to apply for the appointment of a Guardian ad Litem to represent the infant under fourteen years of age or the incompetent or insane person within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiff herein.

Pursuant to Rule 53(b) of the SCRCP as amended, Plaintiff will move for a general Order of Reference to the Master in Equity for York County, which Order shall, pursuant to SCRCP Rule 53(b), specifically provide that the Master in Equity is authorized and empowered to enter a final judgment in this action. If there are counterclaims requiring a jury trial, any party may file a demand under SCRCP Rule 38, and the case may be returned to the Circuit Court.

This the 28 day of November, 2017.

Cole Creek Homeowners Association, Inc.

Address:

P.O. Box 41027  
Greensboro, NC 27404-1027

By:



David C. Wilson  
Black, Slaughter & Black, P.A.  
Attorneys for the Plaintiff  
P.O. Box 41027  
Greensboro, NC 27404-1027  
p (336) 378-1899, f (336) 378-1850

STATE OF SOUTH CAROLINA  
YORK COUNTY

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT  
2017-CP-46- 3659

FILED-RECEIVED  
2017 DEC 11 PM 2:17

DAVID HAMILTON  
C.C.P. No. 46-3659  
YORK COUNTY, SC  
COLE CREEK HOMEOWNERS ASSOCIATION, INC.  
Plaintiff,  
v.  
COREY D. TRUESDALE; MIDLAND FUNDING LLC,  
Defendant(s).

**COMPLAINT  
FOR JUDGMENT OF FORECLOSURE,  
ENFORCEMENT OF EQUITABLE LIEN, AND  
ENFORCEMENT OF DECLARATION**

Plaintiff, complaining of the Defendant(s) named above respectfully shows unto this Honorable Court:

1. Plaintiff is a nonprofit corporation organized and existing under and by virtue of the laws of South Carolina, with its principal place of business in York County, South Carolina.
2. The Defendant(s), Corey D. Truesdale, upon information and belief, is a citizen and resident of York County, South Carolina.
3. The Defendant, Corey D. Truesdale, upon information and belief, is a citizen and resident of York County, South Carolina.
4. The Defendant, Midland Funding LLC, upon information and belief, is a Delaware corporation. Defendant Midland Funding LLC is listed herein as a judgment creditor and has, by filing the judgment(s), designated the attorney(s) entering the judgment(s) as their agent for service of process pursuant to the provisions of Section 15-35-840 of the SC Code of Laws (1976) as amended. Further, the Defendant, Midland Funding LLC is made a party by virtue of the judgment in the amount of \$1,401.84 in file number: 2017-CP-46-1358.
5. The real property which is the subject of this action (the "Property") is located in York County, South Carolina, and has a mailing address of 319 Deep Water Lane, Fort Mill, SC 29715. For a more particular description, see the legal description, attached hereto as Exhibit "A" and incorporated by reference.
6. Plaintiff seeks in this action to obtain a judgment for all amounts owed by the Defendant Corey D. Truesdale and to obtain and enforce an equitable lien against the Property for payment of amounts adjudged due by this court.
7. Property is subject to and encumbered by the Declaration of Covenants, Conditions, & Restrictions for Cole Creek Homeowners Association, Inc. (the "Declaration"), which is recorded in Book 6411

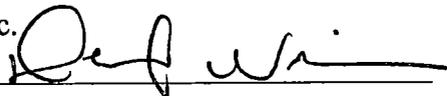
and Page 220 of the York County Register of Deeds/Register of Mesne Conveyance, and any amendments thereto

8. Defendant(s), by virtue of ownership of the Property, is/are obligated to pay assessments to Cole Creek Homeowners Association, Inc. (the "Association") pursuant to the provisions of the Declaration, relevant excerpts of which are attached hereto as Exhibit "B" and incorporated by reference.
9. The Declaration provides that in the event of a default in the payment of any assessment installment when due, and if such default is not cured as specified in the Declaration, the Association shall have a lien, which lien shall secure payment of assessments, late fees, and all costs of collection, including reasonable attorney's fees.
10. As a result of Defendant(s)' failure to pay assessments provided for in the Declaration, the Association filed a Lien For Unpaid Assessments (the "Lien") on or about March 31, 2016 in Book 396, Page 241-242 of the York County registry, attached hereto as Exhibit "C" and incorporated herein by reference.
11. The amount due under the terms of the Declaration is \$2,690.21 in principal, late fees, interest, and other charges. Plaintiff is further entitled to recover reasonable attorney's fees and the costs of litigating this proceeding. To date, attorney's fees incurred are \$875.00 and costs incurred are \$242.96. The total amount authorized and due at the date of filing of this complaint is \$3,808.17.
12. Each Lot/Unit subject to the Declaration serves as security for the repayment of all debts, obligations, and charges arising under its terms with respect to that Lot/Unit and its owner(s).
13. By virtue of the Declaration, all amounts due and owing above attach to the Property.
14. If Plaintiff secures the Property being foreclosed herein, Plaintiff's cost of securing said Property should be added to any judgment rendered on its behalf, and if Plaintiff pays any utility charges constituting a lien on the Property Plaintiff's advances should be added to any judgment rendered on its behalf.
15. Plaintiff is required to continue providing benefits to the Defendant(s) under the terms of the Declaration notwithstanding the default and its remedy at law is inadequate.
16. The debt being foreclosed upon is not a residential mortgage loan. It is therefore not owned or guaranteed by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, and the debt is also not subject to the Home Affordable Modification Program.

**WHEREFORE**, having fully set forth its complaint, Plaintiff prays that this Honorable Court inquire into the matters set forth herein and that:

1. Plaintiff recover judgment against the Defendant(s) for the amount shown by the evidence.
2. The Property be declared subject to an equitable lien in favor of the Plaintiff which encumbers the Property and secures repayment of the judgment rendered.
3. Plaintiff's equitable lien relate back to and attach to the Property as of the date the Lien was recorded in the Register of Deeds of York County.
4. The Property be sold under the direction of this court subject to prior taxes and assessments, easements, restrictions and rights of way of record, and to any other senior or superior liens or encumbrances, that the equity of redemption be barred, and that the proceeds of sale be applied first to the costs and expenses of this action and the sale of the Property, second to the payment and discharge of the amount due on Plaintiff's judgment, and third the surplus, if any, be distributed pursuant to Rule 71 of the South Carolina Rules of Civil Procedure.
5. The Sheriff of York County, South Carolina be directed and empowered to place the purchaser at the foreclosure sale in possession of the Property should it become necessary.
6. Such other and further relief as may be just and proper.

This the 28 day of November, 2017.

Cole Creek Homeowners Association,  
Inc.  
By:   
David C. Wilson  
Black, Slaughter & Black, P.A.  
Attorneys for the Plaintiff  
P.O. Box 41027  
Greensboro, NC 27404-1027  
p (336) 378-1899  
f (336) 378-1850

## **EXHIBIT "A"**

Lot 1043 of Cole Creek as shown on Plat C-346, at Page 7 as recorded in the Office of the Register of Deeds of York County, South Carolina; together with certain interest appurtenant to the lot, common areas and facilities, along with access thereto for ingress and egress.

Derivation: This is a portion of the property conveyed to Portrait Homes-Cole Creek LLC by Deed recorded in Record Book 6338, Page 150 as recorded in the Office of the Register of Deeds of York County, South Carolina

TMS: 7250000096

# **EXHIBIT B**

FILED FOR RECORD 07/19/2004  
AT 08:19:42AM BOOK 06411 PAGE 00220  
David Hamilton - Clerk of Court  
York County Courthouse  
Instrument Number: 000194630

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
for  
**COLE CREEK**

THIS DECLARATION is made this 11th day of June, 2004, by **PORTRAIT HOMES-COLE CREEK LLC**, an Illinois limited liability company (hereinafter referred to as the "Declarant").

**WITNESSETH:**

WHEREAS, Declarant is the owner of the real property in York County, South Carolina, more particularly described in Exhibit "A" attached hereto, and Declarant desires to create thereon an exclusive residential community of single-family attached residential units to be named Cole Creek; and

WHEREAS, Declarant desires to insure the attractiveness of the community, to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within the community and to provide for the maintenance and upkeep of the exterior of all residential units and the Common Area, as hereinafter defined; and to this end, desires to subject the real property shown upon the attached Exhibit "A", to the coverage of the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property described below, and each Owner and occupant thereof; and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation, protection and enhancement of the values and amenities in the community and to provide for the maintenance and upkeep of the exterior of all residential units and the Common Area, to create an organization to which will be delegated and assigned the powers of (i) owning, maintaining and administering the Common Area; (ii) maintaining the exterior of the residential units and all other improvements which are the responsibility of the Association; (iii) administering and enforcing the covenants, conditions, and restrictions herein; (iv) collecting and disbursing the assessments and charges hereinafter created; and (v) performing all other activities as required or permitted hereunder.

WHEREAS, Declarant has incorporated or will incorporate under South Carolina law, Cole Creek Homeowners Association, Inc., as a non-profit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, Declarant hereby declares that all of the Properties, described in Article I, Section 1 below, and such additions thereto as may be hereafter made pursuant to Article I, Section 2 hereof, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Properties and be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

payment to contractors, vendors, employees or agents for services provided in caring out the purposes of the Association; (vi) enforce this Declaration; (vii) perform all rights, duties and responsibilities set forth in the Declaration, Articles and Bylaws of the Association.

**ARTICLE V**

**COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section One. Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, late charges, costs and reasonable attorney's fees, shall be a charge on the Lots and shall be a continuing lien upon the Lots against which each such assessment is made. Each such assessment, together with interest, late charges, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them. If the Association should be dissolved or cease to exist, then in that event, every Owner of a Lot at the time of required maintenance shall be jointly and severally liable for any and all costs attendant thereto.

**Section Two. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties and in particular for: (1) the improvement, maintenance, repair, and reconstruction of the Common Areas and of the exterior of the residential units, including landscaping and extermination; (2) the maintenance, repair, and reconstruction of (a) private water and/or sewer lines (and any meters or lift stations associated therewith) and water and sewer charges related thereto, (b) any pond (detention or retention), (c) pool and pool house, (d) private streets, (e) street lights, fences, driveways, walks, and parking areas and such maintenance to include the cutting and removal of weeds and grass, the removal of trash and rubbish, or any other maintenance; (3) the use and enjoyment of the Common Area, including, but not limited to, the cost of repairs, replacements, and additions; (4) the cost of labor, equipment, materials, management, and supervision; (5) the payment of taxes and public assessments assessed against the Common Area; (6) the procurement and maintenance of insurance in accordance with this Declaration; (7) the employment of attorneys to represent the Association when necessary; (8) the provision of adequate reserves for the replacement of capital improvements, including, without limiting the generality of the foregoing, roofs, paving, and any other major expense for which the Association is responsible; and (9) such other needs as may arise.

**Section Three. Reserves.** The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Areas, and those other portions of the Properties, which the Association may be obligated to maintain, and for unusual and unforeseen expenses of the Association. Such reserve fund is to be established, insofar as is practicable,

Pasquinnelli/HOA/Cole Creek/Declaration 05.26.04

out of annual assessments for common expense. Further, the reserve fund may be applied to operational deficits provided adequate reserves are maintained.

Section Four. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Thousand Six Hundred Dollars (\$1,600) per Lot (except that pursuant to Section Seven of this Article, the maximum annual assessment for Lots owned by Declarant which are not occupied as a residence shall be Four Hundred Dollars (\$400) per Lot).

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by the Board of Directors effective January 1 of each year without a vote of Membership, but subject to the limitation that any such increase shall not exceed the greater of twenty percent (20%) or the percentage increase in the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for all cities over preceding twelve (12) month period which ended on the previous October 1.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, or until increased as provided for in (b) or (c) below, whichever last occurs, the maximum annual assessment may be increased above the increase permitted in Section 4(a) above by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the monthly assessment at an amount which shall not exceed one twelfth (1/12) of the maximum annual assessment.

Section Five. Special Assessments. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year for the purpose of supplying adequate reserve funds for the replacement of capital improvements; for defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or upon a Lot, and in connection with exterior maintenance, including fixtures and personal property related thereto; for insurance costs of the Association; or for unusual, unforeseen and nonrecurring expenses of the Association, provided that any such assessment shall have the assent of the Board of Directors.

Section Six. Notice and Quorum for any Action Authorized Under Section Four. Written notice of any meeting called for the purpose of taking any action authorized under Section Four shall be sent to all Members no less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section Seven. Uniform Rate of Assessment. Both annual and special assessments shall, except as herein otherwise specifically provided, be fixed at a uniform rate for all similar Lots and shall be collected on a monthly basis. Provided, however, that the assessment for Lots owned by Declarant which are not occupied as a residence, shall at all times be twenty-five percent (25%) of the assessments for other similar Lots.

Section Eight. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to each building on the day of the month on which the first Lot in such building is conveyed by Declarant, to a non-related entity for occupancy, except Declarant shall have the following option: (i) Declarant shall commence paying twenty five (25%) percent of the regular assessments for all Lots it owns upon such conveyance or (ii) Declarant may elect not to pay any assessments whatsoever provided it funds any deficiency in the operational budget of the Association until it commences payment of the assessments in (i) above. Such annual assessments shall be paid ratably on a monthly basis. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Non-related entity means an entity, which is not owned, managed, or operated by any common individuals.

Section Nine. Effect of Nonpayment of Assessments: Remedies of the Association. A late charge of Twenty Five and No/100 Dollars (\$25.00) shall be added to any assessment not paid within fifteen (15) days after the due date, together with interest from the due date at eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and in either event: interest, costs, and reasonable attorney's fees of any such action shall be added to the assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his or her Lot.

Section Ten. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and ad valorem taxes. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments, which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section Eleven. Working Capital Fund. At the time of closing of the sale of each Lot, a sum equal to at least two months' assessment for each Lot shall be collected and transferred to the Association for use as working capital. The purpose of said fund is to insure that the Association will have adequate cash available to satisfy expenses, and to acquire additional equipment or services deemed necessary or

desirable. Amounts paid shall not be considered advance payment of monthly installments of annual assessments.

Section Twelve. Default By Association: Upon default by the Association in the payment to the jurisdiction entitled thereto of any assessments for public improvements or ad valorem taxes levied against the Common Areas, which default shall continue for a period of six (6) months, each Owner of a Lot shall become personally obligated to pay the jurisdiction a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the jurisdiction by the total number of Lots in the Properties. If the sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, the sum shall become a continuing lien on the property of the Owner, his or her heirs, devisees, personal representatives, and assigns. The taxing or assessing jurisdiction may either bring an action at law against the Owner personally obligated to pay the same, or may elect to foreclose the lien against the property of the Owner.

**ARTICLE VI**

**EXTERIOR MAINTENANCE AND PARTY WALLS**

Section One. In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each Lot as follows: paint and/or stain the exterior of the residential unit on the Lot; repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs (excluding those planted by an Owner), grass, walks, mailboxes, fences installed by Declarant or the Association, exterior post lights (excluding electricity therefor), and other exterior improvements. Such exterior maintenance shall not include glass surfaces. Further, the Owner of any Lot may, at his or her election, plant flowers in the front and rear beds established by Declarant in developing the Lot, provided that such maintenance by the Owner does not hinder the Association in performing its maintenance of the exterior of the residential unit and the remaining yard spaces. No maintenance by an Owner shall reduce the assessment payable by him or her to the Association. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the Association.

(As a matter of information to future Members of the Association, the Declarant desires to make it known that due to differing amounts of exposure to the elements and other factors, some Lots may require more maintenance than others and that it is in the best interest of the entire Association that all units be properly maintained and that the Association shall be required to provide such maintenance provided for herein and make a uniform charge without regard to the actual cost of maintenance of each Lot.)

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his or her family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject, which is not subject to any maximum. The Association is hereby granted an easement right of access to go upon any Lot for performance of repairs or maintenance, the responsibility of which is the Association's hereunder.

Pasquinelli/HOA/Cole Creek/Declaration 05.26.04

# EXHIBIT C

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

201690100517  
Filed for Record in  
YORK COUNTY, SC  
DAVID HAMILTON, CLERK OF COURTS  
03-31-2016 At 12:07 PM.  
HOA LIEN 10.00  
OR Vol 396 Page 241 - 242

**NOTICE OF LIEN**

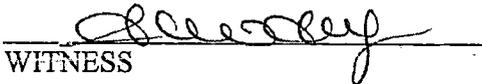
<b>Claimant:</b>	Cole Creek Homeowners Association, Inc.
<b>Record Owner (s):</b>	Corey D. Truesdale
<b>Property Address:</b>	319 Deep Water Lane
<b>Tax Map Number:</b>	7250000096
<b>Current Amount Due as of 03/23/2016:</b>	\$1227.38

This Notice of Lien is made for assessments and other allowable charges levied against the property above and remaining unpaid as of the date of this Notice of Lien. This amount includes all attorney's fees, costs, charges, late fees, and interest applicable to such assessments. Additionally, this Notice of Lien is levied for all accruing, but unpaid, future assessments, both regular and special, any and all allowable interest, delinquent charges as applicable, attorney's fees and costs until the date of payment.

IN WITNESS WHEREOF, Cole Creek Homeowners Association, Inc. has hereunto set its hand and seal this 23rd day of March, 2016.

  
WITNESS

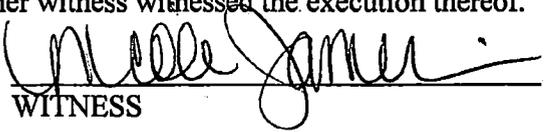
  
Cole Creek Homeowners Association, Inc.  
By: Stephanie C. Trotter or Jaime McSweeney  
Its: Counsel

  
WITNESS

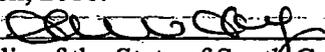


STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF York )

PERSONALLY appeared before me the undersigned, who states that (s)he saw the within Cole Creek Homeowners Association, Inc. by its Counsel, Stephanie C. Trotter or Jaime McSweeney, sign seal and deliver the within Notice of Lien and that (s)he with the other witness witnessed the execution thereof.

  
WITNESS

SWORN to before me this 23rd day of March, 2016.

  
Notary Public of the State of South Carolina  
My Commission Expires: 8-24-2021

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE  
REEDY FALLS HOMEOWNERS'  
ASSOCIATION, INC.,

Plaintiff,

v.

APRIL C. EVANS,

Defendant(s).

IN THE COURT OF COMMON PLEAS

**SUMMONS  
(NON-JURY)  
FORECLOSURE OF REAL ESTATE  
NON-ELIGIBLE FOR HOME  
MODIFICATION PROGRAM**

20693.5

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend by answering the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer on the subscribers at their offices, 140 Stoneridge Drive Suite 650, Post Office Box 212069, Columbia, South Carolina 29221, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint. YOU WILL ALSO TAKE NOTICE that the Plaintiff will move for an order of reference or that the Court may issue a general order of reference of this action to a master/special referee, pursuant to Rule 53, South Carolina Rules of Civil Procedure.

s/ Stephanie C. Trotter  
Stephanie C. Trotter (SC Bar 77680)  
McCabe, Trotter & Beverly, P.C.  
140 Stoneridge Drive Suite 650  
Post Office Box 212069 (29221)  
Columbia, SC 29210 803-724-5002  
Email: [Stephanie.Trotter@mccabetrotter.com](mailto:Stephanie.Trotter@mccabetrotter.com)  
*Attorneys for Plaintiff*

Columbia, South Carolina  
January 8, 2018

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE  
REEDY FALLS HOMEOWNERS'  
ASSOCIATION, INC.,

Plaintiff,

v.

APRIL C. EVANS,

Defendant(s).

IN THE COURT OF COMMON PLEAS

**COMPLAINT  
(NON-JURY)  
FORECLOSURE OF REAL ESTATE  
NON-ELIGIBLE FOR HOME  
MODIFICATION PROGRAM**

20693.5

The Plaintiff herein, complaining of the acts or omissions of the Defendant(s) would show unto this Honorable Court as follows:

1. Upon information and belief, the Defendant(s) is/are a resident of the County of Greenville, State of South Carolina and the subject of this action is real property located in the County of Greenville, South Carolina.

2. Plaintiff is a corporation or other legal entity doing business in the State of South Carolina and has the right to bring this action.

3. Heretofore, on or about 01/16/2007 the Defendant(s) took possession of the property more fully described as:

**ALL that certain piece, parcel or lot of land, lying and being in the State of South Carolina, County of Greenville, being known and designated as Lot 74 on a plat of Reedy Falls, Phase III, dated 03/03/2006 recorded in the ROD Office for Greenville County in Plat Book 1008 at Page 77; and as more specifically shown on a survey prepared for April C. Evans prepared by Freeland Clinkscales dated 11/17/2006 and recorded in the ROD Office for Greenville County in Plat Book 58 at Page 79. Reference is hereby made to the most recent survey for a more complete and accurate metes and bounds description thereof.**

**This being the same property conveyed to April C. Evans by deed of Eastwood Construction Co., Inc. dated January 16, 2007 and recorded January 18, 2007 in Book 2247, Page 753, and re-recorded on January 26, 2007 in Book 2248, Page 1446 in the Office of the ROD for Greenville County, South Carolina.**

4. The herein described property is subject to governing documents for Reedy Falls Homeowners' Association, Inc. attached hereto as Exhibit A and incorporated herein by reference.

5. By taking possession of the property, Defendant(s) agreed to pay assessments and other charges allowed by the governing documents.

6. Pursuant to the governing documents a lien arises in favor of Plaintiff to secure

payment of the unpaid charges.

7. Plaintiff's duly elected corporate directors have properly levied assessments and other charges against Defendant's property pursuant to Exhibit A. Those charges are currently unpaid.

8. Heretofore, on or about 09/28/2015, Plaintiff filed a Notice of Lien in connection with unpaid assessments on the herein referenced property owned by the Defendant(s).

9. Pursuant to the governing documents Plaintiff is entitled to foreclose on the afore-mentioned lien.

10. The Defendant(s) has failed to make consistent payments of the assessments and interest, although demand for payment has been made, and the Plaintiff after giving all required notices, has and does hereby elect to declare the entire balance payable at once. There is now due, owing and unpaid the sum of \$1,512.54 in assessments, late fees, interest and other allowable charges. Plaintiff is further entitled to recover reasonable attorney's fees and the cost of litigating this proceeding.

11. If Plaintiff secures the premises being foreclosed herein, Plaintiff's cost of securing said premises should be added to any judgment rendered on its behalf. If Plaintiff pays any utility charges constituting a lien on said premises, Plaintiff's advances should be added to any judgment rendered on its behalf.

WHEREFORE, having fully set forth its Complaint, Plaintiff prays that this Honorable Court inquire into the matters as set forth herein:

1. Under the direction of this Court, ascertain and determine the amount due to Plaintiff as outlined by the governing documents, together with interest and reasonable attorney's fees and costs as outlined in the governing documents.

2. That said Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees, and for the costs of this proceeding.

3. That the premises be sold under the direction of this Court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

- a. First, to the costs and expenses of the within proceeding and said sale;
- b. Second, to the payment and discharge of the amount due under the governing documents, together with attorney's fees as aforesaid; and
- c. Third, the surplus, if any, be distributed pursuant to Rule 71, of the South Carolina

Rules of Civil Procedure.

4. For such other and further relief as may be just and proper.

MCCABE, TROTTER & BEVERLY, P.C.

s/ Stephanie C. Trotter

Stephanie C. Trotter (SC Bar 77680)

140 Stoneridge Drive, Suite 650

Post Office Box 212069 (29221)

Columbia, SC 29210

Phone: 803-724-5000

Fax: 803-724-5001

Email: [Stephanie.Trotter@mccabetrotter.com](mailto:Stephanie.Trotter@mccabetrotter.com)

ATTORNEY FOR THE PLAINTIFF

Columbia, South Carolina  
January 8, 2018



**THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT (S.C. CODE ANN. § 15-48-10 ET SEQ., AS AMENDED)**

***NOTICE TO CLOSING ATTORNEYS: THIS DECLARATION IMPOSES ASSESSMENTS CONSTITUTING A LIEN ON EACH LOT IN THE SUBDIVISION. PLEASE CONTACT THE ASSOCIATION TO DETERMINE THE STATUS OF A PARTICULAR LOT WITH REGARD TO PAYMENT OF ASSESSMENTS. THE ASSOCIATION'S CONTACT INFORMATION MAY BE FOUND ON THE SECRETARY OF STATE'S WEBSITE.***

STATE OF SOUTH CAROLINA ) DECLARATION OF COVENANTS, CONDITIONS,  
 ) RESTRICTIONS, EASEMENTS, CHARGES AND  
COUNTY OF RICHLAND ) LIENS FOR SPRINGHAVEN  
 )

THIS Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for SPRINGHAVEN is made this 29 day of September, 2006, by SPRINGHAVEN, LLC, a limited liability company organized and existing under the laws of the State of South Carolina (the "Developer," as further defined in Article I herein). Any defined terms used herein shall have the meaning set out in Article I hereafter:

**THE DEVELOPER EXPRESSLY RESERVES THE RIGHT TO AMEND OR RESTATE THIS DECLARATION WITHOUT THE CONSENT OF AN OWNER, THEIR MORTGAGEE(S) OR THE ASSOCIATION FOR SO LONG AS THE DEVELOPER OWNS ANY PORTION OF THE "PROPERTY" (AS DEFINED HEREIN). ANY AMENDED OR RESTATED DECLARATION MAY CONTAIN ADDITIONAL RESTRICTIONS OR OBLIGATIONS AFFECTING THE USE OF THE "COMMON AREA", A "LOT", "AREA OF EXTENDED LOT OWNER RESPONSIBILITY" (AS SUCH TERMS ARE DEFINED HEREIN) OR ANY OTHER SUCH PORTION OF THE "PROPERTY". ANY AMENDED OR RESTATED DECLARATION MAY ALSO AFFECT AN OWNER'S OBLIGATIONS AS A MEMBER OF THE ASSOCIATION. EVERY PURCHASER OR GRANTEE OF ANY LOT OR COMMON AREA NOW AND HEREINAFTER DESIGNATED, BY ACCEPTANCE OF A DEED OR OTHER CONVEYANCE THEREOF, ACKNOWLEDGES NOTICE OF THE DEVELOPER'S RIGHT TO AMEND THIS DECLARATION AND THAT THEIR RIGHTS ARE SUBJECT TO CHANGE. ANY SUCH AMENDMENT SHALL BE APPLICABLE TO AND BINDING UPON THE OWNERS AND THE LOTS. AT THE OPTION AND SOLE DISCRETION OF THE DEVELOPER, ANY AMENDMENTS TO THE DECLARATION MADE BY THE DEVELOPER MAY APPLY: (I) UPON THE DAY OF EXECUTION OR RECORDING OF THE AMENDED OR RESTATED DECLARATION; (II) RETROACTIVELY TO THE DATE OF THIS DECLARATION OR TO SOME OTHER SPECIFIED DATE IN THE AMENDMENT; OR (III) PROSPECTIVELY TO SOME SPECIFIED DATE IN THE AMENDMENT.**

Book 1244-1577  
2006097304 10/24/2006 15:13:43 850 Declaration of Covenants  
Fee: \$55.00 County Tax: \$0.00 State Tax: \$0.00



Section 3. DEDICATION OF STREETS AND ROADWAYS. If and when any streets or roadways located within the Community are dedicated to, or otherwise accepted by, responsible parties including without limitation public bodies, governmental bodies, districts, agencies or authorities, the dedication or acceptance shall be subject to the covenants, conditions, restrictions, easements, charges and liens contained in this Declaration, as amended, whether or not it shall be so expressed in any such deed, other conveyance, or plat.

## ARTICLE VI ASSESSMENTS

### Section 1. ASSESSMENTS

(a) Each and every Owner of any Lot or Lots within the Property, by acceptance of a deed to a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be personally obligated to pay to the Association, the Assessments, and the Association's collection fees, attorney's fees and court cost incurred in collecting the Assessments, or in enforcing or attempting to enforce the Declaration, By-Laws and the Architectural Guidelines and Regulations established or amended from time to time by the Developer or the Board of Directors, When Empowered.

(b) Assessments, together with such interest thereon, and other costs of collection; including the Association collection fees, attorney fees and court costs shall be a charge on the land and shall be a continuing lien upon the Lot or Lots against which such Assessments are levied. Owners of any Lot shall share in the obligation of any other Owner of that Lot and shall be jointly and severally liable for any Assessments, the cost of collection, attorney fees and court costs that are attributable to that Lot. In the event an Owner holds title to multiple Lots in the Community, including without limitation, builders, the Association's continuing lien shall be treated as one all-encompassing lien over all the Lots of that Owner for purposes of the remedies set forth in Article X of this Declaration.

(c) The Association shall, upon demand at any time, furnish to any Owner or attorney representing the prospective purchaser of a Lot, a certificate in writing signed by an officer of the Association, setting forth whether said Assessments have been paid. Such certificate shall be conclusive evidence of payment of any Assessments therein stated to have been paid. At all times

NEGLECTED OR FAILED TO KEEP ANY PORTION OF THE MINOR DRAINAGE SYSTEM LOCATED ON THEIR LOT OR AREA OF EXTENDED LOT OWNER RESPONSIBILITY FREE AND CLEAR OF OBSTRUCTIONS OR BLOCKAGE OR HAS DAMAGED OR DESTROYED THE MINOR DRAINAGE STRUCTURES ON THE LOT OR AREA OF EXTENDED LOT OWNER RESPONSIBILITY SHALL BE MADE BY THE DEVELOPER OR THE BOARD OF DIRECTORS OF THE ASSOCIATION, WHEN EMPOWERED, OR BY AN ENTITY AUTHORIZED TO DO SO BY THE DEVELOPER OR THE BOARD OF DIRECTORS OF THE ASSOCIATION, WHEN EMPOWERED, IN ITS SOLE DISCRETION. IN THE EVENT THAT THE ASSOCIATION DETERMINES THAT THE NEED FOR MAINTENANCE, REPAIR OR REPLACEMENT OF THE MINOR DRAINAGE, WHETHER SUCH MINOR DRAINAGE SYSTEM OR A PORTION THEREOF IS ACCEPTED FOR MAINTENANCE BY THE ASSOCIATION OR NOT, IS CAUSED THROUGH THE WILLFUL OR NEGLIGENT ACT OF AN OWNER, OR THE FAMILY, GUESTS, EMPLOYEES, LESSEES, OR INVITEE(S) OF ANY OWNER, THEN THE ASSOCIATION MAY PERFORM SUCH MAINTENANCE, REPAIR OR REPLACEMENT AT SUCH OWNER'S SOLE COST AND EXPENSE, AND ALL COSTS THEREOF, TOGETHER WITH ANY ASSESSMENTS FOR NON-COMPLIANCE LEVIED BY THE ASSOCIATION FOR NON-COMPLIANCE AND ALL COSTS OF THE COLLECTION SHALL BE ADDED TO AND BECOME A PART OF THE ASSESSMENT TO WHICH SUCH OWNER IS SUBJECT AND SHALL BECOME A LIEN AGAINST THE LOT OF SUCH OWNER. EACH OWNER IS RESPONSIBLE FOR THE ACTIONS OF AND THE COMPLIANCE WITH THESE DOCUMENTS AND THE REGULATIONS BY THE FAMILY, GUESTS, LESSEES, EMPLOYEES OR INVITEE(S) OF THAT OWNER AND SHALL FURTHER BE RESPONSIBLE FOR THE PAYMENT OF ANY ASSESSMENTS LEVIED FOR THAT NON-COMPLIANCE AND ALL COSTS ASSOCIATED THERETO.

#### **ARTICLE X REMEDIES**

Section 1. REMEDIES FOR NONPAYMENT OF ASSESSMENTS. Any Assessments not paid by the due date shall bear interest from the due date at the rate of sixteen percent (16%) per annum or, if sixteen percent (16%) is higher than allowed by law, then the highest rate allowed by law. Said interest shall be charged at the discretion of the Developer or the Association's Board of Directors, When Empowered. In addition, the Developer or the Board of Directors of the Association, When Empowered, shall have the right to charge an Association collection fee or late charge on any Assessment or installment thereof which shall not have been paid by its due date. In the event that the Developer or the Board of Directors of the Association, When Empowered, chooses an installment schedule for the method of payment for an Assessment or as a method of allowing an Owner to pay past due Assessments, and in the event that any installment is delinquent, the Developer or the Board of Directors of the Association, When Empowered, shall have the right to accelerate and immediately make due all or part of the Assessment due from that Owner of that Lot for that budgeted period. The Developer or the Board of Directors of the Association, When

Empowered, may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the Lot(s) in the same manner as prescribed by the laws of the State of South Carolina for the foreclosure of mortgages on Time Shares or for the foreclosure of mortgages by judicial proceedings, and may seek a deficiency judgment, and interest, court costs, all costs of collection, including reasonable attorney's fees. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the Assessments provided for herein. No disagreement on the part of any Owner with respect to the budget; the amount or installment schedule for any Assessment; any change to the amount or installment schedule for the Assessment; the Regulations established or amended by the Developer or the Board of Directors of the Association, When Empowered; the actions or lack of action on the part of the Developer or the Association; the purpose for any Assessment for Capital Repair or Improvements; or the amount or purpose of any Assessment for Budgetary Shortfall shall be reason for any Owner to fail to pay any Assessment at the time that it is due. Also, the Developer or Board of Directors of the Association, When Empowered, may at any time notify the holders of mortgages of the Lot of the failure of the Owner to pay Assessments or any other violation of the Declaration.

Section 2. REMEDIES FOR NONPAYMENT OF AD VALOREM TAXES OR LEVIES FOR PUBLIC IMPROVEMENTS BY THE ASSOCIATION. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Area or Assessments levied for public improvements to the Common Area, which default shall continue for a period of six (6) months, each Owner of a Lot shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or Assessments in an amount determined by dividing the total taxes and/or Assessments due the governmental authority by the total number of Lots in the Community. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien, subordinate to all mortgages on the Lot of the then Owner, his or their heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

Section 3. REMEDIES FOR FAILURE TO MAINTAIN EXTERIOR OF DWELLING AND LOT. In the event that the Owner neglects or fails to maintain his Lot, Area of Extended Lot Owner Responsibility, and/or the exterior of his or her Dwelling in the Community, the Developer or the Association, When Empowered, may in addition to any other remedy, provide such exterior maintenance. The Developer or the Association, When Empowered, shall first give written notice to the Owner of the specific items of the exterior maintenance or repair that the Association intends to perform and the Owner shall have the time set forth in said notice within which to perform such exterior maintenance himself or to satisfy the Association that the required maintenance or repair will be completed in a timely manner. The determination as to whether an Owner has neglected or failed to maintain his Lot, Area of Extended Lot Owner Responsibility, and/or Dwelling in a manner