

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Bonnie Brae Homeowners' Association,)
Inc.,)
)
)
Plaintiff,)
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vs.)
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)
HOA Community Management, LLC,)
and Charlene Rice,)
)
)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

CIVIL CASE NO. 2016-CP-23-

**SUMMONS
(NON-JURY)**

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, 1990 Augusta Street, Suite 1900 Greenville, South Carolina, 29605, 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.

s/Michael B. Dodd
S.C. Bar No. 100599
Attorney for the Defendant
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Attorney for the Plaintiff

Greenville, South Carolina
November 3, 2016

STATE OF SOUTH CAROLINA)
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 COUNTY OF GREENVILLE)
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 Bonnie Brae Homeowners' Association,)
 Inc.,)
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IN THE COURT OF COMMON PLEAS
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CIVIL CASE NO. 2016-CP-23-

**COMPLAINT FOR
 DECLARATORY JUDGMENT AND
 INJUNCTIVE RELIEF
 NON-JURY TRIAL**

COMES NOW the Plaintiff, Bonnie Brae Homeowners' Association, Inc. (the "Association") and does hereby file this action for declaratory and injunctive relief based on the allegations set forth below:

1. Plaintiff is the legal Board of Directors for the Bonnie Brae Homeowners' Association, Inc. organized and existing pursuant to the laws of the State of South Carolina.
2. Defendants are the management company and registered agent for the Bonnie Brae Homeowners' Association, Inc., and Charlene Rice is the owner of HOA Community Management, LLC organized and existing pursuant to the laws of the State of South Carolina.

3. Upon information and belief, HOA Community Management, LLC owned and operated by Charlene Rice, and Charlene Rice (collectively “Defendants”) are citizens and residents of Greenville County, South Carolina.
4. Upon information and belief, HOA Community Management, LLC owned and operated by Charlene Rice (collectively “Defendants”) and located at 400 Regent Park Court, Greenville, South Carolina is the registered agent for the Bonnie Brae Homeowners’ Association, Inc. and as such maintains all records of the Bonnie Brae Homeowners’ Association, Inc. at this address.
5. Upon information and belief, this court has jurisdiction over this matter and the parties to this action.
6. On February 27, 2016 The Bonnie Brae Homeowners’ Association, Inc. (“the Association”) held its annual meeting, at Mauldin City Library, in the County of Greenville.
7. At the annual meeting on February 27, 2016, an attempt was made to submit approximately 70 proxies to be counted as votes in the election of the new Board of Directors by a group of Bonnie Brae Homeowners, all of whom are currently members of the Association. The proxies were submitted in accordance with the Association bylaws and the laws of South Carolina.
8. The proxies were rejected at the behest of Defendants and those acting in concert with the Defendants in direct violation of the bylaws and the laws of South Carolina.
9. Upon information and belief, the annual meeting then broke up and was “unofficially” concluded as a result of the vote that was rejected, the disagreements over the vote that followed, and due to the fact that there was not a quorum present as stated in the bylaws.

10. The number of attendees in person, eligible to vote at the meeting was 36.
11. Before the annual meeting was called to order 70 proxies were handed in by members of the Association.
12. Under the direction of Charlene Rice, the former Board of Directors of Bonnie Brae Homeowners' Association, Inc., and HOA Management, LLC, refused to accept the 70 proxies handed in by the members of the Association.
13. The acceptance of the 70 proxies, in conjunction with the homeowners present at the meeting on February 27, 2016 would have resulted in a quorum of 109 which exceeds the 63 required by the by-laws
14. The acceptance of the proxies, 52 of which were for voting purposes, 18 were for quorum only, would provide the Plaintiff a minimum of 57 votes to 34 votes for the former Board of Directors, ensuring an immediate change of the Board of Directors.
15. The actions of the Defendants were clearly an attempt to circumvent the natural democratic election process, and constitutes voter fraud.
16. The Defendants actions in refusing the proxies were in violation of the Bonnie Brae Homeowners Association, Inc. bylaws and South Carolina Code of Laws, Title 33 Corporations, Partnerships, and Associations, Chapter 31 Non Profit Corporation Act of 1995, Article 7 (Sections 24 and 27).
17. On March 1, 2016 the Plaintiff sent the Defendants, by certified and regular mail, a letter and notice of a Special Meeting to be called by the members of the Association.
18. On or around April 20, 2016 the Plaintiff, and members, received an unsigned letter from the Defendants notifying the members that the Special meeting would not be sanctioned by the Association.

19. On April 25, 2016 the Plaintiff sent a letter to Defendants requesting a list of members eligible to vote in the Association and according to the provisions in the bylaws for records requests. The Defendants rejected the request saying that the Plaintiff was not authorized to make such a request.
20. April 28, 2016 the Special Meeting of the Bonnie Brae Homeowners Association, Inc. was held by the Plaintiff at Mauldin City Library. The meeting was conducted and the results of the votes were: 71-0 (1 abstention), to remove the board under to elect the new board in accordance with the Association bylaws and South Carolina law.
21. On April 29, 2016 the Plaintiff sent via first class mail, registered delivery mail, and email to the Defendants HOA Community Management, LLC, and to the attention of Charlene Rice the result of the special meeting that was held on April 28, 2016 along with a request to provide the association's documents and records. The Defendants refused, and have continued to refuse requests for records and documents.
22. As of September 1, 2016 the Defendants have refused to comply with the requests made to them by members of the Association and the Plaintiff.
23. Upon information and belief, Defendants have and continue to issue fines, asses fees and make other use of Association funds without proper authority of the Association. Defendants refuse to recognize the wishes of the majority of members of the Association, and as a result have breached their duty as the agent and management company of the Association.
24. Should Defendants be allowed to continue until such time as the issue over the proper election of a new board of directors can be resolved, the Association and its members will continue to suffer irreparable harm, and also will have no idea the extent of the

harm as the Defendants refuse to provide records and documents to the members of the community in which it purports to serve.

25. Plaintiff believes this Court has jurisdiction to declare rights, status, and other legal relations and to grant injunctive and other relief pursuant to the South Carolina Uniform Declaratory Judgment Act, S.C. Code Ann. Section 15-53-10 *et seq.* as there is a question of actual controversy between the Plaintiff and Defendants in this case.
26. Plaintiff, upon information and belief, asserts that at this time there is no adequate remedy at law to protect the Plaintiff. Therefore, the Plaintiff would ask this Court to inquire into the matters stated above more fully and to issue an order declaring the rights, status, and legal relations between the parties, with respect to who is the legal board of directors for the Association. Plaintiff believes it is the legal and duly elected board of directors of the Association.
27. Further, Plaintiff prays and does ask this Court for an order restraining and enjoining the Defendants, their respective employees, agents, affiliates and all those in active concert or participation with the Defendants or them, from assessing any further fees or issuing any further invoices on behalf of the Plaintiff, or from accessing, and/or transferring and/or disposing of bank accounts, funds, assets of any kind, and Bonnie Brae Homeowners' Association Inc. records, documents, and other materials belonging to the Plaintiff, in the possession of the Defendants, HOA Community Management, LLC, and Charlene Rice.

WHEREFORE, Plaintiff, having made the above allegations, does respectfully ask and pray that this Court issue an Order:

- a. pursuant to the South Carolina Uniform Declaratory Judgment Act, S.C. Code Ann. Section 15-53-10 *et seq.* declaring the rights, status, and legal relations between the parties, and with respect to who is the legal board of directors for the Association, declaring the Plaintiff to be the legal board of directors;
- b. for an order restraining and enjoining the Defendants, their respective employees, agents, affiliates and all those in active concert or participation with the Defendants or them, from assessing any further fees or issuing any further invoices on behalf of the Plaintiff, or from accessing, and/or transferring and/or disposing of bank accounts, funds, assets of any kind, and Bonnie Brae Homeowners' Association Inc. records, documents, and other materials belonging to the Plaintiff, in the possession of the Defendants, HOA Community Management, LLC, and Charlene Rice;
- c. for an order compelling and enjoining the Defendants to turn over any records, documents, account numbers, and other property of any kind belonging to the Bonnie Brae Homeowners' Association, Inc. to the Plaintiff;
- d. a judgment awarding costs and attorney's fees to the Plaintiff;
- e. and for any other such and further relief as deemed just and proper by the Court.

Respectfully submitted,

The Dodd Law Firm, LLC

(signature page to follow)

Greenville, South Carolina
November 3, 2016

s/Michael B. Dodd
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