

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

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

CIVIL CASE NO. 2016-CP-23-06406

**MOTION FOR IMMEDIATE
TEMPORARY RESTRAINING ORDER
AND
MOTION FOR TEMPORARY INJUNCTION**

TO: THE ABOVE-NAMED DEFENDANTS:

The Plaintiff, Bonnie Brae Homeowners' Association, Inc., by and through its undersigned attorney, respectfully moves this Court for an IMMEDIATE TEMPORARY RESTRAINING ORDER, **without the giving of notice** 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. Plaintiff also moves this Court for an order and injunction compelling

Defendant to turn over financial records, and other records belonging to the Bonnie Brae Homeowners' Association.

The date for a hearing on the Plaintiff's Motion for a Temporary Injunction in accordance with Rule 65 of the South Carolina Rules of Civil Procedure (SCRCP) has been set for December 15, 2016 at the Greenville County Courthouse.

Unless this Motion is granted, the Defendant and those acting in concert with the Defendant, will by December 1, 2016 have unlawfully enacted and implemented a new budget allowing expenditures to be made on behalf of the Bonnie Brae Homeowners' Association Inc. Further, it is anticipated that the Defendant will continue to act independently of the wishes of the Plaintiff, Bonnie Brae Homeowners' Association Inc., and its duly elected board in spending the Plaintiff's money and issuing fees, assessments, fines, and other unauthorized acts unscrupulously. The Plaintiff has already, and will continue to suffer irreparable loss, damage, or injury as a result of the deliberate actions of the Defendants. The Plaintiff believes that destruction of documents and dispersion of funds in violation of the fiduciary duty to the Bonnie Brae Homeowners' Association, as well as further irreparable harm as a result of the Defendant's actions will take place and continue before a hearing can be had on the Plaintiff Motion for Temporary Injunction.

The Defendants in this case have been notified that a hearing has been scheduled and will be heard, for a Temporary Injunction, pursuant to Rule 65 of the South Carolina Rules of Civil Procedure, 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 funds, bank accounts, 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. Plaintiff will also move this Court for an order and injunction compelling Defendant to turn over financial records, and other records belonging to the Bonnie Brae Homeowners' Association.

This motion is based on the following allegations:

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 1 September, 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. The affidavits submitted to the Court along with the Complaint and prior Motions in this case show reason for extreme urgency and concern regarding the financial assets belonging to the Bonnie Brae Homeowners' Association, Inc. and evidence why the Plaintiff believes that it should be granted immediate relief.
25. The Plaintiff would further assert that it will likely succeed on the merits of the litigation and that there is no adequate remedy at law to protect the Plaintiff. The temporary restraining order and temporary injunction are needed to preserve the status quo to avoid possible irreparable injury to the Plaintiff pending the litigation of the claims asserted in this action.

Based on the foregoing and the common and statutory laws of the State of South Carolina, the pleadings filed herein, affidavits, and legal memoranda that may be hereinafter filed with the Court, the Plaintiff respectfully asserts that it is entitled to an immediate temporary restraining order and temporary injunction as set forth herein.

Plaintiff requests that the Court:

1. Issue a Temporary Restraining 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 until at least December 15, 2016 when a hearing on the Plaintiff's Motion for a Temporary Injunction shall be had;
2. Keep the scheduled hearing on Plaintiff's motion for a temporary injunction for December 15, 2016 AND order that the Temporary Restraining Order remain in full force and effect until the hearing occurs;
3. Issue a Temporary Injunction 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;

4. For such other and further relief that this Court may deem just and proper to protect the interests of the Plaintiff during this litigation.

Respectfully submitted,

The Dodd Law Firm, LLC

s/Michael B. Dodd
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Greenville, South Carolina
November 15, 2016