

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

THE MALLARD LAKE)
COMMUNITY ASSOCIATION, INC.,)
)
Plaintiff,) C.A. No. 2025-1116-DH
)
v.)
)
SIMONE REBA,)
)
Defendant.)

**AMENDED VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF,
DECLARATORY RELIEF, AND DAMAGES**

Plaintiff, The Mallard Lake Community Association, Inc. (the “Association”), on its own behalf and to the extent applicable on behalf of its members pursuant to 25 *Del. C.* § 81-302(a)(4), hereby files this Amended Verified Complaint for Injunctive Relief, Declaratory Relief, and Damages against Defendant, Simone Reba (“Defendant”) and, in support thereof, states as follows:

NATURE OF THE ACTION

1. The Association files this action to enjoin the continued misconduct of Defendant related to Defendant’s pattern of holding herself out to federal and state agencies, local government representatives, elected officials, and other third parties as someone who speaks on behalf of the Association or its board of directors, referred to as the “Council.”

2. Having tried and failed to convince the Defendant to refrain from making false statements, cease her ongoing misconduct, and to protect the Association, its employees, agents and assigns from the imminent threat of irreparable harm that Defendant's misconduct presents, the Association, through the Council, now seeks specific, narrow and targeted relief from this Court.

PARTIES

3. Mallard Lakes (the "Condominium") is a common interest residential community located in Selbyville, Delaware in Sussex County. The Association is an entity organized and existing under the laws of the State of Delaware, and is, *inter alia*, responsible for providing for the operation, care, upkeep, replacement, and maintenance of all of the common elements in the Condominium. The Association asserts this action on its own behalf and, to the extent applicable, on behalf of its members pursuant to the authority granted under 25 *Del. C.* § 81-302(a)(4).

4. Defendant is an individual resident of Springfield, Virginia. The Defendant, along with Jeffrey C. Reba, purchased a unit in the Condominium on September 15, 2023, known as 37898 Eagle Lane, Unit 342, Selbyville, Delaware 19975, in Phase II, Building 25 (the "Unit"). Later, Defendant, along with Jeffrey C. Reba, transferred the Unit into the Reba Family Trust Dated August 7, 2025. Upon information and belief, Defendant, as trustee, remains the owner of the Unit located

in the Condominium. Service of process may be effectuated pursuant to Ct. Ch. Civ. R. 4(c).

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant to 10 *Del. C.* § 341, *et seq.*

6. This Court has personal jurisdiction over the Defendant who ~~and~~ owns the Unit and conducts activity within the State of Delaware.

7. Venue in this Court is proper under because Defendant owns the Unit, and a substantial part of the events giving rise to this action occurred, in this judicial district.

FACTS

The Community and Its Governing Structure

8. The Association is governed in part by the *Cumulative, Combined and Restated Declarations Establishing A Plan for Condominium Ownership of Premises Located in Baltimore Hundred, Sussex County Delaware, Pursuant to the Unit Property Act of the State of Delaware Mallard Lakes Condominium*, recorded at the Recorder of Deeds Office for Sussex County on June 18, 2024 as Book 6121, Page 1, *et seq.* (the “Declaration”), and the *Cumulative, Combined and Restated Code of Regulations of Mallard Lakes Condominium*, recorded at the Recorder of Deeds Office for Sussex County on June 18, 2024 as Book 6121, Page 104, *et seq.*

(the “Code,” and together with the Declaration, the “Governing Documents”). True and correct copies of the Declaration and Code are attached as ~~Exhibit~~Exhibits **A** and **B**, respectively. All owners in the Condominium take their Units subject to the Governing Documents, which form a contract between the unit owners.

9. Pursuant to Article V, Section 6(a) of the Code, the Association, acting through its Council, is solely responsible for the maintenance, repair, and replacement of all common elements, including but not limited to the structural elements of the buildings, such as exterior walls, roofs, party walls, floor slabs, floor joists, and all other portions of the units which contribute to the support of any building. The planning for replacement and cost of such maintenance and repair falls solely to the Council of the Association, which costs are to be charged to all owners as a common expense. Individual unit owners are not responsible for the maintenance or repair of these structural elements and may not commit the Association to any obligations related to the common elements.

10. Pursuant to 25 Del. C. § 81-307(a), *et seq.*, “the association, through its executive board, is responsible for maintenance, repair, and replacement of the common elements, and each unit owner is responsible for maintenance, repair, and replacement of the unit owner’s unit.... The executive board shall determine when and to what extent such maintenance, repair and replacement shall be required.”

11. The Governing Documents further prohibit individual unit owners from making any structural addition, alteration, or improvement to their units or to the common elements without the prior written consent of the Council. Any application to a governmental authority for a permit to make changes to a common element must be executed by the Council, not by individual owners. The authority to make improvements to the common elements, and to raise or expend funds for such purposes, is vested exclusively in the Council, acting on behalf of the Association. Any attempt by an individual owner to independently make improvements to the buildings or to raise money from third parties, including government grants, for such improvements is expressly prohibited and constitutes a violation of the Governing Documents.

12. By reason of the foregoing, any act by a unit owner to undertake or authorize maintenance, repair, or improvement of the common elements, including the structural elements of the buildings, or to solicit or accept funds from third parties or government sources for such purposes, without the express authorization of the Council, is *ultra vires*, in direct violation of the Declaration and Code, and subject to enforcement action by the Association.

13. The Condominium consists of a forty-seven (47) residential building development containing four hundred seventy-seven (477) residential condominium units. The Condominium is located about two miles from the Atlantic Ocean along

the north side of Delaware Route 54 and is west of Assawoman Bay. All of the condominium buildings back to four manmade “lakes” and an estuary of south Assawoman Bay, often called the “Salt Pond.” Much of the Condominium lies within a flood plain.

14. The Condominium was constructed in two phases between 1986 and 1992. During this period, ten buildings constructed as part of Phase II were built on piles at the edge of the Salt Pond. All of the remaining Phase II buildings and all of the Phase I buildings were constructed on cement pads on grade, most with higher ground floor elevations than the buildings on piles. The reason for constructing ten buildings on piles was their proximity to the edge of the Salt Pond, which is tidally connected to Assawoman Bay through a drainage pipe that runs from the Salt Pond to Assawoman Bay under Route 54. The connection to the bay means that the Salt Pond’s water fluctuates in accordance with the bay’s daily tidal ebb and flow. From inception, water from the Salt Pond would flow underneath all of the buildings constructed on piles.

15. Since the Condominium was first established in the late 1980s, portions of the community have dealt with issues of rising water occasioned by high tides and coastal storms.

16. In the early 2000s Delaware Route 54 was modified, and the original drainage pipe connecting the Salt Pond with Assawoman Bay was replaced with a

different pipe. The former pipe had both ends covered in crushed rock gravel which was removed with the installation of the new pipe. Removing the crushed rock gravel increased the daily throughput of tidal waters into and out of the Salt Pond from Assawoman Bay. This now allowed the ebb and flow of the tide to completely fill and empty the full tidal flow to and from the Salt Pond from Assawoman Bay. Previously, the gravel-filled old pipe allowed only a portion of the tidal flow to enter the Salt Pond before the turn of the tide. The consequence of the change to a pipe without the crushed rock gravel was that the average height of the daily high tide increased by approximately six to ten inches. This change resulted in the presence of water under at least six of the ten buildings becoming a very frequent occurrence.

17. In September 2004, the Association applied for and received a permit to construct 1,200 linear feet of low-profile rip-wrap along the shore of the Salt Pond. The intended purpose of this project was to construct barriers to offset the increase in daily high water brought about both by the now unobstructed drainage pipe under Route 54 as well as the incidence of abnormally high water due to natural occurrences like storms. However, the permit once issued precluded the rip-wrap rock from exceeding the level of the adjacent ground and provided that the rip-wrap rock must not preclude normal inundation at high tide during the daily tidal cycles or be placed in front of the Route 54 drainage pipe. These permit conditions

effectively precluded any practical solution to the increase in high water under buildings within the Condominium.

18. In 2009, as a result of an increased frequency of tidal water inundation under several of the ~~island~~-buildings on piles, the Condominium engaged an engineering firm to study the feasibility of installing a water control structure to counteract the increased daily tides brought about by the unobstructed culvert under Route 54 connecting the Salt Pond to Assawoman Bay. The study was abandoned once it became clear that a barrier would neither reduce the daily height of the tidal flows nor preclude the effects of storm surges.

19. In late October 2012, superstorm Sandy, a storm that struck the northeast coastline of the United States, affected the Condominium. As a consequence of Sandy's torrential rain and high winds, together with the associated storm surge, not under Route 54 but through canals located to the north of the Condominium, the Condominium experienced flooding. Water flowing through the Route 54 culvert contributed to higher-than-normal water but was not the principal cause of the Sandy flood damage. Several of the Condominium buildings experienced flood levels at or around the first floor.

20. Disputes over the damage and reconstruction of the flood-damaged property resulted in litigation against the Association, including but not limited to: a Delaware Court of Chancery action, captioned as *Mallard Lakes Sandy Interest*

Group, et al. v. Mallard Lake Community Association, Inc., C.A. No. 11653-VCG, and a Delaware Superior Court action captioned as *John Mingora and Jennifer Mingora v. Charlotte A. Hurley, Cynthia Spieczny a/k/a Cindy Spieczny, Resort Quest Real Estate and Mallard Lake Community Association, Inc.*, C.A. No. S16C-09-023 MJB.

21. Eventually, all litigation from superstorm Sandy was settled and all units repaired. While the topic of elevating the damaged buildings was discussed in these litigation cases, the settlements did not result in changes to the elevation of the damaged buildings. During the time the litigation was ongoing, preliminary estimates to elevate a building approximated \$400,000 for a building that contained ~~four~~six units.¹ During the litigation following superstorm Sandy and the years following, the Association engaged in communications with federal and state agencies regarding options for grants or other funding to make improvements to address future flooding. Those conversations include but are not limited to those with the Federal Emergency Management Agency (“FEMA,”), Delaware Department of Natural Resources and Environmental Control (“DNREC”), and Sussex County. The Association is aware of options for grants but has concluded

¹ The Defendant’s unit is in an 11-unit building which presumably would be more expensive to elevate.

that there presently exists no government assistance that will cover 100% of the costs to elevate buildings.

22. Given the Condominium's location adjacent to Assawoman Bay along the Delaware coast, the entire community is potentially at risk for flooding. Much of the Condominium, like much of the bay side in Ocean City, Maryland and along the bays, inlets, and canals between Ocean City and the shores of Delaware Bay, is in a FEMA-designated flood plain. Those buildings within the FEMA flood zone are perhaps at the greatest risk, but like most of the buildings on or near the Delaware coast, all of the Condominium's buildings have some level of risk.

23. Over the years, the Council has exhaustively researched and examined potential tidal and storm water remediation options and the prospect for obtaining grant funds or other sources of outside financing for engineering studies and the necessary work. In facing these issues, the Association has undertaken sustained, structured, and good-faith efforts, spanning more than two decades, to understand, investigate, and implement feasible measures to mitigate tidal water impacts in and around the community's tidal Salt Pond and the buildings constructed on piles. These efforts have included technical studies, agency permitting, consultant engagement, intergovernmental coordination, community budgeting and capital planning, and field implementation, all undertaken with a delicate touch and with an

emphasis on data, engineering judgment, regulatory compliance, and environmental stewardship.

24. Beginning in the early 2000s, when the State's 2001–2002 reconstruction of Delaware Route 54 and replacement of the culvert connecting the community's Salt Pond to Assawoman Bay altered tidal exchange, the Association documented that mean high water levels in the pond rose by approximately six to ten inches attributable to the removal of gravel at the culvert ends, with additional rise thereafter from regional sea level trends, cumulatively increasing average high tide in the pond by roughly one to one-and-a-half feet since original buildout. The Association contemporaneously tracked the resulting change from occasional to frequent under-building inundation at eight of the ten pile-supported buildings and progressive shoreline erosion within the pond. Beginning in 2002, the Association engaged in detailed discussions with environmental officials and engineers seeking potential solutions to the tidal inundation related to its building constructed on piles. These consultations included Todd Fritchman of Envirotech, Inc. ("Envirotech") in 2002, Evelyn Maurmeyer of DNREC in 2003 and 2007, James Chaconas of DNREC in 2008, Ron Gray, as civil engineer in 2008, Steve Hudgins, Ed Linay and Ken Usab all of Morris and Ritchie Associates in 2008, and Jessica Watson of Sussex Conservation District in 2008. In response to these consultations, the Association initially pursued shoreline armoring and regulatory approvals. In 2004, the State of

Delaware issued Subaqueous Lands Permit SP-316/03 (“Subaqueous Permit”), authorizing 1,200 linear feet of low-profile rip-rap and vegetative shoreline stabilization along the Salt Pond. The Association secured the permit, but later realized that key permit terms, requiring the rock crest to remain at adjacent ground elevation, prohibiting obstruction of normal high-tide inundation, and barring placement in front of the Route 54 culvert, necessarily constrained the effectiveness of shoreline armoring. These regulatory constraints were acknowledged by the Association and have been repeatedly documented in its internal reports and public presentations. Subsequent consultations referenced above sought additional remedies not permitted under the terms of the 2004 Subaqueous Permit.

25. The Association has also repeatedly engaged engineers and construction professionals to evaluate structural, hydraulic, and maintenance solutions for buildings on piles. In 2014, Davis, Bowen & Friedel, Inc. completed a Phase I evaluation and provided detailed recommendations on foundation modification alternatives (including spliced timber piles with helical anchors versus masonry columns and concrete caps), after coordinated consultations with Sussex County Planning & Zoning, DNREC’s Wetlands and Subaqueous Lands Section, the U.S. Army Corps of Engineers’ Philadelphia District, and specialized contractors. That Phase I study culminated in a recommendation to pursue masonry columns and concrete cap systems for longevity and structural integrity, as well as a

delineation of permit pathways, wetlands constraints, and construction feasibility in tidally influenced soils. The Association contemporaneously authorized phased design and permitting steps and coordinated wetlands delineation and sediment/erosion control planning to align engineering options with environmental requirements.

26. After the October 2012 Hurricane Sandy event, the only instance of interior flooding of certain buildings on piles, the Association commissioned follow-on engineering and maintenance reviews. These efforts included joist reinforcement where deterioration was observed in 2013 and a sustained program for underfloor insulation replacement when inundation occurred, while distinguishing between Association-maintained common elements and unit-level finishes under governing documents. The Association's efforts in 2023 through 2024 show measured decisions to transition to more resilient insulation approaches given intensified tidal inundation and access limitations.

27. The Board later established in 2023 the Ad-Hoc Buildings-on-Piles Ongoing Maintenance/Repair Committee to compile the technical history, evaluate options, and recommend capital actions. The committee documented: (i) the tide-driven access challenges and repeated saturation and replacement of fiberglass batt insulation covered by Tyvek; (ii) infeasibility of continuing with permeable underfloor systems under increasing water levels; and (iii) engineering alternatives

including closed-cell spray foam insulation to encapsulate joists and subfloor undersides. The Board approved a phased conversion to spray foam for affected buildings based on the committee’s conclusions and independent engineering input, and it received costed proposals to implement the conversion, with unit-level cost breakdowns and allowance for removal and disposal of legacy materials. The committee further documented regulatory prohibitions that preclude berms or flow restrictions at the culvert absent specialized approvals, reinforcing the need to focus on feasible, code-compliant, and durable maintenance solutions.

28. Beyond building-level measures, the Association pursued basin-level hydrologic solutions through coordinated agency processes. In early 2025, the Association organized a Joint Permit Process (“JPP”) request with DNREC and federal resource agencies, presented a comprehensive history of tidal impacts and shoreline erosion, and sought guidance on the feasibility of installing a variable-flow tide-limiting gate at the Route 54 culvert to reduce mean high tides in the Salt Pond toward pre-2001/2002 levels while maintaining ecological connectivity. The JPP participants, led by DNREC’s Wetlands and Waterways Section Program Manager, did not reject the concept outright and provided structured next steps, including engagement with the Delaware Department of Transportation (“DelDOT”), Sussex County Planning & Zoning, and, as warranted, hydrologic and hydraulic analysis and surveys to clarify property interests and easements at both culverts. The

Association followed through on these directives by initiating surveyor engagement to map ownership/easements and by opening channels with Sussex County and DeIDOT.

29. As directed by government agencies, the Association engaged DeIDOT throughout the summer of 2025 to present its concept, describe the technical objective of reducing daily tidal maxima, and address maintenance, liability, and downstream impact concerns. DeIDOT's South District Maintenance Engineer initially cautioned that DeIDOT typically does not allow cross-road flow restrictions but invited a written submission with location mapping and device specifications for review; after meetings and technical discussion, DeIDOT leadership indicated they could potentially consider a design that does not physically connect to or burden the culvert or right-of-way, subject to the Association's acceptance of maintenance and indemnity obligations and the development of an hydrologic and hydraulic analysis demonstrating no adverse impacts to the broader Assawoman Bay watershed. These dialogues were memorialized and coordinated with DNREC and other stakeholders as part of the JPP-aligned process. Contrary to the Defendant's numerous statements, both DNREC and Delaware State leadership made it perfectly clear that they would not financially support any tide limiting devices that reduce the inflow of tidal water into the Community estuary through the storm culvert under RT. 54 without such

device also providing catastrophic flood protection, a condition flatly rejected by DeIDOT.

30. Concurrently, the Association sought environmental consulting support to inventory wetlands, document historic shoreline changes, and scope feasibility work. In December 2024, Envirotech at the Defendant's sole request proposed a contract to perform a wetland delineation and summary report over approximately the 17.5 acres encompassing the tidal lagoon. The proposal from the Defendant did not address the issues at hand, was unresponsive to the Association's needs and was thus rejected as unhelpful. Having the Defendant's unsolicited and incorrect proposal, the Association then compiled and interviewed a broader group of consultants of over seven environmental engineering firms which resulted in the engagement of Coastal Tributaries to assist the Association in determining requirements for resilience, permitting, wetlands, and hydraulic studies. Coastal Tributaries also coordinated with the US Army Corps of Engineers, DNREC and Sussex Conservation District contacts regarding delineation practices and feasibility expectations for major wetlands-altering projects. These steps were part of a disciplined approach to identify the human and technical resources needed to assemble the technical record to support pursuit of any subsequent permit applications or design development.

31. The Association has also explored federal and state resiliency and funding avenues. It monitored the U.S. Army Corps of Engineers' and DNREC's Coastal Storm Risk Management efforts for Delaware's Inland Bays and Delaware Bay Coast, including the resumed feasibility scope focused on system-wide and site-specific flood risk reduction measures, and it engaged Delaware officials regarding non-federal cost-share opportunities for engineering work where community projects might fit broader state initiatives. Association correspondences confirm outreach to DNREC staff and University of Delaware partners about non-federal matching sources, and a clear understanding, based on DNREC's statements, that there are no earmarked funds specifically reserved for the community absent a defined, feasible, and justified scope that also involved current specific interior flooding.

32. The Association continuously documented and presented to owners objective evidence of increased tidal exposure and the operational impacts on maintenance and safety, including photographic records and quantified inundation frequencies (e.g., approximately 144 of 365 days under certain buildings in 2024), while explaining why prior measures such as rip-rap, vents/fans, and permeable underfloor systems are no longer sufficient under present conditions. The Association's June 2025 materials and follow-up memoranda detail shoreline loss, vegetation die-off from repeated inundation and algal blooms, and the resulting

necessity to adopt maintenance methods that can function with routine tidal contact, even as basin-scale flow management concepts are pursued through the JPP.

33. In sum, and notwithstanding the terms of the 2004 Subaqueous Permit effectively precluded any feasible and permittable approach to limiting three effects of ever rising mean high water in the Salt Pond, the Association's record shows methodical diligence: obtaining and implementing a state rip-rap permit within environmental constraints; commissioning and acting upon civil/structural engineering analyses; managing post-storm remediation and clarifying common-element responsibilities; forming a specialized committee to evaluate insulation and maintenance alternatives and converting to closed-cell spray foam where justified; initiating wetlands delineation and feasibility groundwork; preparing and delivering a JPP presentation and following agency-directed next steps; engaging DelDOT on a tide-limiting gate concept with commitments to conduct any required studies; coordinating with Sussex County; and assessing state and federal study and funding frameworks. These efforts evidence sustained, reasonable, and proactive action by the Association to investigate, vet, and pursue practicable options to address tidal water problems in the community.

34. Clearly, the Association has developed working relationships with numerous agencies that the Association hopes through future cooperative efforts could lead to material impacts on the tidal flows into the Salt Pond through the JPP.

Unfortunately commencing in late 2024, the Defendant's numerous false statements to federal, state, county and local governmental officials, which were largely unknown to the Association through July 2025, created confusion and animosity different from conversations had with representatives of the Association who had made contacts with many of these same officials. The Defendant's false representations of herself as speaking for the Association, in ways inconsistent with the prior positions taken by the Association, eroded much of the groundwork those same officials had already covered with the Association.

23-35. To date, notwithstanding the Defendant's comments to the contrary, there appear to be no readily available, financially feasible solutions to address all of the tidal and storm water flow into the community. There always remains the possibility of elevating one or more of the buildings, however the cost of elevating any building is believed to be financially prohibitive. Additionally, short of elevating all of the buildings within the community, the elevation of a subset of the community's buildings would have to be borne by the unit owners within that building seeking elevation. At present, no group of owners of a building has requested that the Association coordinate the improvement to elevate their buildings. The Association is hopeful that a governmental solution to the water flow issues will present itself through future governmental programs. Until that occurs, the Association is maintaining actively working to repair the damage done by the

Defendant's false statements and misrepresentation. The Association is seeking to establish, repair and maintain good working relationships with all governmental agencies ~~and~~. The Association is constantly seeking the advice of professionals and government officials to mitigate and reduce flood risks and should not have its efforts under minded by the Defendant's false statements.

24-36. The Governing Documents provide a mechanism for unit owners to request improvements, such as the elevation of the building in which their units are located, with the costs of such improvements required to be assessed against the unit owners occupying the building being elevated. Article V, Section 7 of the Code allows the Association to assess the costs of improvements “exclusively or substantially exclusively for the benefit of the unit owner or owners requesting the [improvement], such requesting unit owners shall be assessed therefor....”

25-37. The Association is willing and ready to participate in the elevation of affected buildings if the necessary unit owners, including the Defendant, request such an improvement and commit to its funding. To date, no owners have requested that their buildings be elevated.

Defendant and Her Actions

26-38. The Defendant openly admits that she purchased her Unit in 2023 sight unseen based on listing photographs and only learned during her post-closing physical visit to the community that her building is constructed on pilings and that

water from the tidal lake on the premises encroaches beneath the building on a frequent basis. After learning of the proximity of water to the Unit, the Defendant began to undertake an aggressive campaign to obtain governmental intervention related to the tidal water.

27-39. While the Defendant is entitled to act on her own behalf and engage governmental entities as a property owner in Sussex County, she has instead ~~misrepresented~~ made false and misleading factual statements on multiple occasions that she speaks for the Association and the community as whole even when those actions run counter to what the Association has been working toward for decades. Defendant perpetuates misinformation and false statements indicating that elevation of buildings in the community will ultimately be “free” because of government funding/grants she claims will cover the cost in full, and her actions serve only to poison the well and create division and animosity between the community and government agencies which may at some point be in a position to help the community to address the issue of rising tidal water. Such statements are false and harmful to the Association and its membership.

~~28.— Defendant is accustomed to serving in a leadership position, seemingly has significant trouble working collaboratively in a team environment (see, e.g., the following June 15, 2016, article by Politico: <https://tinyurl.com/4sybmyzs>, last accessed September 16, 2025), and has taken it upon herself to aggressively pursue~~

~~what she wants—elevation of the building in which her Unit is located—regardless of the impact on other units owners within the community.~~

~~29-40.~~ Defendant created and maintains an “ML Sustainability” website (the “Website”; <https://mlsustainability.godaddysites.com>) which, until very recently, was intentionally misleading and ~~falsely~~ represented that its content was from the “Mallard Lakes Team” or “Mallard Lakes Community,” improperly suggesting affiliation with the Association or the Council. After receiving a cease-and-desist letter from the Association, Defendant included partial disclaimers on the Website stating it to be unaffiliated with the Association.

~~30-41.~~ At a recent public hearing in Sussex County on July 15, 2025, Defendant improperly and ~~confusingly~~~~falsely~~ represented herself as speaking for the Association and/or the community as a whole rather than as an individual homeowner speaking only for herself, ~~and she.~~ ~~She spoke between 1:48 and 5:00 of the 2:19:19 recording of the hearing and~~ requested a \$500,000 grant for the Association to cover the cost of a civil engineering study and other undertakings that had never been approved by the Association or Council.² ~~Notably, Defendant said during those remarks:~~

~~(a) at 2:08 – “...Thank you...for meeting with us.”~~

² Audio of the hearing is available at: <https://sussexcountyde.gov/sites/default/files/audio/07%2015%2025%20CC%20%281%29.mp3>

(b) at 2:18 – that she wants to “restate our discussion and ask for your help....”

(c) at 2:47 – “We know real solutions aren’t cheap.”

(d) at 2:55 – “...We need a clear plan.”

(e) at 3:27 – “If we can secure [funding]....”

(f) at 4:00 – “We would potentially require a 10% cost-share to the non-federal partner.”

(g) at 4:22 – “We respectfully ask....”

(h) at 4:37 – “...We ask you....”

42. The Defendant’s statements to Sussex County Council were false and not consistent with years of communication between the Association and Sussex County.

43. Defendant’s requests to the Sussex County Council are requests that can only be properly made by the Association’s Council and not by a homeowner who holds no position within the Association. The Defendant has no authority to request anything on behalf of the Association, and statements to the contrary are false and misleading.

44. Defendant owns a single Unit within a building containing ten other connected units. There is not a scenario where a government entity could award grant funds or some other form of funding to address tidal water issues affecting

Defendant's Unit alone, and Defendant would have no authority to approve any expenditure of funds that she might succeed in getting awarded anyway. Accordingly, any time Defendant requests that the government take action to provide funds for addressing tidal water issues at Mallard Lakes (as she did during the Sussex County Council meeting), she is improperly requesting those funds on behalf of the Association and community as a whole *by necessity*.

45. On or about April 1, 2025, Defendant contacted University of Delaware staff via email concerning funding sources for tidal water remediation, repeatedly referring to "we" and directing the recipients to "our website," which was her unofficial Website. She then followed up on that correspondence with emails to DNREC officials regarding "our engineering study." See a true and correct copy of the email thread attached hereto as **Exhibit C**. The Defendant's statements to DNREC were false and not consistent with years of communication between the Association and DNREC.

~~31-46.~~ Upon information and belief, this was not an isolated occurrence. The Defendant has contacted and continues to contact public officials falsely implying that she speaks on behalf of the Association, and has provided documents appearing to be authorized and approved by the Association.

~~32-47.~~ While Defendant is certainly free to espouse her own opinions and speak in her own self-interest in accordance with her acknowledged First

Amendment right, and the Association does not seek to infringe upon that right, Defendant is not entitled to cause harm to the community by falsely implying that she is speaking on behalf of the Association, the Council, or some nonexistent coalition of the unit owners generally, nor by providing documents authored by the Defendant as authorized and approved documents of the Association.

~~33.48.~~ Defendant's actions have harmed the reputation of the Association, created confusion about who is authorized to speak for the Association, and made future discussions with or requests to relevant government agencies unquestionably more difficult for the Association, especially as such agencies are being asked to revisit topics based upon false statements made by the Defendant.

~~34.49.~~ Moreover, the incorrect, misleading, and alarmist misinformation posted on the Website by Defendant not only sows discord among residents of the Condominium but is substantially likely to misinform local real estate agents about the safety of the Condominium and drive down property values. Upon information and belief, at least one local real estate agent was misled by Defendant's activities into believingrelying upon the Defendant's false statement to conclude that the only way buildings in the Community could be made safe was through elevating the buildings at considerable cost. Moreover, the Condominium's capital reserves are inadequate do not provide for any buildings to be elevated.

COUNT I – INJUNCTIVE RELIEF

~~35-50~~. The Association incorporates by reference each of the foregoing paragraphs as if set forth in full herein.

~~36-51. As described above, The~~ Defendant has repeatedly held herself out within the community and in correspondence or meetings with government officials, regulators, and other third parties as impliedly speaking on behalf of the Association, the Council, and/or the community at large.

52. The Defendant's statements constitute false statements of fact and have caused harm to the Association and the Condominium.

~~37-53~~. If Defendant continues to misrepresent her affiliation or authority to third parties, she will cause irreparable harm and injury to the Condominium by, *inter alia*, harming its reputation with such third parties and reducing the likelihood that government agencies or local officials will continue to work constructively with the Association on potential remediation options or treat the Condominium as a favored community for the receipt of funding to pursue remediation options in the future.

~~38-54~~. The Association has asked the Defendant to refrain from holding herself out as speaking for the Association and the Condominium, but she continues to do so.

~~39-55~~. The Association has also asked the Defendant to rename her website to make clear to all that it is not affiliated in any way with the Association or Council.

~~40-56.~~ The Defendant is free to engage in political speech, even speech that is critical of Association and its efforts to address tidal waters. However, the Defendant's speech consists of false statements of fact that harm the Association.

The Association has no adequate remedy at law.

~~41-57.~~ Unless this Court enters ~~an~~ narrow, limited Order enjoining Defendant from falsely holding herself out to federal and state agencies, local government representatives, elected officials, and third parties, as someone who speaks for the Association or its Council, the Condominium will suffer irreparable harm and injury. The Association is not seeking an order requiring any type of mandatory disclosure or restraining the Defendant from contacting or speaking with governmental entities in her individual capacity. In fact, the Association is not asking the Defendant to refrain from criticizing the Association and its decision. However, the Defendant should be restrained from making patently false statements that she can speak on behalf of the Association in order to obtain a benefit for herself.

COUNT II – DECLARATORY RELIEF

~~42-58.~~ The Association incorporates by reference each of the foregoing paragraphs as if set forth in full herein.

~~43-59.~~ Pursuant to 10 *Del. C.* § 6501, *et seq.*, Plaintiff seeks a declaration that: (i) the Governing Documents constitute a binding contract to which Defendant became bound upon purchasing her Unit; (ii) the Governing Documents give the

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Association, through the Council, the exclusive authority to manage the common elements of the Condominium and authorize improvements to the common elements; ~~and~~ (iii) while Defendant may request that the Council make improvements, she may not seek to obtain funding on behalf of the Association to effectuate improvements to the common elements unless that authority has been delegated to her by the Council; and (iv) that the Defendant is not an agent of the Association and may not bid the Association based upon statements she makes to third-parties.

44-60. Pursuant to Article X of the Code, failure to comply with any of the terms of the Governing Documents, including the Code, shall be grounds for injunctive relief, and the Association shall be entitled to recover its reasonable attorneys' fees and costs of the proceeding arising out of a default by an owner.

45-61. Accordingly, the Association seeks damages arising from lost opportunities occasioned by Defendant's false statements and misfeasance, and the Association seeks its reasonable attorneys' fees and court costs.

COUNT III – ATTORNEY FEES

46-62. The Association incorporates by reference each of the foregoing paragraphs as if set forth in full herein.

~~47-63~~. The Governing Documents vest in the Association alone the power to determine when and to what extent to repair, maintain, or replace the common elements.

~~48-64~~. Likewise, pursuant to 25 *Del. C.* § 81-307(a) “the association, through its executive board, is responsible for maintenance, repair, and replacement of the common elements, and each unit owner is responsible for maintenance, repair, and replacement of the unit owner's unit.... The executive board shall determine when and to what extent such maintenance, repair and replacement shall be required.”

~~49-65~~. Pursuant to 25 *Del. C.* § 81-417(a) the Court, in an appropriate case, may award the court costs and reasonable attorneys’ fees against a party for failure to comply with the any provision of the declaration or bylaws.

~~50-66~~. Accordingly, the Association seeks damages consisting of its reasonable attorneys’ fees and court costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment in its favor and against the Defendant, and as relief therefor respectfully requests the following:

A. ~~A preliminary and~~A permanent injunction as necessary and appropriate to prevent the imminent threat of irreparable harm to the Association, which orders the Defendant to immediately cease ~~from falsely~~ holding herself out to federal and state agencies, local government representatives, elected officials, and third parties,

as someone who speaks for the Association or its Council and to change the name of her website to make clear that it is unofficial and unaffiliated with the Association or Council;

B. A declaration that: (i) the Governing Documents constitute a binding contract to which Defendant became bound upon purchasing her Unit; (ii) the Governing Documents give the Association, through the Council, the exclusive authority to manage the common elements of the Condominium and authorize improvements to the common elements; ~~and~~ (iii) while Defendant may request that the Council make improvements, she may not seek to obtain funding on behalf of the Association to effectuate improvements to the common elements unless that authority has been delegated to her by the Council; and (iv) that the Defendant is not an agent of the Association and may not bind the Association based upon statements she makes to third parties.;

C. An appropriate award of damages in an amount to be established at trial arising from lost opportunities occasioned by Defendant's misfeasance and Plaintiff's reasonable attorneys' fees and court costs; and

D. Any and all other and further relief as Court deems just and proper.

Dated: ~~October 1~~December 23, 2025 ——— **WHITEFORD, TAYLOR & PRESTON LLC**

/s/ Chad J. Toms _____

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