

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT  
CIVIL ACTION NO.: \_\_\_\_

Alberta Rosenberg,  
  
Plaintiff,  
  
v.  
  
FISC Land Holdings, LLC; Seascap  
Hospitality Group, LLC,  
  
Defendants.

**SUMMONS**  
  
**(Declaratory Judgment)**

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herewith served upon you and to serve a copy of your Answer to said Complaint on Plaintiff's undersigned attorney 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 said Complaint within the time aforesaid, the Plaintiff will apply to the Court for the relief demanded in the said Complaint.

Respectfully submitted,

FORD WALLACE THOMSON LLC

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Defendants.

**COMPLAINT**

**(Declaratory Judgment)**

Plaintiff Alberta Rosenberg, by and through the undersigned attorneys, submits this Complaint and alleges as set forth below.

**PREAMBLE**

This lawsuit is about the Fripp Island community. It challenges a developer's disregard of Fripp Island homeowners' property rights, in the developer's pursuit of money and power.

In early 2023, Defendant FISC Land Holdings, LLC ("FISC") arrived on the scene as the most recent "developer" of Fripp Island. FISC promptly began to trumpet its supposed "exclusive" right to control vacation home rentals island-wide. However, no such right has ever existed or been exercised by any prior developer in the history of Fripp Island.

Importantly, Fripp Island is not a new development—indeed, the community has been well-established since the 1960s and 1970s, when the original developers imposed

covenants and restrictions, and set forth their subdivision plans. Long ago, the old developers sold the lots and residential units to individual owners, subject only to minimalistic use restrictions. **Property owners on Fripp Island have been harmoniously living, working, and playing together under those minimal restrictions, for decades.**

The original covenants and restrictions contain no limitation on a homeowner's right to rent his or her private property as he or she sees fit. Unworried by this reality, FISC now is proclaiming to residents and visitors alike that FISC has an "exclusive" rental right over their homes on the Island. This false claim by FISC harms the property values and rights of homeowners on Fripp Island. Defendants themselves have characterized this purported "exclusivity right" as an "Island-wide issue." This lawsuit asks the Court to tell FISC that it cannot steal from Fripp Island homeowners the right to control their own property.

## I. PARTIES

1. Plaintiff Alberta Rosenberg ("Mrs. Rosenberg"), owns the parcel of real property on Fripp Island, in Beaufort County, South Carolina, identified by Beaufort County Tax Map Number R400-039-000-0017-0000, located at 464 Tarpon Boulevard.
2. Defendant FISC Land Holdings, LLC ("FISC") is the owner of real property that is the subject of this litigation. FISC is a limited liability company incorporated in Delaware, which has its principal place of business in South Carolina, and which regularly conducts business in South Carolina.

3. Defendant Seascape Hospitality Group, LLC (“Seascape Hospitality”) is a limited liability company incorporated in South Carolina, having its principal place of business in South Carolina, and it regularly conducts business in South Carolina.

## II. JURISDICTION AND VENUE

4. The subject of this litigation is the determination of rights and interests in real property located in Beaufort County, South Carolina. Plaintiff Mrs. Rosenberg and Defendants each own real property within Beaufort County, South Carolina, and this litigation arises out of actions that took and are taking place in Beaufort County, South Carolina. Thus, this Court has jurisdiction over this action.

5. Venue is proper in this Court pursuant to § 15-7-10 *et seq.* of the South Carolina Code of Laws and because all contracts, covenants, and documents pertinent to the relief sought were entered into and recorded in Beaufort County, South Carolina, concern interests in land wholly situated in Beaufort County, South Carolina, the parties hereto live, operate or conduct business within Beaufort County, South Carolina, and a majority of the witnesses are located within Beaufort County, South Carolina.

### III. FACTUAL BACKGROUND

6. Fripp Island is a residential island community located in Beaufort County, South Carolina.
7. FISC owns amenities such as swimming pools, restaurants, golf courses, tennis courts, a nature center, and outdoor lounge areas, collectively and colloquially referred to as Fripp Island Resort (hereinafter "Resort").
8. Fripp Island property owners are eligible to become members of the Fripp Island Club ("Club"). The Club allows Fripp Island property owners to purchase memberships individually that permit access to Resort amenities such as swimming pools, restaurants, golf courses, tennis courts, the nature center, and outdoor lounge areas. The Club also allows its members to purchase amenity cards for their friends, families, and rental guests in order for the guests to access Resort amenities during their stay.
9. Defendant FISC is the owner of the real property and amenities that constitute the Resort.
10. Defendant Seascape Hospitality is the operator of the Resort and the Club.
11. Fripp Island, South Carolina was developed in 1961, by a long-defunct entity called Fripp Island Resort, Inc.<sup>1</sup>
12. In 1961, Fripp Island Resort, Inc. owned all real property known as and located on Fripp Island, South Carolina.

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<sup>1</sup> The former entity called "Fripp Island Resort, Inc." dissolved more than thirty years ago, in the 1980s. Confusion may nonetheless arise on the part of the reader because, in 2006, a new entity was formed with the same name.

13. In 1961, Fripp Island Resort, Inc., imposed the original covenants and restrictions, the "1961 Covenants," on all lots and tracts of land situated on Fripp Island.
14. A true and correct copy of the 1961 Covenants, which was recorded with Beaufort County in Deed Book 108 at Page 138, is attached hereto as Exhibit A.
15. The 1961 Covenants do not restrict an owner's right to rent his property.
16. The 1961 Covenants do not grant a right to the developer to control or to manage real estate rentals, or to otherwise act as an agent of property owners in their rental of residential real property on Fripp Island.
17. As part of the 1961 Covenants, Fripp Island Resort, Inc. reserved the right (with certain limitations) to impose additional covenants and restrictions on real properties which it owned.
18. Between 1961 and 1972, Fripp Island Resort, Inc. conveyed away hundreds of lots and numerous tracts of land.
19. At all times while the former entity known as Fripp Island Resort, Inc. was the developer of Fripp Island, property owners rented their properties at their discretion.
20. In 1972, Fripp Island Resort, Inc. conveyed the real property on which is located the Resort amenities, along with its remaining interest in residential and commercial real property on Fripp Island, to Fripp Island Development Corporation by deeds recorded with Beaufort County in Deed Book 203, beginning at Page 1480. The conveyance deeds specifically except numerous lots and land previously conveyed by Fripp Island Resort, Inc., including Mrs. Rosenberg's property that is the subject of this litigation.

21. On May 1, 1974, Fripp Island Development Corporation recorded a consolidated declaration of covenants and restrictions in Deed Book 220 at Page 436 (the “1974 Covenants”).

22. A true and correct copy of the 1974 Covenants is attached hereto as Exhibit B.

23. The 1974 Covenants do not grant a right to the developer to control or to manage real estate rentals, or to otherwise act as an agent of property owners in their rental of residential real property on Fripp Island.

24. The 1974 Covenants are prospective only, appertaining only to lots and land not previously conveyed by Fripp Island Resort, Inc. or Fripp Island Development Corporation.

25. Between the years of 1974 through 1980, Fripp Island Development Corporation and its various successors in title conveyed away hundreds of lots of land on Fripp Island.

26. At all times during the period that Fripp Island Development Corporation acted as the community’s developer, Fripp Island property owners rented their properties at their discretion.

27. In 1980, Fripp Island Development Corporation conveyed the real property on which is located the Resort amenities, along with its remaining interest in residential and commercial real property on Fripp Island, to Fripp Island Company, Inc., by deed recorded with Beaufort County in Deed Book 300 at Page 818.

28. In 1981, Fripp Island Company, Inc. conveyed the real property on which is located the Resort amenities, along with its remaining interest in residential and

commercial real property on Fripp Island, to Fripp Island Service Corporation by deed recorded with Beaufort County in Deed Book 336 at Page 1308.

29. By deed recorded on July 2, 1982, with Beaufort County in Deed Book 350 at Page 659, Fripp Island Service Corporation conveyed to Thomasson Properties certain real property on Fripp Island, South Carolina, specifically excepting all previously conveyed real property. By this deed, Thomasson Properties (and its successors) became the owners of much of the remaining developable property on Fripp Island.

30. In April 1983, Thomasson Brothers and Thomasson Properties (collectively "Thomasson") recorded an amendment to certain existing restrictive covenants governing Fripp Island with Beaufort County in Book 367 at Page 1136 (the "1983 Amendment").

31. A true and correct copy of the 1983 Amendment is attached hereto as Exhibit C.

32. The 1983 Amendment does not restrict an owner's right to rent his or her property.

33. The 1983 Amendment does not grant a right to the developer to control or to manage real estate rentals, or to otherwise act as an agent of property owners in their rental of residential real property on Fripp Island.

34. The 1983 Amendment dealt solely with annual assessments on residential property, including the purpose, amount, collection, and use of annual assessments, as well as enforcement of the collection right.

35. At the time of the 1983 Amendment, Thomasson did not own all of the real property on Fripp Island, thus the 1983 Amendment could only be made applicable to



previously conveyed properties through individual adoption agreements signed by individual residential property owners.

36. Importantly, the 1983 Amendment restricts the purpose and use of the annual assessment as being for providing a fund for landscaping, streets, walkways, clean beachfronts, pest control, weed and fire control, and to provide for security – all in order to develop and preserve an attractive, secure, and safe community.

37. In September 1983, Thomasson entered into an assignment agreement with the Fripp Island Property Owners Association (“FIPOA”) (the “1983 Assignment”).

38. A true and correct copy of the 1983 Assignment is attached hereto as Exhibit D.

39. The 1983 Assignment assigns discrete, limited rights and obligations to FIPOA, all of which are strictly related and tied to the collection, enforcement and use of the annual assessment on residential property as set forth in the 1983 Amendment. The assigned rights and duties include maintenance of security, including the operation of a security gate at the entrance to the Island.

40. At all times that Thomasson was the developer for Fripp Island, property owners rented their properties at their discretion.

41. By deeds recorded on March 20, 1990 with Beaufort County, beginning in Deed Book 549 at Page 864, Thomasson conveyed to the Fripp Company, Inc. the real property on which is located the Resort amenities, along with its remaining interest in residential and commercial real property on Fripp Island.

42. At all times that Fripp Company, Inc. acted as the developer of Fripp Island, property owners rented their properties at their discretion.

43. In 2001, an entity called Fripp Island Company, Inc. became the owner of most of the Resort amenity properties, including by deed recorded with Beaufort County in Deed Book 1378 at Page 1700.

44. On information and belief, in or around the year 2006, the Fripp Island Company, Inc., which was frequently known as Fripp Island Resort, merged with a new entity called the Fripp Island Resort, Inc., which thereby became successor in interest to the Company's amenity properties.

45. At all times that Fripp Island Resort, Inc. was acting as the developer of Fripp Island, residential property owners rented their properties at their discretion.

46. There is no recorded instrument appertaining to residential real property on Fripp Island that imposes a right on behalf of any entity or person to control rentals of private residential property.

47. On January 12, 2023, Fripp Island Resort, Inc. conveyed its interest in and title to certain Resort amenity properties to FISC Land Holdings, LLC, including by deed recorded with Beaufort County in Deed Book 4211 at Page 671.

48. FISC Land Holdings, LLC frequently does business as Seascope Hospitality Group, LLC, including that it has taken numerous actions that are the subject of this Complaint as Seascope Hospitality Group LLC ("Seascope").

49. For example, in February 2023, Seascope sent a letter stating a claim to an exclusive right to conduct all real estate rentals on Fripp Island.

50. There exists no instrument of record subjecting residential property to any limitation or restriction on the individual owners' fee simple right to rent their property as they see fit.

51. From the initial development of Fripp Island in 1961 through December 2, 2022, no developer has ever claimed to Fripp Island property owners that the developer possesses an exclusive right to control the rental of residential real property on Fripp Island.

52. From the initial development of Fripp Island in 1961 through December 2, 2022, a developer has never exercised an exclusive right to rent residential properties on Fripp Island.

53. Since the initial development of Fripp Island in 1961, Fripp Island property owners have been free to rent their properties in their sole discretion.

54. For so long as Mrs. Rosenberg has owned her real property on Fripp Island, she has had the right to rent it as she sees fit, in her sole discretion.

55. For so long as Mrs. Rosenberg has owned her real property on Fripp Island, she has rented it out as a short-term vacation rental as she sees fit, in her sole discretion, and without interference by any developer.

56. Since Defendants assumed ownership and control over the Resort amenities on January 12, 2023, Defendants have repeatedly made claims that they possess an exclusive right to control and manage property rentals on Fripp Island, including the aforementioned February 2023 letter.

57. Defendants' claims to an exclusive right over property rentals on Fripp Island are false and improper.

58. Defendants' have based their claims to "exclusive" real estate rental rights solely on an alleged 1991 Agreement and the 1983 Assignment.

59. The 1991 Agreement does not bind residential real property on Fripp Island.

60. The 1983 Assignment does not bind residential real property on Fripp Island.

61. No residential real property has ever been subjected to either the 1983 Assignment or the 1991 Agreement.

62. Mrs. Rosenberg's property is not subject to the 1983 Assignment.

63. Mrs. Rosenberg's property is not subject to the 1991 Agreement.

64. On June 15, 2023, counsel for Mrs. Rosenberg requested that Defendants retract their statements asserting "exclusive" real estate rental rights.

65. As of this writing, Defendants have failed and or refused to retract their statements asserting "exclusive" real estate rental rights.

66. Defendants' claim to "hold the exclusive rights to rent out properties on Fripp Island" has no basis in any deed, contract, or the law.

**FOR A FIRST CAUSE OF ACTION**  
**(Declaratory Judgement)**

67. Mrs. Rosenberg realleges and incorporates the preceding paragraphs of this Complaint as if set forth fully herein.

68. This claim is brought pursuant to the South Carolina Declaratory Judgment Act, S.C. Code § 15-53-10 *et seq.* and other applicable law.

69. Due to the facts, conditions, and circumstances set forth in this Complaint, an actual justiciable controversy exists.

70. Mrs. Rosenberg owns real property on Fripp Island, South Carolina, as set forth above.

71. Defendants have breached the law of South Carolina and the purported contracts at issue, as described above, by asserting a right to control all real estate rentals on Fripp Island, when no such right exists in the applicable documents of record.

72. Neither the 1983 Assignment nor any other valid document of record supports Defendants' assertions that it has the exclusive right to control and conduct all real estate rental business on Fripp Island.

73. Plaintiff accordingly requests that the Court enter a judgment declaring the same, and further declaring that Defendants have no right to control the rental of Plaintiff's real property on Fripp Island.

WHEREFORE, Plaintiff requests that judgment be entered against Defendants on all causes of action, and that Plaintiff be awarded:

- A. A declaratory judgment as set forth above;
- B. Attorneys' fees and costs; and
- C. Such other and further relief as the Court and jury deem just and appropriate.

Respectfully submitted,

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Carolina August 21, 2023