ELECTRONICALLY FILED - 2025 May 14 5:25 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0701251

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF BEAUFORT)	FOURTEENTH JUDICIAL CIRCUIT
Carl Braden and Zoe Braden,)	Civil Action No.: 2025-CP-07-_____
)	
Plaintiff,)	**COMPLAINT FOR DECLARATORY JUDGMENT, INJUNCTIVE RELIEF, AND DAMAGES**
)	
vs.)	
)	
The Town of Hilton Head Island,)	***Jury Trial Requested***
)	
Defendant.)	
)	

COME NOW, the Plaintiffs Carl Braden and Zoe Braden (collectively, "Plaintiff" or "Plaintiffs"), by and through the undersigned attorneys, who makes the following claims against the Defendant Town of Hilton Head Island (the "Town") above-named, and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Mr. Braden is a current citizen and resident of Beaufort County, South Carolina.

2. Ms. Braden is a current citizen and resident of Beaufort County, South Carolina.

3. Mr. Braden is the former owner and a still-current resident of the property and home located at 16 Bradley Circle, Hilton Head Island, State of South Carolina 29928 ("16 Bradley Circle"). Ms. Braden is also a resident of 16 Bradley Circle.

4. This residence is located on the street known as "Bradley Circle", described further below, which lies within the municipal boundaries of the Town of Hilton Head Island.

5. Defendant Town of Hilton Head Island (the "Town"), is a political subdivision of the State of South Carolina, duly organized and operating pursuant to the Constitution and Laws of the State of South Carolina, and is a resident of Beaufort County, South Carolina.

6. All real property and property interests that are subject of this action are located in Beaufort County, South Carolina.

ELECTRONICALLY FILED - 2025 May 14 5:25 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0701251

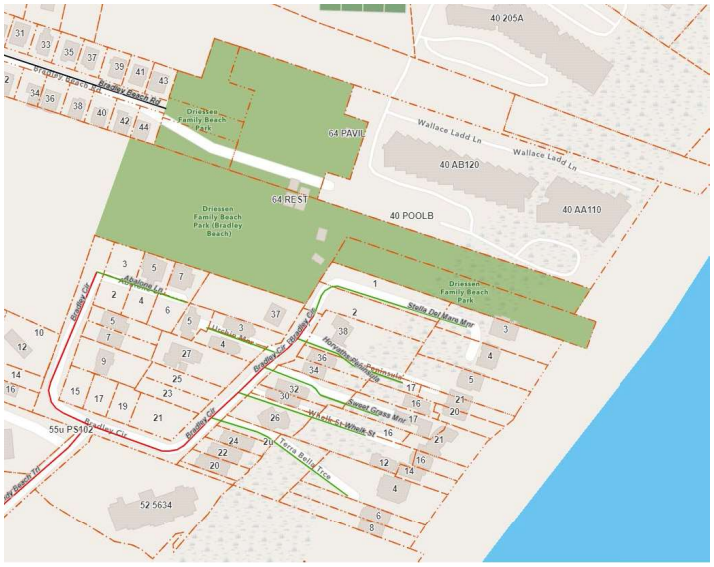
7. All events complained of herein occurred in Beaufort County, South Carolina, which is within the geographic jurisdiction of the Court of Common Pleas, Beaufort County.

8. This Court has jurisdiction over the parties to and the subject matter of this action, and venue is proper in this court.

9. This action is brought, in part, pursuant to the South Carolina Uniform Declaratory Judgment Act, S. C. Code Ann Section 15-53-10, et. seq., and involves an actual, justiciable controversy between the parties described herein.

FACTUAL BACKGROUND

10. This matter arises from the rights of Plaintiffs and others similarly situated who reside in or around the street known as "Bradley Circle," located within the Town of Hilton Head Island, to use a publicly dedicated pathway which connects and provides access from Bradley Circle to Driessen Family Beach Park (the "Beach Park"). (See excerpt below from GIS showing Bradley Circle and Beach Park, https://gis.beaufortcountysc.gov/publicmapping/).



11. For convenience, the Beach Park access path at issue in this matter is hereinafter referred to as the "Beach Park Access Easement."

ELECTRONICALLY FILED - 2025 May 14 5:25 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0701251

12. In 1992, Henry Driessen transferred a parcel of land more than 11 acres in size to the Town, for what would become the Beach Park. (Beaufort Co. ROD, July 6, 1992, Book 602 at Page 683, Exhibit A hereto and incorporated herein.)

13. This 1992 deed described the land being transferred for the Beach Park, and expressly stated that the conveyance was being made less the following:

> SAVE AND EXCEPT that certain strip of property containing .50 acres and more particularly shown on said plat referenced above as being a "Proposed 50' Ingress/Egress Easement." (emphasis in original)

14. This smaller piece of land (hereinafter, the "Original Beach Park Access Easement"), located at the very end of Bradley Circle's northeast side, on information and belief, was at that time already a site historically providing access to the beach. Therefore, as part of the sale of the Driessen land that would comprise the Beach Park, an Access Easement Agreement ("First Easement Agreement") was contemporaneously executed at the time of and as a part of the Driessen property sold which ultimately became the Beach Park. (Beaufort Co. ROD, July 6, 1992, Book 602 at Page 678, Exhibit B hereto and incorporated herein.)

15. The First Easement Agreement was "executed so that Grantee shall possess a reasonable and convenient means of access for ingress and egress" to that parcel of land being designated as the Beach Park. Importantly, Mr. Driessen, as Grantor, made the easement grant with "the right to erect appropriate signs identifying the municipal beach access/beach park within the non exclusive easement and right-of-way for ingress and egress[.]"

16. Following the First Easement Agreement, Mr. Driessen made a subsequent Second Access Easement Agreement (the "Second Easement Agreement") with the Town. (Beaufort Co. ROD, January 21, 1993, in Book 617 at Page 1798, Exhibit C hereto and incorporated herein.)

ELECTRONICALLY FILED - 2025 May 14 5:25 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0701251

17. The Second Easement Agreement reiterated and restated in relevant part the intent of Mr. Driessen, as Grantor, to dedicate and have developed the Original Beach Park Access Easement for the benefit and use of the general public to have access to the beach via the Beach Park.

18. Consistent with the Second Easement Agreement's intent, a gate was installed at the Original Beach Park Access Easement so that Bradley Circle residents and others nearby could continue to get to the beach, even after fencing was built in and around the Beach Park.

19. On information and belief, this pedestrian access-gate explicitly served as the sole direct Beach Park access for Bradley Circle residents and other members of the public for approximately 10+ years (from 1992 to 2003) at this Original Beach Park Access Easement location.

20. In 2003, however, a developer sought to purchase this small remaining Driessen parcel (then containing the Original Beach Park Access Easement) to use as a part of an oceanfront development.

21. To accomplish the intended acquisition of the remaining Driessen parcel (again, then containing the Original Beach Park Access Easement), it was necessary, because of the existing First and Second Easement Agreements providing beach access, to create an alternate means of Beach Park and beach access for Bradley Circle and nearby residents.

22. In order to alter the then-existing path and Beach Park access, the Town and the developer undertook to relocate the Original Beach Park Access Easement and create an alternative Beach Park access easement, doing so in a subsequent Third Easement Access Agreement ("Third Easement Agreement"). (Beaufort Co. ROD, February 7, 2003, in Book

ELECTRONICALLY FILED - 2025 May 14 5:25 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0701251

01709 at Page 584, Exhibit D hereto and incorporated herein.) This amended pathway would continue to facilitate uninterrupted connection between Bradley Circle and the Beach Park.

23. The aforementioned path set forth in the Third Easement Agreement is the current Beach Park Access Easement.

24. Regarding the Beach Park Access Easement, the Third Easement Agreement states several important terms *inter alia*:

> E. Nature and Purpose. The Access Easement is for the purpose of providing pedestrian access to the Beach Park from the right-of-way of Bradley Circle for residents of the Bradley Circle and Second Avenue areas, and shall be now and forever appurtenant to the Beach Park. The Access Easement is intended to be transferable with the Beach Park because the parties hereto agree that it is essentially necessary for the use and enjoyment of the Beach Park.

25. The Third Easement Agreement specifically described the Beach Park Access Easement as follows:

> ALL that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 0.005 acre, more or less, shown and designated as "HATCHED AREA IS 10' WALKWAY ACCESS EASEMENT (0.005 Ac.)" on that certain plat entitled "Lot Reconfiguration & Easement Plat of Stella del Mare & Adjacent Properties" prepared by Surveying Consultants, Terry G. Hatchell, SCRLS 11059, dated July 22, 2002, last revised November 6, 2002, and recorded in said Register's Office in Plat Book 91 at Page 105.

26. The above-referenced July 22, 2002, plat (Beaufort ROD, Plat Bk. 91 at Page 105) is attached and incorporated herein as Exhibit E and visually depicts the more precise location of the Beach Park Access Easement.

ELECTRONICALLY FILED - 2025 May 14 5:25 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0701251

27. After this Third Easement Agreement was executed in 2003, Bradley Circle residents, including the Plaintiffs specifically, and the public continued to peacefully use and enjoy this access for another 20-plus years.

28. The enjoyment of this access came to a halt on or after May 15, 2023, when the Town arbitrarily and without basis improperly barricaded the access. To support its action, the Town cited to inaccurate reports of "safety" concerns and non-use, which, again, were counter to facts and without factual basis.

29. Ever since then, the Plaintiffs and others have tried repeatedly to bring the matter of this improper barricading and blocking of the Beach Park Access Easement.

30. The Plaintiff has written the Town's Mayor and other Town representatives to inform the Town of this erroneous action and ask that it be fixed. Yet the barricade still sits. Only as a last resort have the Plaintiffs brought this action to vindicate their rights and the rights of other similarly situated to enjoy the Beach Park Access Easement.

31. The attempted barricading of the Beach Park Access Easement has provided no benefit to the community or residents of or near Bradley Circle. Rather, it has merely prevented many Bradley Circle and nearby residents from accessing the Beach Park and, in the case of many residents and properties, blocked what is the only viable beach access from their neighborhood(s).

32. In the case of the Third Easement Agreement and preceding easement documents, the grantor's intent is clear and unambiguous in its creation of the Beach Park Access Easement for the public's use and enjoyment, especially as it relates to those who live and reside in or near Bradley Circle. The easement is not capable of more than one construction and its obvious, explicit intent must be honored.

ELECTRONICALLY FILED - 2025 May 14 5:25 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0701251

33. Upon information and belief, no legal action has been taken by the Town or any interested parties to declare the Beach Park Access Easement abandoned. As such, although the Town has ceased maintaining and in fact has attempted to block the Beach Park Access Easement, the Beach Park Access Easement remains an active public right of way to this day.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment-Easement)

34. The above allegations are restated herein.

35. The Beach Park Access Easement contains no exceptions allowing any party, including the Town, to remove, impede, trespass or otherwise prevent the use of the easement for ingress and egress through and across the Beach Park Access Easement which benefits the residents of or those nearby Bradley Circle.

36. Upon information and belief, the Town has actual knowledge of the Easement Agreements, Beach Park Access Easement, and the burden placed on the servient tract to allow access to the Beach Park.

37. Upon information and belief, the Town has refused and prevented Plaintiffs and other similarly situated from realizing the benefit of the Beach Park Access Easement for ingress and egress through to the Beach Park. On information and belief, the Town denies that the Plaintiffs have such a right of ingress and egress over the Beach Park Access Easement as defined in the Easement Agreements, including the Third Easement Agreement. Further, the Town has indicated that such use by Plaintiffs would be considered a trespass and unlawful.

38. That a dispute exists between Plaintiffs and the Town as to whether the Town may block and prohibit the use of the Beach Park Access Easement and the right to ingress and egress over the Beach Park Access Easement as described in the Easement Agreements, including the Third Easement Agreement.

ELECTRONICALLY FILED - 2025 May 14 5:25 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0701251

39. As a result of the conduct of the Town, Plaintiffs are being prevented reasonable use and exercise of the rights of ingress and egress to over the including the Third Easement Agreement to the Beach Park.

FOR A SECOND CAUSE OF ACTION
(Declaratory Judgment- Prescriptive Easement)

40. The above allegations are restated herein.

41. Plaintiffs and others similarly situated have used the Beach Park Access Easement to access the Beach Park under a claim of right continuously for at least twenty (20) years.

42. The use of Beach Park Access Easement by Plaintiffs and those with an interest in or residing on or near Bradley Circle has been open, notorious, continuous, and uninterrupted.

43. Based on the foregoing, Plaintiffs are entitled to an easement for ingress, egress, and access over the parcel containing Beach Park Access Easement.

FOR A THIRD CAUSE OF ACTION
(Declaratory Judgment – Easement by Prior Use)

44. The above allegations are restated herein.

45. Beach Park Access Easement was used by Plaintiffs and those similarly situated to access the Beach Park from Bradley Circle until the Town blocked access.

46. Plaintiffs and others' use of the Beach Park Access Easement was apparent, known, and necessary in that there could be no other reasonable mode of accessing the Beach Park from Bradley Circle, and Plaintiffs and others have indicated an intent to continue to use the Beach Park Access Easement to access the Beach Park.

47. Based on the foregoing, Plaintiffs are entitled to an easement for ingress, egress, and access over the Beach Park Access Easement, by way of Bradley Circle.

FOR A FOURTH CAUSE OF ACTION

ELECTRONICALLY FILED - 2025 May 14 5:25 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0701251

(Trespass—Action for Damages)

48. The above allegations are restated herein.

49. The Town's blocking off and interfering with the Beach Park Access Easement is intentional in that the Town has full knowledge that it is barring Plaintiffs and others with a right to the Beach Park Access Easement from using same.

50. The Town's actions are done without the consent or permission of the Plaintiffs.

51. The Town's blocking the Beach Park Access Easement and refusal to re-open it has caused damages to the Plaintiffs and others residing on or near Bradley Circle by, among other things, depriving the Plaintiffs and others from the reasonable use and enjoyment of their rights to ingress and egress over the Beach Park Access Easement.

52. The actions of the Town constitute an actionable trespass and the Plaintiffs are entitled to judgment against the Town for same in such amounts as may be determined by the trier of fact.

FOR A FIFTH CAUSE OF ACTION
(Declaratory Judgment – Public Dedication)

53. The above allegations are restated herein.

54. At common law, to prove a dedication of land to the public, the party claiming dedication must show that a person who owned the land intended to dedicate it to a public use and that the dedication was accepted by the public. *See, e.g., Anderson v. Town of Hemingway,* 269 S.C. 351, 237 S.E.2d 489 (1977).

55. The owner's intention to dedicate must be manifested in a positive and unmistakable manner. A dedication need not be made by deed or other writing but may be effectually made by acts or declarations. Intent to dedicate may also be implied from long public use of the land to which the owner acquiesces.

ELECTRONICALLY FILED - 2025 May 14 5:25 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0701251

56. In the case, the dedication of the Beach Park Access Easement is explicit and unmistakable, especially as detailed and depicted in the Third Easement Agreement.

57. Furthermore, this explicit grant to the public has been the subject of longstanding public use (20+ years to the specific current Beach Park Access Easement, and more then 30 years total) without any objection or amendment by the Grantor or other owner of the servient estate.

58. Based on the foregoing, Plaintiffs are entitled to ingress, egress, and access over the Beach Park Access Easement, by way of Bradley Circle by virtue of this express and implied public dedication.

FOR A SIXTH CAUSE OF ACTION
(Lack of Adequate Remedy at Law)

59. The above allegations are restated herein.

60. The Plaintiffs, in the alternative, lack an adequate remedy at law and are entitled to equitable relief from this Court.

FOR A SEVENTH CAUSE OF ACTION
(Temporary, Preliminary and Permanent Injunctive Relief)

61. The above allegations are restated herein.

62. This is an action for injunctive relief.

63. The Plaintiffs would show that the Town's inconsistent, vague, arbitrary, and capricious action in blocking the Beach Access Easement has resulted in, and will continue to result in, damage and harm to the Plaintiffs and the substantive rights of residents of Bradley Circle, to include the Plaintiffs, and those in the vicinity.

ELECTRONICALLY FILED - 2025 May 14 5:25 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0701251

64. The Plaintiffs and others similarly situated will be immediately and irreparably impaired by the continued enforcement of the Town's decision to block the Beach Park Access Easement.

65. The Plaintiffs and others similarly situated will be harmed by ongoing unlawful actions of the Town in noncompliance of the laws of this State and Town.

66. The Plaintiffs are informed and believes that it is entitled to temporary, preliminary and permanent restraining orders/injunctive relief/mandamus against the enforcement of the Town's blocking off of the Beach Park Access Easement.

WHEREFORE, having fully set forth its Complaint, Plaintiffs pray judgment that this Court:

(a) Declare Plaintiffs' right, as an express beneficiary, to an easement for ingress and egress over and across Beach Park Access Easement;

(b) Issue a decree restraining and enjoining the Town, its successors and assigns, from interfering with or hindering Plaintiffs' use and enjoyment of the Beach Park Access Easement for ingress and egress;

(c) The Court grant Plaintiffs a prescriptive easement;

(d) The Court grant Plaintiffs an easement by prior use;

(e) Declare Plaintiffs' right to ingress and egress over and across Beach Park Access Easement as it is the subject of an express and implied public dedication; and

(f) For such other and further equitable and/or legal relief as the Court may deem just and proper, including, but not limited to, in the alterative, that Plaintiffs

lack an adequate remedy at law and is therefore entitled to the relief or equitable relief sought herein.

ROBINSON GRAY STEPP & LAFFITTE, LLC

s/ Courtney E. Walsh
Courtney E. Walsh (SC Bar No. 72723)
ROBINSON GRAY STEPP & LAFFITTE, LLC
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400
cwalsh@robinsongray.com

Counsel for Plaintiffs

Columbia, South Carolina
May 14, 2025

ELECTRONICALLY FILED - 2025 May 14 5:25 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0701251