

HEARING DATE: 2/16/24

STATE OF RHODE ISLAND
WASHINGTON, SC.

SUPERIOR COURT

LLOYD ALBERT, JEAN ALBERT,
DALE CORDY, NANCY CORDY,
RAYMOND PARISEAULT,
ROSEMARY PARISEAULT,
GORDON WRIN, KATRINA WRIN,
ROBERT PATTERSON, and
MARY BURKE PATTERSON,
Petitioners

C. A. No. WC-2024-0027

V.

THE BONNET SHORES FIRE DISTRICT,
by and through its Chairperson,
CAROL O'DONNELL,
its Vice Chairperson, MARLENE BELLINI, and
its Council Members, ANTHONY DEANGELIS,
BILL DEIGIZZO, CAROLYN DILEO, and
STEVEN DANUSZAR,
Respondents

**MOTION OF PETITIONER BONNET SHORES BEACH CLUB
CONDOMINIUM ASSOCIATION, INC. TO INTERVENE
PURSUANT TO RULE 24(a)**

Now comes the Petitioner, Bonnet Shores Beach Club Condominium Association, Inc. (hereinafter "Beach Club") and moves, pursuant to the provisions of Rule 24(a) of the Superior Court Rules of Civil Procedure, to intervene in this matter as of right.

As grounds therefore, the Beach Club has a substantial interest in the subject matter which is the basis for the plaintiffs' petition, and is so situated that the disposition of this action may, as a practical matter, impair or impede the Beach Club's ability to protect its interests. Furthermore, the Beach Club does not believe that its interests will be adequately represented by any of the existing parties in this action.

The Petitioner has submitted a Memorandum in support of the instant motion.

WHEREFORE, the Petitioner, Bonnet Shores Beach Club Condominium Association, Inc., respectfully requests that its Motion to Intervene be GRANTED.

NOTICE OF HEARING

Please take notice that the undersigned will bring the above motion on for hearing before the Court on Friday, February 16, 2024 at 9:30 a.m.

BONNET SHORES BEACH
CLUB CONDOMINIUM
ASSOCIATION, INC.
By their Attorney,

/s/ Michael W. Garland
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(401) 723-9655

CERTIFICATE OF SERVICE

I, Michael W. Garland, hereby certify that on the 25th day of February, 2024, I filed the within document through Odyssey EFile and Serve with service to counsel of record.

/s/ Michael W. Garland
Michael W. Garland

STATE OF RHODE ISLAND
WASHINGTON, SC.

SUPERIOR COURT

LLOYD ALBERT, JEAN ALBERT,	:	
DALE CORDY, NANCY CORDY,	:	
RAYMOND PARISEAULT,	:	
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GORDON WRIN, KATRINA WRIN,	:	C. A. No. WC-2024-0027
ROBERT PATTERSON, and	:	
MARY BURKE PATTERSON,	:	
Petitioners	:	
	:	
V.	:	
	:	
THE BONNET SHORES FIRE DISTRICT,	:	
by and through its Chairperson,	:	
CAROL O'DONNELL,	:	
its Vice Chairperson, MARLENE BELLINI, and	:	
its Council Members, ANTHONY DEANGELIS,	:	
BILL DEIGIZZO, CAROLYN DILEO, and	:	
STEVEN DANUSZAR,	:	
Respondents	:	

**MEMORANDUM OF PETITIONER, BONNET SHORES BEACH CLUB
CONDOMINIUM ASSOCIATION, INC., IN SUPPORT OF ITS
MOTION TO INTERVENE PURSUANT TO RULE 24(a)**

FACTS AND TRAVEL

The Petitioner, Bonnet Shores Beach Club Condominium Association, Inc. (hereafter “Beach Club”) represents unit owners who reside both within and outside of the bounds of the Bonnet Shores Fire District.

The Demand for Special Meeting submitted by the Petitioner Robert Patterson to the Respondent Carol O’Donnell on or about November 14, 2023 contains the following provision:

Voting at said **Special Meeting shall be limited to** Qualified Voters of the District, as such are defined in Paragraph 1 of the Consent Judgment entered in the Washington County Superior Court on May 26, 2022 in the matter of *Mary Burke Patterson et al v. The Bonnet Shores Fire District, C. A. No. WC-2020-0130* (emphasis added).

See Exhibit “4” to Petition for Issuance of Mandamus.

Paragraph 1 of the aforementioned Consent Judgment states the following:

1. The Court having granted summary judgment in favor of the Plaintiffs on Count I of the Complaint . . . beginning with any Bonnet Shores Fire District Annual Meeting or Special Meeting (each, a “Meeting”) held after the date hereof, every citizen of the United States of the age eighteen years or over who has had residence and home in the Bonnet Shores Fire District for thirty days next preceding the time of voting, who has resided thirty days in the Bonnet Shores Fire District, and whose name shall be registered at least thirty days preceding the time of voting as provided by the Bonnet Shores Fire District Charter, shall have the right to vote for all offices to be elected and on all questions submitted to the electors.

Section 5 of the Bonnet Shores Fire District By-Laws states that “Every person irrespective of sex, of the age of eighteen (18) years, who is possessed in his or her right of real estate in said district of the value of four hundred dollars (\$400.00). . . shall thereafter have the right to vote at all meetings of the corporation.” See Exhibit “2” to Petition for Issuance of Mandamus. The Consent Judgment did not take away the right to vote from nonresident property owners. The Petition for the Issuance of a Writ of Mandamus was filed with this Court on January 16, 2024.

LEGAL STANDARD

Rule 24(a) of the Superior Court Rules of Civil Procedure states the following:

- (a) Intervention of Right.** Upon timely application anyone shall be permitted to intervene in an action:
- (1) When a statute of this state confers an unconditional right to intervene; or
 - (2) When the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant’s ability to protect that interest, unless the applicant’s interest is adequately represented by existing parties.

To establish intervention as a matter of right, a party is required to: (1) file a timely application for intervention, (2) show an interest in the subject matter of that action in that the disposition of the action without intervention would as a practical matter impair or impede their ability to

protect that interest, and (3) establish that their interest is not adequately represented by the existing parties. *Marteg Corp. v. Zoning Bd. of Review*, 425 A. 2d 1240 (R. I. 1981).

ARGUMENT

1. THE PETITIONER'S DEMAND FOR SPECIAL MEETING IS A DELIBERATE ATTEMPT TO DISENFRANCHISE NONRESIDENT PROPERTY OWNERS, IN CLEAR VIOLATION OF THE COURT'S DECEMBER 17, 2020 DECISION.

In her December 17, 2020 Decision on the Bonnet Shores Fire District's Motion to Dismiss for Failure to Join Indispensable Parties, the Court, Ms. Justice Taft-Carter presiding, stated the following:

[P]laintiffs requested a declaration that would indeed affect the voting rights of the nonresident property owners by disenfranchising them . . . Furthermore, the interest at stake is the fundamental right to vote . . . Similar to *Flynn*, the nonresident property owners share a common interest with the BSFD residents in governmental matters . . . For instance, the nonresident property owners are taxpayers who have a financial stake in the outcome of BSFD's elections because taxation in the district is for many purposes, including the maintenance of streets, as well as the water supply system. Indeed, these interests potentially affect the nonresident property owners as well as residents of the BSFD.

Accordingly, the issuance of such a declaration in requests D, E and F¹ by this Court would directly affect the BSFD's nonresident voters by stripping them of their right to vote under the BSFD Charter. Therefore, the nonresident owners are indispensable parties as to requests for relief D, E and F pursuant to §9-30-11, and, thus, *failure to join them is fatal*. (emphasis added).

In spite of the Court's decision denying the attempt of the *Patterson* plaintiffs to prohibit nonresident property owners from voting on BSFD matters, the Petitioners in the instant action are attempting to circumvent the Court's ruling by limiting voting at the Special Meeting to those

¹ D. A finding and declaration that the distribution of voting rights to nonresidents of BSFD is unconstitutional under the Fourteenth Amendment of the United States Constitution.

E. A finding and declaration that the distribution of voting rights to nonresidents of BSFD is unconstitutional under Article, I, §2 and Article II, §1 of the Rhode Island Constitution.

F. A finding and declaration that subsequent elections for BSFD must be open only to all residents of BSFD who are over eighteen years of age, consistent with Article II, §1 of the Rhode Island Constitution.

parties described in Paragraph 1 of the Consent Judgment, which does not include nonresident property owners. To date, as the Respondents have not yet filed an Answer or other response to the Petition, the Beach Club does not know what steps they will take to protect the voting rights of nonresident property owners. Given the Petitioners' antipathy towards nonresident owners located in the Fire District, the Beach Club contends that its Motion to Intervene should be granted so that the interests of these nonresident owners are protected when the Special Meeting is held.

WHEREFORE, the Petitioner, Bonnet Shores Beach Club Condominium Association, Inc., prays that its Motion to Intervene be GRANTED, and that in the event the Petitioners' Writ of Mandamus is granted, that the Court order voting at the Special Meeting to include both residents and nonresident owners in the Bonnet Shores Fire District.

BONNET SHORES BEACH
CLUB CONDOMINIUM
ASSOCIATION, INC.
By their Attorney,

/s/ Michael W. Garland
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