

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1487

September Term, 2023

JEANETTE C. TRIFILLIS

v.

SKILLINGTON'S RIGHT HOA, INC. *ET AL.*

Berger,
Beachley,
Ripken,

JJ.

Opinion by Ripken, J.

Filed: October 21, 2024

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Jeannette Trifillis (“Trifillis”) appeals an order from the Circuit Court for Caroline County finding her in contempt of its prior Order and Declaratory Judgment. Trifillis presented the following issue for our review:¹

Whether the circuit court’s findings of fact upon which it premised its decision of contempt were clearly erroneous.

For the reasons to follow, we shall affirm.

FACTUAL AND PROCEDURAL BACKGROUND

This case concerns a dispute among the property owners of a subdivision in Caroline County—Skillington’s Right. From the time of its creation in 2006, Skillington’s Right has been divided into six lots between two tracts of land: four lots in Tract 1 and two lots in Tract 2. Additionally, there is a Community Facility² which includes a picnic area, a beach, and a pier. To access the Community Facility, every property owner and resident of Skillington’s Right has an implied easement for the use of an access road.³

¹ Rephrased from: “Did the court err in finding that its 2/14/2023 order applied to the fee simple owners of Lot 3 Tract 1[?]”

² The briefs and the record reflect inconsistency in the name of the Community Facility (also called the “community area” and “reserved area”). For consistency, we will use “Community Facility.”

³ Notwithstanding that the title “Community Facilities” implies community or shared access for the subdivision, the road to access the Community Facilities was not expressly labeled as an easement on the initial plat subdividing Skillington’s Right. However, the property owners’ and residents’ use of the access road to reach the Community Facility is an implied easement. The use of the access road as an implied easement is clearly demonstrated on the plat of Skillington’s Right, and by the expectations and behaviors of the parties. Throughout the litigation, the property owners of Skillington’s Right explicitly recognized that an easement exists on the access road to reach the Community Facility.

A. History of the Formation of Skillington’s Right

On May 3, 2018, the original owners of Skillington’s Right executed a lot line revision of Skillington’s Right (“the Revision”) modifying the lot lines of two plats. The Revision was recorded with the Plat Records of Caroline County, Maryland.⁴ The Revision provided:

This subdivision is made solely for the purpose of relocating the parcel boundaries along the east and west sides of the 40’ wide private roadway easement to the center of the 40’ wide roadway easement and the line of division between Lot 2[,] Tract No. 1 and Lot 3[,] Tract No. 1.⁵

In effect, the Revision made the Community Facilities and a nearby section of the access road—the location of the easement—a part of the Lot 3 and Lot 4 properties. Although the Revision expanded the property lines for Tract 1, Lots 3 and 4, it had no effect on the validity of the easement, and the Community Facilities remained available for communal use.

In late May of 2018, the original owners executed and recorded a Second Amendment to the Original Declaration of Restrictions and Covenants for Skillington’s Right (“Second Amendment”).⁶ The Second Amendment incorporated by reference the Revision. The current property owners and parties to this action all purchased their

⁴ See the attached Appendix for a depiction of the Revision.

⁵ This is the first time the word “easement” appears in the plat documents. *See supra* n. 3.

⁶ The original owners of Skillington’s Right previously executed and recorded documents concerning the subdivision. We begin our historical examination of the subdivision’s development with materials relevant to our analysis, which were executed in 2018.

properties subject to the Second Amendment.

The Second Amendment contains provisions that explain the rights of Skillington’s Right property owners and their family members that permanently reside in the community. In Article I § (c) of the Second Amendment, the Community Facility is defined as “all real property improved by a pier, picnic area and beach” and is “for the benefit, use[,] and enjoyment of the residents of Skillington’s Right[.]” In Article III § 2, the Second Amendment stipulates the following regarding the Community Facilities:

Every homeowner and members of [their] family who permanently reside in the dwelling shall have a right of enjoyment in and to the ‘Community Facilities’[,] all subject to such reasonable rules and regulations, which the [original owners and successors]⁷ may adopt and uniformly apply and enforce from time to time.

B. Facts and Events Giving Rise to the Current Dispute

Although all property owners of the subdivision are named parties, as the circuit court correctly noted, the initial dispute arose between two of the six lot owners.

- Tract 1, Lot 3: Trifillis purchased this lot in August of 2020, which includes a portion of the Community Facilities *with the beach and pier*.
- Tract 1, Lot 4: In May of 2018, Michael and Nancy Mulligan (“the Mulligans”) purchased this lot (which they later transferred to their company, Frazier Neck Farm, LLC), which includes a portion of the Community Facilities *without the pier*.⁸

⁷ When the original owners drafted the Skillington’s Right subdivision documents, they created the role—“Declarant”—and named themselves. After selling some of the lots, the original owners transferred the role of Declarant to Trifillis and the Mulligans as part of the transfers of title. According to the Second Amendment, the Declarants are responsible for effectuating the Second Amendment.

In early 2021, a dispute arose between the property owners of Skillington’s Right regarding whether guests of residents were allowed in the Community Facilities. At multiple points throughout the spring of 2021, the Mulligans allowed non-resident family members to use the Community Facilities both with and without their accompaniment. The turmoil between property owners of Skillington’s Right reached a pivotal threshold when a non-resident relative of the Mulligans engaged in alleged harassment of Trifillis, which resulted in the issuance of a peace order of protection for Trifillis.⁹

In April of 2021, Trifillis filed a complaint in the Circuit Court for Caroline County against the Skillington’s Right HOA, Inc., the Mulligans, and Susan Miller requesting a declaratory judgment. In October of 2021, Trifillis amended the complaint, adding Frazier Neck Farm, LLC, Harper, Apex, and the Becks. Trifillis asserted that under the Original Declaration, First Amendment, and Second Amendment, the use and enjoyment of the Community Facility is “specifically restrict[ed] . . . to Skillington’s Right’s residents and their immediate family members who permanently reside in Skillington’s Right.” In the answers to the complaint, the initial defendants asserted the opposite: that use and

⁸ The other property owners in Skillington’s Right are:

- Tract 1, Lot 1: Apex Bee Company, LLC, (“Apex”) whose managing members are Donald John and his wife (“the Johns”).
- Tract 1, Lot 2: Susan Miller (“Miller”) and Trisha Harper (“Harper”).
- Tract 2, Lot 1: Eric and Casey Beck (“the Becks”) have since sold their property. Neither the Becks nor the subsequent property owners are parties to this appeal.
- Tract 2, Lot 2: Molly Johnson, who is also not a party to this appeal.

⁹ There was also an ongoing dispute between Appellant and Appellees regarding the formation of a homeowner’s association. While this dispute likely added to the strife between the parties, it is irrelevant to this appeal.

enjoyment of the Community Facility extends to owners’ guests, invitees, friends and family members, regardless of whether the third parties permanently reside with the owners in Skillington’s Right.

In October of 2022, the circuit court held a hearing on the merits of the complaint initiated by Trifillis.¹⁰ In a written opinion issued in February of 2023, the circuit court declared that only the property owners and family members who permanently reside in Skillington’s Right may use and enjoy the Community Facilities. The circuit court held that “there is no dispute that such right, at the very least, applies to the owners and residents of lots in Skillington’s Right. No provision beyond that class is provided for in the Subdivision documents.” The circuit court also determined that moving forward, the Second Amendment is the controlling document. The court declared the following in its Order and Declaratory Judgment:

2. That the person or persons entitled to use the “Community Facilities” of Skillington’s Right Subdivision as more particularly described in Article I (c) of the Second Amendment to Declaration of Restrictions and Covenants for Skillington’s Right Subdivision dated May 21, 2018, and recorded among the Land Records for Caroline County, Maryland in Book 1312 Page 157, is **limited and restricted to every owner or record owner of a lot in said Subdivision**, including the person or combination of persons, including contract sellers, holding the fee simple record title to a lot within the Subdivision.
3. That the word “person” as used in Paragraph 2 hereinabove is as defined

¹⁰ Miller and Skillington’s Right HOA also filed a countercomplaint in July of 2021. At the outset of the hearing in October 2022, counsel agreed, via a joint stipulation, that any existing counterclaims were to be dismissed/withdrawn by consent. Hence, the circuit court noted that the sole issue left to resolve was Trifillis’ claim requesting a declaratory judgment.

in Article 1(j) of the aforesaid Second Amendment.¹¹

4. That for those lot owners who have constructed a dwelling on the lot, members of the owner’s or owners’ family who permanently reside in the dwelling are also permitted to use the Skillington’s Right “Community Facilities.”

(emphasis added). No parties appealed the Order and Declaratory Judgment.

C. Trifillis’ Alleged Contempt

Disputes began to arise again, when contrary to the wording of the Order and Declaratory Judgment, Trifillis asserted that she was not bound by the Order and Declaratory Judgment since the pier and beach of the Community Facility are legally within her property, which she owns in fee simple. In April of 2023, Trifillis wrote a letter to the circuit court judge that issued the Order and Declaratory Judgment, requesting “clarification of the court’s judgment for interpreting [their] community easement.” Also in this letter, Trifillis wrote that “members of our community do not recognize our ownership rights to enjoy our property that is within the dedicated easement area with our own family and guests.”

After sending the letter to the court, on two separate occasions, Trifillis permitted nonresident guests to use the Community Facilities. On April 23, 2023, Trifillis permitted three nonresident guests to go fishing on the pier. On May 7, 2023, Trifillis permitted her nonresident mother and a passenger in her mother’s truck to access the Community

¹¹ In the Second Amendment, “person” is defined as “individuals, co-partnerships, associations, incorporations, trusts, limited liability companies, and any other legal entity; the single shall include the plural, and the masculine the feminine and the feminine and the neuter as the context may require.”

Facilities. After receiving a reply from the circuit court on May 12, 2023, which stated, “this document is not a proper pleading in accordance with the Maryland rules and will not be considered,” Trifillis permitted nonresident guests to use the Community Facilities on a third occasion. On July 23, 2023, Trifillis permitted her mother, aunt, and other nonresident family members to use the Community Facilities.

In response, the Mulligans, Frazier Neck Farm, LLC, Harper, Miller, and Apex (“the Appellees”) filed four contempt petitions.¹² Trifillis did not file a response to the contempt petitions. In August of 2023, the circuit court held a hearing on the four contempt petitions (“the Contempt Hearing”). At the Contempt Hearing, the circuit court took judicial notice of its prior Order and Declaratory Judgment, and then heard testimony from witnesses regarding the allegations of contempt. All Appellees who filed contempt petitions were present and a number of Appellees testified on the matter, providing and attesting to photographic evidence of Trifillis’ contended contemptuous behavior on the stated dates. Trifillis did not contest the facts nor present any argument or evidence that she was not in contempt of the circuit court’s Order and Declaratory Judgment. Instead, she argued that she was not bound by the circuit court’s Order and Declaratory Judgment because she owned a section of the Community Facility and the access road in fee simple. Further, Trifillis admitted during direct examination that she had nonresident guests on her property on April 23, 2023, and July 23, 2023.

¹² The Skillington’s Right HOA is also named as an Appellee but never filed a contempt petition. Additionally, although there were two other contempt petitions (for a total of six), these two were related to a separate issue that was not raised for our review.

At the close of the testimony, the circuit court found “by clear and convincing evidence that on . . . April 23, May 7, and July 23, [Trifillis] . . . permitted somebody, not [] an owner of Skillington’s Right . . . to be upon the community property which is in clear violation of this Court’s order.” The circuit court found Trifillis in constructive civil contempt of its Order and Declaratory Judgment. The circuit court ordered a \$1,500 sanction, that the sanction would be suspended if Trifillis complies with the purge provision of her contempt, and that Trifillis may purge herself of the contempt by complying with the circuit court’s Order and Declaratory Judgment. This timely appeal followed. Additional facts will be incorporated as they become relevant to the issues.

DISCUSSION

A. Standard of Review

“[T]his Court will not disturb a contempt order absent an abuse of discretion or a clearly erroneous finding of fact upon which the contempt was imposed.” *Kowalczyk v. Bresler*, 231 Md. App. 203, 209 (2016).

B. Parties’ Contentions

Trifillis contends that the circuit court erred when it ruled that she was in contempt of its Order and Declaratory Judgment. The thrust of Trifillis’ argument is that because she owned her lot in fee simple absolute, the Order and Declaratory Judgment does not apply to her, and that she is allowed to have guests on the Community Facilities of Skillington’s Right. Perplexingly, the Order and Declaratory Judgment is the precise outcome that Trifillis requested in the circuit court.

In making this argument, Trifillis relies on the law of easements, and more specifically, the “doctrine of merger,” alleging that her easement to access the Community Facility merged into her fee simple ownership when she purchased the property. Trifillis alleges that the circuit court had to separately declare the rights of the fee simple owners because they do not have to rely on the easement to access the Community Facility. Thus, Trifillis asserts that she cannot be held in contempt of the Order and Declaratory Judgment for having guests on *her* property.

Appellee responds focusing on three points: (1) Trifillis is incorrectly attempting to use this appeal to collaterally attack the circuit court’s Order and Declaratory Judgment, which is untimely because neither party appealed that order; (2) Trifillis is precluded from raising the “doctrine of merger” because she did not preserve that argument for appellate review; and (3) the Second Amendment applies equally to all property owners in Skillington’s Right regardless of whether they access the Community Facilities via an easement or own a portion of the Community Facilities in fee simple. Appellees’ contentions are slightly misplaced. While Appellees are correct that Trifillis cannot collaterally attack the circuit court’s Order and Declaratory Judgment in this appeal, as we read her brief, Trifillis is challenging the Order and Declaratory Judgment’s applicability to her in the limited context of the contempt proceeding.

C. Analysis

The circuit court did not err in finding Trifillis in contempt of its Order and Declaratory Judgment because the factual findings were not clearly erroneous. Under the clearly erroneous standard, “[i]t is not our task to re-weigh the credibility of witnesses,

resolve conflicts in the evidence, or second-guess reasonable inferences drawn by the court, sitting as fact-finder.” *Gertz v. Maryland Dept. of Environment*, 199 Md. App. 413, 430 (2011). A trial court’s finding of fact is not clearly erroneous, “if there is competent or material evidence in the record to support the court’s conclusion.” *Lemley v. Lemley*, 109 Md. App. 620, 628 (1996). Civil contempt may be proven by a preponderance of the evidence. *Gertz*, 199 Md. App. at 424. To find a party in civil contempt, the court must determine that a party has willfully violated a court’s previous order. *Dodson v. Dodson*, 380 Md. 438, 452 (2004). “In a contempt proceeding, ‘willful conduct is action that is voluntary and intentional, but not necessarily malicious.’” *Gertz*, 199 Md. App. at 430 (quoting *Royal Investment Group, LLC v. Wang*, 183 Md. App. 406, 451 (2008)). Willfulness can be demonstrated by “evidence of an ability to comply, or evidence of a defendant’s conduct purposefully rendering himself unable to comply . . .” *Dorsey v. State*, 356 Md. 324, 352 (1999); *see also Att’y Grievance Comm’n of Maryland v. Boyd*, 333 Md. 298, 309 (1994) (“willfulness may be established merely by proving a voluntary, intentional violation of a known legal duty.”). The evidence of Trifillis’ contempt and all inferences drawn therefrom must be viewed in the light most favorable to the Appellees, as the prevailing party, and the issue is whether the evidence is sufficient to support the court’s finding of willfulness. *See Dodson*, 380 Md. at 452.

Here, we cannot conclude that the circuit court made a clearly erroneous finding, as the record contained ample evidence to support the inference of willfulness drawn by the circuit court. In reaching its decision, the circuit court relied on testimony and evidence found in the record. Notably, the record contained an April 22, 2023 letter from Trifillis to

the circuit court judge, requesting clarification of the circuit court’s Order and Declaratory Judgment. While awaiting a reply, on two occasions, Trifillis allowed non-resident family members onto the Community Facilities, and then after receiving a reply that the letter was not a proper pleading, Trifillis allowed non-resident family members onto the Community Facilities on a third occasion, despite the specificity of the Order and Declaratory Judgment. These actions are consistent with the court’s finding of willfulness.

The circuit court also had before it the evidence presented in the contempt petitions and testimony from the Appellees at the Contempt Hearing. The testimony presented in conjunction with the contempt petitions is also demonstrative of willfulness. We have organized the evidence the circuit court used to form its finding of willfulness by date of the contemptuous behavior.

i. Events of April 23, 2023

On April 23, 2023, Trifillis permitted three nonresident guests to go fishing on the pier. Apex (through its managing members, the Johns) filed a contempt petition on April 29, 2023, and the Mulligans and Frazier Neck Farm, LLC filed a contempt petition on May 8, 2023. In the Apex petition, Mr. John stated that “Trifillis allowed [three] guests to use the community pier and [Community [F]acilities on Sunday April 23, 2023.” The Mulligans stated the same, and also provided that Trifillis “escorted her guests to use [the C]ommunity [F]acilities against [the circuit court’s] order, . . .” attaching photographic evidence to their petition. These photographs depict a man and two children fishing from the pier, as well as a truck and another vehicle parked on the grassy area of the Community Facility.

During the Contempt Hearing, in support of the allegations on his contempt petition, Mr. John testified that he saw a gentleman and two small boys “who are not members of our community, who did not live there” fishing on the pier. Mr. Mulligan also testified to the same events occurring on April 23, 2023. When counsel for Trifillis asked Trifillis about the incident on April 23, 2023, she replied that she did not remember the exact date, but that she did remember the gentleman and the two boys fishing on her pier.

ii. Events of May 7, 2023

On May 7, 2023, Trifillis permitted her nonresident mother and a passenger in her mother’s car to access the Community Facilities. The Mulligans and Frazier Neck Farm, LLC filed a contempt petition the following day on May 8, 2023, in which they provided photographic evidence in support of their contention. Harper and Miller also filed a contempt petition on May 15, 2023, regarding the incidents in general but did not provide a specific date for Trifillis’ contended contemptuous behavior.

During the Contempt Hearing, Mr. Mulligan testified that on May 7, 2023, he witnessed Trifillis’ non-resident family member by the pier and picnic area of the Community Facility. Ms. Mulligan also testified to the events that occurred on May 7, 2023, describing the series of photographs she took which depict Trifillis’ mother’s truck parked on the Community Facility. Ms. Mulligan testified that she watched the truck leave the Community Facility, “drive along the [perimeter] of [Trifillis’] property, swing through the [C]ommunity [Facility], around the deck[,] come out towards the easement, and then turn to go up the easement.”

Counsel for Trifillis asked Trifillis about the incident on May 7, 2023, clarifying

where Trifillis’ property line overlaps with the easement to the Community Facility and the access road. During this line of questioning, Trifillis testified that she owns the property where the tree is, which is the section of the Community Facility where Trifillis’ mother parked her truck.

iii. Events of July 23, 2023

On July 23, 2023, Trifillis permitted her mother, aunt, and other nonresident family members to use the Community Facilities. The Mulligans filed a contempt petition on July 24, 2023, in which they provided photographic evidence and a written statement detailing their recollection of their encounter with Trifillis’ mother. In this statement, the Mulligans indicated that when they approached Trifillis’ mother and told her that she was not allowed to be in the Community Facility “due to a court order, Ms. Gail Matthews ([Trifillis’] mother) acknowledged the ruling but stated she and [Trifillis’] aunt, Ms. Margaret Matthews, were observing another family member . . . and his young son repair a board on the deck.” At the Contempt Hearing, the Mulligans also testified that they witnessed this event on July 23, 2023. Trifillis further confirmed the July 23 event during direct examination; although Trifillis herself was not present, Trifillis’ mother reported to Trifillis the conversation she had with the Mulligans.

We are unable to conclude that the circuit court’s findings of fact are clearly erroneous because the findings are supported by substantial evidence in the record. For each of these dates, not only was there photographic evidence of the contemptuous behavior, but also testimony from the Appellees at the Contempt Hearing. Trifillis, likewise, did not deny that she had guests on any of the incident dates, rather she admitted

that non-resident guests were in the Community Facility. Trifillis' contention that she is not bound by the circuit court's Order and Declaratory Judgment because she is a fee simple owner and does not have to use the easement is inaccurate. The Order and Declaratory Judgment was sufficiently clear; it applies to all property owners of Skillington's Right irrespective of the method in which the property owners access the Community Facility.¹³

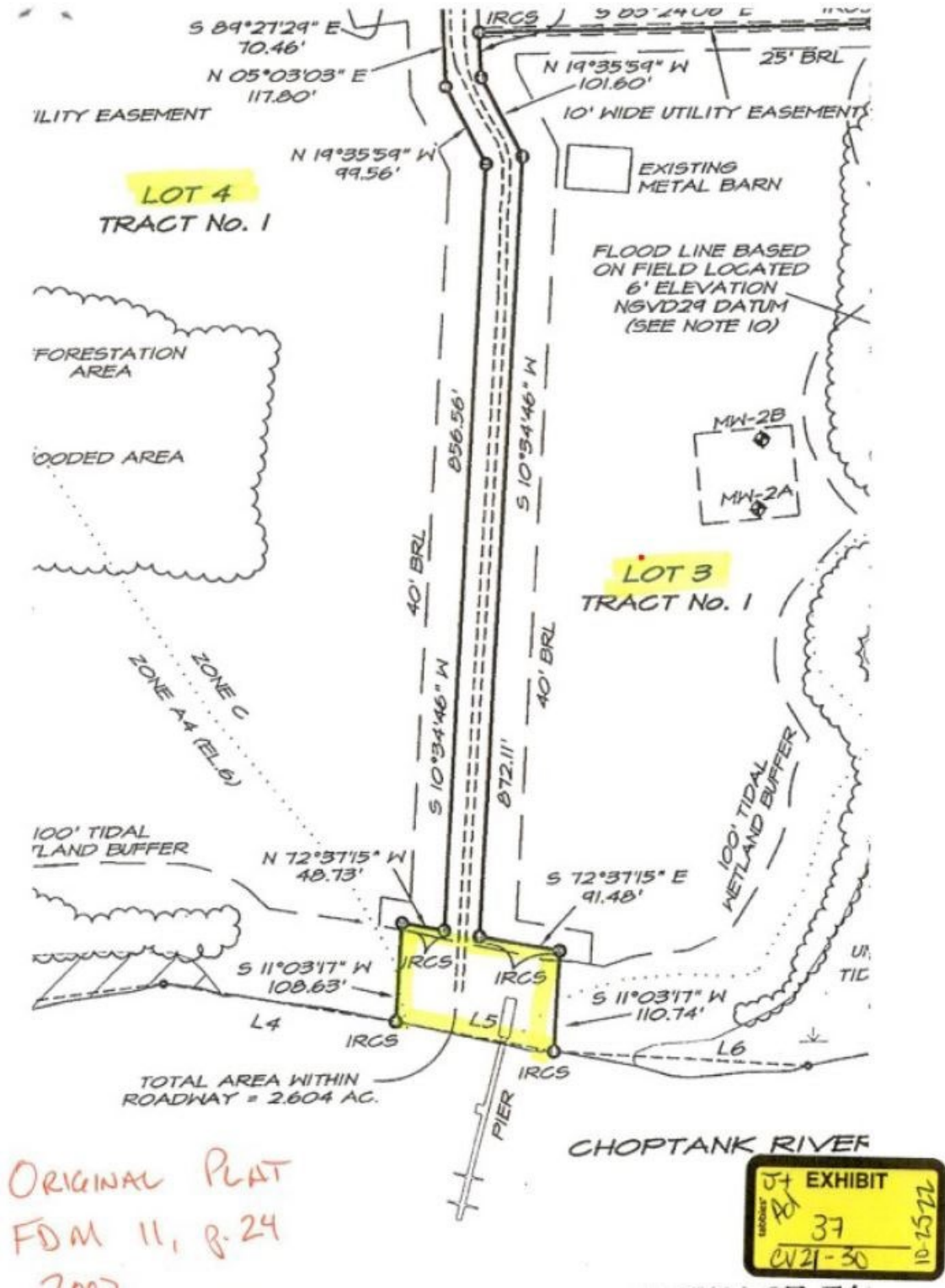
As such, viewing this evidence in the light most favorable to the Appellees, the evidence is sufficient to support the circuit court's finding of willfulness and conclusion that Trifillis was in contempt of the circuit court's Order and Declaratory Judgment. The evidence supports the circuit court's conclusion that Trifillis had the ability to comply with the Order and Declaratory Judgment yet made a voluntary choice not to do so. Thus, we cannot say that the court's findings of willfulness were based on clearly erroneous findings of facts. Therefore, we affirm the circuit court's finding of contempt.

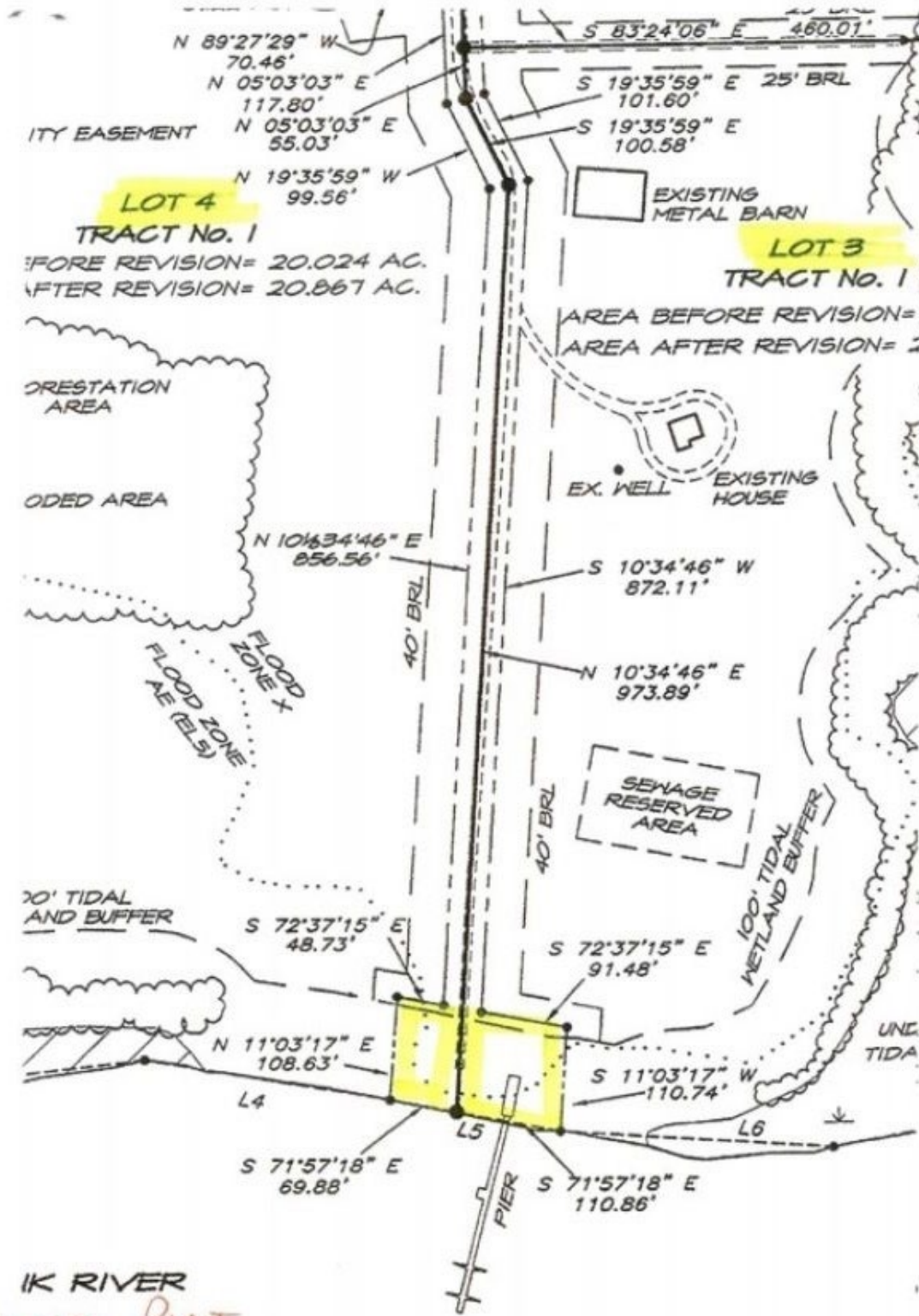
**JUDGMENT OF THE CIRCUIT COURT
FOR CAROLINE COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**

¹³ In the original declaratory judgment action, Trifillis never made the contention that her fee simple ownership put her in a different stead than the other owners of Skillington's Right. Even if she had, according to the Lot Line Revision, there remains a portion of the Community Facility, including parts of the beach and the pier, which is solely Skillington's Right's property. *See Appendix*, Lot Line Revision of Skillington's Right, 2018.

Appendix

Initial Lot Lines of Skillington's Right, 2006
Lot Line Revision of Skillington's Right, 2018





IK RIVER
REVISED PLAT
FORM 20, P. 23
2012