IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

JEFFREY L. CHAPPELL, Plaintiff, v. ASSOCIATION OF OWNERS FOR OCEAN VIEW CONDOMINIUM, PAUL HANDLER, CONNIE HANDLER; and THOMAS J. LEAVEY, JR., Defendants, and ASSOCIATION OF OWNERS FOR OCEAN VIEW CONDOMINIUM, Third-Party Plaintiff, v. DAVID J. CHAPPELL, Third-Party Defendant.	)	C.A. No.: S23C-04-022 RHR

Submitted: August 4, 2026
Decided: November 17, 2026

MEMORANDUM OPINION

Upon Consideration of Defendants Association of Owners for Ocean View Condominium, Paul Handler, Connie Handler, and Thomas J. Leavey, Jr.'s Motion for Summary Judgment,
GRANTED in part and DENIED in part,

and Plaintiff Jeffrey L. Chappell and Third-Party Defendant David J. Chappell's Motion for Partial Summary Judgment,
GRANTED in part and DENIED in part.

Dean A. Campbell, Esq., LAW OFFICE OF DEAN A. CAMPBELL, P.A., Milton, Delaware, *Attorney for Plaintiff Jeffrey L. Chappell and Third-Party Defendant David J. Chappell*.

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Robert J. Valihura, Jr., Esq., Caren L. Sydnor, Esq., MORTON, VALIHURA & ZERBATO, LLC, Greenville, Delaware, *Attorneys for Counterclaim Plaintiff and Third-Party Plaintiff, Association of Owners for Ocean View Condominium*.

Robinson, J.

Jeffrey Chappell filed suit against the Association of Owners for Ocean View Condominium, Paul Handler, Connie Handler, and Thomas J. Leavey, Jr. (collectively "Ocean View"), on April 21, 2023, asserting the following claims: (1) declaratory judgment, (2) intentional interference with business relations and/or prospective business relations, (3) abuse of process, (4) malicious prosecution, (5) slander of title; and (6) action to recover attorney's fees. On cross-motions for summary judgment, this court grants Ocean View's motion for summary judgment in part on Chappell's tort claims and denies the remaining relief sought. This court also grants Chappell and his brother David Chappell's (collectively, the "Chappells") motion for partial summary judgment in part for declaratory relief and denies the relief sought for the tort claims. As a result, Ocean View's debt action counterclaim is moot. Attorney's fees will not be awarded to either party.

FACTUAL AND PROCEDURAL BACKGROUND

Ocean View Condominium, located in Dewey Beach, Delaware, was established in 1981.[1] It is made up of ten units and is governed by a declaration and code of regulations (collectively, the "governing documents") that were recorded on June 15, 1981. It has a board, referred to as the Council, that is made up of individuals elected by the unit owners pursuant to the governing documents who are responsible for managing the business operations and affairs of Ocean View. When

[1] D.I. 50, Defs.' Mot. for Summ. J., Ex. A at 10-11.

acting as a group, the unit owners are referred to as the Association of Owners (the "Association").

The governing documents cover a broad range of topics including the proper use of units, responsibility for repairs, amendment processes, and other rules and regulations. Several amendments to the governing documents were created over the years. An amendment in 2004 expanded the interest provision in the code of regulations to include interest rates and late fee amounts. An amendment in 2007 created a means of imposing a fine on unit owners who misuse the common elements. These amendments, and others not relevant here, were properly created pursuant to the procedures set forth in the governing documents.

Additionally, the Council has the authority to adopt rules and regulations necessary for the enjoyment of the condominium, provided they do not conflict with the Delaware Uniform Property Act ("DUPA") or the governing documents. The Council is also given authority to make or amend rules and regulations regarding the use of the property.

The Chappells acquired title to condominium unit number nine in the complex as joint tenants with right of survivorship on June 7, 2000.[2] The deed included standard language that subjected unit owners to the governing documents and the

[2] D.I. 74, Counterclaimant and Third-Party Pl.'s Answering Br. in Opp'n to Pl.'s Mot., Ex. A at 2.

DUPA.[3] For over a decade, Chappell leased the unit over the summer months with assistance from realtor Carla Riddle. Riddle would find tenants for the unit and ensure it was maintained.

All the units in the complex had jalousie windows installed as part of the original construction. Through the years, many unit owners changed the windows to traditional double-hung windows, but Chappell kept the original jalousie windows. This dispute originated from Chappell's refusal to replace these windows.

The earliest record of there being an issue with Chappell's windows is noted in a proposal requested by a Council member to do various maintenance and repairs to several units on June 1, 2015.[4] In this proposal, a quote was provided to remove Chappell's jalousie windows and install four double hung windows.[5] Chappell did not have this work performed.

A Council member sent Chappell a letter dated March 21, 2016, to inform him that there were issues with his unit.[6] The letter noted that the floor by the toilet was rotting and causing a support joist to rot. The letter referenced Chappell's porch windows but provided no other details.

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[3] *Id.* at 2-3.
[4] D.I. 52, Defs.' Mot. for Summ. J., Ex. C.
[5] *Id.* ("Remove Jalousie window and install (4) four double hung white window with screens and Low E Glass in Unit #9.").
[6] D.I. 53, Defs.' Mot. for Summ. J., Ex. D.

On December 4, 2020, the Council emailed Chappell following a fire extinguisher inspection in his unit.[7] The Council told Chappell that there were various issues with his unit including: (1) rotting exterior steps, (2) missing window screens, (3) a rusted air conditioner cover, (4) water damaged flooring around the toilet, (5) rotting joists under the toilet due to the water damage, and (6) two holes in the bathroom floor creating an opening to the outdoors.[8] The email also mentioned that Chappell's "bad/temporary" repair done to the jalousie window needed to be done correctly, "without taping them in."[9] The email included photographs of the areas needing repair. The primary focus of the email was the bathroom floor and joist issue and the Council noted that it had called these issues to Chappell's attention previously. The Council stated it had not followed up on the issues but that they would not be ignored any longer. This email contained the first reference to taking legal action if the issues were not remedied and informed Chappell that he would be charged with the Council's legal fees.

An attorney for the Council began sending letters on the Council's behalf to Chappell and Riddle on or about April 7, 2021.[10] The letter sent to Riddle on that date appeared to be in response to an email that suggested some of the work was

[7] D.I. 54, Defs.' Mot. for Summ. J., Ex. E at 2.
[8] *Id.*
[9] *Id.*
[10] D.I. 55, Defs.' Mot. for Summ. J., Ex. F.

being done.[11] The letter explained that the exterior steps, window screens, air conditioner cover, and bathroom floor needed to be repaired or replaced, and the damaged jalousie windows needed to be replaced, all before the upcoming Memorial Day weekend. The Council stated it would accept a completed order form for the jalousie windows, that is paid for within two weeks, and a letter from a reputable contractor promising installation. Otherwise, the letter stated, the Council would take necessary action against Chappell, such as preventing the rental of the unit for the summer.

Chappell emailed the Council's attorney on April 29, 2021, to ask where the governing documents stated that the Council had the authority to make him order new windows.[12] The Council's attorney responded with statements such as "[y]ou can read for yourself what obligations you have in your governing documents as an owner to maintain your Unit," and "I can assure you that such authority exists, and [Council's] resolve is demonstrated by my retention."[13] The Council's attorney encouraged Chappell to work with the Council as it had offered Chappell a generous extension of time to remedy the issues.

[11] *Id.* at 2.
[12] D.I. 56, Defs.' Mot. for Summ. J., Ex. G at 2.
[13] *Id.*

On April 30, 2021, the Council adopted a resolution titled "Costs Attributable to a Unit Owner or Unit Owners."[14] This resolution established that if the Council incurred fees or expenses arising out of the acts or requests of a unit owner, and the Council deemed that those fees or expenses should be attributed to the unit owner, it would be assessed to that owner in a proportion determined by the Council.[15] This resolution stated that those fees or expenses would be treated as "assessments" pursuant to the code of regulations, and collected accordingly.[16]

The Council started charging the Chappells with its attorney's fees as of May 24, 2021.[17] On that date, the Council charged the Chappells $691.50 in attorney's fees with the explanation of "unit 9 non conform to repairs."[18] It continued to charge the Chappells with attorney's fees as they accrued.

Letters were sent to the Chappells[19] and Riddle[20] on June 1, 2021, stating that the Chappells had until June 11, 2021, to replace the jalousie windows, fix the bathroom floor, and obtain a rental permit. The letters warned that failure to complete this work would result in a $100 fine and an additional $25 fine per day

[14] D.I. 50, Defs.' Mot. for Summ. J., Ex. A at 55.
[15] *Id.*
[16] *Id.*
[17] D.I. 51, Defs.' Mot. for Summ. J., Ex. B.
[18] *Id.* at 2.
[19] D.I. 57, Defs.' Mot. for Summ. J., Ex. H.
[20] D.I. 58, Defs.' Mot. for Summ. J., Ex. I.

until the Chappells complied.[21] The letter included a ten-day period where the Chappells could contest the fines in writing, which would entitle them to a hearing. The letter to Riddle warned that unless she was able to convince the Chappells to make the repairs, she and everyone from her agency would be banned from entering the Ocean View premises beginning on June 12, 2021. A letter was also sent to the tenants or occupants of the unit on that date, stating that their privileges to use the common areas such as parking places and other open spaces would be suspended on June 11, 2021.[22]

Although the Council stated in the June letter that it would not assess fines until June 12, it issued a $100 fine against the Chappells on June 5, 2021.[23] The billing statement shows that this fine was made for "failure to comply by 6/4/21."[24] The Council also started charging the $25 daily fine on June 6, 2021, and charged $225 on that date for the period of June 6 through June 14.[25]

[21] D.I. 57, Defs.' Mot. for Summ. J., Ex. H ("Council has determined that you have until **Friday, June 11, 2021** to take action to replace your windows, fix the flooring in the bathroom and to obtain the appropriate rental permit. If you do not do so on or before that date, a fine in the amount of $100.00 will be levied against you, and a further fine of $25.00 per day until all obligations are completed, has been determined by the Council to be levied, and will be imposed beginning on Saturday, June 12, 2021, and will continue until such time as you comply with your obligations.").
[22] D.I. 71, Opening Br. in Supp. of Pl.'s and Third-Party Def.'s Mot. for Partial Summ. J., Ex. G at 58.
[23] D.I. 51, Defs.' Mot. for Summ. J., Ex. B at 2.
[24] *Id.*
[25] *Id.* ("Fine: $25 per diem until comply – 6/6/21-6/14/21").

The Council began imposing interest at 2% per month beginning on June 30, 2021.[26] Although the Chappells paid the standard condominium dues and other assessments, the Council would subtract those payments from the total amount owed, charge the Chappells a $75 late fee, and continue to charge interest.[27]

On July 2, 2021, the Association filed a notice and statement of lien for unpaid maintenance fees and assessments with the Sussex County Recorder of Deeds.[28] The notice stated that the Association sought the lien for unpaid maintenance fees and assessments, in addition to interest, reimbursement of costs, and attorney's fees. The amount due at the time of filing was $1,515.34, which included the cost for filing the notice. The notice stated that the lien would not be terminated unless the total was paid. The Association also filed with the Recorder of Deeds a notice of continuing violation of declaration of covenants, conditions and restrictions on the same day.[29] The Association stated in this notice that the Chappells had violated the governing documents "because replacement of the windows of the Unit [have] not been made."[30] The notice was only to be terminated upon fixing the violation and paying the Association's filing fee.

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[26] *Id.*
[27] *See* D.I. 27, Defs.' Answer, at 15 (Ocean View claimed that all monies were applied to the oldest outstanding balance, which would render dues and assessments as late even if paid on time).
[28] D.I. 59, Defs.' Mot. for Summ. J., Ex. J.
[29] D.I. 71, Opening Br. in Supp. of Pl.'s and Third-Party Def.'s Mot. for Partial Summ. J., Ex. H at 62.
[30] *Id.*

On January 3, 2022, the Council's attorney sent a letter to Riddle stating that the ban against her and her agency from entering the premises was effective as of the date of the letter.[31] It stated that the ban was to run until the windows were replaced, the bathroom flooring was fixed, and the rental permit was obtained.

The Council's attorney sent a letter to the Chappells on March 31, 2022, demanding payment of the "outstanding biannual assessments, late fees and other charges," owed in the amount of $12,093.15, which included the attorney fees for preparing and mailing the letter.[32] This letter placed emphasis on the Chappells' failure to pay monthly assessments. It concluded that the continued failure to pay could result in the institution of foreclosure proceedings on the unit.

On April 21, 2022, in response to a letter from an attorney on behalf of the Chappells, the Council gave formal notice to inspect the unit on May 6, 2022.[33] The letter stated the Council was surprised to see the extent of work performed by the Chappells, which was done without the Council's approval. It also noted that the window violation still existed, explaining that the window remained broken and in the same condition it had been in for six years.

[31] D.I. 60, Defs.' Mot. for Summ. J., Ex. K.
[32] D.I. 61, Defs.' Mot. for Summ. J., Ex. L.
[33] D.I. 62, Defs.' Mot. for Summ. J., Ex. M.

The inspection report discussed the jalousie windows and noted additional problems with the unit.[34] For the issues with the jalousie windows, the inspection report stated that the window at the southwest corner did not close, and the windowpanes did not appear to stay in the metal frame. Additionally, the living room jalousie windows did not have locking mechanisms. The report also noted that the remedial repairs done to the bathroom flooring were not compliant with the standard building code.

On May 17, 2022, the Council sent a cease-and-desist letter that stated that the Chappells could not rent the unit until all the safety violations, including the windows, were fixed.[35] The Council claimed that the additional issues discovered in the inspection were not only safety hazards, but also violations of the Dewey Beach Rental Regulations.

On May 24, 2022, the Council adopted another resolution, which was titled "Rental Rules."[36] This resolution provided various remedies for the Council in the event a unit owner or his tenant were to violate certain rules. Those rules applicable to this case stated that if a unit owner failed to pay any assessments or charges within

[34] D.I. 63, Defs.' Mot. for Summ. J., Ex. N (New problems with the unit included: (1) no GFCI protection for the kitchen countertop electric receptacles, (2) the double-hung windows in the bedroom and living room did not lock, (3) the double-hung window in the bathroom did not open, (4) the smoke alarm in the hallway was not operational, (5) no smoke alarms were in the bedroom; and (6) no grounded electric receptacle was in the kitchen).
[35] D.I. 64, Defs.' Mot. for Summ. J., Ex. O.
[36] D.I. 50, Defs.' Mot. for Summ. J., Ex. A at 57.

twenty days of its due date, or if the unit owner had an unresolved violation of the governing documents, the unit could not be rented.[37] If the unit was rented in spite of the ban, the Council could take various actions including imposing a daily fine on the unit owner at an amount determined by the Council until the tenant vacated.[38] The resolution also entitled the Counsel to assess any fees or costs incurred relating to the rental rules against the unit owner and, if the unit owner challenged the enforceability of the rental rules, he would be liable to advance the Association's legal fees.[39]

The Association filed a collections suit in the Justice of the Peace Court against the Chappells on June 15, 2022, seeking $17,029.35.[40] On January 13, 2023, the Association moved to dismiss the claim because the amount sought had continued to accrue and exceeded the court's jurisdictional limit.[41] The court dismissed the suit without prejudice.

The Chappells had their own inspection of the unit performed on February 2, 2023, which found many of the same issues as were found in the previous inspection.[42] In reference to the jalousie windows, the report stated that they had

[37] *Id.* at 58-59.
[38] *Id.* at 59.
[39] *Id.* at 59-60.
[40] D.I. 71, Opening Br. in Supp. of Pl.'s and Third-Party Def.'s Mot. for Partial Summ. J., Ex. I at 65-66.
[41] D.I. 67, Defs.' Mot. for Summ. J., Ex. R at 2.
[42] D.I. 65, Defs.' Mot. for Summ. J., Ex. P.

insect screens and only one windowpane needed to be re-installed. This inspection agreed with the findings regarding the absence of locks on the jalousie windows, repairs needed on the bathroom flooring, and the other newly discovered problems. It made note, however, that many of the Council's inspection report's references to the Town of Dewey Beach Safety Certificate or building code were incorrect or could not be found.

Chappell filed suit against Ocean View on April 21, 2023, asserting the following claims: (1) declaratory judgment, (2) intentional interference with business relations and/or prospective business relations, (3) abuse of process, (4) malicious prosecution, (5) slander of title; and (6) action to recover attorney's fees.[43] It filed an amended complaint on April 26. The Council filed a motion to dismiss that this court denied. Ocean View then filed an answer, counterclaim, and a third-party complaint adding David Chappell on November 17, 2023.[44] The counterclaim against Jeffrey Chappell and the third-party complaint against David Chappell consisted of a debt action for the unpaid assessments and fees, including attorney fees.

Ocean View filed a motion for summary judgment with an opening brief on September 18, 2025.[45] The Chappells filed a motion for partial summary judgment

[43] D.I. 1, Compl.
[44] D.I. 27, Defs.' Answer.
[45] D.I. 48, Defs.' Mot. for Summ. J.

with their opening brief, also on September 18, 2025.[46] The Chappells filed an answering brief to Ocean View's motion on October 14, 2025.[47] Ocean View filed an answering brief to the Chappells' motion on October 20, 2025.[48] The Association, in its capacity as a counterclaimant and third-party plaintiff, filed an answering brief to the Chappells' motion on that date also.[49] Ocean View filed a reply brief in support of its motion on November 3, 2025.[50] The Chappells submitted a reply brief in support of their motion on November 3, 2025.[51] Oral argument was heard by the court on June 4, 2026.[52] On August 4, 2026, after a request for clarification from this court, the Chappells confirmed that they were withdrawing their claims for abuse of process and slander of title.[53]

THE PARTIES' CONTENTIONS

A. Ocean View's Claims in Support of its Motion for Summary Judgment.

Ocean View asserts that its governing documents, the DUPA, and the Delaware Uniform Common Interest Ownership Act ("DUCIOA") grant it the power to levy fines and assessments to force the Chappells to make the necessary repairs to their unit. Ocean View contends that after many years of attempting to

[46] D.I. 70, Pl. and Third-Party Def.'s Mot. for Partial Summ. J.
[47] D.I. 72, Pl. and Third-Party Def.'s Answering Br. in Opp'n to Defs.' Mot.
[48] D.I. 75, Defs.' Answering Br. in Opp'n to Pl. and Third-Party Def.'s Mot.
[49] D.I. 74, Counterclaimant and Third-Party Pl.'s Answering Br. in Opp'n to Pl.'s Mot.
[50] D.I. 79, Defs.' Reply Br. in Supp. for their Mot. for Summ. J.
[51] D.I. 82, Pl. and Third-Party Def.'s Reply Br. in Supp. of their Mot. for Partial Summ. J.
[52] D.I. 89.
[53] D.I. 92.

work toward a solution with the Chappells, it only began to levy fines to gain their cooperation. It states that its actions are not just an issue with the windows, but about years of noncompliance with repairs. It asserts that it has maximum flexibility to gain compliance and its authority to levy fines is inherent in its power as the fiduciary of owners to manage the business and affairs of the condominium. Ocean View states it is the public policy of Delaware to allow fines as appropriate to gain compliance, and it cites to the DUCIOA for support.

In arguing that it did not act in an arbitrary or capricious manner, Ocean View states that it began to assess fines against the Chappells after five years of warnings and with notice and an opportunity to be heard. Ocean View further argues that the Chappells were aware that the unit was in disrepair since 2016, and that this disrepair did not meet the code requirements to obtain a rental permit for the Town of Dewey Beach.

On the matter of attorney's fees, Ocean View asserts that determination of whether assessment of said fees is arbitrary and capricious or are being used in an overbearing or harmful manner is a question of fact.

As for the lien, Ocean View claims that it filed the lien in response to the Chappells' failure to pay the condominium dues, assessments, expenses, costs, fees, and interest. Ocean View claims that the governing documents, the DUPA, and the

DUCIOA allow it to pursue liens to enforce payment or compliance with governing documents.

B. Ocean View's Response to the Chappell's Motion for Summary Judgment.

Ocean View states that Chappell's declaratory judgment claim should be dismissed because it has demonstrated that no controversy exists as to its right to impose assessments, fees, costs, and fines, and to pursue liens. Ocean View argues that the governing documents, the DUPA, and the DUCIOA all support Ocean View's ability to collect assessments, levy fines, and pursue liens

Ocean View alleges that Chappell's interference with a business opportunity claim should be dismissed because it lacks factual support. Ocean View argues that Chappell made no effort to identify a specific party that was dissuaded from entering a business relationship with Chappell because of Ocean View. Ocean View contends that rather than intentionally interfering, it tried to work with the Chappells to remedy the problems. It states that the Chappells' failure to make the proper repairs is the reason why it restricted their ability to rent the unit pursuant to the governing documents.

As to Chappell's abuse of process claim, Ocean View alleges that it was fully authorized to legally assess fines against unit owners and to file and execute liens. Ocean View states that the DUPA and the DUCIOA support these actions, thus, this claim should also be dismissed.

Ocean View alleges that Chappell's malicious prosecution claim should be dismissed because he presented no facts or evidence to support it. Ocean View explains that the action filed in the Justice of the Peace Court was not dismissed in the Chappells' favor, but rather it was dismissed without prejudice because the amount in controversy was greater than the jurisdictional limit for that court.

On Chappell's slander of title claim, Ocean View contends that this claim cannot stand because Chappell has not provided evidence showing that the lien or alleged amounts owed were inaccurate or without legal basis. Ocean View argues that it has shown that it had the right to assess fines, costs, and attorney's fees, and to execute a lien. Again, Ocean View states that its governing documents, the DUPA, and the DUCIOA support these contentions. Ocean View alleges that Chappell also has not asserted special damages, which is required for this claim.

Finally, Ocean View argues that its governing documents and the DUCIOA allow a prevailing party to an action to be awarded attorney's fees. Ocean View concludes that because Chappell cannot succeed on any of his claims, Ocean View will prevail and is entitled to attorney's fees.

Although Ocean View heavily relied on the DUCIOA in its briefings, it admitted at oral argument that the DUCIOA does not apply because it was never adopted by the governing documents. Nonetheless, it still maintained that its arguments were supported by the governing documents and the DUPA.

C. The Chappells' Response to the Council's Motion for Summary Judgment.

The Chappells' argument rests primarily on Ocean View's lack of support in the governing documents and statutory authority to charge fines and attorney's fees. Likewise, the Chappells also state that the lien filed was done without authority or merit. It is the Chappells' position that Ocean View's efforts rest on an insistence of replacing the jalousie windows, not on maintenance or repairs, to the point that such efforts constitute bullying.

The Chappells argue that the governing documents and statutes do not give Ocean View the authority it claims to have. The parties have stipulated that the windows are not considered common elements, therefore, the Chappells state that there are no provisions giving Ocean View the authority to demand replacement of the jalousie windows with a type of window preferred by the Council. There are also no provisions that give Ocean View the authority to impose fines or collect attorney's fees. The Chappells argue that they were unable to find any provision under the governing documents that would give Ocean View the authority to stop a unit owner from renting the unit or prohibit guests from using it.

The Chappells address many of the letters and arguments raised by Ocean View. The Chappells state that the initial quote for the window replacements in 2015 was requested by a Council member, but there was no information about the windows being in a dangerous or deteriorating condition. Further, the Chappells

argue that the gap in time from the 2016 email to the 2020 email can infer that the issues were either not serious or were repaired.[54] The Chappells contend that the 2020 email shows that the windows were repaired, but it was not to Ocean View's satisfaction. The Chappells claim they were never given the option to simply repair the windows because Ocean View always demanded replacement.

The Chappells additionally included a copy of their rental permit from the Town of Dewey Beach that was effective and valid from April 1, 2021, through April 30, 2022.[55] The Chappells argue that this permit indicates that the unit was safe to rent, despite Ocean View's contentions that the windows were a safety and maintenance issue.

The Chappells state that an inspection of the unit was never performed until one year after the bullying began. They assert that the inspection did not call for the replacement of the windows but instead referenced a need for repair. The Chappells argue that this inspection should be excluded from the court's review because Ocean View did not identify any expert witnesses to testify.

The Chappells also assert that Ocean View uses the term assessments in a way that incorporates all fines, attorney's fees, and regularly incurred dues and assessments. They allege that the term is defined in the governing documents and

[54] *See* D.I. 72, Pl. and Third-Party Def.'s Answering Br., Ex. K at 64 (Chappell's account statement shows he replaced two panels on a front jalousie window on November 13, 2020).
[55] *Id.*, Ex. J at 62.

the DUCIOA as "common expenses of the community as assessed to the owners."[56] The Chappells argue that they were never behind in paying the condominium dues or assessments. Rather, they refused to pay the fines, attorney's fees, and interest that Ocean View included under the assessments label. The Chappells state this was evident from the billing statement Ocean View produced as an exhibit.

D. The Chappells' Motion for Summary Judgment.

The Chappells seek summary judgment on the declaratory judgment claim. The Chappells argue that there is an actual controversy because Ocean View recorded a lien and asserted a debt action against them, which they claim is not owed. The Chappells request this court to declare that the fines, attorney's fees, and the lien that Ocean View imposed are improper. The Chappells state that if the court finds in their favor on this claim, they will be entitled to attorney's fees as the prevailing party pursuant to the governing documents and the DUCIOA.

The Chappells also seek summary judgment on the intentional interference with business relations and malicious prosecution claims and further seek to dismiss Ocean View's counterclaim and third-party claims. The Chappells do not discuss the abuse of process claim in their opening brief or responsive briefs and do not address the slander of title claim in their opening brief. The Chappells note, however, that success on the tort claims depends on the success of declaratory judgment.

[56] D.I. 72, Pl. and Third-Party Def.'s Answering Br., at 16.

The Chappells allege they have sufficiently proven the elements of intentional interference with business relations. The Chappells assert that they consistently used the unit as a rental property, producing $8,100 in gross rental income in 2020. The Chappells allege that the letters sent demanding rent to stop were intentionally sent for the purpose of obtaining their compliance in replacing the windows. The Chappells state that this was the proximate cause of their loss of income and caused damages as a result.

The Chappells allege that they have also sufficiently met the necessary elements for malicious prosecution. The Chappells claim that the first three elements were met by Ocean View filing suit in the Justice of the Peace Court based on fines and attorney's fees, which it subsequently dismissed. The Chappells state the fourth and fifth elements are met because Ocean View did not have the authority to assess fines or attorney's fees against them. Therefore, Ocean View's filing of suit was unjustified and used to force the Chappells to replace the jalousie windows. The Chappells state they suffered damages as a result.

At oral argument, it appeared the Chappells were not opposed to and were willing to withdraw their claims of abuse of process and slander of title. This withdrawal was confirmed in a letter from their counsel dated August 4, 2026.[57]

[57] D.I. 92.

STANDARD OF REVIEW

Upon a motion for summary judgment under Superior Court Civil Rule 56(c), the movant must establish "that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."[58] The movant bears the initial burden of "demonstrating that the undisputed facts support its claims or defenses."[59] Once this burden is met, it will shift to the "non-moving party to show that there are material issues of fact to be resolved by the ultimate fact-finder."[60] The court must examine the record in the light most favorable to the non-moving party, however, "when the facts permit a reasonable person to draw but one inference, the question becomes one for decision as a matter of law."[61] Further, "the mere filing of a cross motion for summary judgment does not serve as a waiver of the movant's right to assert the existence of a factual dispute as to the other party's motion."[62]

DISCUSSION

The cross-motions before this court rest on the question of whether Ocean View acted within its authority when it imposed fines and attorney's fees based on the Chappells' refusal to replace the jalousie windows and repair other hazards in

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[58] Super. Ct. Civ. R. 56(c); *see, e.g., Quality Elec. Co., Inc. v. E. States Constr. Serv., Inc.*, 1995 WL 379125, at *2 (Del. 1995).
[59] *Landing v. Builders FirstSource, Inc.*, 2025 WL 2320341, at *2 (Del. Super. Ct. Aug. 12, 2025).
[60] *Id.*
[61] *Id.*
[62] *United Vanguard Fund, Inc. v. TakeCare, Inc.*, 693 A.2d 1076, 1079 (Del. 1997).

their unit. Because the Chappells' tort claims can be disposed of at this stage, the court will address those first. The declaratory relief sought by the Chappells, however, must be granted. As a result, Ocean View's debt action is moot and neither party will be awarded attorney's fees.

A. The Chappells' Tort Claims.

Because the Chappells have withdrawn their abuse of process and slander of title claims, the court is left to consider the remaining intentional interference with business relations and malicious prosecution claims. The court finds that certain elements have not been met for both claims and, therefore, partially grants Ocean View's motion for summary judgment.

1. Intentional Interference with Business Relations

The elements for a claim of intentional interference with business relations or prospective contractual relations include: "(a) the reasonable probability of a business opportunity, (b) the intentional interference by defendant with the opportunity, (c) proximate causation, and (d) damages."[63]

Regarding the reasonable probability element, prospective business relations include those which have potential, pecuniary value to a plaintiff.[64] A "mere perception of a prospective business relationship or contract will not form the basis

[63] *Lipson v. Anesthesia Services, P.A.*, 790 A.2d 1261, 1285 (Del. Super. Ct. Oct. 3, 2001).
[64] *Id.*

of a bona fide expectancy."[65] A plaintiff "must identify a specific party who was prepared to [enter] into a business relationship but was dissuaded from doing so by the defendant . . . ."[66]

In *Lipson v. Anesthesia Services, P.A.*, the court determined that the plaintiffs identified several viable prospective business relations.[67] For example, the plaintiffs identified nine surgeons who requested their services and were consistently prevented from scheduling with them.[68] The plaintiffs also identified candidates seeking employment that were threatened and given misinformation by the defendant about the plaintiffs.[69]

In contrast, the court found in *Kimbleton v. White* that the plaintiff did not meet the reasonable probability element.[70] The plaintiff alleged that the defendants interfered with a class of "all prospective home buyers."[71] The court reasoned that the plaintiff did not identify any specific contracts with prospective home buyers that were lost as a result of the defendant's actions, "and fails to cite any case where such a nebulous, unascertainable class was found sufficient to satisfy the first element of the tortious interference claim."[72]

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[65] *Id.* (internal quotations omitted).
[66] *Organovo Hldg., Inc. v. Dimitrov*, 162 A.3d 102, 122 (Del. Ch. 2017).
[67] 790 A.2d at 1286.
[68] *Id.*
[69] *Id.*
[70] 2014 WL 4386760, at *8 (D.Del. 2014).
[71] *Id.*
[72] *Id.*

Here, as in *Kimbleton*, the Chappells have not identified any specific tenant they planned to enter business relations with that were halted by Ocean View's actions. Rather, the Chappells infer that a prospective business expectation exists due to their previous success in renting the unit. Without identification of a specific prospective tenant, however, this element cannot be met. Therefore, the claim cannot stand.

2. Malicious Prosecution

Delaware courts disfavor malicious prosecution claims and carefully scrutinize them.[73] For these claims, a plaintiff must prove: "1) the institution of civil proceedings; 2) without probable cause; 3) with malice; 4) termination of the proceedings in the aggrieved party's favor; and 5) damages which were inflicted upon the aggrieved party by seizure of property or other special injury."[74] On the element of probable cause, "[a] person has probable cause for bringing a civil suit if he reasonably believes that he has a good chance of establishing it to the satisfaction of the Court or the jury."[75] To meet the element of malice, "the act must have been done with a wrongful or improper motive or with a wanton disregard for the rights of that person against whom the act is directed."[76] "The bare allegation that

[73] *Nix v. Sawyer*, 466 A.2d 407, 411 (Del. Super. Ct. July 21, 1983).
[74] *Id.*
[75] *Nevins v. Bryan*, 2005 WL 2249520, at *1 (Del. Super. Ct. Sept. 8, 2005).
[76] *Id.* (quoting *Stidham v. Diamond State Brewery*, 21 A.2d 283, 285 (Del. Super. Ct. May 27, 1941)).

defendants instituted these proceedings solely to intimidate or harass is insufficient."[77] As for damages, a special injury under the element must be "more than expenses and attorney's fees incurred in connection with defending the original suit and alleged damage to the claimant's reputation."[78]

Here, the record is clear that the Chappells have not met these elements. Although Ocean View instituted civil proceedings in the Justice of the Peace Court, it had probable cause in doing so. This conclusion is supported by Ocean View's voluntary dismissal of the claim. Ocean View did not seek dismissal based on the merits, but rather, it knew that the monetary relief it sought had exceeded the jurisdictional limits. The Justice of the Peace Court dismissed the action at Ocean View's request without prejudice. Further, the Chappells' argument primarily rests on the allegation that Ocean View's actions were a means to continue its aggressive collection tactics. This argument is insufficient to meet the standard for malice. The Chappells did not establish damages sufficiently either because they only asserted in the complaint and briefings that they suffered damages from retaining legal counsel. Because the elements have not been met, this claim does not survive.

[77] *Id.* at *2 (quoting *Nix*, 466 A.2d at 412).
[78] *Id.*

3. The Chappells' Claim for Declaratory Judgment.

According to the complaint, Chappell seeks a declaration that: (1) he does not owe the amounts Ocean View claims, (2) he does not owe Ocean View the attorney's fees it claims within those amounts; and (3) the Notice of Violation and Lien filed with the Sussex County Recorder of Deeds are invalid and improperly cloud his title.[79]

Under 10 *Del. C.* § 6502, a person with an interest in a written contract or other writing constituting as a contract may have questions concerning its construction or validity determined by the court and obtain a declaration of rights. Before the court can determine if declaratory judgment should be granted, it must first establish if there is an "actual controversy."[80] An "actual controversy" exists if the following elements are met:

> (1) It must be a controversy involving the rights or other legal relations of the party seeking declaratory relief; (2) it must be a controversy in which the claim of right or other legal interest is asserted against one who has an interest in contesting the claim; (3) the controversy must be between parties whose interests are real and adverse; (4) the issue involved in the controversy must be ripe for judicial determination.[81]

These elements are present here. The controversy surrounding the various fines and charges against the Chappells for the alleged non-compliance with the governing

[79] D.I. 1, Compl.
[80] *Band's Visit Nat'l Tour LLC v. Hartford Fire Ins. Co.*, 307 A.3d 387, 422 (Del. Super. Ct. Nov. 29, 2023).
[81] *Id.*

documents involves the Chappells' rights under those documents. Chappell asserted the claim against Ocean View, who not only has an interest in contesting the claim but has actively done so throughout this litigation. The parties' interests are presently real and adverse as Ocean View continues to assess fines and interest, while it is alleged that the Chappells continue to refuse to repair or replace hazards in their unit.[82] The facts have sufficiently been developed to make the issue ripe for determination.[83]

The DUPA and the DUCIOA statutes must be considered next. These statutes, however, do not provide much guidance in this matter. The DUCIOA does not apply to this case, which has been conceded by both parties.[84] The DUPA does not provide guidance or give Ocean View the authority to impose fines or attorney's fees in this situation. Therefore, the court must consider whether the governing documents allow Ocean View to impose fines and attorney's fees followed by liens on those charges.

[82] *See generally In re COVID-Related Restrictions on Religious Services*, 302 A.3d 464, 495 (Del. Super. Ct. Aug. 28, 2023)(finding the third element was not met because the defendant was no longer taking action to infringe upon the plaintiff's civil rights).
[83] *Band's Visit Nat'l Tour LLC*, 307 A.3d at 422.
[84] The DUCIOA became effective on September 30, 2009. Under 25 *Del. C.* § 81-120 a small pre-existing community, having no more than twenty units and not subject to expansion, is only subject to §§ 81-105 through 81-107, which are not of relevance to this action. A pre-existing community may adopt the DUCIOA, but it must amend its declaration to do so. Here, Ocean View was established in 1981 and comprises of ten units. Ocean View has not amended its declaration to include the DUCIOA. Therefore, DUCIOA does not apply.

The governing documents of a condominium community form an ordinary contract between unit owners, that is created under the DUPA statutory framework.[85] The intent of the parties must be determined from the language of those documents and, if clear and unambiguous, the "court will accord that language its ordinary meaning."[86] Where the restrictive covenants within the governing documents are ambiguous, they must be read in favor of the property owner.[87]

a. Ocean View Cannot Subjectively Impose Fines Against the Chappells.

Where a condominium association wishes to impose fines, doing so must align with that association's governing documents.[88] It specifically must adhere to any authorized amounts under those documents.[89] Its decisions cannot be arbitrary and capricious,[90] and its "actions based on purely subjective criteria are not enforceable."[91]

Ocean View argues that Article III, § 2(i) of the code of regulations allows it to enforce the governing documents by any "legal means," which it interprets as the

[85] *Council of Dorset Condo. Apartments v. Gordon*, 801 A.2d 1, 5 (Del. 2002).
[86] *Id.*
[87] *Mousley v. Vincent Overlook Homeowners Ass'n, Inc.*, 2025 WL 655805, at *4 (Del. Super. Ct. Feb. 28, 2025), *aff'd*, 351 A.3d 448 (Del. 2025).
[88] *Id.* at *7.
[89] *Id.*
[90] *Bonczek v. Helena Place, Inc.*, 1990 WL 105766, at *5 (Del. Ch. 1990)(discussing regulation of common elements, "Moreover, the Council's decisions will be upheld if they are not arbitrary and capricious, bearing no reasonable relationship to the fundamental condominium concept.").
[91] *Mousley*, 2025 WL 655805, at *4.

ability to impose fines.[92] It also asserts that the Council has maximum flexibility in gaining owner compliance. The governing documents, however, do not reflect these contentions.

The governing documents provide Ocean View with several options to obtain relief if the provisions of the governing documents are violated or a unit owner defaults.[93] Generally, the Council has the authority to enforce the provisions of the governing documents by "legal means."[94] If a unit owner fails to comply with the governing documents, the Council may initiate an action for money damages or injunctive relief, foreclose on the lien for payment of assessments, or any other relief provided in the governing documents or by a court.[95] Interest may be imposed at a rate of 2% per month or 24% per annum, with a $75 late fee if a unit owner defaults on paying assessments, special assessments, common expenses or other sums.[96] Finally, if a unit owner misuses the common elements, the Council may levy a daily $5 fine with 2% interest per annum, which acts as a lien.[97] If a unit owner fails to abate the misuse of the common elements within thirty days of notice, the Council

[92] D.I. 50, Defs.' Mot. for Summ. J., Ex. A at 33.
[93] Discussion of whether the Chappells were in violation of the governing documents is not necessary for determination of the declaratory relief sought, therefore the court does not make any implied legal determinations as to whether the Chappells' refusal to replace the jalousie windows was a violation of the governing documents.
[94] D.I. 50, Defs.' Mot. for Summ. J., Ex. A at 17.
[95] *Id.* at 21, 32.
[96] *Id.* at 40; *but see* 25 *Del. C.* § 2233 (stating that interest placed on sums assessed for common expenses cannot exceed 18% per annum).
[97] *Id.* at 43.

has the right to do the following: (1) not take action and let the fine accrue, (2) correct the problem and assess any expense to the unit owner, (3) deem certain property abandoned; and/or (4) take legal action.[98]

The original governing documents do not authorize Ocean View to freely assess fines. Rather, they afford Ocean View those aforementioned remedial paths to enforce the governing documents. There was no mention of fines in the governing documents until the 2007 amendment was created, imposing the fine schedule for misuse of common elements.[99] No authority to fine was given as it relates to non-common elements, such as the windows at issue.

It appears the Council attempted to mitigate its lack of authority in the governing documents by creating two resolutions while the dispute with the Chappells was ongoing. The resolutions allow the imposition of fines in an amount fixed by the Council where: (1) the Association incurs fees or expenses because of the unit owner's actions, (2) the unit owner rents his unit when such an act has been banned, or (3) the unit owner challenges the enforceability of the rental rules. These provisions, however, are entirely subjective. They are completely dependent on the Council's determination of what is proper under the given circumstance and provides no guideline as to how much the Council may fine or charge a unit owner.

[98] *Id.*
[99] *Id.*

Ocean View is correct that it is not illegal to impose fines, but its governing documents must bestow that authority in the absence of statutory authority, such as the DUCIOA, giving it the inherent power to do so. Ocean View seems cognizant of this need through its 2007 amendment. Had the "legal means" provision been sufficient, the amendment would not have been necessary. It is worth noting that the rate under the 2007 amendment, of $5 a day at 2% interest per annum, is a vast difference from the $25 per day at 24% interest per annum it was charging the Chappells, not including the various late fees and attorney's fees it was additionally charging, with interest.

It appears to this court that the governing documents and policies surrounding deed restriction enforcement do not allow Ocean View to subjectively impose fines upon unit owners for alleged violations concerning non-common elements. There is no provision in the governing documents that clearly and unambiguously gives Ocean View the authority to impose fines. The provisions in the resolutions that attempt to give that authority are entirely subjective. The danger of this subjectivity is demonstrated by the Council's actions, such as fining Chappell before the period to contest ended, charging him in advance for several days before that period ended, charging him late fees and sending him delinquent letters on condominium dues that were properly paid, and creating resolutions seemingly targeted toward the dispute. Thus, the Chappells' motion for partial summary judgment seeking declaratory relief

that they do not owe the amount claimed by Ocean View, which is $71,364.19, and accruing, is granted. As a result, Ocean View's debt action seeking this amount is moot.

b. Ocean View Cannot Charge the Chappells with its Attorney's Fees Accrued prior to these proceedings.

According to the American Rule and Delaware law, parties are generally responsible for payment of their own litigation costs unless a fee shifting provision is contained in a contract.[100] If attorney's fees are shifted, however, they "must be reasonable (under the independent Delaware law of the reasonableness of attorneys' fees) and must adhere to the amounts authorized under the association's declaration and other rules and regulations."[101]

The governing documents state that "[i]n any proceeding arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding, and such reasonable attorneys' fees as may be determined by the court."[102] The Council's adopted resolutions attempt to add fee shifting mechanisms, but doing so conflicts with the original provision in the governing documents.[103] Any rules or regulations adopted by the Council cannot conflict with

[100] *Mahani v. Edix Media Grp., Inc.*, 935 A.2d 242, 245 (Del. 2007).
[101] *Mousley*, 2025 WL 655805, at *8.
[102] D.I. 50, Defs.' Mot. for Summ. J., Ex. A at 32.
[103] *Id.* at 59-60 ("The Association shall be entitled to assess against such Unit and/or the Unit Owner any and all fees, costs and expenses incurred by the Association in any way concerning

the DUPA or governing documents.[104] Because the attorney's fees portions in the resolutions conflict with the original governing documents those portions are unenforceable. Ocean View did not have the authority to charge Chappell with its attorney's fees as they accrued and thereafter charge interest on nonpayment of them. Therefore, this court finds that Chappell does not owe Ocean View the attorney's fees it has been charging him with since May 24, 2021.

c. The Liens Recorded Against the Chappells are Invalid and Unenforceable.

The governing documents allow liens to be placed and enforced in specific instances. Liens are automatically placed on assessments of common expenses and the total annual contribution amount for those common expenses.[105] Ocean View is not authorized to automatically place liens on any other fees, however, the documents allow the Council to enforce the provisions of the governing documents through "legal means."[106]

Because the court finds that Ocean View did not have the authority to impose fines in the manner it did, nor was it authorized to charge attorney's fees as they accrued, the lien it recorded to collect those charges is, therefore, invalid and

these Rental Rules, including attorneys' fees incurred in connection with any action, in law or in equity, by or against the Unit Owner or the Tenant.").
[104] *Id.* at 16.
[105] *Id.* at 22, 33.
[106] *Id.* at 17.

unenforceable. Ocean View's recordation of the notice of continuing violation was also not within its authority and is invalid.

C. The Parties' Claims for Attorney's Fees in This Action.

The parties seek an award of attorney's fees based on the outcome of this case. In Chappell's complaint, he sought attorney's fees pursuant to Article X, § 1(c) of the code of regulations and 25 *Del. C.* § 81-417 for the harassment and bullying done by Ocean View. Ocean View's counterclaim seeks attorney's fees and expenses citing the same section of the code of regulations for the common expenses and legal fees it has incurred resulting from the Chappells' failure to pay the assessed amounts.

As stated above, the American Rule and Delaware law generally make parties responsible for their own litigation costs unless there is a fee shifting provision in the contract.[107] Article X, § 1(c) of the code of regulations allows attorney's fees to be shifted to the prevailing party of a legal action in an amount determined by the court.

In *One Virginia Avenue Condominium Association of Owners v. Reed*, the court determined that neither party should be awarded attorney's fees.[108] The court reasoned that both sides were not prevailing parties on certain issues.[109] It stated that

[107] *Mahani*, 935 A.2d at 245.
[108] 2005 WL 1924195, at *15 (Del. Ch. 2005).
[109] *Id.*

"[i]n these circumstances, I consider it most equitable for each side to bear its own attorneys fees and expenses."[110]

Likewise, this court finds that neither party is entitled to an award of attorney's fees. Both Ocean View and the Chappells prevail as to some aspects of their motions but fail as to others. To award attorney's fees to both sides would be inconsequential. Therefore, each party is responsible for their own attorney's fees for this litigation.

CONCLUSION

Because the Chappells have withdrawn their abuse of process and slander of title claims and fail to meet the elements of the intentional interference with business relations and malicious prosecution claims, Ocean View's motion for summary judgment is **GRANTED** relating to these tort claims and **DENIED** on the remaining relief sought. The Chappells have shown that the governing documents do not allow Ocean View to impose fines and attorney's fees at its discretion, making the liens recorded against the Chappells unenforceable. Therefore, the Chappells' motion for summary judgment is **GRANTED** in part as to the declaratory relief sought and **DENIED** in part as to the relief sought for their tort claims. As a result, Ocean View's debt action counterclaim is **MOOT**, and the parties are not entitled to attorney's fees. The court is cognizant that this decision largely puts the parties back to the status quo prior to this litigation and it hopes that they can be more reasonable

[110] *Id.*

going forward. If there is a need for clarification or resolution of any matters not decided in this decision, the parties are to raise those with the court within ten days of the date of this decision.

IT IS SO ORDERED.