

Robert DeWitt Moss - Deposition AI Summary Long

Robert DeWitt (Bob) Moss was deposed on February 11, 2026, at the Bellamy Law Firm in Myrtle Beach, South Carolina. He is 86 years old, a retired veterinarian who practiced in Virginia for 45 years and moved to Tidewater Plantation around 2000. He currently lives at 945 Heshbon Drive, North Myrtle Beach. He had never been deposed before. Howell Bellamy conducted the deposition on behalf of the Nortons; Taylor Cary appeared for Tidewater Plantation Community Association.

Moss served on the Tidewater Design Review Board (DRB) first, beginning around 2012-2013, then was asked to move over to the Master Board of Directors, where he served for approximately seven years (roughly 2013 to 2020). He served as president of the Master Board for one year — the first year the board turned over from developer control to membership control. He also served briefly as president of the DRB in 2020, for only about two to three months. He has not served on any board since leaving in mid-2020, shortly after the events at issue in this lawsuit.

Critically, Moss admitted that during his entire time serving on both the DRB and the Master Board, he never personally read the PUD Agreement — the foundational document governing all of Tidewater Plantation. He said it was referred to from time to time but he never had it in his hands and never read it. This is significant given that the PUD is the controlling document from which all other Tidewater governing documents originate.

Bellamy walked Moss through the PUD Agreement (Exhibit 2, recorded in Deed Book 1544). Going through the Development Standards section (Section 3D), Moss confirmed the following maximum heights in the PUD for each type of structure: large lot single-family = 42 feet, zero lot line single-family = 42 feet, semi-detached/duplex = 50 feet, townhouse = 50 feet, low density multifamily = 50 feet, medium density multifamily = 50 feet, and the neighborhood convenience store = 45 feet. At no point did any provision in the PUD indicate a maximum building height of 41 feet. Moss confirmed he saw no such provision. He also confirmed there is no reference to 23-106 anywhere in the PUD Agreement — neither stating it applies nor stating it does not apply — and no provision that specifically addresses building in a floodplain.

Moss confirmed the PUD's key language: "Anything not covered in this document shall be governed by the City Zoning Ordinance." He acknowledged the logical consequence — that because the PUD Agreement is silent on building in a floodplain, you would have to look to the

City Zoning Ordinance, specifically Section 23-106, for guidance. He confirmed that Section 8 of the PUD ("City Regulatory Power") states the city maintains all regulatory powers and the agreement does not preempt any land use regulations not specifically and intentionally changed by the agreement.

Bellamy then walked Moss through Section 23-106 of the North Myrtle Beach Zoning Ordinance (Exhibit 4). Moss read the section aloud: height is normally measured from the mean elevation of finished grade to the midpoint between the eaves and the highest point of the roof, except for single-family and duplex buildings in design flood hazard areas, where height is measured from the established certified floor elevation to the midpoint between the eave and the highest point of the roof. Moss agreed that is what 23-106 says. He confirmed he was not familiar with 23-106 before this deposition and had never seen or discussed it while serving on the DRB or Master Board.

Regarding the Third Amended and Restated Declaration of Covenants, Conditions, and Restrictions (CCRs) and Bylaws for Tidewater Plantation (Exhibit 3), Moss confirmed he had reviewed this document while on the Master Board and from time to time as president of the DRB. He confirmed it was the controlling document when the Nortons submitted their plans. He looked through Article 9 (Architectural Standards, pages 26-30) and found no reference to a 41-foot maximum building height anywhere in the document. He also confirmed Exhibit B to the CCRs (Supplemental Use Restrictions) states the maximum height is 42 feet — not 41 — above the average finished grade, and that all heights are subject to the provisions of the PUD Agreement. He agreed there is no amendment to the CCRs or to the PUD that reduces the maximum building height from 42 to 41 feet.

On the Norton situation specifically, Moss confirmed the following sequence of events: (1) The Nortons submitted their architectural plans and drawings prepared by licensed architect Felix Ayres in 2020; (2) the DRB had a meeting, reviewed the plans, and rejected them, with Moss sending an email to the Nortons on July 6, 2020, setting out ten reasons for rejection; (3) the Nortons then took those same plans to the City of North Myrtle Beach, which issued a building permit and approved them; (4) when the DRB learned about the City's approval, they filed an appeal to the City's Board of Zoning Appeals, challenging only whether the cupola was a necessary mechanical feature — not challenging the 42-foot maximum height or the measurement methodology. Moss confirmed the Board of Zoning Appeals then reversed Ben Caldwell's determination and ruled the cupola was not a necessary mechanical feature. He confirmed the Board did NOT rule that 23-106 was inapplicable in its entirety.

The July 6, 2020 rejection email (Exhibit 9) that Moss signed on behalf of the DRB listed ten reasons for denial. He confirmed it was prepared by the DRB's director of communications, but that the entire Board reviewed and adopted those reasons. Reason No. 1 stated: "The height restriction on houses in all Tidewater neighborhoods is 41 feet." Bellamy pressed Moss on the basis for this statement. Moss's answer was candid: it was "just common knowledge that's passed down from person to person as they served on the DRB" — essentially oral tradition. He did not cite any governing document for the 41-foot standard. When Bellamy pointed out that the PUD consistently shows 42 feet (not 41) for large lot single-family homes, Moss acknowledged "It's not in the PUD." He confirmed there is no amendment to the PUD changing the maximum from 42 to 41 feet.

The email also included reasons related to roof pitch (Reason 3 — the roof pitch of 12/12 and 12.25/12 was rejected because DRB standards only allow 7/12, 8/12, and 9/12 pitches); a tabby driveway (Reason 4 — rejected because historical standard was poured concrete, no stamping); landscaping (rejection of Sabal palmettos); and firepits (Reason related to alleged city ordinance violations). On each of these, Bellamy pressed Moss on whether any governing document specifically and expressly prohibits these items. Moss could not point to any specific written provision that expressly prohibits a tabby driveway, Sabal palmettos, or firepits on South Island properties. He acknowledged the Sabal palmetto is on the state flag and is indigenous to the area. He could not cite any specific city ordinance section that prohibits firepits in Tidewater. He acknowledged that if other homeowners in Tidewater have firepits, they are — by the DRB's own logic — in violation.

Felix Ayres is relevant for another reason: at the time in 2020, Ayres was serving as the DRB's own paid consultant on architectural matters. Moss confirmed Ayres was the go-to person for architectural design questions. Yet the plans Ayres prepared for the Nortons — which included measuring maximum building height from the certified flood elevation rather than from grade — were the same plans the DRB rejected. Bellamy highlighted the irony: their own consultant prepared the plans they rejected.

Regarding the fine schedule and lien, Moss confirmed the DRB prepared the fine schedule, which was then ratified by the Master Board. A Notice of Lien for Delinquent Assessments (Exhibit 11) was filed against the Nortons' property on February 22, 2022, showing \$29,519 in delinquent fines and related charges, \$28,375.72 in attorneys' fees and costs, and a total of \$57,894.72 owed. Moss said he had no idea how the fine total accumulated because he left the DRB shortly after the July 2020 appeal, and from that point forward the matter was in the Master Board's purview. He did think the DRB likely told the Master Board what violations applied, and the Master Board's attorney then handled the letter and the fines. He expressed

doubt that the management company has the authority to go directly into a homeowner's online account and withdraw money for alleged fines; he believed they could put a lien on the property but doubted they could directly debit an account.

Moss also addressed a Tidewater Plantation newsletter (Exhibit 12) from August 2016, when he was president of the association. In his "President's Message," he wrote: "The PUD further states the maximum height of every single family unit is not to exceed 41 feet. Villas, townhouses, and multi units are not to exceed 50 feet at the uppermost point." Bellamy pointed out that this directly contradicts what the PUD actually says. Moss's explanation was the same as before — this was common knowledge passed down orally. He acknowledged it is not written in the PUD and there is no amendment. In short, this newsletter entry, authored by Moss himself when he was president, is a written statement asserting the PUD says 41 feet, when in fact the PUD says 42 feet — which Moss now concedes.

A brief cross-examination by Taylor Cary clarified that Moss was DRB chairman for only about three months and does not believe he was still chairman at the time Dave Jeffers filed the appeal to the City's Board of Zoning Appeals. He thinks Jeffers was chairman at that point, possibly with Ed Boyer as vice-chair.