

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MIDLAND FOOD SERVICES, LLC,	§	
MIDLAND FOOD SERVICES II, LLC,	§	
AND MIDLAND FOOD SERVICES III,	§	
LLC,	§	
	§	No. 509, 1999
Plaintiffs Below,	§	
Appellants,	§	Court Below: Court of Chancery
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
CASTLE HILL HOLDINGS V, LL,	§	C.A. No. 16779-NC
CASTLE HILL HOLDINGS VI, LLC,	§	
CASTLE HILL HOLDINGS VII, LLC	§	
RONALD F. SAVERIN, JANET M.	§	
SAVERIN, MAJESS, LLC, and DAJUST,	§	
LLC,	§	
	§	
Defendants Below,	§	
Appellees.	§	

Submitted: June 13, 2001

Decided: June 15, 2001

Before **VEASEY**, Chief Justice, **WALSH, HOLLAND, BERGER** and **STEELE**, Justices, constituting the Court *en Banc*.

ORDER

This 15th day of June 2001, upon consideration of the briefs, supplemental memoranda and the oral argument held on June 13, 2001, it appears to the Court that the judgment of the Court of Chancery should be affirmed on the basis of and for the reasons set forth in its well-reasoned Opinion dated August 12, 1999. To the

extent that appellants had claimed on appeal that the Vice Chancellor improperly considered matters outside the pleadings on a motion to dismiss under Chancery Rule 12(b)(6), we find that appellants expressly acquiesced in the consideration of the questioned matters and abandoned their initial contention that these matters could not be considered on a motion to dismiss. *See* Opinion at 10 n.5.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Court of Chancery is **AFFIRMED**.

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice