

MCNAIR
ATTORNEYS

May 21, 2013

Ariail Burnside Kirk

akirk@mcnair.net
T 803.799.9800
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Via Fax (703-734-1839) and US Mail

Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
1015 Sumter Street
Columbia, SC 29201

Re: Daniel Island Club v. Berkeley County Assessor
Civil Action No. 2013-000534
McNair File No. 44091.00002

RECEIVED
MAY 23 2013
SC Court of Appeals

Dear Ms. Kitchings:

I am writing in response to the Berkeley County Assessor's May 16, 2013 correspondence and April 22, 2013 Motion to Reinstate. On behalf of the Daniel Island Club, we request that the Motion to Reinstate be denied on the grounds that the Motion to Reinstate relies upon inaccurate facts and assertions and the Berkeley County Assessor has refused to respond to the taxpayers inquiry of April 17, 2013.

On April 17, 2013, we wrote to counsel for the Berkeley County Assessor requesting that it comply with the Final Order and Decision of the Administrative Law Court regarding valuation of the subject property and pointing out that we were unaware of the transcript being ordered. Exhibit 1. We have not received any response to our April 17, 2013 correspondence. Furthermore, on April 26, 2013, we pointed out that the Motion to Reinstate was inaccurate in that a copy of the request for transcript was not sent to Respondent's Counsel until two (2) days after the Motion to Reinstate was signed. Exhibit 2. Once again, we have not received any response to our correspondence. The Motion to Reinstate is factually erroneous and the Berkeley County Assessor has not shown good cause to reinstate as required by Rule 260(a) of the South Carolina Appellate Court Rules.

Therefore, we respectfully request the Court remit this case to the Administrative Law Court in accordance with Rule 221 of the South Carolina Appellate Court Rules.

McNair Law Firm, P. A.
1221 Main Street
Suite 1600
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

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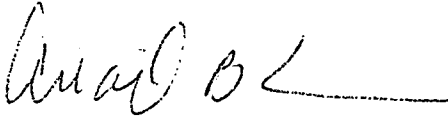
COLUMBIA 1115341v1

Jenny Abbott Kitchings
May 21, 2013
Page 2

MCNAIR
ATTORNEYS

Sincerely,

McNAIR LAW FIRM, P.A.

A handwritten signature in black ink, appearing to read "Ariail B. Kirk", with a long horizontal stroke extending to the right.

Ariail Burnside Kirk

ABK:df

Enclosures

cc: Elizabeth Smith Cannon, Esquire (w/ *Enclosures*)
Nicole Scott Ewing, Esquire (w/ *Enclosures*)
Mary Bass Lohr, Esquire (w/ *Enclosures*)

MCNAIR
ATTORNEYS

April 17, 2013

Arlail Burnside Kirk

akirk@mcnair.net
T 803.799.9800
F 803.753.3278

Elizabeth Smith Cannon, Esquire
Nicole Scott Ewing, Esquire
Berkeley County Legal Dept.
1003 Highway 52
PO Box 6122
Moncks Corner, SC 29461

Mary Bass Lohr, Esquire
Howell, Gibson and Hughes, P.A.
P.O. Box 40
Beaufort, SC 29901-0040

RECEIVED
MAY 23 2013
SC Court of Appeals

Re: *Daniel Island Club v. Berkeley County Assessor*
Docket No. 11-ALJ-17-0461-CC
McNair File No. 044091.00002

Counsel:

I am writing to formally request that the Berkeley County Assessor value the subject property at Seven Million Dollars (\$7,000,000.00) for the 2010 tax year as ordered by the Honorable Shirley C. Robinson, Administrative Law Judge on February 7, 2013 and timely refund the overpayment plus interest received from the Daniel Island Club. I understand that the Berkeley County Assessor is currently relying upon S.C. Code Ann. § 12-60-2550 to avoid paying the overpayment. S.C. Code Ann. § 12-60-2550 relates to matters "heard by the Administrative Law Judge Division or appealed to a court as provided in this subarticle." There is no provision for appeals to the Court of Appeals in "this subarticle"—subarticle 9. As such, the assessor's objection to valuing the subject property at Seven Million Dollars (\$7,000,000.00) for the 2010 tax year as ordered by the Honorable Shirley C. Robinson is without merit.

Furthermore, to our knowledge, a transcript of the proceeding before the Administrative Law Court has not been ordered as required by Rule 207, SCACR. Therefore, we will be moving to dismiss the appeal filed with the South Carolina Court of Appeals.

Should you have any questions with respect to this filing, please do not hesitate to contact me.

McNair Law Firm, P. A.
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Elizabeth Smith Cannon, Esquire
Mary Bass Lohr, Esquire
Nicole Scott Ewing
April 16, 2013
Page 2

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ATTORNEYS

Sincerely,

A handwritten signature in cursive script, appearing to read "Ariail B/K", followed by a horizontal line.

Ariail Burnside Kirk

ABK:dmf

cc: Greg Keating
Celeste T. Jones

Kirk, Ariail

From: Kirk, Ariail
Sent: Friday, April 26, 2013 11:47 AM
To: newing@berkeleycountysc.gov; ecannon@berkeleycountysc.gov; Mary B. Lohr
Cc: Jones, Celeste
Subject: RE: {Matter No.[11217 MBL]}{Daniel Island Club vs. Berkeley County Assessor} Case No.: 11-ALJ-17-0461-CC2013-000534
Attachments: 20130426112036919.pdf

We just received the letter referenced in paragraph 3 of the Motion to Reinstate ("As soon as opposing counsel brought this to the Appellant's attention by letter dated April 17, 2013, the error was remedied and a copy of the letter ordering the transcript was sent to Respondent's counsel and the Courts"). It is dated and postmarked April 24, two days after the motion was signed, so it appears that paragraph 3 of the Motion to Reinstate is not accurate.

Furthermore, we have not received any response to our letter dated April 17, 2013 regarding the refund owed to Daniel Island Club. Please remit the refund owed or we will be forced to proceed with collection efforts.

Ariail

From: Ashley Darden [<mailto:ADarden@hghpa.com>]
Sent: Monday, April 22, 2013 4:11 PM
To: callen@sccourts.org
Cc: Mary B. Lohr; Jones, Celeste; newing@berkeleycountysc.gov; ecannon@berkeleycountysc.gov; Kirk, Ariail
Subject: {Matter No.[11217 MBL]}{Daniel Island Club vs. Berkeley County Assessor} Case No.: 11-ALJ-17-0461-CC2013-000534

Please find the attached Motion to Reinstate the above captioned matter for filing. I have placed the original and six copies of the Motion along with a check for the filing fee in the U.S. Mail today. Please feel free to contact me with any questions or should you need any additional information regarding the attachment.

Thanks,

Ashley Darden
Assistant to Patrick M. Higgins
and Mary Bass Lohr
Howell, Gibson & Hughes, P.A.
Post Office Box 40
Beaufort, SC 29901
(843) 522-2400
(843) 522-2429 (Fax)
adarden@hghpa.com

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JAMES S. GIBSON, JR *
Of Counsel

* Certified Mediator

April 24, 2013

Hon. Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: Daniel Island Club vs. Berkeley County Assessor
Civil Action No.: 2013 - 000534
Our File No.: 11217 MBL

Dear Hon. Kitchings:

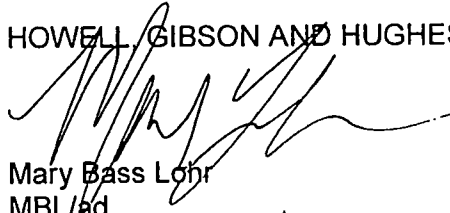
Please find enclosed herein a copy of the letter dated March 14, 2013 to Creel Court Reporting ordering the transcript of the hearing in connection with the above referenced matter. The Appellant recently filed a Motion to Reinstate, in which we stated that this letter was provided to Respondent's Counsel and the Court. However, it has come to our attention that this was not the case. By copy of this letter, I am providing the March 14, 2013 letter to all counsel at this time.

I apologize for any confusion this may have caused the Court. Please do not hesitate to contact me should you have any question or comment regarding the enclosure.

With kindest regards, I am

Yours truly,

HOWELL, GIBSON AND HUGHES, P.A.



Mary Bass Lohr
MBL/ad

cc: Ariail B. Kirk
Celeste T. Jones
Elizabeth S. Cannon
Nicole S. Ewing
Enclosure



BERKELEY COUNTY

Office of the County Attorney

1003 Highway 52 Post Office Box 6122
Moncks Corner, SC 29461
843.719.4011 phone
843.719.4306 fax

Nicole Scott Ewing
County Attorney

Ginger Gaskins-Weiss
Paralegal

Elizabeth Smith Cannon
Assistant County Attorney

VIA U.S. MAIL AND E-MAIL (CRYSTAL@CREELREPORTING.COM)

March 14, 2013

Ms. Andrea R. Taylor
Court Reporter
Creel Court Reporting, Inc.
1230 Richland St.
Columbia, SC 29201

Re: Transcript Request: Daniel Island Club v. Berkeley County Assessor
Docket Number 11-ALJ-17-0461-CC

Dear Ms. Taylor:

I am writing to request a transcript of the above-referenced hearing in the Administrative Law Court. The hearing was held on June 26 and June 27, 2012, before Judge Shirley C. Robinson. Please transcribe the entire hearing. I spoke with Crystal at Creel Court Reporting, who gave me an estimate of \$1,957.50 to prepare the transcript. Please let me know in advance if the cost will exceed this amount.

Please send an electronic copy of the transcript to me at ecannon@berkeleycountysc.gov, and send the hard copy of the transcript to:

Mary B. Lohr, Esq.
Howell, Gibson & Hughes, P.A.
P.O. Box 40
Beaufort, SC 29901

Should you have any questions, please do not hesitate to contact me at (843) 719-4011.

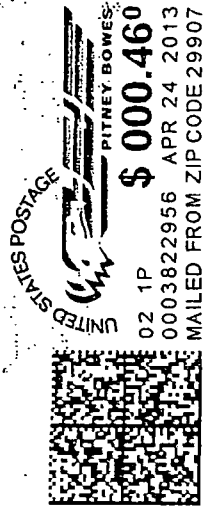
With kind regards, I remain

Sincerely yours,

Elizabeth Smith Cannon

CC: Mary B. Lohr, Esq. (via e-mail)

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MBL



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