

EXHIBIT B

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Cottages at Garden City Beach, LP,

Appellant,

vs.

Murrells Inlet Garden City Fire District,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
C/A NO.: 2022-CP-26-02575

ORDER

RECEIVED

Mar 13 2023

SC Court of Appeals

This appeal came before the court on November 29, 2022, via Web Ex. For the reasons set forth below, the decision of the Murrells Inlet Garden City Fire District is AFFIRMED.

The enabling legislation for the MIGC empowers the entity to impose a fee on new construction of 1% for single family residences and 2% for commercial construction. Swells Cottages is a residential neighborhood which, upon completion, will consist of 221 detached residences. These units will be both constructed and managed by The Cottages as rental units. The Cottages appeals MIGC's decision imposing a 2% fee.

The decision of the MIGC must be affirmed unless substantial rights of the appellant have been prejudiced because the decision was affected by an error of law, was clearly erroneous in view of the substantial evidence in the record, or the decision was arbitrary, capricious, or characterized by an abuse of discretion. Peake v. S.C. Dep't of Motor Vehicles, 375 S.C. 589, 594, 654 S.E.2d 284, 287 (Ct. App. 2007).

The Cottages looks at the individual units constructed within the development and argues that each individual unit meets the definition of a "single family residence" in that they are freestanding structures, each with their own separate means of ingress and egress, to be inhabited solely as residences, and not for any business use. The MIGC looks at the development as a whole

and categorizes the entire development as “commercial construction” in that the owner of the development rents out all of the units, provides communal amenities and parking, and the units do not occupy individual lots.

While both sides make compelling arguments, under the applicable standard of review, this court finds the decision of the MIGC was not arbitrary or capricious or an abuse of discretion. I further find it is supported by the substantial evidence in the record and not controlled by an error of law. The decision of the MIGC is therefore AFFIRMED.

IT IS SO ORDERED.

Kristi F. Curtis
Presiding Judge, 15th Judicial Circuit

December ____, 2022
Sumter, South Carolina



Horry Common Pleas

Case Caption: Cottages At Garden City Beach LP VS Murrells Inlet Garden City
Fire District

Case Number: 2022CP2602575

Type: Order/Other

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762