

Exhibit A to Notice of Cross Appeal

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT) FOURTEENTH JUDICIAL CIRCUIT

James Ware, Alisa Ware, Henry Spahr, Elaine Spahr, Julie Sanders, William Craig Denny, Jeff Toomer, Allyson Toomer, Louise E. Davis, Donna Nutty, Thomas J. MacDonald, Michael G. MacDonald, Susanne B. MacDonald, Arlene Coleman, William H. McGee, Patti M. MacDonald, Scott M. MacDonald, Rose F. McGee, Jason DuBose, Amanda DuBose, Ronald L. Broome, Lawrence E. Jones, D. Diane Burr, Mark H. Thomas, Kelly C. Thomas, William Matthew Yollo, Nancy H. Yollo, Joseph DeAngelis, Beth DeAngelis, Shelly Horn, Theodore Brammer, Allison Brammer, Waymon W. Durden, Constance C. Durden, David C. Powell,

Plaintiffs,

v.

Beaufort County, HPCCA Ferry Company, Inc., and The Daufuskie Island Ferry Service, LLC,

Defendants.

Civil Action Number: 2021-CP-07-01078

ORDER GRANTING STAY OF FURTHER PROCEEDINGS IN THIS CASE PENDING FINAL DISPOSITION OF APPEAL OF PRELIMINARY INJUNCTION

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SC Court of Appeals

Following a hearing on January 5, 2023, this Court granted Plaintiffs' Motion for Preliminary Injunction and a written Order subsequently was filed. At the same hearing, this Court also heard argument on Defendant Beaufort County's Motion for a Stay of Further Proceedings in this case, in the event of issuance of a preliminary injunction, pending disposition of the appeal of the injunction. This Court subsequently ruled that the County's Motion for a Stay should be granted and this written Order follows.

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In their motion for a preliminary injunction, the Plaintiffs advance the central argument that the County's operation of a public ferry at Buckingham Landing is contrary to the County's own zoning ordinances. The zoning situation also was central to this Court's findings of fact in granting the Order for Preliminary Injunction. See, for example, this Court's finding that "The neighborhood Plaintiffs have lived with the commercial ferry operations in violation of the County ordinances for more than five years."

However, the County contends that its use of the dock at Buckingham Landing was, and is, a lawful use pursuant to a County zoning permit for a commercial dock issued in 2009.¹ Lawful use of the property as a public ferry also was the position of the County's Planning Director in his administrative determination which was upheld by the County Zoning Board of Appeals in 2022.² The legality of the ZBOA decision upholding the Planning Director is the subject of a pending appeal to circuit court by some of the Plaintiffs.

In support of its Motion for a Stay, the County, based on these positions, asserts that a stay of further proceedings in this case is necessary if a preliminary injunction is granted. This is because, as the County also asserts, the judicial grant of a preliminary injunction is a judicial determination on the likelihood of success of the Plaintiffs' core claim of County zoning violation. This Court recognizes and agrees that the lawfulness of the County's use of the dock as a public ferry location is a substantial and determinative issue in this case. Accordingly, the Court considers a stay of further proceedings pending final disposition on appeal of the grant of preliminary injunction to be appropriate and in the interest of judicial economy and consistency of judicial results.

¹ See Second and Fifteenth Defenses. Def.'s Am. Answer (setting out its position on lawful use of the property).

² See Merchant Aff., Oct. 11, 2022.

IT IS THEREFORE ORDERED that, except as provided and limited by this Order, further proceedings in this case in this Court are stayed pending final disposition of the appeal of the grant of preliminary injunction. The exception to the stay of further proceedings is this Court's ruling on any timely motions filed pursuant to SCRCR Rules 52, 59, or 65, concerning the Order granting the preliminary injunction, or this Order granting a stay. The limitation on this stay pending disposition of appeal is that the stay shall expire if an appeal of the Order granting a preliminary injunction is not taken by the County in the manner and within the time provided by Rule 203, SCACR.

AND IT IS SO ORDERED.

Courtney C. Pope, Circuit Court Judge

February ____, 2023



Beaufort Common Pleas

Case Caption: James Ware , plaintiff, et al VS Beaufort County , defendant, et al
Case Number: 2021CP0701078
Type: Order/Stay

So Ordered

The Honorable Courtney Clyburn Pope