

The South Carolina Court of Appeals

Sunset Lodge, LLC,

and

Franklin D. Beattie, as trustee of The Franklin D. Beattie
Preservation Trust,

and

M. Baron Stanton, Plaintiffs,

v.

Town of Pawleys Island, Defendant,

Of which Sunset Lodge, LLC and Franklin D. Beattie, as
trustee of the Franklin D. Beattie Preservation Trust are
the Appellants,

and

Town of Pawleys Island is the Respondent.

Appellate Case No. 2022-000291

ORDER

Appellants have filed a motion "to continue [the] lower court['s] sealing and protective order" and for an extension to prepare the record on appeal. Respondent consents to the motion.

Although there is no provision in the South Carolina Appellate Court Rules for sealing records in the appellate court, the court has the power to control its own records. *See Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 12, 630 S.E.2d 464,

470 (2006). Rule 41.1(b), SCRCF, requires the moving party to state the reasons why sealing is necessary, explain why less drastic alternatives to sealing will not afford adequate protection, and address the following factors:

- (1) ensuring the parties' right to a fair trial or hearing;
- (2) the need for witness cooperation;
- (3) the reliance of the parties upon expectations of confidentiality of the proceeding;
- (4) the public or professional significance of the proceeding;
- (5) the perceived harm to the parties from disclosure;
- (6) why alternatives other than sealing the documents are not available to protect legitimate private interests; and
- (7) why the public interest, including, but not limited to, the public health and safety, is best served by sealing the documents.

Id. When ruling on a motion to seal, the court may also consider the public interest in the proceeding; the private or public status of the litigants and case generally; whether release would enhance the public's understanding of an important historical event; whether the public already has access to information contained in the records; whether a particular decision will sustain or offend the fundamental interests of public access, and any other relevant factors. *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. at 12, 630 S.E.2d at 470 (2006).

Appellants have failed to address the factors enumerated in Rule 41.1, SCRCF, and *Ex parte Capital U-Drive-It, Inc.* Accordingly, within ten days of the date of this order, Appellants shall file an amended motion to seal that addresses the relevant factors. This court will rule on the motion to seal upon receipt of the amended motion, or the expiration of ten days. The time for filing the record on appeal is held in abeyance pending the disposition of the motion to seal.


FOR THE COURT

Columbia, South Carolina

cc:

FILED
May 31 2023

M. Baron Stanton, Esquire
William Clayton Dillard, Jr., Esquire
Norwood David DuRant, Sr., Esquire
Norwood David DuRant, Jr., Esquire