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Sep 12 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM Charleston County
Court of Common Pleas in the Ninth Circuit

The Honorable Bentley Price, Circuit Court Judge

Appellate Case No. 2022-000038
Circuit Court Case No. 2021-CP-10-00562

Clam Farm Partnership, LLC.....RESPONDENT

v.

The South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management, Charleston County, and The City of Folly Beach..... DEFENDANTS

Of which The South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management and the City of Folly Beach areAPPELLANTS

CONSENT MOTION FOR RELIEF FROM AUTOMATIC STAY TO FILE MOTION TO
VACATE LOWER COURT ORDERS

Pursuant to Rule 241, SCACR, Respondent, with the consent of the Appellants, hereby moves for relief from the automatic stay to file a motion to vacate the circuit court’s November 18, 2021, Order Granting Plaintiff’s Motion for Partial Summary Judgment and Preliminary Injunction, December 14, 2012 Order Denying Motion to Reconsider and November 9, 2022 Order Granting Plaintiff’s Motion for Preliminary Injunction Against Defendant City of Folly Beach (“Appealed Orders”).

The basis for the motion is that the parties have reached a contingent settlement agreement which requires that the parties submit a motion to vacate the Appealed Orders. If that motion is granted, and the Appealed Orders vacated, the issues on appeal would become moot and this appeal could be dismissed.

For the reasons set forth above, the Respondent requests an order lifting the automatic stay in the circuit court for the purpose of filing a consent motion to vacate the Appealed Orders.

WOMBLE BOND DICKINSON (US) LLP

s// Matt Tillman

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Attorneys for the Respondent

Charleston, South Carolina
September 12, 2023

The following parties consent to this motion:

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*Attorneys for The South Carolina Department
of Health and Environmental Control, Office
of Ocean and Coastal Resource Management*

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PROOF OF SERVICE

I, Matthew Tillman, of Womble Bond Dickinson (US) LLP, attorneys for the Respondent, Clam Farm Partnership, LLC, hereby certify that the **CONSENT MOTION FOR RELIEF FROM AUTOMATIC STAY TO FILE MOTION TO VACATE LOWER COURT ORDERS** was served on Respondents The South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management, Charleston County, and The City of Folly Beach on September 11, 2023, by emailing a copy of the same to all counsel of record as evidenced by Exhibit "A" attached hereto:

Stephen L. Brown sbrown@ycrllaw.com
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By: Matthew E. Tillman
Matthew E. Tillman
Attorneys for Clam Farm Partnership, LLC

Charleston South Carolina
Dated: September 12, 2023

EXHIBIT “A”

From: [Casey, Carol](#)
To: sbrown@ycrlaw.com; rhines@ycrlaw.com; crowh@ycrlaw.com; rstoney@barnwell-whaley.com; mdc@barnwell-whaley.com; aburns@barnwell-whaley.com; ashalio@bellsouth.net
Cc: [Tillman, Matthew](#)
Bcc: [Clam Farm Partnersh_109024_0002_6_Litigation Regarding Lot Development in Folly Beach_SC Email](#)
Subject: Clam Farm Partnership v. SCDHEC, et al.; Appellate Case No. 2022-000038
Date: Tuesday, September 12, 2023 11:50:38 AM
Attachments: [image015009.png](#)
[image757275.png](#)
[image929907.png](#)
[image337979.png](#)
[Consent Motion for Relief from Automatic Stay.pdf](#)

All,

Attached for service, please find the *Consent Motion for Relief from Automatic Stay to File Motion to Vacate Lower Court Orders*, to be filed with the Court of Appeals today.

Thank you,
Carol

Carol Casey
Paralegal
Womble Bond Dickinson (US) LLP

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