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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Greenville County
Greenville County Court of Common Pleas
Hon. Judge Alex Kinlaw, Jr.

2023-000025

George C. Hassiotis and Constantinon
Hassiotis,.....Appellants,

Versus

The City of Greenville, South
Carolina,.....Respondent.

REPLY BRIEF OF APPELLANTS

Respectfully Submitted,

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September 15, 2023

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ARGUMENT

The Appellants submit the following Argument in Reply to the Respondent's Brief:

- The RDV zoning classification is unconstitutional due to the arbitrary and capricious characteristics of the ordinance, as was urged by counsel for at least one of the affected properties – the Enigma Corporation. (Tr. Trans. p. 115, lines 1-25; p. 116, lines 1-25.) The Appellants were not the only property owners who expressed a concern about the constitutionality of the RDV zoning classification.
- The process of “cherry picking,” “error adjudicating,” “merely tweaking,” and “hostage taking” that ensued after the tabling of the ordinance on September 20, 2018 was outside the scope of any law that would have been known to the average citizen. Not only were these terms not located in the materials received by the Appellants pursuant to their Freedom of Information Act (FOIA) request, they were not included in the language of the ordinance.
- The Appellants continue to be concerned about the treatment of Appellant George Hassiotis and the characterization of him as protesting too “loudly” – in which he was wrongfully “dealt with” by deputies and deemed to be a “hostage taker” of the ordinance. (Tr. Trans. p. 208, lines 1-18.)
- The City of Greenville claims in brief that the purpose of the ordinance was to restrict certain uses in the affected areas. However, there was no evidence provided to indicate how or what specific uses were going to go into these other properties, such as proposals, or site plans.
- The Appellants were not permitted to compare their property to either properties

inside or outside the area to be zoned, which was extremely damaging to the rights of the Appellants, as is detailed in Appellants' Brief.

- Regarding page 5 of the Respondent's Brief, any nearby comparable properties outside the area to be rezoned should be considered irrelevant for all parties and any previous argument was made by the City "with due respect," they were outside of the area to be rezoned. (Tr. Trans. p. 189, lines 18-24.)
- Regarding page 20 of the Respondent's Brief, the statement by Virginia Stroud, "Which would have made it the only property on its side of Pendleton Street not RDV under the plan," is another misrepresentation. The Family Dollar store, which was discussed in great detail at trial and by the trial judge in this matter, was a couple of parcels down from the property of the Appellants and also on the same side of the street as the Appellants' property, as is discussed in Appellants' Brief.
- Regarding page 21 of the Respondent's Brief, the Appellants submit that the evidence supporting the "Enigma Property" is absolutely and completely refutable because the statement itself is a misrepresentation given the fact that this was *four* different properties rather than just one property. There is no distinguishable difference between the property of the Appellants and the other properties at issue in this case. The only difference was the disparate treatment of the Appellants, as is well documented in the Appellants' Brief. The claims of the Appellants were identical to the claims of others similarly-situated in this case. Despite the fact that the Appellants own a popular, family-friendly business in the Pendleton Street neighborhood, the Appellants were the only property owners who were adversely affected by the ordinance.

- Additionally regarding page 21 of the Respondent's Brief, the Appellants assert that the City was persuaded by the "threats" by counsel for the Stone Family Trust and the capitulation in the record of this case is a fact contrary to the assertions of the Respondent in Brief.
- As a final point, this Honorable Court should disregard Argument IV of the City on page 28 of its Brief, arguing that the City was entitled to a Directed Verdict at the close of the Appellants' case. The City filed no cross-appeal in this matter, and thus this issue is not preserved for consideration by this Court.

CONCLUSION

The Appellants George C. Hassiotis and Constantinon Hassiotis respectfully pray that this Honorable Court will reverse the order of Honorable Judge Alex Kinlaw entering Judgment against the Appellants on all of their causes of action, awarding fees and costs to the City of Greenville, denying to Appellants the right to a jury trial on their equal protection claims, and for any further relief that this Court deems necessary and appropriate.

Respectfully submitted,

s/Scarlet B. Moore

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