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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

R. Scott Spouse, Circuit Court Judge

Appellate Case No. 2023-000953
Civil Case No. 2021-CP-07-00663

West Street Farms, LLC and Mix Farms, LLC, Appellants,

v.

City of Beaufort, City of Beaufort Inn, LLC,
and 303 Associates, LLC Respondents.

**JOINT MOTION FOR COURT GUIDANCE AS TO THE COMPILATION OF THE
RECORD ON APPEAL**

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December 21, 2023
Columbia, South Carolina

ATTORNEYS FOR RESPONDENT
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Pursuant to Rule 240, SCACR, Appellants West Street Farms, LLC and Mix Farms, LLC (collectively, “Appellants”) and Respondents City of Beaufort, City of Beaufort Inn, LLC, and 303 Associates, LLC (collectively, “Respondents”) (together, the “Parties”) hereby move this Court for an order granting this Motion and permitting the incorporation by reference of the record on appeal, filed on November 29, 2022, in South Carolina Appellate Case No. 2022-000300, the consolidated appeal of *Historic Beaufort Foundation v. City of Beaufort, et seq.* and *West Street Farms, LLC v. City of Beaufort, et seq.* (the “HRB Appeal”), into the record on appeal to be filed in this matter. In support of this Motion, the Parties state as follows:

The Designation of Matter to be Included in the Record on Appeal filed by Appellants on October 17, 2023, contains numerous documents that are part of the two-volume record on appeal already filed in the HRB Appeal, which is still pending before this Court, including:

1. Order Denying, HRB Appeal (January 20, 2022);
2. Order on 59(e) motion (February 11, 2022);
3. Transcript of Testimony, Decision before HRB (June 9, 2021);
4. Amended Petition Appealing HRB decision (July 9, 2021);
5. Memoranda in Support, Opposing Appeal of HRB decision (November 12, 2021 and January 4, 2022);
6. Transcript, HRB Appeal Hearing (January 6, 2022); and
7. Rule 59(e) motion, memo (January 28, 2022).

(See Appellants’ Designation of Matter, documents numbered 3, 4, 16, 17, 18, 19, and 20).

The remaining record on appeal filed in the HRB Appeal consists of ten additional items, including the responses of Respondents to the petitions filed by Historic Beaufort Foundation and Appellants, the pertinent Historic District Review Board (“HRB”) minutes, and various provisions of the City of Beaufort Unified Development Code (“UDO”), all of which have been referenced in the [Initial] Joint Brief of Respondents, filed December 14, 2023. Therefore, in their Designation of Matter to be Included in the Record on Appeal, filed December 14, 2023, Respondents include the entire record on appeal filed in the HRB Appeal.

In the interest of conserving the time and resources of the Court and Parties, rather than renumbering and re-filing the two-volume record on appeal submitted in the HRB Appeal, which totals 858 pages, the Parties ask to instead incorporate the entire HRB Appeal record on appeal into the record on appeal to be filed in this matter by reference only, with the Court's order granting this Motion to be included in the record as documentation of the incorporation. In the alternative, the Parties request an order informing them of the Court's preferred manner of handling the final compilation of the record on appeal in this case given the fact it contains 858 pages of materials that have already been filed with the Court in a separate pending case between the same parties.

Respectfully submitted,

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v.

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303 Associates, LLC Respondents.

PROOF OF SERVICE

I certify that Respondents' Joint Motion for Court Guidance as to the Compilation of the Record on Appeal was served on all counsel of record via electronic mail on December 21, 2023, and a copy of that email is attached to this certificate:

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December 21, 2023
Columbia, South Carolina

Hampton, Valerie

From: Hampton, Valerie
Sent: Thursday, December 21, 2023 9:31 AM
To: 'andy@austengowder.com'; 'lflynn@popeflynn.com'; 'gbozeman@popeflynn.com'
Cc: Benjamin E. Nicholson V (nnicholson@burr.com)
Subject: Mix Street Farms, LLC. et al. v. City of Beaufort, et al.; Appellate Case No.: 2023-000953
Attachments: Respondents' Joint Motion for Court Guidance as to the Compilation of the Record on Appeal .pdf; Proof of Service - Respondents' Joint Motion for Court Guidance as to the Compilation of the Record on Appeal.pdf; 2023.12.21 - Letter to Clerk Court of Appeals with filing fee for Respondents' Joint Motion for Court Guidance as to the Compilation of the Record on Appeal.pdf

Counsel:

Attached for service in the referenced matter please find the following documents:

- Respondents' Joint Motion for Court Guidance as to the Compilation of the Record on Appeal;
- Proof of Service; and
- Correspondence to Clerk, SC Court of Appeals.

By separate email, you will be copied on our email to Court.

Kindest regards,

Valerie Hampton

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Legal Practice Assistant

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