

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shriley C. Robinson, Administrative Law Judge

Appellate Case Number 2013-000796

Edgefield County Assessor

Appellant,

v.

K&H Development Co., LLC,

Respondent

RESPONDENT'S MOTION TO DISMISS APPEAL
AND
RESPONDENT'S RESPONSE TO APPELLANT'S
MOTION FOR EXTENSION OF TIME

Appellant has filed a motion for a thirty day extension of time to file its brief. However, Appellant's time for filing a brief expired well before Appellant filed its motion. Therefore, Appellant's appeal should be dismissed and its motion for extension of time will thereby become moot.

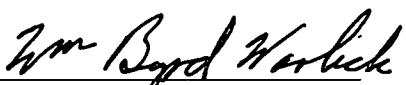
Attached hereto is the Affidavit of the court reporter who prepared the transcript in this case, which establishes that the transcript was mailed to the parties on June 5, 2013 or June 6, 2013. Appellant's brief was due within 30 days of his receipt of the transcript. Also attached is the Affidavit of Respondent's counsel, showing that he received his copy of the transcript by email on June 5, 2013 and a hard copy of the transcript through the mail shortly thereafter. From these facts it must be concluded that Appellant failed to file its brief within 30 days of receipt of the transcript. In fact, Appellant did not even file its motion for extension within 30 days of its

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SC Court of Appeals

receipt of the transcript. Under these circumstances, Appellant's appeal should be dismissed as untimely.



Wm. Byrd Warlick

(admitted pro hac vice)

WARLICK, TRITT, STEBBINS & MURRAY,
LLP

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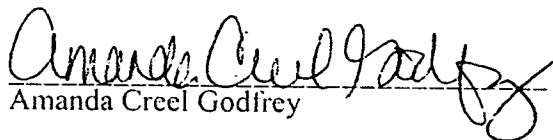
STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT DIVISION
Docket No. 12-ALJ-17-0304-CC

Edgefield County Assessor,)
)
 Petitioner,)
)
 v.)
)
 K. H. Development County, LLC,)
)
 Respondent.)
)
 _____)

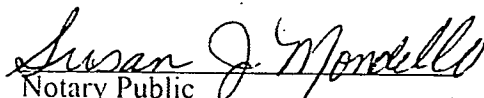
AFFIDAVIT

Personally appeared before me, Amanda Creel Godfrey, being duly sworn, deposes and says:

1. I am Amanda Creel Godfrey. I am President of Creel Court Reporting, Inc. I make this affidavit at the request of William B. Warlick, attorney for the Respondent.
2. It is the policy of our office to mail transcripts out the day that they are invoiced. In this matter, the transcripts would have been mailed to both the Petitioner and Respondent on June 5th, 2013 but may not have gone out until the June 6th mail run.
3. Invoices for both parties indicate an E-transcript was sent by email. We have pulled our records regarding those emails and show where Mr. William Warlick was sent the E-transcript on behalf of the Respondent at 2:18 p.m. on June 5, 2013; Mr. Michael Medlock was sent the E-transcript on behalf of the Petitioner at 2:13 p.m. on June 5, 2013.


Amanda Creel Godfrey

Sworn to before me this
25th day of July, 2013.


Notary Public
My Commission Expires: 6/5/2016



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

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Respondent

AFFIDAVIT OF WM. BYRD WARLICK

GEORGIA, RICHMOND COUNTY.

Appeared before me, the undersigned officer duly authorized to administer oaths, Wm. Byrd Warlick, who first being duly sworn deposes and says:

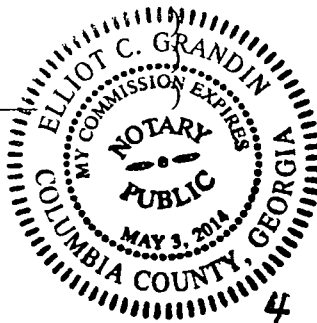
1. I am counsel for Respondent in the above captioned proceeding.
2. On June 5, 2013, I received a copy of the transcript of proceedings in the above from the court reporter.
3. I received a hard copy of the transcript from the court reporter through the mail shortly thereafter.

FURTHER AFFIANT SAITH NOT.

Sworn to and subscribed before me,)
this the 25th day of July, 2013.)

Wm Byrd Warlick
Wm. Byrd Warlick

[Signature]
Notary Public, State of Ga.
My comm.. exp.: 5-3-14




CERTIFICATE OF SERVICE

I certify that I have served the within and foregoing Response and Motion on counsel for Appellant by depositing a copy of same in the United States Mail, postage prepaid, this day, addressed as follows:

Michael S. Medlock, Esq.
Post Office Box 2065
Columbia, South Carolina 29202.

This the 25th day of July, 2013.


Wm. Byrd Warlick