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Jan 04 2024

SC Court of Appeals

APPELLANTS MOTION FOR SUMMARY JUDGEMENT

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from the Administrative Law Court  
Milton G. Kimpson, Judge  
Docket No. 21-ALJ-07-0144-CC

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Appellate Case No. 2023-000441

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South Carolina DHEC, Carla Varn DuPre, and Jasper Varn III	Respondents
Stephen Mueller, Pro Se	Appellant

v.

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ARGUMENT

SCDHEC continues to fruitlessly defend its position that it has identified a primary dune at 410 Palmetto Blvd. All my submitted evidence, precedence (ALC Docket #18-ALJ-0023-CC), and attached contemporaneous photographic evidence establishes that there is NO primary dune at the location that one, unsupervised, individual, Mr. Matt Slagel, identified for the purpose of granting building permits. Mr. Slagel made his unilateral, unsupervised decision in collusion with another individual, Mr. Bill Eiser, coincidentally his ex-boss now in private practice and advocating for the permit applicant. If there is no dune at the location, a dune must then be landward. It is, in fact, at the "baseline", 40' landward. As no construction is permitted ON a primary dune, the permits are illegal. The Respondents' attorney continues to attempt to have my suit dismissed based upon procedural errors. This is because they have no case in Fact or Law to offer a defense. After all this time and money we have wasted over two years, the Respondents have submitted no evidence in Law supporting their position.

A costly trial can be avoided. I beg the Court to save Court time and other parties' time and money by ordering one of the following simple options.

1. Revoke the existing permits. Give the Applicants the opportunity to reapply.
2. Order DHEC to return to the site and re-flag (re-identify) the location of a primary dune. DHEC may then revoke or uphold the permit.

The attached photos taken on January 2, 2023 at the site where Mr. Slagel identified a primary dune depict that there is quite obviously nothing with characteristics of a dune. He has flagged a dune seaward of the vegetation you see landward. The area with the footprints is where an "emergency berm" was created in 2019. Mr. Slagel identified it as a primary dune in 2020 but it is now 100% gone. It was never meant to be a dune and never became a dune. The area Mr. Slagel flagged is defined as "Active Beach" by SC Statutes and Regulations. NO construction is allowed on active beach. I am dismayed by why DHEC continues to commit malfeasance, and the Court continues to allow this violation of SC Law continue. All you need to do is use the evidence and your judgement to rule. I also attach a picture of the "emergency" berm which Mr. Slagel identified as a primary dune disobeying all of SC's Statutes and Regulations.







Respectfully, Stephen Mueller   Stephen Mueller   *Stephen Mueller*

January 4, 2023

CC

Bradley Curdar, SCDHEC

Bradley D. Churdar, Esquire

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*Mary Shahid, 205 King St. Charleston, SC 29402*

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Bradley Curdar, SCDHEC

Mary Shahid, Maynard Nexon PC

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*SCDHEC*

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*Attorneys for the Respondent, SCDHEC*

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I hereby certify that I have on this date Jan. 4, 2023, served this Motion for Summary Judgement upon all parties by electronic mail