

Abbott &  
McKissick  
Law Firm, LLC

Michael C. Abbott  
Robert D. McKissick  
  
P.O. Box 148  
702 W. Evans Street  
Florence, SC 29503  
  
(843) 669-0089  
(843) 669-0085 Fax  
abbottmckissicklaw.com

December 2, 2011

VIA HAND-DELIVERY

The Honorable Daniel E. Shearouse  
Clerk, Supreme Court of South Carolina  
1231 Gervais Street  
Columbia, South Carolina 29201

RECEIVED

DEC - 2 2011

S.C. Supreme Court

Re: Peterson, James, v. Florence County  
Our File #2011002

---

Dear Mr. Shearouse:

Please find enclosed an original and 14 copies of Respondent Florence County's Final Brief in this matter, and an original and one copy each of its Certificate of Service and Certificate pursuant to Rule 211 regarding the same.

I would appreciate your providing me with a clocked copy of each.

By copy of this letter, I am serving all counsel.

Yours very truly,



MICHAEL C. ABBOTT  
Attorney for Respondent Florence County

MCA/kch  
Enclosures

cc: Charles Carpenter, Esq.  
Kevin Hall, Esq.

# CARPENTER APPEALS & TRIAL SUPPORT, LLC



Charles E. Carpenter Jr. \*~

\* Member of South Carolina Bar  
~ Member of Virginia Bar  
Appellate Counsel

[charlie@carpenterappeals.com](mailto:charlie@carpenterappeals.com)

Carmen Vaughn Ganjehsani\*^

\* Member of South Carolina Bar  
^ Member of Georgia Bar  
Appellate Counsel

[carmen@carpenterappeals.com](mailto:carmen@carpenterappeals.com)

[www.carpenterappeals.com](http://www.carpenterappeals.com)

1201 Main St. Suite 980  
Columbia, SC 29201  
Fax 1-803-758-2887  
Tel 1-803-758-2886

VIA HAND DELIVERY

December 1, 2011

RECEIVED

DEC - 1 2011

S.C. Supreme Court

The Honorable Daniel E. Shearouse  
Clerk, Supreme Court of South Carolina  
1231 Gervais Street  
Columbia, South Carolina 29201

Re: *James W. Peterson, Jr., as Receiver for Pee Dee Land Company, LLC, and on behalf of its wholly-owned subsidiary Waverly Woods at Claussen, LLC, Plaintiff-Respondent v. Florence County, Defendant-Respondent and Dean C. Fowler, Jr., in his official capacity as Florence County Treasurer and H. Wayne Joye, in his official capacity as Florence County Auditor – Proposed Interveners-Appellants.*

Civil Action No. 2009-CP-21-1902

Our File No. 10-0070

Dear Mr. Shearouse:

Enclosed for filing are the original and fourteen (14) copies of the Final Brief of Respondent Pee Dee Land Company, LLC in the above-referenced matter, along with our original Certificate of Compliance and Certificate of Service. The Brief that is unbound contains the original Certificate of Compliance and Certificate of Service.

By copy of this letter, we are this day serving a copy of our Final Brief on all counsel of record.

Sincerely,

Charles E. Carpenter, Jr.

Enclosures

cc: Kevin A. Hall, Esquire  
M. Todd Carroll, Esquire  
Michael C. Abbott, Esquire



HALL & BOWERS, LLC  
ATTORNEYS AT LAW

1727 Hampton Street | Columbia, SC 29201

803.454.6504 tel

803.454.6509 fax

hallbowers.com

November 21, 2011

The Honorable Daniel E. Shearouse  
Clerk of Court  
South Carolina Supreme Court  
1231 Gervais Street  
Columbia, SC 29201

RECEIVED

NOV 21 2011

S.C. Supreme Court

KEVIN A. HALL  
kevin.hall@hallbowers.com  
KARL S. (BUTCH) BOWERS, JR.  
butch.bowers@hallbowers.com  
M. TODD CARROLL  
todd.carroll@hallbowers.com

Re: James W. Peterson, Jr., as receiver for Pee Dee Land Company, LLC v.  
Florence County, et al.

Dear Mr. Shearouse:

Enclosed please find originals and sixteen copies each of the final briefs of appellants. We would appreciate you filing the originals in the captioned matter and returning file-stamped copies to us via our courier. Thank you.

Sincerely,

Kevin A. Hall

KAH/dj  
Enclosures

cc: Charles E. Carpenter, Jr., Esquire  
Michael C. Abbott, Esquire



HALL & BOWERS, LLC  
ATTORNEYS AT LAW

1727 Hampton Street | Columbia, SC 29201

803.454.6504 tel

803.454.6509 fax

hallbowers.com

November 16, 2011

The Honorable Daniel E. Shearouse  
Clerk of Court  
South Carolina Supreme Court  
1231 Gervais Street  
Columbia, SC 29201

RECEIVED

NOV 16 2011

S.C. Supreme Court

KEVIN A. HALL  
kevin.hall@hallbowers.com  
KARL S. (BUTCH) BOWERS, JR.  
butch.bowers@hallbowers.com  
M. TODD CARROLL  
todd.carroll@hallbowers.com

Re: James W. Peterson, Jr., as receiver for Pee Dee Land Company, LLC v.  
Florence County, et al.

Dear Mr. Shearouse:

Enclosed please find an original and sixteen copies of the Record on Appeal. We would appreciate you filing same in the captioned matter and returning a file-stamped copy to us via our courier. Thank you.

Sincerely,

*Todd Carroll/dj*

M. Todd Carroll

MTC/dj  
Enclosures

cc: Charles E. Carpenter, Jr., Esquire  
Michael C. Abbott, Esquire



HALL & BOWERS, LLC  
ATTORNEYS AT LAW

1727 Hampton Street | Columbia, SC 29201

803.454.6504 tel

803.454.6509 fax

hallbowers.com

KEVIN A. HALL  
kevin.hall@hallbowers.com

KARL S. (BUTCH) BOWERS, JR.  
butch.bowers@hallbowers.com

M. TODD CARROLL  
todd.carroll@hallbowers.com

October 17, 2011

RECEIVED

OCT 17 2011

The Honorable Daniel E. Shearouse  
Clerk of Court  
South Carolina Supreme Court  
1231 Gervais Street  
Columbia, SC 29201

S.C. Supreme Court

Re: James W. Peterson, Jr., as receiver for Pee Dee Land Company, LLC v. Florence  
County *et al.*

Dear Mr. Shearouse:

Please find enclosed for filing an original and one copy of the Initial Reply Brief of Appellants. We would appreciate you returning a file-stamped copy of the Return Brief via our courier.

Thank you for your assistance with the above. If we can provide the Court with any additional information or materials, please do not hesitate to call on us.

Sincerely,

M. Todd Carroll

Enclosures

cc: Charles E. Carpenter, Jr.  
Michael C. Abbott

RECEIVED

OCT 17 2011

---

**PROOF OF SERVICE**

---

**S.C. Supreme Court**

I, the undersigned Attorney of the law offices of Hall & Bowers, LLC, attorneys for Appellants, do hereby certify that I have served the below parties in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same to the following address(es):

**PLEADING:** Initial Reply Brief of Appellants

**PARTIES SERVED:** Charles E. Carpenter, Jr., Esquire  
Carmen V. Ganjehsani, Esquire  
Carpenter Appeals and Trial Support LLC  
1201 Main Street, Suite 980  
Columbia, SC 29201

Michael C. Abbott, Esquire  
Abbott & McKissick Law Firm, LLC  
702 W. Evans Street  
Florence, South Carolina 29503

HALL & BOWERS, LLC

By: 

Kevin A. Hall  
M. Todd Carroll  
1727 Hampton Street  
Columbia, SC 29201  
(803) 454-6504

Attorneys for Appellants Dean C. Fowler, Jr., in his official capacity as Florence County Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor

Columbia, South Carolina  
October 17, 2011

# CARPENTER APPEALS & TRIAL SUPPORT, LLC



Charles E. Carpenter Jr. \*~

\* Member of South Carolina Bar  
~ Member of Virginia Bar  
Appellate Counsel

[charlie@carpenterappeals.com](mailto:charlie@carpenterappeals.com)

Carmen Vaughn Ganjehsani\*^

\* Member of South Carolina Bar  
^ Member of Georgia Bar  
Appellate Counsel

[carmen@carpenterappeals.com](mailto:carmen@carpenterappeals.com)

[www.carpenterappeals.com](http://www.carpenterappeals.com)

1201 Main St. Suite 980  
Columbia, SC 29201  
Fax 1-803-758-2887  
Tel 1-803-758-2886

RECEIVED

OCT 12 2011

October 7, 2011

The Honorable Daniel E. Shearouse  
Clerk, Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, SC 29211

S.C. Supreme Court

Re: *James W. Peterson, Jr., as Receiver for Pee Dee Land Company, LLC, and on behalf of its wholly-owned subsidiary Waverly Woods at Claussen, LLC, Plaintiff-Respondent v. Florence County, Defendant-Respondent and Dean C. Fowler, Jr., in his official capacity as Florence County Treasurer and H. Wayne Joye, in his official capacity as Florence County Auditor – Proposed Interveners-Appellants.*  
Civil Action No. 2009-CP-21-1902  
Our File No. 10-0070

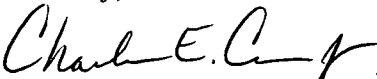
Dear Mr. Shearouse:

Enclosed for filing are the original Initial Brief of Respondent Pee Dee Land Company, LLC and its Designation of Matter to be Included in the Record on Appeal in the above referenced matter, along with our original Certificates of Service.

By copy of this letter, we are this day serving a copy of our Initial Brief and Designations on all counsel of record.

Should you have any questions regarding this matter, please do not hesitate to call.

Sincerely,

  
Charles E. Carpenter, Jr.

Enclosures

cc: Kevin A. Hall, Esquire  
M. Todd Carroll, Esquire  
Michael C. Abbott, Esquire

**CERTIFICATE OF SERVICE**

I, the undersigned, an employee of Carpenter Appeals and Trial Support, LLC, attorneys for Respondent, Pee Dee Land Company, LLC, do hereby certify that I have this date served the foregoing Designation of Matter to be Included in the Record on Appeal, dated October 7, 2011, by personally depositing a copy of the same in a United States Postal Service mailbox, postage prepaid, addressed to the parties indicated below:

Kevin A. Hall, Esquire  
M. Todd Carroll, Esquire  
Hall & Bowers, LLC  
1727 Hampton Street  
Columbia, SC 29201

**Attorneys for  
Dean C. Fowler, Jr.,  
in his official capacity as Florence County  
Treasurer, and H. Wayne Joye, in his official  
Capacity as Florence County Auditor**

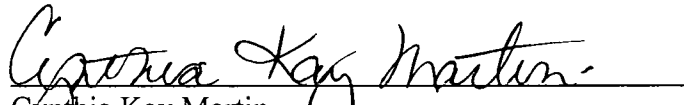
**RECEIVED**

OCT 12 2011

**S.C. Supreme Court**

Michael C. Abbott, Esquire  
Abbott & McKissick Law Firm, LLC  
702 W. Evans St.  
Post Office Box 148  
Florence, SC 29503

**Attorneys for Respondent Florence County**

  
Cynthia Kay Martin,  
Legal Assistant to Charles E. Carpenter, Jr.

Dated: October 7, 2011.

Abbott &  
McKissick  
Law Firm, LLC

Michael C. Abbott  
Robert D. McKissick

P.O. Box 148  
702 W. Evans Street  
Florence, SC 29503

(843) 669-0089  
(843) 669-0085 Fax  
abbottmckissicklaw.com

October 7, 2011

The Honorable Daniel E. Shearouse  
Clerk, Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, SC 29211-1339

Re: Peterson, James v. Florence County  
Our File #2011002

Dear Mr. Shearouse:

Please find enclosed Respondent Florence County's Initial Brief, Designation of Matter to Be Included in the Record on Appeal, Rule 209 Certification, and a Certificate of Service as to the same.

Please also find enclosed a copy of each which I would appreciate your returning in the enclosed self-addressed, stamped envelope.

By copy of this letter, I am serving all counsel.

Yours very truly,

*Michael C. Abbott*

MICHAEL C. ABBOTT

*by: Robert D. McKissick*

MCA/kch  
Enclosures

cc: Charles Carpenter, Esquire  
Kevin Hall, Esq.

**RECEIVED**

OCT 11 2011

**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

RECEIVED

OCT 11 2011

S.C. Supreme Court

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Court Judge

Case Nos. 2009-CP-21-1902  
2009-CP-10-7593

James W. Peterson, Jr., as Receiver for the Pee Dee  
Land Company, LLC, and on behalf of its  
wholly-owned subsidiary Waverly Woods  
at Claussen, LLC, ..... Plaintiff-  
Respondent.

v.

Florence County, ..... Defendant-  
Respondent,

and

Dean C. Fowler, Jr., in his official capacity as Florence  
County Treasurer, and H. Wayne Joye, in his official  
capacity as Florence County Auditor, ..... Proposed  
Interveners-  
Appellants.

CERTIFICATE OF SERVICE

I certify that copies of the Initial Brief of Respondent Florence County, Florence County's Designation of Matter and Rule 209 Certification were served on all counsel of record by placing the same in the U.S. Mail today, sufficient first-class postage prepaid, addressed to:

Kevin A. Hall, Esquire  
HALL & BOWERS, LLC  
1329 Blanding Street  
Columbia, SC 29201

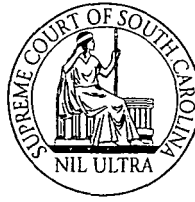
Charles E. Carpenter, Jr., Esquire  
Carpenter Appeals and Trial Support LLC  
1201 Main Street, Suite 900  
Columbia, SC 29201

*Michael C. Abbott by: Robert D. McKissick*

Michael C. Abbott  
ABBOTT & MCKISSICK LAW FIRM, LLC  
702 W. Evans Street  
Florence, SC 29503

Florence, South Carolina

October 7, 2011



# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

September 30, 2011

Charles E. Carpenter, Jr., Esquire  
Carmen V. Ganjehsani, Esquire  
Carpenter Appeals and Trial  
Support, LLC  
1201 Main Street, Suite 980  
Columbia, SC 29201


Re: Pee Dee Land v. Florence County (Fowler)

Dear Counsel:

Enclosed is the order issued in the above entitled matter.

By copy of this letter and order, we are advising all interested parties of the action by the Court.

Very truly yours,



CLERK

DES/lda

cc: Kevin A. Hall, Esquire  
Matthew Todd Carroll, Esquire  
Michael Charles Abbott, Esquire  
The Honorable Tanya Gee

# The Supreme Court of South Carolina

Pee Dee Land Company, LLC  
and on behalf of its wholly-  
owned subsidiary Waverly  
Woods at Claussen, LLC,                      Petitioner,

v.

Florence County, Dean C.  
Fowler, Jr., in his official  
capacity as Florence County  
Treasurer, and H. Wayne Joye,  
in his official capacity as  
Florence County Auditor,                      Respondents.

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## ORDER

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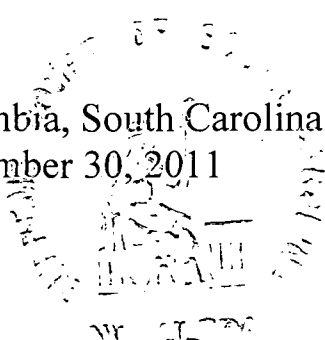
Petitioner has filed a petition in this Court's original jurisdiction seeking to enjoin, among other actions, the sale of its property at a tax sale scheduled for October 3, 2011. Respondent Florence County does not object to a temporary injunction to prevent the impending tax sale. However, respondents Dean C. Fowler, Jr. and H. Wayne Joye have filed returns in opposition to the requested relief. We grant the request to enjoin respondents from proceeding with the sale of petitioner's property pending consideration by the full Court of petitioner's remaining requests for an injunction and its

request for a writ of mandamus. In addition, we grant petitioner's request to certify the appeal in James W. Peterson, Jr., as Receiver for Pee Dee Land Company, LLC and on behalf of its wholly –owned subsidiary Waverly Woods at Claussen, LLC, v. Florence County, Dean C. Fowler, Jr., in his official capacity as Florence County Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor, which is currently pending before the Court of Appeals, to this Court. See Rule 204(b), SCACR.

IT IS SO ORDERED.

  
C. J.  
FOR THE COURT

Columbia, South Carolina  
September 30, 2011





# The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

September 16, 2011

Kevin A. Hall, Esquire  
M. Todd Carroll, Esquire  
1727 Hampton Street  
Columbia, SC 29201

Re: Peterson, James v. Florence County (2)  
**2011193889**

Dear Counsel:

As of today's date, we have not received a Certificate of Counsel for the Designation of Matter of your Initial Brief in the above case. Please provide this Court with a Certificate of Counsel for the Designation of Matter within seven (7) days of the date of this letter.

Failure to provide this item, may result in the dismissal of the appeal.

Very truly yours,

*V. Claire Allen, Deputy*  
CLERK

TAG/mpm

cc: Charles E. Carpenter, Jr., Esquire  
Carmen V. Ganjehsani, Esquire  
Michael Charles Abbott, Esquire

# The South Carolina Court of Appeals

James W. Peterson, Jr., as Receiver for  
Pee Dee Land Company, LLC and on  
behalf of its wholly-owned subsidiary  
Waverly Woods at Claussen, LLC, Respondents,

v.

Florence County, Respondent,

And Dean C. Folwler, Jr., in his official  
capacity as Florence County Treasurer,  
and H. Wayne Joye, in his official  
capacity as Florence County Auditor, Intervenor Appellants.

The Honorable Michael G. Nettles  
Florence County  
Trial Court Case No. 2009-CP-10-07593  
2009-CP-21-01902

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## ORDER

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For good cause having been shown, the time for serving and filing the Respondent's Initial Brief and Designation of Matter of the Respondent Florence County and the Respondent's Initial Brief and Designation of Matter of the Respondent James W. Peterson, as Receiver for Pee Dee Land Company, in the above entitled matter is hereby extended until October 7, 2011.

IT IS SO ORDERED.

JOHN CANNON FEW, CHIEF JUDGE

BY V. Claire Allan, Deputy  
CLERK

Columbia, South Carolina  
cc: Kevin A. Hall, Esquire  
M. Todd Carroll, Esquire  
Charles E. Carpenter, Jr., Esquire  
Carmen V. Ganjehsani, Esquire  
Michael Charles Abbott, Esquire

**FILED**

scarter 9/9/11

# CARPENTER APPEALS & TRIAL SUPPORT, LLC



Charles E. Carpenter Jr. \*~

\* Member of South Carolina Bar  
~ Member of Virginia Bar  
Appellate Counsel

[charlie@carpenterappeals.com](mailto:charlie@carpenterappeals.com)

Carmen Vaughn Ganjehsani\*^

\* Member of South Carolina Bar  
^ Member of Georgia Bar  
Appellate Counsel

[carmen@carpenterappeals.com](mailto:carmen@carpenterappeals.com)

[www.carpenterappeals.com](http://www.carpenterappeals.com)

1201 Main St. Suite 980  
Columbia, SC 29201  
Fax 1-803-758-2887  
Tel 1-803-758-2886

September 7, 2011

The Honorable Tanya Gee  
Clerk, SC Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

**RECEIVED**  
SEP 08 2011  
SC Court of Appeals

Re: *James W. Peterson, Jr., as Receiver for Pee Dee Land Company, LLC, and on behalf of its wholly-owned subsidiary Waverly Woods at Claussen, LLC, Plaintiff, of whom Pee Dee Land Company, LLC is the Respondent v. Florence County and Dean C. Fowler, in his official capacity as Florence County Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor, Proposed Intervenors-Appellants*  
Civil Action No. 2009-CP-21-1902  
Civil Action No. 2009-CP-10-7593  
Tracking No. 2011193889

Dear Ms. Gee:

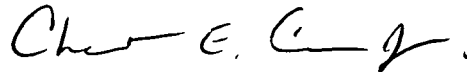
As counsel for the Respondent, Pee Dee Land Company, in the above-referenced case, we respectfully request a 30-day extension of time in which to serve and file our Initial Respondent's Brief and Designation of Matter to be Included in the Record on Appeal. The Brief and Designation are currently due on Wednesday, September 7, 2011. However, with a 30-day extension of time, they would be due on Friday, October 7, 2011.

We find it necessary to request this extension due to our obligations and deadlines in other matters. This is our first request for an extension of time to serve and file the Initial Respondent's Brief and Designation of Matter.

The Honorable Tanya Gee  
September 7, 2011  
Page 2

I am enclosing the \$25.00 filing fee and thank you for your consideration of this request. By copy of this letter, I am notifying counsel of record of this correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Carpenter, Jr." with a stylized flourish at the end.

Charles E. Carpenter, Jr.

Enclosure

cc: Kevin A. Hall, Esquire  
M. Todd Carroll, Esquire  
Michael C. Abbott, Esquire

Abbott &  
McKissick  
Law Firm, LLC

Michael C. Abbott  
Robert D. McKissick

P.O. Box 148  
702 W. Evans Street  
Florence, SC 29503

(843) 669-0089  
(843) 669-0085 Fax  
abbottmckissicklaw.com

September 1, 2011

The Honorable Tanya Gee  
Clerk, Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

RECEIVED  
SEP 06 2011  
SC COURT OF APPEALS

Re: James W. Peterson, Jr., as Recover the Pee Dee  
Land Company, LLC and on behalf of its  
wholly-owned subsidiary Waverly Woods at  
Claussen, LLC, Plaintiff- Respondent vs.  
Florence County, Defendant-Respondent,  
Appellant, and Dean C. Fowler, Jr., in his  
official capacity as Florence County Treasurer,  
and H. Wayne Joye, in his official capacity as  
Florence County Auditor, Proposed Interveners-  
Appellants  
Case No.: 2009-CP-21-1902  
Case Tracking No.: 2011193889  
Our File #2011002

Dear Ms. Gee:

Respondent Florence County respectfully requests a 30-day extension of time to file its Initial Brief. This is due to counsel's other obligations and deadlines, and is the Respondent's first request for an extension of time in this matter.

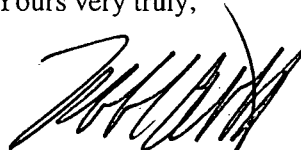
Respondent further requests that the deadline for filing its Brief be held in abeyance until this Court can consider this motion.

We previously forwarded a check in the amount of \$25.00 for the filing fee.

By copy of this letter, I am serving all counsel in this matter.

I would ask that you return a stamped copy in the enclosed self-addressed envelope.

Yours very truly,



MICHAEL C. ABBOTT

MCA/kch  
Enclosures

cc: Kevin A. Hall, Esq.  
Charles C. Carpenter, Esq.

9/1/11  
10/1/11



## The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 31, 2011

Kevin A. Hall, Esquire  
M. Todd Carroll, Esquire  
1727 Hampton Street  
Columbia, SC 29201

Charles E. Carpenter, Jr., Esquire  
Carmen V. Ganjehsani, Esquire  
1201 Main Street  
Suite 980  
Columbia, SC 29201

Michael Charles Abbott, Esquire  
Abbott & McKissick Law Firm, LLC  
P.O. Box 148  
Florence, SC 29503

Re: Peterson, James v. Florence County (2)  
**2011193889**

Dear Counsel:

We have received the Appellant's Initial Brief and Designation of Matter in the above case. However, the Court has not received from the Appellant a letter indicating the date of receipt of the transcript.

Furthermore, the Designation of Matter was filed without a Certificate of Counsel. The Appellant is to provide the Court with the date of receipt of the transcript and a Certificate of Counsel for the Designation of Matter within ten (10) days of the date of this letter.

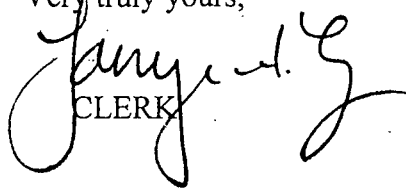
The cover of the Appellant's Initial Brief only shows the court case # 2009-CP-21-1902. Please be advised that all Briefs and the Record on Appeal must also show the court case # 2009-CP-10-7593.

We have received from the Respondent an Extension Request to file the Initial Brief in the above. However, this Extension Request was filed without an original signature. The Respondent

is to provide this Court with an Extension Request with an original signature within ten (10) days of the date of this letter.

All parties are advised that the tracking number for this appeal is # 2011193889.

Very truly yours,

  
CLERK

TAG/mpm

September 2, 2011

The Honorable Tanya A. Gee  
Clerk of the South Carolina Court of Appeals  
1015 Sumter Street  
Post Office Box 11629 (29211)  
Columbia, South Carolina 29201

Re: Peterson v. Florence County et al.  
Case Tracking Number 2011193889

**RECEIVED**

SEP 06 2011

**SC Court of Appeals**

KEVIN A. HALL  
kevin.hall@hallbowers.com  
KARL S. (BUTCH) BOWERS, JR.  
butch.bowers@hallbowers.com  
M. TODD CARROLL  
todd.carroll@hallbowers.com

Dear Ms. Gee:

We recently received the Court's letter of August 31, 2011, with respect to the above-referenced case. We apologize for the oversight on our part. Please allow this letter to confirm that the Appellants received a copy of the transcript on July 8, 2011.

The final sentence of Appellants' Designation of Matter to be Included in the Record on Appeal, found at the bottom of Page 2, states as follows: "The below-signed certify that this designation contains no matter and/or items that are irrelevant to this appeal." That Designation was filed contemporaneously with Appellants' Initial Brief on August 8, 2011. Please allow this letter to serve as further certification that Appellant's Designation of Matter did not contain any matter that is irrelevant to the appeal.

We will amend the cover of our brief prior to filing it as a Final Brief, as well as the cover of the Record on Appeal, to reflect the dual case numbers from the circuit court.

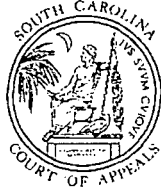
Finally, with respect to Respondent Florence County's motion for an extension to file its response brief, Appellants do not object to that request. However, because there are two respondents who are not filing a joint brief, Appellants would ask that the Court's order also permit Appellants to file their reply brief within ten days after service of the later of the two Respondents' respective briefs. This will allow Appellants to submit only a single reply brief, rather than having to reply to each Respondent's brief individually.

Thank you for your assistance with the above. If we can provide the Court with any additional information or materials, please do not hesitate to call on us.

Sincerely,

  
M. Todd Carroll

cc: Charles E. Carpenter, Jr.  
Michael C. Abbott



## The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 31, 2011

Kevin A. Hall, Esquire  
M. Todd Carroll, Esquire  
1727 Hampton Street  
Columbia, SC 29201

Charles E. Carpenter, Jr., Esquire  
Carmen V. Ganjehsani, Esquire  
1201 Main Street  
Suite 980  
Columbia, SC 29201

Michael Charles Abbott, Esquire  
Abbott & McKissick Law Firm, LLC  
P.O. Box 148  
Florence, SC 29503

Re: Peterson, James v. Florence County (2)  
**2011193889**

Dear Counsel:

We have received the Appellant's Initial Brief and Designation of Matter in the above case. However, the Court has not received from the Appellant a letter indicating the date of receipt of the transcript.

Furthermore, the Designation of Matter was filed without a Certificate of Counsel. The Appellant is to provide the Court with the date of receipt of the transcript and a Certificate of Counsel for the Designation of Matter within ten (10) days of the date of this letter.

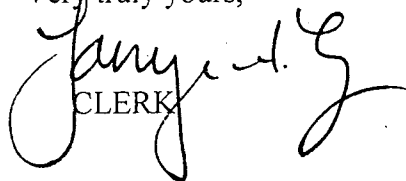
The cover of the Appellant's Initial Brief only shows the court case # 2009-CP-21-1902. Please be advised that all Briefs and the Record on Appeal must also show the court case # 2009-CP-10-7593.

We have received from the Respondent an Extension Request to file the Initial Brief in the above. However, this Extension Request was filed without an original signature. The Respondent

is to provide this Court with an Extension Request with an original signature within ten (10) days of the date of this letter.

All parties are advised that the tracking number for this appeal is # 2011193889.

Very truly yours,

  
CLERK

TAG/mpm

Abbott &  
McKissick  
Law Firm, LLC

Michael C. Abbott  
Robert D. McKissick

P.O. Box 148  
702 W. Evans Street  
Florence, SC 29503

(843) 669-0089  
(843) 669-0085 Fax  
abbottmckissicklaw.com

August 23, 2011

The Honorable Tanya Gee  
Clerk, Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

**RECEIVED**  
AUG 24 2011  
**SC Court of Appeals**

Re: James W. Peterson, Jr., as Recover the Pee Dee Land Company, LLC and on behalf of its wholly-owned subsidiary Waverly Woods at Claussen, LLC, Plaintiff- Respondent vs. Florence County, Defendant-Respondent, Appellant, and Dean C. Fowler, Jr., in his official capacity as Florence County Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor, Proposed Interveners-Appellants  
Case No.: 2009-CP-21-1902  
Case Tracking No.: 2009144626  
Our File #2011002

Dear Ms. Gee:

Respondent Florence County respectfully requests a 30-day extension of time to file its Initial Brief. This is due to counsel's other obligations and deadlines, and is the Respondent's first request for an extension of time in this matter.

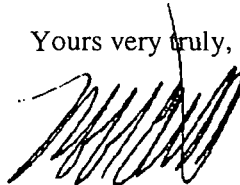
Respondent further requests that the deadline for filing its Brief be held in abeyance until this Court can consider this motion.

Please find enclosed a check in the amount of \$25.00 as the filing fee.

By copy of this letter, I am serving all counsel in this matter.

I would ask that you return a stamped copy in the enclosed self-addressed envelope.

Yours very truly,



MICHAEL C. ABBOTT

MCA/kch  
Enclosures

cc: Mr. Kevin A. Hall  
Charles C. Carpenter, Esq.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

RECEIVED

Michael G. Nettles, Circuit Court Judge

AUG 08 2011

SC Court of Appeals

Case No. 2009-CP-21-1902

James W. Peterson, Jr., as Receiver for Pee Dee Land Company, LLC, and on behalf of its wholly-owned subsidiary Waverly Woods at Claussen, LLC,..... Plaintiff-Respondent,

v.

Florence County, ..... Defendant-Respondent,

and

Dean C. Fowler, Jr., in his official capacity as Florence County Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor, ..... Proposed Interveners-Appellants.

APPELLANTS' DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

Appellants hereby designate the following materials that they propose to include in the Record on Appeal:

**ORDERS**

1. Order of the Circuit Court (Sept. 30, 2009)
2. Order of the Circuit Court (May 23, 2011)
3. Order of Substitution from the Court of Appeals (Feb. 16, 2010)
4. Order of Dismissal from the Court of Appeals (July 26, 2010)

5. Order from the Supreme Court (Oct. 6, 2010) (via letter from the Court)

**PLEADINGS**

6. Pee Dee Land Company's Petition for Rule to Show Cause (Aug. 25, 2009)
7. Florence County's Response to Petition for Rule to Show Cause (Aug. 26, 2009)
8. Initial Notice of Appeal (Oct. 29, 2009)
9. Motion to Substitute Party before the Court of Appeals (Dec. 21, 2009)
10. Petition for Writ of Prohibition to the Supreme Court in its original jurisdiction (Aug. 2, 2010)
11. Treasurer's Motion to Intervene and for Relief from Judgment before the Circuit Court (Sept. 30, 2010)
12. Auditor's Motion to Intervene and for Relief from Judgment before the Circuit Court (Nov. 24, 2010)

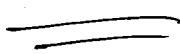
**TRANSCRIPT**

13. April 25, 2011 hearing before the Circuit Court

**OTHER MATERIALS AND DOCUMENTS**

14. Memorandum Supporting the Position of Defendant, Florence County (Sept. 9, 2009)
15. Letter from James C. Rushton, III, to Kevin A. Hall (Dec. 1, 2009)
16. Affidavit of James C. Rushton, III
17. Affidavit of Dean C. Fowler, Jr.


The below-signed certify that this designation contains no matter and/or items that are irrelevant to this appeal.



Respectfully submitted,

HALL & BOWERS, LLC

By: \_\_\_\_\_

  
Kevin A. Hall  
SC Bar No. 015063  
Email: kevin.hall@hallbowers.com  
M. Todd Carroll  
SC Bar No. 74000  
Email: todd.carroll@hallbowers.com  
1727 Hampton Street  
Columbia, SC 29201  
(803) 454-6504

Attorneys for Appellants Dean C. Fowler, Jr., in his  
official capacity as Florence County Treasurer, and H.  
Wayne Joye, in his official capacity as Florence County  
Auditor

Columbia, South Carolina  
August 8, 2011

**RECEIVED**  
AUG 08 2011  
SC Court of Appeals





# HALL BOWERS

HALL & BOWERS, LLC  
ATTORNEYS AT LAW

1727 Hampton Street | Columbia, SC 29201

803.454.6504 tel

803.454.6509 fax

hallbowers.com

August 8, 2011

KEVIN A. HALL

kevin.hall@hallbowers.com

KARL S. (BUTCH) BOWERS, JR.  
butch.bowers@hallbowers.com

M. TODD CARROLL  
todd.carroll@hallbowers.com

The Honorable Tanya Gee  
Clerk of Court  
SC Court of Appeals  
1015 Sumter Street - 5th Floor  
Columbia, SC 29201

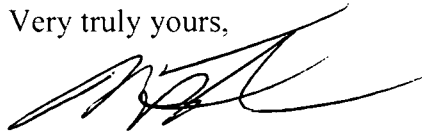
Re: James W. Peterson, Jr., as Receiver for Pee Dee Land Company, LLC, and on behalf of its wholly-owned subsidiary Waverly Woods at Claussen, LLC, Plaintiff, of whom Pee Dee Land Company, LLC is the Respondent, v. Florence County, Defendant, of whom Dean Fowler, Jr., in his official capacity as Florence County Treasurer, is the Appellant  
Case No. 2009-CP-21-1902  
Case Tracking No. 2009144626

Dear Ms. Gee:

Enclosed please find the original and two copies each of the Initial Brief of Appellants and Appellants' Designation of Matter to be Included in the Record on Appeal. We would appreciate your filing the originals in the captioned matter and returning file stamped copies to us via our courier.

Thank you.

Very truly yours,



M. Todd Carroll

MTC/dj  
Enclosures

cc: Charles E. Carpenter, Jr., Esquire  
Michael C. Abbott, Esquire

**RECEIVED**

AUG 08 2011

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Case No. 2009-CP-21-1902

**RECEIVED**  
JUL 07 2011  
SC Court of Appeals  
Plaintiff-  
Respondent

James W. Peterson, Jr., as Receiver for Pee Dee Land  
Company, LLC, and on behalf of its wholly-owned  
subsidiary Waverly Woods at Claussen, LLC,.....

v.

Florence County, .....

Defendant-  
Respondent,

and

Dean C. Fowler, Jr., in his official capacity as Florence  
County Treasurer, and H. Wayne Joye, in his official  
capacity as Florence County Auditor, .....

Proposed  
Interveners-  
Appellants.

AMENDED NOTICE OF APPEAL

Appellants Dean C. Fowler, Jr., in his official capacity as Florence County  
Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor,  
appeal two Orders that were issued by the Honorable Michael G. Nettles, Circuit Court  
Judge for the Twelfth Judicial Circuit in the above-captioned case. The first order is  
dated September 30, 2009, and the second is dated May 23, 2011. Copies of each are  
attached hereto. Both the Plaintiff and the putative Defendant below are Respondents to  
this appeal.

Respectfully submitted,

HALL & BOWERS, LLC

By: 

Kevin A. Hall  
SC Bar No. 015063  
M. Todd Carroll  
SC Bar No. 74000  
1727 Hampton Street  
Columbia, South Carolina 29201  
(803) 464-6504

Attorneys for Appellants Dean C. Fowler, Jr., in his official capacity as Florence County Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor

Columbia, South Carolina  
July 6, 2011

Other Counsel of Record:

Charles E. Carpenter, Jr.  
Carmen V. Ganjehsani  
Carpenter Appeals & Trial Support, LLC  
1201 Main Street, Ste. 980  
Columbia, South Carolina 29201  
(803) 758-2886

*Attorneys for Respondent Plaintiff*

Michael C. Abbott  
Abbott & McKissick Law Firm, LLC  
702 W. Evans Street  
Florence, South Carolina 29503  
(843) 669-0089

*Attorneys for Respondent Florence County*

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

---

Case No. 2009-CP-21-1902

---

James W. Peterson, Jr., as Receiver for Pee Dee Land  
Company, LLC, and on behalf of its wholly-owned  
subsidiary Waverly Woods at Claussen, LLC,..... Plaintiff-  
Respondent,

v.

Florence County, ..... Defendant-  
Respondent,

and

Dean C. Fowler, Jr., in his official capacity as Florence  
County Treasurer, and H. Wayne Joye, in his official  
capacity as Florence County Auditor, ..... Proposed  
Interveners-  
Appellants.

---

**PROOF OF SERVICE**

---

I, the undersigned Administrative Assistant of the law offices of Hall & Bowers, LLC, attorneys for Appellants, do hereby certify that I have served the below parties in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same, postage prepaid, to the following address(es):

Pleading: Amended Notice of Appeal

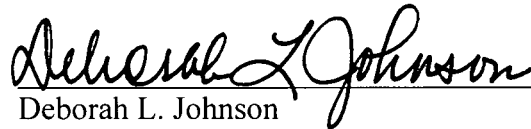
Parties Served:

Charles E. Carpenter, Jr.  
Carmen V. Ganjehsani  
Carpenter Appeals & Trial Support, LLC  
1201 Main Street, Ste. 980  
Columbia, South Carolina 29201  
(803) 758-2886

*Attorneys for Respondent Plaintiff*

Michael C. Abbott  
Abbott & McKissick Law Firm, LLC  
702 W. Evans Street  
Florence, South Carolina 29503  
(843) 669-0089

*Attorneys for Respondent Florence County*

  
Deborah L. Johnson

July 6, 2011

# HALL BOWERS

HALL & BOWERS, LLC  
ATTORNEYS AT LAW

1727 Hampton Street | Columbia, SC 29201

803.454.6504 tel

803.454.6509 fax

hallbowers.com

KEVIN A. HALL  
kevin.hall@hallbowers.com

KARL S. (BUTCH) BOWERS, JR.  
butch.bowers@hallbowers.com

M. TODD CARROLL  
todd.carroll@hallbowers.com

July 6, 2011

**RECEIVED**

JUL 07 2011

**SC Court of Appeals**

The Honorable Tanya Gee  
Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street, 5th Floor  
Columbia, South Carolina 29201

Re: Peterson v. Florence County *et al.*  
Case No. 2009-CP-21-1902  
Case Tracking No. 2011-193889

Dear Ms. Gee:

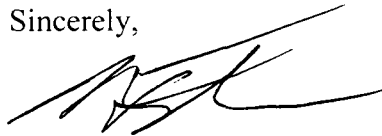
Pursuant to the Court's request, enclosed please find an original and one copy of an Amended Notice of Appeal clarifying which parties are respondents to this appeal. A copy of each judgment that is to be challenged on appeal is also enclosed.

We would appreciate it if you could file the original and return a file-stamped copy to us in the enclosed envelope. By copy to all counsel of record, we are hereby serving them with this Amended Notice.

**Additionally, please be advised of our new street address: 1727 Hampton Street, in Columbia (29201). We would appreciate it if you would update the Court's records and send all future mailings to this new address.**

Thank you for your assistance. Please do not hesitate to call on us if you have any questions.

Sincerely,



M. Todd Carroll

Enclosures

cc: Charles E. Carpenter, Jr., Esq.  
Carmen V. Ganjehsani, Esq.  
Michael C. Abbott, Esq.  
*All with Enclosures*

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

JAMES W. PETERSON, JR. AS RECEIVER FOR  
PEE DEE LAND COMPANY, LLC AND ON  
BEHALF OF ITS WHOLLY-OWNED  
SUBSIDIARY, WAVERLY WOODS AT  
CLAUSSEN, LLC,

Plaintiff,

v.

FLORENCE COUNTY,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE  
TWELFTH JUDICIAL CIRCUIT

CIVIL ACTION NO. 09-CP-10-7593

09-CP-21-1902

ORDER DENYING  
MOTIONS TO INTERVENE AND FOR  
RELIEF FROM JUDGMENT

CERTIFIED: A TRUE COPY

*Connie Reel Shearin*

CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

Dean Fowler, Jr., in his official capacity as Florence County Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor, have each filed a Motion to Intervene in the above-captioned litigation and for Relief from Judgment. These motions were filed pursuant to Rules 24 and 60 of the South Carolina Rules of Civil Procedure.

The Motions were heard in open court on April 25, 2011. Kevin A. Hall and M. Todd Carroll of Hall & Bowers, LLC appeared on behalf of the Treasurer and the Auditor. Carmen V. Ganjehsani of Carpenter Appeals & Trial Support, LLC appeared on behalf of Pee Dee Land Company, LLC. Michael C. Abbott appeared on behalf of Florence County.

For the reasons set forth herein, the Court hereby denies the Treasurer's and the Auditor's Motions to Intervene and for Relief from Judgment.

CONNIE REEL-SHEARIN  
C.C.P. & G.S.  
FLORENCE COUNTY, S.C.

2011 MAY 24 AM 11:05

FILED

I. FACTUAL FINDINGS AND PROCEDURAL HISTORY

This case initially came before this Court upon a Petition for Rule to Show Cause filed by James W. Peterson, Jr. on August 25, 2009 as Receiver for Pee Dee Land Company, LLC and on behalf of its wholly-owned subsidiary Waverly Woods at Claussen, LLC to show cause why this Court should not order that Waverly Woods at Claussen, LLC, a wholly-owned subsidiary of Pee Dee Land Company, LLC, is entitled to the multiple lot discount for the property taxes assessed in 2008 by the Florence County Tax Assessor on lots owned by Pee Dee Land Company's wholly-owned subsidiary Waverly Woods at Claussen, LLC.

The issue before this Court was the result of this Court's appointment of Peterson as a receiver for Pee Dee Land Company on March 3, 2008. Pee Dee Land Company timely moved this Court to reconsider the appointment. The Motion to Reconsider was not ruled upon until May 23, 2008 when it was denied.

After this Court's initial appointment of the Receiver, but before the Receiver knew of the appointment, the Florence County Tax Assessor sent a notice to the company regarding the multiple lot discount under S.C. CODE §§ 12-43-224 and 12-43-225 and the May 1, 2008 deadline for seeking such tax discount.

From March 3, 2008 to May 23, 2008, it was not clear who, if anyone, had any legal authority to act on behalf of Pee Dee Land Company. Therefore, no one applied for the tax discount by the deadline.

The tax discount would have been granted except for the timeliness. After this Court's denial of the Motion to Reconsider, Peterson as Receiver then applied for the multiple lot discount with the Assessor, and the Assessor denied the application.

The Receiver then filed the Petition for Rule to Show Cause as to why he should not be allowed to file an application for the multiple lot discount after the deadline. Florence County appeared and opposed the Petition.

This Court exercised its equity power, found this to be an exceptional circumstance where it was unclear who could apply for the multiple lot discount prior to May 1, 2008, and ordered the Assessor to apply the multiple lot discount to the lots in question (attached hereto as Exhibit A) and accordingly reduce the taxes owed. This Court also ordered the Assessor to remove any levies or delinquency penalties placed on any of the lots owned by Pee Dee Land Company, LLC or Waverly Woods at Claussen, LLC as a result of the multiple lot discount issue. This Order was issued on September 30, 2009.

The deadline to appeal the decision with the South Carolina Court of Appeals was October 31, 2009. Florence County did not appeal the decision, and the judgment in this case was for all purposes at that point in time final. Neither Florence County nor the Assessor have ever made any motion for relief from this Court's judgment, and they have made the decision to abide by the judgment of this Court.

Dean Fowler, Jr., Treasurer, however, purported to file a Notice of Appeal with the Court of Appeals on October 29, 2009 in the name of Florence County. Pee Dee Land Company, which by this time was no longer under a receivership, filed a Motion to Dismiss with the Court of Appeals on the ground that the Treasurer was not a party to the case and had no standing to appeal. The Court of Appeals dismissed the appeal on this basis in an order filed July 26, 2010. The Remittitur was issued on August 17, 2010.

Dean Fowler, Jr., purportedly in his official capacity as Florence County Treasurer, not being satisfied with the decision of this Court, or with the decision of the South Carolina Court of Appeals, filed a Petition for a Writ of Prohibition with the South Carolina Supreme Court on August 2, 2010.

The Supreme Court denied this Petition on October 6, 2010.

Before the Supreme Court's denial of the Petition, Dean Fowler, Jr., in his official capacity as Florence County Treasurer, filed the pending Motion to Intervene and for Relief

from Judgment with this Court on September 30, 2010. Thereafter, H. Wayne Joye, in his official capacity as Florence County Auditor, also sought to intervene and moved for relief from the judgment in this Court on November 24, 2010.

## II. LAW AND ANALYSIS

### A. The Motions to Intervene are Denied.

#### 1. There is no longer a pending action in which to file motions.

This action has been over for a long period of time, and there is no pending action in which any person may move to intervene. This case was for all purposes final on October 31, 2009 when the time for filing a Notice of Appeal with the South Carolina Court of Appeals expired. Florence County did not appeal this Court's judgment. The Treasurer's Notice of Appeal with the South Carolina Court of Appeals was improper and dismissed by the Court of Appeals. That Notice of Appeal did not extend the life of the case. This action has long been concluded and the purported Motions to Intervene are denied because there is no longer an active pending case in which to file motions.

#### 2. The Motions to Intervene are untimely and allowing intervention would result in prejudice to Pee Dee Land Company, LLC.

The purported Motions to Intervene are also denied because they are untimely and would result in undue prejudice to Pee Dee Land Company. Rules 24(a) and (b), SCRPC, require "timely application" for intervention. A court must consider the following factors in determining whether a motion to intervene is timely:

- '1) the time that has passed since the applicant knew or should have known of his or her interest in the suit;
- 2) the reason for the delay;
- 3) the stage to which the litigation has progressed; and
- 4) the prejudice the original parties would suffer from granting intervention and the applicant would suffer from denying intervention.'

Ex parte Reichlyn, 310 S.C. 495, 500, 427 S.E.2d 661, 664 (1993) (quoting Davis v. Jennings, 304 S.C. 502, 504, 405 S.E.2d 601, 603 (1991)).

The Treasurer filed his Motion to Intervene a year after this Court's September 30, 2009 Order was filed. The Auditor did not file his Motion to Intervene until November 24, 2010, more than a year after this Court's September 30, 2009 Order was filed.

The Treasurer's actions demonstrated that he knew of his alleged interest in this suit well before the Motions to Intervene were filed. The Treasurer filed a Notice of Appeal with the South Carolina Court of Appeals on October 29, 2009 and later filed a brief in that appeal, raising the same issues to the Court of Appeals that he has raised in his Motion to Intervene and for Relief from Judgment. The Treasurer waited almost a year from the time he knew he had an alleged interest in the suit to intervene. The Auditor, having the same counsel as the Treasurer and having piggybacked the Treasurer's motion, likewise should have known of any alleged interest in the suit well before his November 24, 2010 motion.

The Treasurer and the Auditor have offered no justifiable reason for the delay in filing their motions to intervene.

The litigation has progressed to a stage where it is final and complete.

Pee Dee Land Company has already been prejudiced by having to unnecessarily spend an inordinate amount of money on attorneys' fees and costs to defend the continued unsubstantiated litigation brought by the Treasurer in this Court, the South Carolina Court of Appeals, and the South Carolina Supreme Court. Pee Dee Land Company has been unable to pay the taxes on the property at issue as the Treasurer has refused to accept payment. Counsel for Pee Dee Land Company further represented to this Court at the hearing that the Treasurer has made the property at issue subject to tax sale due to Pee

Dee Land Company's failure to pay the tax. Pee Dee Land Company is now in danger of its property being sold at a tax sale.

If intervention were granted, Pee Dee Land Company would suffer further prejudice by incurring additional attorneys' fees and costs to defend an order that is more than a year old, and Pee Dee Land Company would continue to be prevented by the Treasurer from paying the taxes. Pee Dee Land Company would continue to face the risk of losing its property at a tax sale. Pee Dee Land Company is entitled to have this tax dispute brought to a final closure. It is extremely prejudicial to Pee Dee Land Company to have this litigation go on and on.

This Court accordingly denies the Motions to Intervene as untimely.

3. **The Treasurer and the Auditor have no interest in the subject matter of this litigation and do not have standing to challenge this Court's Order.**

The Motions to Intervene must also be denied because the Treasurer and the Auditor do not have standing to challenge this Court's September 30, 2009 Order and do not have any interest relating to the property or transaction which is the subject matter of this action.

Under Rule 24(a)(2) regarding Intervention of Right, the applicant must "claim[ ] an interest relating to the property or transaction which is the subject of the action and [demonstrate] he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest."

Under the express terms of the statute governing multiple lot discounts, it is the Assessor charged with determining the discount: "[T]he county assessor shall appraise each lot as an individual property and then discount his gross actual market value estimate of the developer's lot holdings under [certain] conditions." S.C. CODE § 12-43-224. Further,

the "application for the discounted value shall be made to the assessor of the county in which the real property is located . . . ." Id.

The Treasurer and the Auditor have no interest under this statute. The Treasurer has no interest in the multiple lot discount except for the ministerial task of collecting payment of the taxes. The Auditor has no interest except for levying the tax bill. "A mere general interest in the subject matter of the litigation is not sufficient" to warrant intervention. South Carolina Tax Comm'n v. Union County Treasurer, 295 S.C. 257, 262; 368 S.E.2d 72, 75 (Ct. App. 1988).

Moreover, this Court's Order was directed to the Assessor, ordering the Assessor to apply the tax discount to the properties at issue. The Assessor has not and does not oppose this Court's Order. The Treasurer and Auditor lack standing to challenge an order addressed to the Assessor.

4. **Florence County adequately represented any interest of the Treasurer and the Auditor.**

Intervention is not permitted where "the applicant's interest is adequately represented by existing parties." Rule 24(a)(2), SCRPC. Florence County defended the Receiver's Petition for Rule to Show Cause. Counsel for Florence County confirmed at the hearing that it objected to the tax discount but had chosen not to further appeal this Court's Order. Florence County adequately represented any interest the Treasurer and the Auditor may have had in the litigation. Accordingly, the Motions to Intervene are denied on this basis as well.

B. **The Motions for Relief from Judgment are Denied.**

The Treasurer and the Auditor cannot intervene in this litigation; therefore, this Court need not reach the merits of the Treasurer's and the Auditor's Motions for Relief from

Judgment under Rule 60(b); SCROP. These motions, however, should be denied as well for the following reasons:

**1. The Treasurer's Motion for Relief from Judgment was filed in the wrong court.**

Rule 60(b) requires that "[d]uring the pendency of an appeal, leave to make the motion must be obtained from the appellate court." When the Treasurer filed his Motion for Relief From Judgment with this Court on September 30, 2010, this case was still pending in the South Carolina Supreme Court. The South Carolina Supreme Court did not deny the Petition for Writ of Prohibition until October 6, 2010. The Treasurer did not seek leave from the Supreme Court to file this motion. The Treasurer's Motion for Relief from Judgment is accordingly invalid because it was improperly filed in the wrong court.

**2. The Motions for Relief from Judgment are untimely.**

The Treasurer's and the Auditor's Motions for Relief from Judgment must be denied as untimely. Motions under Rule 60(b) must be made within a "reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken." The Auditor's November 24, 2010 motion seeking relief from the September 30, 2009 Order is clearly beyond the one year time limit.

Moreover, both the Treasurer's and the Auditor's motions were not filed within a reasonable period of time for the same reasons their Motions to Intervene were untimely.

(See supra Part II.A.2)

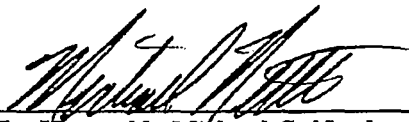
**3. The South Carolina Court of Appeals and the South Carolina Supreme Court have already rejected the same arguments raised by the Treasurer and the Auditor in this Court.**

The Treasurer has already raised the same issues to the South Carolina Court of Appeals and the South Carolina Supreme Court and both of those Courts have denied any relief. If this Court were to grant either of the Motions to Intervene or the Motions for

Relief from Judgment, doing so would have the effect of overruling the decision of the South Carolina Court of Appeals and the decision of the South Carolina Supreme Court. The motions are denied for this additional reason as well.

THEREFORE IT IS ORDERED that the Motions to Intervene and for Relief from Judgment filed by Dean Fowler, Jr., in his official capacity as Florence County Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor are DENIED for the reasons set forth herein.

While this Court cannot order and enjoin the Treasurer and the Auditor from taking certain actions because they are not parties to this particular lawsuit, this Court recognizes that Pee Dee Land Company has available to it different and separate remedies under the law to enforce its rights against the Treasurer and the Auditor. The rulings in this lawsuit do not prevent Pee Dee Land Company from taking future, separate action against the Treasurer and the Auditor should such action be necessary.

  
The Honorable Michael G. Nettles  
Chief Administrative Judge for the  
Twelfth Judicial Circuit

Florence, South Carolina  
5-23, 2011.

2011 MAY 24 AM 11:05  
CONNIE REEL-SHEARIN  
GCCP & GS  
FLORENCE COUNTY, SC

FILED

## EXHIBIT "A"

### Waverly Woods

	Map	Parcel Number	Tax Assessment	Penalty	Total
1	00210	026	\$112.19	\$88.83	\$201.02
2	21005	004	\$374.26	\$128.14	\$502.40
3	21005	005	\$374.26	\$128.14	\$502.40
4	21005	008	\$374.26	\$128.14	\$502.40
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9	21005	017	\$374.26	\$128.14	\$502.40
10	21005	018	\$374.26	\$128.14	\$502.40
11	21005	019	\$374.26	\$128.14	\$502.40
12	21005	020	\$374.26	\$128.14	\$502.40
13	21005	021	\$374.26	\$128.14	\$502.40
14	21005	022	\$374.26	\$128.14	\$502.40
15	21005	023	\$374.26	\$128.14	\$502.40
16	21005	024	\$374.26	\$128.14	\$502.40
17	21005	025	\$2,645.05	\$468.76	\$3,113.81
18	21005	029	\$374.26	\$128.14	\$502.40
19	21005	030	\$374.26	\$128.14	\$502.40
20	21005	033	\$374.26	\$128.14	\$502.40
21	21005	035	\$374.26	\$128.14	\$502.40
22	21005	036	\$374.26	\$128.14	\$502.40
23	21005	037	\$374.26	\$128.14	\$502.40
24	21005	043	\$374.26	\$128.14	\$502.40
25	21005	044	\$374.26	\$128.14	\$502.40
26	21005	045	\$374.26	\$128.14	\$502.40
27	21005	046	\$374.26	\$128.14	\$502.40
28	21005	047	\$374.26	\$128.14	\$502.40
29	21005	051	\$1,472.42	\$292.86	\$1,765.28
30	21009	001	\$374.26	\$128.14	\$502.40
31	21009	002	\$374.26	\$128.14	\$502.40
32	21009	003	\$374.26	\$128.14	\$502.40
33	21009	004	\$374.26	\$128.14	\$502.40
34	21009	005	\$374.26	\$128.14	\$502.40
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36	21009	010	\$374.26	\$128.14	\$502.40
37	21009	011	\$374.26	\$128.14	\$502.40
38	21009	012	\$374.26	\$128.14	\$502.40
39	21009	013	\$374.26	\$128.14	\$502.40
40	21009	014	\$374.26	\$128.14	\$502.40
41	21009	016	\$374.26	\$128.14	\$502.40
					\$24,171.31

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
 COUNTY OF FLORENCE ) IN THE TWELFTH JUDICIAL CIRCUIT

JAMES W. PETERSON, JR., AS ) Civil Action No. 2009-CP-21-1902  
 RECEIVER FOR PEE DEE LAND )  
 COMPANY, LLC and on behalf of its )  
 wholly-owned subsidiary WAVERLY )  
 WOODS AT CLAUSSEN, LLC, )

**ORDER**

Plaintiff, )  
 )  
 vs. )  
 )  
 FLORENCE COUNTY, )  
 )  
 Defendant. )

---

2009 SEP 30 PM 4:44  
 FLORENCE COUNTY, S.C.

This matter came before the Court upon a Petition for Rule to Show Cause filed by James W. Peterson, Jr. on August 25, 2009 as Receiver for Pee Dee Land Company, LLC and on behalf of its wholly-owned subsidiary Waverly Woods at Clausen, LLC. The parties hereto have agreed that there are no disputed facts involved and they have requested that the court rule on this matter without holding a hearing.

The Court recognizes that S.C. Code Ann. §§ 12-43-224 and 12-43-225 allows for multiple lot discounts if the owner of the lots or its agent applies for a discount prior to May first of the year for which the discount is claimed. However, this matter presents unusual circumstances due to this Court's appointment of a receiver for Pee Dee Land Company, LLC on March 3, 2008. J. Mark Lawhon filed a Motion for Reconsideration of the Appointment of a Receiver and that Motion was denied on May 23, 2008, after the May 1, 2008 deadline. From March 3, 2008 until May 23, 2008, it was not clear who was authorized to act as an agent for Pee Dee Land Company, LLC or its wholly-owned subsidiary Waverly Woods at Clausen, LLC.

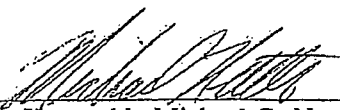
CERTIFIED A TRUE COPY  
 Connae Red-Down  
 CLERK OF COURT C.P. & G.S.  
 FLORENCE COUNTY, S.C.

a result of litigation and the resulting appointment of the receiver, there was no one officially authorized to apply for the multiple lot discount in the months prior to May 1, 2008.

The Florence County Tax Assessor has denied the application for a multiple lot discount on the basis that such application was not timely, however it appears that, but for the timeliness of this application, the discount would have been granted. Florence County has taken the position that, absent a court order, it is unable to grant the relief sought.

Given the unusual circumstances whereby it was not clear who could apply for the multiple lot discount prior to May 1, 2008, this Court is convinced that equity and fairness require that this circumstance be treated as an exceptional circumstance. Accordingly, it is hereby ordered that the Florence County Assessor apply the multiple lot discount to the lots in question attached hereto as Exhibit A and accordingly reduce the taxes owed. Similarly, this Court orders that the Florence County Assessor remove any levies or delinquency penalties placed on any of the lots owned by Pee Dee Land Company, LLC or Waverly Woods at Clausen, LLC as a result of the multiple lot discount issue.

AND IT IS SO ORDERED.

  
\_\_\_\_\_  
The Honorable Michael G. Nettles  
Chief Administrative Judge for the Twelfth  
Judicial Circuit

Florence, South Carolina  
9-30-, 2009

## EXHIBIT "A"

### Waverly Woods

	<u>Map</u>	<u>Parcel Number</u>	<u>Tax Assessment</u>	<u>Penalty</u>	<u>Total</u>
1	00210	026	\$112.19	\$88.83	\$201.02
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					\$24,171.31



HALL & BOWERS, LLC  
ATTORNEYS AT LAW

1329 Blanding Street | Columbia, SC 29201  
P.O. Box 12107 | Columbia, SC 29211

803.454.6504 tel  
803.454.6509 fax

hallbowers.com

KEVIN A. HALL  
kevin.hall@hallbowers.com  
KARL S. (BUTCH) BOWERS, JR.  
butch.bowers@hallbowers.com  
M. TODD CARROLL  
todd.carroll@hallbowers.com

June 22, 2011

Elizabeth B. Harris  
3008 Barnes Springs Rd.  
Columbia, SC 29204

Re: Peterson v. Florence County *et al.*  
Case No. 2009-CP-21-1902

**RECEIVED**

JUN 24 2011

**SC Court of Appeals**

Dear Ms. Harris:

On April 25, 2011, the parties held a hearing on various motions before The Honorable Michael G. Nettles, Circuit Court Judge, in Florence County in the above-referenced case. Our records indicate that you were the court reporter for that hearing.

We request that you provide us with a copy of the transcript of that hearing. Please transcribe the entire hearing. We agree to pay the per page charge for this transcript as provided by Rule 607, SCACR.

Additionally, we will be relocating our offices on June 30th. If the transcript is finalized after that date, please send it to our new address:

Hall & Bowers, LLC  
1727 Hampton Street  
Columbia, SC 29201

Thank you for your assistance with this. If we can provide you with any additional information, please do not hesitate to call on us.

Sincerely,

M. Todd Carroll

cc: The Honorable Tanya Gee  
Office of Court Administration  
Charles E. Carpenter, Jr., Esq.  
Carmen V. Ganjehsani, Esq.  
Michael C. Abbott, Esq.



# The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

June 28, 2011

Kevin A. Hall, Esquire  
M. Todd Carroll, Esquire  
1329 Blanding Street  
Columbia, SC 29201

Re: Peterson, James v. Florence County (2)  
**Tracking # 2011193889**  
**Court Case # 09-CP-10-7593, 09-CP-21-1902**

Dear Counsel:

We have received your Notice of Appeal in the case noted above. This case will be docketed in the Court of Appeals and all communications concerning this case, including motions and petitions, initial and final briefs, and the Record on Appeal, should be directed to and filed in this Court. For all filings, please note the requirements of Rule 267(a) of the South Carolina Appellate Court Rules, and be further advised that Court of Appeals policy requires the firm name of any counsel shown must be included in his or her address.

Upon review, it has come to the Court's attention that the Notice of Appeal does not show who the respondent or respondents are in this appeal. Please provide this Court with an Amended Notice of Appeal showing the respondents within ten (10) days of the date of this letter.

We have also received an extra copy of the Notice of Appeal, but we have not received a self-addressed and stamped envelope to forward this copy to you.

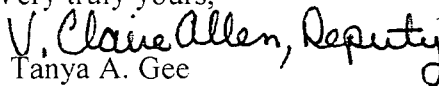
We suggest that large parcels such as copies of final briefs and the Record On Appeal be sent directly to the Court via the street address: 1015 Sumter Street, Columbia, S.C. 29201. Thank you for your attention to this. Failure to file in the proper court may result in the dismissal of your appeal.

PLEASE BE ADVISED that, pursuant to Rule 207 of the South Carolina Appellate Court Rules, the transcript must be ordered within ten (10) days of the proof of service of the Notice of Appeal and you must provide this Court, opposing counsel, and the Office of Court Administration with all correspondence regarding the transcript. It is also Appellant's

responsibility to make satisfactory arrangements (including agreement regarding payment for the transcript) with the Court Reporter for furnishing the transcript. You are reminded of the notification requirements of Rule 207(a)(5), SCACR, also, please advise the Court in writing upon receipt of the transcript.

**NOTE: If you believe this case has been improperly filed in the Court of Appeals, by reason of the limitations set forth in S.C. Code Ann. Section 14-8-200(b)(1998), as amended June 1, 1999, notify the Clerk's office of the Court of Appeals immediately. The cited Code Section prohibits the Court of Appeals from hearing appeals in seven classes of cases:**

- 1) any final judgment from the circuit court which includes a sentence of death;
- 2) any final judgment from the circuit court setting public utility rates pursuant to Title 58;
- 3) any final judgment involving a challenge on state or federal grounds to the constitutionality of a state law or county or municipal ordinance where the principal issue is the constitutionality of the law or ordinance;
- 4) any final judgment from the circuit court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the state, its agencies, political subdivisions, public service districts, counties, and municipalities or any other indebtedness now or hereafter authorized by Article X of the Constitution of this state;
- 5) any final judgment from the circuit court pertaining to elections and election procedure;
- 6) any order limiting an investigation by a State Grand Jury under S.C. Code Ann. Section 14-7-1630;
- 7) any order of the family court relating to an abortion by a minor under S.C. Code Ann. Section 44-41-33.

Very truly yours,  
  
Tanya A. Gee  
CLERK

TAG/mpm  
cc: The Honorable Connie Reel-Shearin



# The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
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TELEPHONE: (803) 734-1890  
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[www.sccourts.org](http://www.sccourts.org)

June 28, 2011

Kevin A. Hall, Esquire  
M. Todd Carroll, Esquire  
1329 Blanding Street  
Columbia, SC 29201

Re: Peterson, James v. Florence County (2)  
**2011193889**

Dear Counsel:

This office has received your Notice of Appeal in the above matter. It has been assigned the Case Tracking Number that appears above. Please use this number on all future correspondence relating to this matter.

I do wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

*V. Claire Allen, Deputy*  
CLERK

TAG/mpm

# The Supreme Court of South Carolina

RE: Interim Guidance Regarding Personal Data Identifiers and  
Other Sensitive Information in Appellate Court Filings

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## ORDER

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Under the Federal Constitution, our State Constitution, and our common law, court records are presumptively open to the public, and these records may only be sealed by a court based on specific findings that the need for secrecy outweighs the presumption of openness. Ex parte Capital U-Drive-It, Inc., 369 S.C. 1, 630 S.E.2d 464 (2006); Davis v. Jennings, 304 S.C. 502, 405 S.E.2d 601 (1991). Therefore, with some few exceptions,<sup>1</sup> documents filed with this Court or the South Carolina Court of Appeals (appellate court) are available to the public unless sealed by order of the appellate court in which the matter is pending.

Several commercial vendors have recently requested copies of briefs filed with the appellate courts, and it is anticipated that these and other appellate filings will be available electronically from both private and public sources in the future. The ready availability of these documents raises significant privacy concerns. While this problem is currently under review by the Chief Justice's Task Force on Public Access to Court Records, we adopt the following interim guidance regarding personal data identifiers and other sensitive information in documents filed in the appellate courts.

Parties shall not include, or will partially redact where inclusion is necessary, the following personal data identifiers from documents filed with an appellate court:<sup>2</sup>

1. Social Security Numbers. If a social security number must be included, only the last four digits of that number should be used.
2. Names of Minor Children. If a minor is the victim of a sexual assault or is involved in an abuse or neglect case, the minor's name will be completely redacted and a term such as "victim" or "child" should be used. In all other cases, only the minor's first name and first initial of the last name (i.e., John S.) should be used.
3. Financial Account Numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.
4. Home Addresses. If a home address must be included, only the city and state should be used.

Parties wishing to file documents containing the personal data identifiers listed above may file unredacted documents under seal, together with redacted versions for the public file. The sealed unredacted documents shall be filed in a separate Appendix and the bottom of each page of the Appendix shall be marked "Sealed." No order of the appellate court will be required to file this sealed Appendix. The number of copies of the Appendix to be served and filed shall be the same as that required for the brief, record on appeal, motion or other filing that includes the redacted documents.

If the caption of the case contains any of the personal data identifiers listed above, the parties should file a motion to amend the caption to redact the identifier. This should be done contemporaneously with the filing of the notice of appeal or the commencement of the case with the appellate court. Without a motion to the appellate court, the caption of a juvenile delinquency matter from the family court shall be redacted to only use the juvenile's first name and first letter of the juvenile's last name (i.e., In the Interest of John S., a Juvenile.)

A party seeking to seal material beyond those personal identifiers listed above, must file a motion to seal with the appellate court in which the matter is pending. This is true even if the lower court or administrative tribunal may have issued an order sealing the record. Until the motion is ruled on, the clerk of the appellate court shall treat the material as if it is sealed. Parties and counsel are reminded that the standard established in Ex parte Capital U-Drive-It, Inc. and Davis v. Jennings, supra, must be met before any request to seal all or a portion of a record will be granted. Once sealed by order of an appellate court, the materials will remain sealed before the appellate courts unless otherwise ordered by the appellate court in which the matter is pending.

Parties should exercise caution in including other sensitive personal data in their filings, such as personal identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, information regarding an individual's cooperation with the government, information regarding the victim of any criminal activity, or national security information.

Attorneys are expected to discuss this matter with their clients so that an informed decision can be made about the inclusion of sensitive information. The appellate courts and their staff will not review filings for redaction or to determine if materials should be sealed; the responsibility for insuring that information is redacted or sealed rests with counsel and the parties.

IT IS SO ORDERED.

s/Jean H. Toal C.J.

s/James E. Moore J.

s/John H. Waller, Jr. J.

s/E.C. Burnett, III J.

s/Costa M. Pleicones J.

Columbia, South Carolina

August 13, 2007

<sup>1</sup> See, e.g., Rule 12 of the Rules for Lawyer Disciplinary Enforcement contained in Rule 413, SCACR; Rule 12 of the Rules for Judicial Disciplinary Enforcement contained in Rule 502, SCACR; Rule 402(n), SCACR; and Rule 403(l), SCACR.

<sup>2</sup> This restriction shall not apply when this information is required or requested by the appellate court. For example, the application for admission to practice law under Rule 402, SCACR, requires many of these personal identifiers to be disclosed.

Du 6/18/11  
POS6/17/11

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

RECEIVED

JUN 20 2011

SC Court of Appeals

Case No. 2009-CP-21-1902

James W. Peterson, Jr., as Receiver for Pee Dee Land  
Company, LLC, and on behalf of its wholly-owned  
subsidiary Waverly Woods at Claussen, LLC,.....

Plaintiff,

v.

Florence County, .....

Defendant,

and

Dean C. Fowler, Jr., in his official capacity as Florence  
County Treasurer, and H. Wayne Joye, in his official  
capacity as Florence County Auditor, .....

Proposed  
Interveners,

of whom

Dean C. Fowler, Jr., in his official capacity as Florence  
County Treasurer, and H. Wayne Joye, in his official  
capacity as Florence County Auditor, are .....

Appellants,

NOTICE OF APPEAL

Appellants Dean C. Fowler, Jr., in his official capacity as Florence County  
Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor,  
appeal two Orders that were issued by the Honorable Michael G. Nettles, Circuit Court  
Judge for the Twelfth Judicial Circuit in the above-captioned case. The first order is  
dated September 30, 2009, and the second is dated May 23, 2011. Copies of each are  
attached hereto.

Respectfully submitted,

HALL & BOWERS, LLC

By: 

Kevin A. Hall  
SC Bar No. 015063  
M. Todd Carroll  
SC Bar No. 74000  
1329 Blanding Street  
Post Office Box 12107 (29211)  
Columbia, South Carolina 29201  
(803) 464-6504

Attorneys for Appellants Dean C. Fowler, Jr., in his official capacity as Florence County Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor

Columbia, South Carolina  
June 17, 2011

Other Counsel of Record:

Charles E. Carpenter, Jr.  
Carmen V. Ganjehsani  
Carpenter Appeals & Trial Support, LLC  
1201 Main Street, Ste. 980  
Columbia, South Carolina 29201  
(803) 758-2886

*Attorneys for Plaintiff*

Michael C. Abbott  
Abbott & McKissick Law Firm, LLC  
702 W. Evans Street  
Florence, South Carolina 29503  
(843) 669-0089

*Attorneys for Florence County*

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Case No. 2009-CP-21-1902

James W. Peterson, Jr., as Receiver for Pee Dee Land  
Company, LLC, and on behalf of its wholly-owned  
subsidiary Waverly Woods at Claussen, LLC,..... Plaintiff,

v.

Florence County, ..... Defendant,

and

Dean C. Fowler, Jr., in his official capacity as Florence  
County Treasurer, and H. Wayne Joye, in his official  
capacity as Florence County Auditor, ..... Proposed  
Interveners,

of whom

Dean C. Fowler, Jr., in his official capacity as Florence  
County Treasurer, and H. Wayne Joye, in his official  
capacity as Florence County Auditor, are ..... Appellants,

**PROOF OF SERVICE**

I, the undersigned Administrative Assistant of the law offices of Hall & Bowers, LLC, attorneys for Appellants, do hereby certify that I have served the below parties in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same, postage prepaid, to the following address(es):

Pleading: Notice of Appeal

**RECEIVED**  
JUN 20 2011

**SC Court of Appeals**

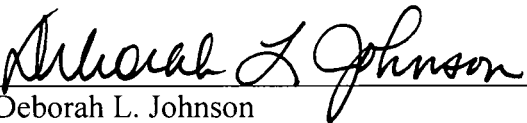
Parties Served:

Charles E. Carpenter, Jr.  
Carmen V. Ganjehsani  
Carpenter Appeals & Trial Support, LLC  
1201 Main Street, Ste. 980  
Columbia, South Carolina 29201  
(803) 758-2886

*Attorneys for Plaintiff*

Michael C. Abbott  
Abbott & McKissick Law Firm, LLC  
702 W. Evans Street  
Florence, South Carolina 29503  
(843) 669-0089

*Attorneys for Florence County*

  
\_\_\_\_\_  
Deborah L. Johnson

June 17, 2011



HALL & BOWERS, LLC  
ATTORNEYS AT LAW

1329 Blanding Street | Columbia, SC 29201  
P.O. Box 12107 | Columbia, SC 29211

803.454.6504 tel  
803.454.6509 fax  
hallbowers.com

KEVIN A. HALL  
kevin.hall@hallbowers.com  
KARL S. (BUTCH) BOWERS, JR.  
butch.bowers@hallbowers.com  
M. TODD CARROLL  
todd.carroll@hallbowers.com

June 17, 2011

The Honorable Tanya Gee  
Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street, 5th Floor  
Columbia, South Carolina 29201

Re: Peterson v. Florence County *et al.*  
Case No. 2009-CP-21-1902

**RECEIVED**  
JUN 20 2011  
**SC Court of Appeals**

Dear Ms. Gee:

Enclosed for filing is a Notice of Appeal in the above case. Also enclosed are the following:

1. Proof of service of the Notice of Appeal on all other parties to this action;
2. A copy of each judgment that is to be challenged on appeal; and
3. A filing fee of \$100.

We would appreciate it if you could file the original and return a file-stamped copy to us in the enclosed envelope. By copy to all counsel of record, we are hereby serving them with this Notice.

Thank you for your assistance. Please do not hesitate to call on us if you have any questions.

Sincerely,

M. Todd Carroll

Enclosures

cc: Charles E. Carpenter, Jr., Esq.  
Carmen V. Ganjehsani, Esq.  
Michael C. Abbott, Esq.  
*All with Enclosures*

**RECEIVED**  
JUN 20 2011  
**SC Court of Appeals**

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

JAMES W. PETERSON, JR. AS RECEIVER FOR  
PEE DEE LAND COMPANY, LLC AND ON  
BEHALF OF ITS WHOLLY-OWNED  
SUBSIDIARY, WAVERLY WOODS AT  
CLAUSSEN, LLC,

Plaintiff,

v.

FLORENCE COUNTY,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE  
TWELFTH JUDICIAL CIRCUIT

CIVIL ACTION NO. 09-CP-10-7593

09-CP-21-1902

**ORDER DENYING  
MOTIONS TO INTERVENE AND FOR  
RELIEF FROM JUDGMENT**

CERTIFIED: A TRUE COPY

*Connie Reel Shearin*

CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

Dean Fowler, Jr., in his official capacity as Florence County Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor, have each filed a Motion to Intervene in the above-captioned litigation and for Relief from Judgment. These motions were filed pursuant to Rules 24 and 60 of the South Carolina Rules of Civil Procedure.

The Motions were heard in open court on April 25, 2011. Kevin A. Hall and M. Todd Carroll of Hall & Bowers, LLC appeared on behalf of the Treasurer and the Auditor. Carmen V. Ganjehsani of Carpenter Appeals & Trial Support, LLC appeared on behalf of Pee Dee Land Company, LLC. Michael C. Abbott appeared on behalf of Florence County.

For the reasons set forth herein, the Court hereby denies the Treasurer's and the Auditor's Motions to Intervene and for Relief from Judgment.

2011 MAY 24 AM 11:05  
CONNIE REEL-SHEARIN  
CCCP & GS  
FLORENCE COUNTY, S.C.

FILED

I. FACTUAL FINDINGS AND PROCEDURAL HISTORY

This case initially came before this Court upon a Petition for Rule to Show Cause filed by James W. Peterson, Jr. on August 25, 2009 as Receiver for Pee Dee Land Company, LLC and on behalf of its wholly-owned subsidiary Waverly Woods at Claussen, LLC to show cause why this Court should not order that Waverly Woods at Claussen, LLC, a wholly-owned subsidiary of Pee Dee Land Company, LLC, is entitled to the multiple lot discount for the property taxes assessed in 2008 by the Florence County Tax Assessor on lots owned by Pee Dee Land Company's wholly-owned subsidiary Waverly Woods at Claussen, LLC.

The issue before this Court was the result of this Court's appointment of Peterson as a receiver for Pee Dee Land Company on March 3, 2008. Pee Dee Land Company timely moved this Court to reconsider the appointment. The Motion to Reconsider was not ruled upon until May 23, 2008 when it was denied.

After this Court's initial appointment of the Receiver, but before the Receiver knew of the appointment, the Florence County Tax Assessor sent a notice to the company regarding the multiple lot discount under S.C. CODE §§ 12-43-224 and 12-43-225 and the May 1, 2008 deadline for seeking such tax discount.

From March 3, 2008 to May 23, 2008, it was not clear who, if anyone, had any legal authority to act on behalf of Pee Dee Land Company. Therefore, no one applied for the tax discount by the deadline.

The tax discount would have been granted except for the timeliness. After this Court's denial of the Motion to Reconsider, Peterson as Receiver then applied for the multiple lot discount with the Assessor, and the Assessor denied the application.

The Receiver then filed the Petition for Rule to Show Cause as to why he should not be allowed to file an application for the multiple lot discount after the deadline. Florence County appeared and opposed the Petition.

This Court exercised its equity power, found this to be an exceptional circumstance where it was unclear who could apply for the multiple lot discount prior to May 1, 2008, and ordered the Assessor to apply the multiple lot discount to the lots in question (attached hereto as Exhibit A) and accordingly reduce the taxes owed. This Court also ordered the Assessor to remove any levies or delinquency penalties placed on any of the lots owned by Pee Dee Land Company, LLC or Waverly Woods at Claussen, LLC as a result of the multiple lot discount issue. This Order was issued on September 30, 2009.

The deadline to appeal the decision with the South Carolina Court of Appeals was October 31, 2009. Florence County did not appeal the decision, and the judgment in this case was for all purposes at that point in time final. Neither Florence County nor the Assessor have ever made any motion for relief from this Court's judgment, and they have made the decision to abide by the judgment of this Court.

Dean Fowler, Jr., Treasurer, however, purported to file a Notice of Appeal with the Court of Appeals on October 29, 2009 in the name of Florence County. Pee Dee Land Company, which by this time was no longer under a receivership, filed a Motion to Dismiss with the Court of Appeals on the ground that the Treasurer was not a party to the case and had no standing to appeal. The Court of Appeals dismissed the appeal on this basis in an order filed July 26, 2010. The Remittitur was issued on August 17, 2010.

Dean Fowler, Jr., purportedly in his official capacity as Florence County Treasurer, not being satisfied with the decision of this Court, or with the decision of the South Carolina Court of Appeals, filed a Petition for a Writ of Prohibition with the South Carolina Supreme Court on August 2, 2010.

The Supreme Court denied this Petition on October 6, 2010.

Before the Supreme Court's denial of the Petition, Dean Fowler, Jr., in his official capacity as Florence County Treasurer, filed the pending Motion to Intervene and for Relief

from Judgment with this Court on September 30, 2010. Thereafter, H. Wayne Joye, in his official capacity as Florence County Auditor, also sought to intervene and moved for relief from the judgment in this Court on November 24, 2010.

## II. LAW AND ANALYSIS

### A. The Motions to Intervene are Denied.

#### 1. There is no longer a pending action in which to file motions.

This action has been over for a long period of time, and there is no pending action in which any person may move to intervene. This case was for all purposes final on October 31, 2009 when the time for filing a Notice of Appeal with the South Carolina Court of Appeals expired. Florence County did not appeal this Court's judgment. The Treasurer's Notice of Appeal with the South Carolina Court of Appeals was improper and dismissed by the Court of Appeals. That Notice of Appeal did not extend the life of the case. This action has long been concluded and the purported Motions to Intervene are denied because there is no longer an active pending case in which to file motions.

#### 2. The Motions to Intervene are untimely and allowing intervention would result in prejudice to Pee Dee Land Company, LLC.

The purported Motions to Intervene are also denied because they are untimely and would result in undue prejudice to Pee Dee Land Company. Rules 24(a) and (b), SCRPC, require "timely application" for intervention. A court must consider the following factors in determining whether a motion to intervene is timely:

- '1) the time that has passed since the applicant knew or should have known of his or her interest in the suit;
- 2) the reason for the delay;
- 3) the stage to which the litigation has progressed; and
- 4) the prejudice the original parties would suffer from granting intervention and the applicant would suffer from denying intervention.'

Ex parte Reichlyn, 310 S.C. 495, 500, 427 S.E.2d 661, 664 (1993) (quoting Davis v. Jennings, 304 S.C. 502, 504, 405 S.E.2d 601, 603 (1991)).

The Treasurer filed his Motion to Intervene a year after this Court's September 30, 2009 Order was filed. The Auditor did not file his Motion to Intervene until November 24, 2010, more than a year after this Court's September 30, 2009 Order was filed.

The Treasurer's actions demonstrated that he knew of his alleged interest in this suit well before the Motions to Intervene were filed. The Treasurer filed a Notice of Appeal with the South Carolina Court of Appeals on October 29, 2009 and later filed a brief in that appeal, raising the same issues to the Court of Appeals that he has raised in his Motion to Intervene and for Relief from Judgment. The Treasurer waited almost a year from the time he knew he had an alleged interest in the suit to intervene. The Auditor, having the same counsel as the Treasurer and having piggybacked the Treasurer's motion, likewise should have known of any alleged interest in the suit well before his November 24, 2010 motion.

The Treasurer and the Auditor have offered no justifiable reason for the delay in filing their motions to intervene.

The litigation has progressed to a stage where it is final and complete.

Pee Dee Land Company has already been prejudiced by having to unnecessarily spend an inordinate amount of money on attorneys' fees and costs to defend the continued unsubstantiated litigation brought by the Treasurer in this Court, the South Carolina Court of Appeals, and the South Carolina Supreme Court. Pee Dee Land Company has been unable to pay the taxes on the property at issue as the Treasurer has refused to accept payment. Counsel for Pee Dee Land Company further represented to this Court at the hearing that the Treasurer has made the property at issue subject to tax sale due to Pee

Dee Land Company's failure to pay the tax. Pee Dee Land Company is now in danger of its property being sold at a tax sale.

If intervention were granted, Pee Dee Land Company would suffer further prejudice by incurring additional attorneys' fees and costs to defend an order that is more than a year old, and Pee Dee Land Company would continue to be prevented by the Treasurer from paying the taxes. Pee Dee Land Company would continue to face the risk of losing its property at a tax sale. Pee Dee Land Company is entitled to have this tax dispute brought to a final closure. It is extremely prejudicial to Pee Dee Land Company to have this litigation go on and on.

This Court accordingly denies the Motions to Intervene as untimely.

3. **The Treasurer and the Auditor have no interest in the subject matter of this litigation and do not have standing to challenge this Court's Order.**

The Motions to Intervene must also be denied because the Treasurer and the Auditor do not have standing to challenge this Court's September 30, 2009 Order and do not have any interest relating to the property or transaction which is the subject matter of this action.

Under Rule 24(a)(2) regarding Intervention of Right, the applicant must "claim[ ] an interest relating to the property or transaction which is the subject of the action and [demonstrate] he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest."

Under the express terms of the statute governing multiple lot discounts, it is the Assessor charged with determining the discount: "[T]he county assessor shall appraise each lot as an individual property and then discount his gross actual market value estimate of the developer's lot holdings under [certain] conditions." S.C. CODE § 12-43-224. Further,

the "application for the discounted value shall be made to the assessor of the county in which the real property is located . . . ." Id.

The Treasurer and the Auditor have no interest under this statute. The Treasurer has no interest in the multiple lot discount except for the ministerial task of collecting payment of the taxes. The Auditor has no interest except for levying the tax bill. "A mere general interest in the subject matter of the litigation is not sufficient" to warrant intervention. South Carolina Tax Comm'n v. Union County Treasurer, 295 S.C. 257, 262, 368 S.E.2d 72, 75 (Ct. App. 1988).

Moreover, this Court's Order was directed to the Assessor, ordering the Assessor to apply the tax discount to the properties at issue. The Assessor has not and does not oppose this Court's Order. The Treasurer and Auditor lack standing to challenge an order addressed to the Assessor.

**4. Florence County adequately represented any interest of the Treasurer and the Auditor.**

Intervention is not permitted where "the applicant's interest is adequately represented by existing parties." Rule 24(a)(2), SCRPC. Florence County defended the Receiver's Petition for Rule to Show Cause. Counsel for Florence County confirmed at the hearing that it objected to the tax discount but had chosen not to further appeal this Court's Order. Florence County adequately represented any interest the Treasurer and the Auditor may have had in the litigation. Accordingly, the Motions to Intervene are denied on this basis as well.

**B. The Motions for Relief from Judgment are Denied.**

The Treasurer and the Auditor cannot intervene in this litigation; therefore, this Court need not reach the merits of the Treasurer's and the Auditor's Motions for Relief from

Judgment under Rule 60(b), SCRPC. These motions, however, should be denied as well for the following reasons:

1. **The Treasurer's Motion for Relief from Judgment was filed in the wrong court.**

Rule 60(b) requires that "[d]uring the pendency of an appeal, leave to make the motion must be obtained from the appellate court." When the Treasurer filed his Motion for Relief From Judgment with this Court on September 30, 2010, this case was still pending in the South Carolina Supreme Court. The South Carolina Supreme Court did not deny the Petition for Writ of Prohibition until October 6, 2010. The Treasurer did not seek leave from the Supreme Court to file this motion. The Treasurer's Motion for Relief from Judgment is accordingly invalid because it was improperly filed in the wrong court.

2. **The Motions for Relief from Judgment are untimely.**

The Treasurer's and the Auditor's Motions for Relief from Judgment must be denied as untimely. Motions under Rule 60(b) must be made within a "reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken." The Auditor's November 24, 2010 motion seeking relief from the September 30, 2009 Order is clearly beyond the one year time limit.

Moreover, both the Treasurer's and the Auditor's motions were not filed within a reasonable period of time for the same reasons their Motions to Intervene were untimely.

(See supra Part II.A.2)

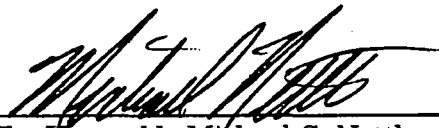
3. **The South Carolina Court of Appeals and the South Carolina Supreme Court have already rejected the same arguments raised by the Treasurer and the Auditor in this Court.**

The Treasurer has already raised the same issues to the South Carolina Court of Appeals and the South Carolina Supreme Court and both of those Courts have denied any relief. If this Court were to grant either of the Motions to Intervene or the Motions for

Relief from Judgment, doing so would have the effect of overruling the decision of the South Carolina Court of Appeals and the decision of the South Carolina Supreme Court. The motions are denied for this additional reason as well.

THEREFORE IT IS ORDERED that the Motions to Intervene and for Relief from Judgment filed by Dean Fowler, Jr., in his official capacity as Florence County Treasurer, and H. Wayne Joye, in his official capacity as Florence County Auditor are DENIED for the reasons set forth herein.

While this Court cannot order and enjoin the Treasurer and the Auditor from taking certain actions because they are not parties to this particular lawsuit, this Court recognizes that Pee Dee Land Company has available to it different and separate remedies under the law to enforce its rights against the Treasurer and the Auditor. The rulings in this lawsuit do not prevent Pee Dee Land Company from taking future, separate action against the Treasurer and the Auditor should such action be necessary.

  
The Honorable Michael G. Nettles  
Chief Administrative Judge for the  
Twelfth Judicial Circuit

Florence, South Carolina  
5-23, 2011.

2011 MAY 24 AM 11:05  
CONNIE REEL-SHEARIN  
CCLP & GS  
FLORENCE COUNTY, SC

FILED

**EXHIBIT "A"**  
**Waverly Woods**

	<u>Map</u>	<u>Parcel Number</u>	<u>Tax Assessment</u>	<u>Penalty</u>	<u>Total</u>
1	00210	026	\$112.19	\$88.83	\$201.02
2	21005	004	\$374.26	\$128.14	\$502.40
3	21005	005	\$374.26	\$128.14	\$502.40
4	21005	008	\$374.26	\$128.14	\$502.40
5	21005	010	\$374.26	\$128.14	\$502.40
6	21005	011	\$374.26	\$128.14	\$502.40
7	21005	014	\$374.26	\$128.14	\$502.40
8	21005	015	\$374.26	\$128.14	\$502.40
9	21005	017	\$374.26	\$128.14	\$502.40
10	21005	018	\$374.26	\$128.14	\$502.40
11	21005	019	\$374.26	\$128.14	\$502.40
12	21005	020	\$374.26	\$128.14	\$502.40
13	21005	021	\$374.26	\$128.14	\$502.40
14	21005	022	\$374.26	\$128.14	\$502.40
15	21005	023	\$374.26	\$128.14	\$502.40
16	21005	024	\$374.26	\$128.14	\$502.40
17	21005	025	\$2,645.05	\$468.76	\$3,113.81
18	21005	029	\$374.26	\$128.14	\$502.40
19	21005	030	\$374.26	\$128.14	\$502.40
20	21005	033	\$374.26	\$128.14	\$502.40
21	21005	035	\$374.26	\$128.14	\$502.40
22	21005	036	\$374.26	\$128.14	\$502.40
23	21005	037	\$374.26	\$128.14	\$502.40
24	21005	043	\$374.26	\$128.14	\$502.40
25	21005	044	\$374.26	\$128.14	\$502.40
26	21005	045	\$374.26	\$128.14	\$502.40
27	21005	046	\$374.26	\$128.14	\$502.40
28	21005	047	\$374.26	\$128.14	\$502.40
29	21005	051	\$1,472.42	\$292.86	\$1,765.28
30	21009	001	\$374.26	\$128.14	\$502.40
31	21009	002	\$374.26	\$128.14	\$502.40
32	21009	003	\$374.26	\$128.14	\$502.40
33	21009	004	\$374.26	\$128.14	\$502.40
34	21009	005	\$374.26	\$128.14	\$502.40
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37	21009	011	\$374.26	\$128.14	\$502.40
38	21009	012	\$374.26	\$128.14	\$502.40
39	21009	013	\$374.26	\$128.14	\$502.40
40	21009	014	\$374.26	\$128.14	\$502.40
41	21009	016	\$374.26	\$128.14	\$502.40
					\$24,171.31

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
 COUNTY OF FLORENCE ) IN THE TWELFTH JUDICIAL CIRCUIT

JAMES W. PETERSON, JR., AS ) Civil Action No. 2009-CP-21-1902  
 RECEIVER FOR PEE DEE LAND )  
 COMPANY, LLC and on behalf of its )  
 wholly-owned subsidiary WAVERLY )  
 WOODS AT CLAUSSEN, LLC, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FLORENCE COUNTY, )  
 )  
 Defendant. )

ORDER

RECEIVED

JUN 20 2011

SC Court of Appeals

2009 SEP 30 PM 1:44  
 FLORENCE COUNTY, SC

This matter came before the Court upon a Petition for Rule to Show Cause filed by James W. Peterson, Jr. on August 25, 2009 as Receiver for Pee Dee Land Company, LLC and on behalf of its wholly-owned subsidiary Waverly Woods at Clausen, LLC. The parties hereto have agreed that there are no disputed facts involved and they have requested that the court rule on this matter without holding a hearing.

The Court recognizes that S.C. Code Ann. §§ 12-43-224 and 12-43-225 allows for multiple lot discounts if the owner of the lots or its agent applies for a discount prior to May first of the year for which the discount is claimed. However, this matter presents unusual circumstances due to this Court's appointment of a receiver for Pee Dee Land Company, LLC on March 3, 2008. J. Mark Lawhon filed a Motion for Reconsideration of the Appointment of a Receiver and that Motion was denied on May 23, 2008, after the May 1, 2008 deadline. From March 3, 2008 until May 23, 2008, it was not clear who was authorized to act as an agent for Pee Dee Land Company, LLC or its wholly-owned subsidiary Waverly Woods at Clausen, LLC.

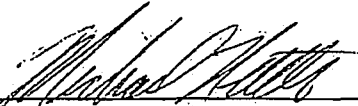
CERTIFIED A TRUE COPY  
 Clerk of Court  
 CLERK OF COURT C.P. & G.S.  
 FLORENCE COUNTY, S.C.

a result of litigation and the resulting appointment of the receiver, there was no one officially authorized to apply for the multiple lot discount in the months prior to May 1, 2008.

The Florence County Tax Assessor has denied the application for a multiple lot discount on the basis that such application was not timely, however it appears that, but for the timeliness of this application, the discount would have been granted. Florence County has taken the position that, absent a court order, it is unable to grant the relief sought.

Given the unusual circumstances whereby it was not clear who could apply for the multiple lot discount prior to May 1, 2008, this Court is convinced that equity and fairness require that this circumstance be treated as an exceptional circumstance. Accordingly, it is hereby ordered that the Florence County Assessor apply the multiple lot discount to the lots in question attached hereto as Exhibit A and accordingly reduce the taxes owed. Similarly, this Court orders that the Florence County Assessor remove any levies or delinquency penalties placed on any of the lots owned by Pee Dee Land Company, LLC or Waverly Woods at Clausen, LLC as a result of the multiple lot discount issue.

AND IT IS SO ORDERED.

  
\_\_\_\_\_  
The Honorable Michael G. Nettles  
Chief Administrative Judge for the Twelfth  
Judicial Circuit

Florence, South Carolina  
9-30-, 2009

**EXHIBIT "A"**  
**Waverly Woods**

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					\$24,171.31

**HALL BOWERS**

**HALL & BOWERS, LLC**  
ATTORNEYS AT LAW

1329 Blanding Street | P.O. Box 12107  
Columbia, South Carolina 29211

[hallbowers.com](http://hallbowers.com)

The Honorable Tanya Gee  
Clerk of Court  
SC Court of Appeals  
1015 Sumter Street - 5th Floor  
Columbia, SC 29201

