

RECEIVED

Apr 18 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY

Court of Common Pleas

William H. Seals, Jr., Circuit Court Judge

Appellate Case No. 2024-000144
Case No. 2021-CP-26-07489

City of North Myrtle Beach,

Appellant,

v.

Sun TRS Ocean Club, LLC, Sun TRS
Carolina Pines, LLC, and Sun Carolina
Pines RV, LLC,

Respondents.

**DESIGNATION OF MATTER TO BE INCLUDED
IN THE RECORD ON APPEAL**

Appellants propose the following be included in the Record on Appeal:

Orders

1. Consent Order Regarding Use of Subject Property, dated January 11, 2022
2. Form 4 Order Denying Respondents' Motion for Partial Summary Judgment, dated November 18, 2022
3. Order Denying Respondents' Motion for Partial Summary Judgment, dated November 28, 2022
4. Consent Order Regarding Motion to Bifurcate Trial, dated June 7, 2023
5. Form 4 Order Denying Respondents' Renewed Motion for Partial Summary Judgment, dated August 11, 2023

6. Final Order, dated November 20, 2023
7. Form 4 Order Denying Appellant's Motion to Reconsider Final Order, dated January 3, 2024

Pleadings

8. Appellant's Summons and Complaint, dated November 11, 2021
9. Respondents' Answer and Affirmative Defenses, dated December 20, 2021
10. Respondents' Amended Answer, Affirmative Defenses and Counterclaims, dated March 14, 2022
11. Appellant's Reply to Respondents' Counterclaims, dated April 20, 2022
12. Appellant's Amended Reply to Respondents' Counterclaims, dated May 20, 2022
13. Respondents' Stipulation of Dismissal of the Equal Protection Clause Counterclaim, dated July 10, 2023

Motions, Bench Briefs, and Proposed Orders

14. Respondents' Motion for Partial Summary Judgment, dated August 1, 2022
15. Respondents' Memorandum in Support of Motion for Partial Summary Judgment, dated November 2, 2022
16. Appellant's Memorandum in Opposition to Respondents' Motion for Partial Summary Judgment, dated November 7, 2022
17. Respondents' Reply in Support of Their Motion for Partial Summary Judgment, dated November 14, 2022
18. Respondents' Renewed Motion for Partial Summary Judgment, dated May 22, 2023
19. Respondents' Memorandum in Support of Their Renewed Motion for Partial Summary Judgment, dated July 20, 2023
20. Appellant's Memorandum in Opposition to Respondents' Renewed Motion for Partial Summary Judgment, dated August 2, 2023
21. Appellant's Bench Brief Regarding Respondents' Dormant Commerce Clause Counterclaim, dated October 31, 2023
22. Appellant's Bench Brief Regarding Respondents' Due Process Clause Counterclaim, dated October 31, 2023
23. Appellant's Amended Motion and Incorporated Memorandum to Reconsider Final Order, dated November 30, 2023
24. Respondents' E-mail of November 10, 2023, with Proposed Final Order
25. Appellants' E-mail of November 10, 2023, with Proposed Final Order

Transcripts

26. Hearing Transcript of August 9, 2023
27. Trial Transcript, Volume I, dated October 31 and November 1, 2023
28. Trial Transcript, Volume II, dated November 2 and November 3, 2023

Trial Exhibits

29. Appellant's Trial Exhibit 1 – Zoning Ordinance 23-0
30. Appellant's Trial Exhibit 2 – Zoning Ordinance 23-1
31. Appellant's Trial Exhibit 3 – Zoning Ordinance 23-2
32. Appellant's Trial Exhibit 4 – Zoning Ordinance 23-7
33. Appellant's Trial Exhibit 5 – Zoning Ordinance 23-22
34. Appellant's Trial Exhibit 102 – Zoning Ordinances 23-18; 23-19; 23-25; 23-26; and 23-27
35. Appellant's Trial Exhibit 6 – Legislative History
36. Appellant's Trial Exhibit 7 – Respondents' Response to Appellant's First Set of Requests for Admission to All Respondents, dated March 30, 2023
37. Appellant's Trial Exhibit 11 – Seabrook Plantation Special Exception Application
38. Appellant's Trial Exhibit 17 – Purchase and Sale Agreement of Property and Cabana House
39. Appellant's Trial Exhibit 24 – Respondents' E-mail Chain of January 29, 2019
40. Appellant's Trial Exhibit 26 – Respondents' E-mail Chain of April 9, 2019
41. Appellant's Trial Exhibit 27 – Respondents' Notice of Title Transfer and Change of Terms to Members
42. Appellant's Trial Exhibit 28 – Respondents' Zoning Letter Request of March 18, 2019
43. Appellant's Trial Exhibit 29 – City Zoning Administrator Zoning Letter of March 19, 2019
44. Appellant's Trial Exhibit 31 – Respondents' E-mail Chain of March 14, 2019
45. Appellant's Trial Exhibit 32 – Respondents' Assignment and Assumption of Purchase and Sale Agreement
46. Appellant's Trial Exhibit 33 – RV Resort Map
47. Appellant's Trial Exhibit 34 – Photographs of RV Resort
48. Appellant's Trial Exhibit 36 – Member E-mail to Respondents of July 24, 2019
49. Appellant's Trial Exhibit 37 – Member E-mail Chain to Respondents of July 22, 2019
50. Appellant's Trial Exhibit 61 – Respondents' E-mail Chain of July 17, 2021
51. Appellant's Trial Exhibit 48 – Respondents' Shuttle Schedule
52. Appellant's Trial Exhibit 56 – Respondents' E-mail of April 25, 2021
53. Appellant's Trial Exhibit 62 – 2021 Beach Club Log
54. Appellant's Trial Exhibit 68 – Sea Cloisters' Zoning Complaint Letter to the City of July 12, 2021
55. Appellant's Trial Exhibit 69 – Sea Cloisters' Complaint Letter to Defendants of September 9, 2021
56. Appellant's Trial Exhibit 70 – City Manager E-mail of August 16, 2021
57. Appellant's Trial Exhibit 71 – Respondents' Counsel E-mail of September 8, 2021
58. Appellant's Trial Exhibit 101 – Respondents' Facebook Post of July 1, 2022
59. Appellant's Trial Exhibit 84 – Respondents' Bates SUN_05448
60. Appellant's Trial Exhibit 82 – RV Resort Cancellation Spreadsheets – CONFIDENTIAL
61. Appellant's Trial Exhibit 83 – Sun Communities Nationwide Data Spreadsheet – CONFIDENTIAL
62. Appellant's Trial Exhibit 87 – Respondents' Comprehensive Profit and Loss Spreadsheets – CONFIDENTIAL
63. Appellant's Trial Exhibit 103 – Summaries
64. Appellant's Trial Exhibit 95 – Appellant's Opening PowerPoint Slides

65. Appellant's Trial Exhibit 104 – Appellant's Closing PowerPoint Slides
66. Respondents' Trial Exhibit 29 – Cease and Desist Letter
67. Respondents' Trial Exhibit 53 – Respondents' Form 10-K
68. Respondents' Trial Exhibit 54 – Appellant's 2018 Comprehensive Plan
69. Respondents' Trial Exhibit 55 – Appellant's Future Land Uses Map

The undersigned certifies that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,

/s/ Rhett D. Ricard

Cheryl D. Shoun (SC Bar No. 5092)

Rhett D. Ricard (SC Bar No. 102353)

MAYNARD NEXSEN, PC

205 King Street, Suite 400

Charleston, SC 29401

cshoun@maynardnexsen.com

rricard@maynardnexsen.com

(o): (843) 577-9440; (f): (843) 720-1777

April 18, 2024

Charleston, South Carolina

Attorneys for Appellant