

**THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

Appeal from Charleston County  
Mikell R. Scarborough, Master-in-Equity

Cases No. 2021-CP-10-04416 and -05211  
Appellate Case No. 2023-001615

**RECEIVED**

**May 14 2024**

**SC Court of Appeals**

CKC Properties, LLC,

Respondent,

v.

The Town of Mount Pleasant, South Carolina;  
The Town of Mount Pleasant Board of Zoning Appeals;  
Michael Robertson, in his official capacity as Zoning Administrator;  
Justin O'Toole Lucey; 415 Mill St., Inc.; and 69 Scott Street, LLC,

Respondents Below.

Of which The Town of Mount Pleasant, South Carolina;  
The Town of Mount Pleasant Commercial Design Review Board;  
The Town of Mount Pleasant Board of Zoning Appeals;  
Justin O'Toole Lucey; 415 Mill St., Inc.; and 69 Scott Street, LLC, are the

Appellants.

**CONSENT MOTION TO PARTIALLY DISMISS APPEAL**

CLEMENT RIVERS, LLP  
Stephen L. Brown (SC Bar No. 66468)  
Stephanie Ramia Sandifer (SC Bar No. 100217)  
Brian Lee Quisenberry (SC Bar No. 73637)  
Zachary M. Kern (SC Bar No. 103731)  
Russell G. Hines (SC Bar No. 72100)  
25 Calhoun Street, Suite 400  
P.O. Box 993 (29402)  
Charleston, South Carolina 29401  
(843) 720-5488

*Attorneys for Appellants The Town of Mount Pleasant, South Carolina; The Town of Mount Pleasant Commercial Design Review Board; and The Town of Mount Pleasant Board of Zoning Appeals*

NOW COME Appellants The Town of Mount Pleasant, South Carolina (the “Town”), The Town of Mount Pleasant Commercial Design Review Board (the “DRB”), and The Town of Mount Pleasant Board of Zoning Appeals (“BOZA”), by and through their undersigned counsel, with the express consent of Respondent, CKC Properties, LLC, and Appellants Justin O’Toole Lucey, 415 Mill St., Inc., and 69 Scott Street, LLC (collectively, the “Lucey Parties”), by and through their respective undersigned counsel, pursuant to Rule 260, SCACR, and hereby move for partial dismissal of this appeal as follows:

This consolidated appeal involves appeals taken in two lower court cases, namely, Cases No. 2021-CP-10-04416 (the “DRB Case”) and -05211 (the “BOZA Case”).

In the DRB Case, the Town and the DRB appealed the following order of the Honorable Mikell R. Scarborough, Master-in-Equity, Charleston County:

- **Order [Denying Motions to Reconsider]**, filed September 21, 2023.<sup>1 2</sup>

As stated in the notice of appeal for the DRB Case, the Town and the DRB noticed the appeal solely out of an abundance of caution because they believed that the lower court had confused the DRB Case with the BOZA Case and had simply filed the above-referenced order by mistake in the DRB Case when it was only intended to be filed in the BOZA Case. The lower court never held a hearing on the DRB Case.<sup>3</sup> It only heard and ruled on the BOZA Case. Accordingly, the Town and the DRB believed that this issue could be corrected via a motion to the lower court pursuant to Rule 60, SCRCF, and indeed, the lower court has since granted the

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<sup>1</sup> To be clear, neither BOZA nor the Lucey Parties are parties to the DRB Case.

<sup>2</sup> The appellants in the BOZA Case are the Town, BOZA, and the Lucey Parties. To be clear, this motion is *not* intended to have any effect on the appeals that the Town and BOZA and the Lucey Parties have taken, respectively, in the BOZA Case.

<sup>3</sup> CKC reserves the right to request a hearing on the DRB Case in the future, if necessary. The DRB Case remains a live case before the lower court. Nothing contained herein should be construed as a dismissal of the DRB Case itself.

Town and the DRB's Rule 60 motion and vacated the above-referenced order as to the DRB Case. A copy of the lower court's order in this regard is attached hereto as **Exhibit 1**.

Accordingly, the parties agree that the appeal taken by the Town and the DRB in the DRB Case is now moot and should be dismissed.

WHEREFORE, the parties ask this Honorable Court to dismiss this appeal with respect to the appeal in the **DRB Case** only, with no costs awarded to any party, and with the appeal in the **BOZA Case** to remain pending and proceed in due course.

Respectfully submitted,  
CLEMENT RIVERS, LLP

By: s/Russell G. Hines  
Stephen L. Brown (SC Bar No. 66468)  
Stephanie Ramia Sandifer (SC Bar No. 100217)  
Brian Lee Quisenberry (SC Bar No. 73637)  
Zachary M. Kern (SC Bar No. 103731)  
Russell G. Hines (SC Bar No. 72100)  
25 Calhoun Street, Suite 400  
P.O. Box 993 (29402)  
Charleston, South Carolina 29401  
(843) 720-5488

*Attorneys for Appellants The Town of Mount Pleasant, South Carolina; The Town of Mount Pleasant Commercial Design Review Board; and The Town of Mount Pleasant Board of Zoning Appeals*

Charleston, South Carolina

May 14, 2024

<CONSENTS ON THE FOLLOWING PAGE>

**I CONSENT:**

MCCULLOUGH KHAN APPEL

By: s/Ross A. Appel  
Ross A. Appel (SC Bar No. 79149)  
2036 eWall Street  
Mount Pleasant, South Carolina 29464  
(843) 937-0400

*Attorneys for Respondent  
CKC Properties, LLC*

Mount Pleasant, South Carolina

May 14, 2024

**I CONSENT:**

BYBEE & TIBBALS, LLC

By: s/Evan P. Williams  
Jeffrey S. Tibbals, Sr. (SC Bar No. 72628)  
Evan P. Williams (SC Bar No. 101981)  
880 Johnnie Dodds Boulevard, Suite 2  
Mount Pleasant, South Carolina 29464  
(843) 881-1623

*Attorneys for Appellants Justin O'Toole  
Lucey; 415 Mill St., Inc.; and 69 Scott  
Street, LLC*

Mount Pleasant, South Carolina

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