

STATE OF SOUTH CAROLINA  
**Administrative Law Court**

Ralph K. Anderson, III  
*Chief Judge*

Jana E. Cox Shealy  
*Clerk*



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SC Court of Appeals

July 30, 2024

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: T. Tree Farms RV Park (Blue Sky Associates, LLC) v. SC DHEC, Enclave at Fairview Homeowners' Assoc., Inc., Golden Hills of Fairview Homeowners' Assoc., Inc., et al.  
ALC Docket No. 22-ALJ-07-0010-CC  
Appellate Case No. 2022-001792

Dear Clerk Kitchings:

In accordance with the Court's Order filed July 26, 2024, I am hereby returning the Remittitur in the above-captioned matter.

Please let me know if you have any questions. With kind regards, I am,

Sincerely,

A handwritten signature in cursive script that reads "Jana E. Shealy".

Jana E. Shealy  
Clerk

Enclosure

cc: Sara Volk Martinez, Esquire  
Alexander George Shissias, Esquire  
Carl F. Muller, Esquire  
Matthew Terry Richardson, Esquire  
Sally S. Rock, Esquire  
Leslie S. Lenhardt, Esquire



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

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July 22, 2024

The Honorable Jana E. Shealy  
Edgar A. Brown Building  
1205 Pendleton Street  
Suite 224  
Columbia SC 29201

### REMITTITUR

Re: T. Tree Farms v. SCDHEC  
Lower Court Case No. 2022ALJ070010CC  
Appellate Case No. 2022-001792

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in cursive script that reads "Catherine Harrison, deputy".

CLERK



Enclosure

cc: Sara Volk Martinez, Esquire  
Alexander George Shissias, Esquire  
Carl F. Muller, Esquire  
Matthew Terry Richardson, Esquire  
Sally S. Rock, Esquire  
Leslie S. Lenhardt, Esquire  
The Honorable Milton G. Kimpson



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

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July 3, 2024

Ms. Sara Volk Martínez, Esquire  
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Sally S. Rock, Esquire  
255 Night Lark Lane  
Campobello SC 29322

Mrs. Leslie S. Lenhardt, Esquire  
PO Box 1380  
Pawleys Island SC 29585

Re: T. Tree Farms v. SCDHEC  
Appellate Case No. 2022-001792

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

A handwritten signature in cursive script that reads "Catherine Harrison, deputy". The signature is written in black ink and is centered on the page.

-CLERK-

cc: The Honorable Milton G. Kimpson

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

T. Tree Farms RV Park (Blue Sky Associates, LLC),  
Respondents,

v

South Carolina Department of Health and Environmental  
Control; Enclave at Fairview Homeowners' Association;  
Inc.; Golden Hills of Fairview Homeowner's Association,  
Inc.; Greenspace of Fairview, LLC; and North Pacolet  
Association, Inc.;

of which Enclave at Fairview Homeowners' Association,  
Inc.; Greenspace of Fairview, LLC, North Pacolet  
Association, Inc.; and Golden Hills of Fairview  
Homeowner's Association, Inc.; are the Appellants and  
South Carolina Department of Health and Environmental  
Control is a Respondent.

Appellate Case No. 2022-001792

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Appeal From the Administrative Law Court  
Milton G. Kimpson, Administrative Law Judge

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Unpublished Opinion No. 2024-UP-241  
Submitted June 1, 2024 – Filed July 3, 2024

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**AFFIRMED**

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Leslie S. Lenhardt, of South Carolina Environmental Law Project, of Pawleys Island; Carl F. Muller, of Carl F. Muller, Attorney at Law, P.A., of Greenville; Matthew Terry Richardson, of Wyche, PA, of Columbia; and Sally S. Rock, Pro Hac Vice, of Campobello, all for Appellants.

Alexander George Shissias, of The Shissias Law Firm, LLC, of Columbia, for Respondent Blue Sky Associates, LLC.

Sara Volk Martinez, of Columbia, for Respondent South Carolina Department of Health and Environmental Control.

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**PER CURIAM:** Enclave at Fairview Homeowners' Association, Inc., Golden Hills of Fairview Homeowners' Association, Inc., Greenspace of Fairview, LLC, and North Pacolet Association, Inc., (collectively, the Homeowners) appeal the Administrative Law Court's (ALC's) granting of T. Tree Farms RV Park's (Blue Sky Associates, LLC's) motion to dismiss. On appeal, the Homeowners argue the ALC erred in finding their Request for Final Review (RFR) was untimely and dismissing the appeal because their Freedom of Information Act (FOIA) request should have constituted written notice to the Department of Health and Environmental Control (DHEC) under section 44-1-60(E)(1) of the South Carolina Code (2018), such that their time to challenge the wastewater system permit did not begin to run until they received notice that the permit had been issued. We affirm pursuant to Rule 220(b), SCACR.

We hold the ALC did not err in granting Blue Sky Associates, LLC's motion to dismiss because the FOIA request did not constitute a request in writing to be notified of DHEC's permitting decision under section 44-1-60(E)(1); thus, the Homeowners' RFR was not timely filed. *See* S.C. Code Ann. § 1-23-610(B) (Supp. 2023) ("The review of the [ALC's] order must be confined to the record."); *Torrence v. S.C. Dep't of Corr.*, 433 S.C. 633, 643, 861 S.E.2d 36, 41-42 (Ct. App. 2021) ("Unless there is a compelling reason to the contrary, appellate courts 'defer to an administrative agency's interpretations with respect to the statutes entrusted to its administration or its own regulations.'" (quoting *Chapman v. S.C. Dep't of Soc. Servs.*, 420 S.C. 184, 188, 801 S.E.2d 401, 403 (Ct. App. 2017))); *S.C. Coastal*

*Conservation League v. S.C. Dep't of Health & Env't Control*, 390 S.C. 418, 425, 702 S.E.2d 246, 250 (2010) ("Statutory interpretation is a question of law."); § 44-1-60(E)(1) ("Notice of a department decision must be sent by certified mail, returned receipt requested to the applicant, permittee, licensee, and *affected persons who have requested in writing to be notified.*" (emphasis added)). We acknowledge that Madelon Wallace emailed a FOIA request to DHEC; however, neither the FOIA request nor the email accompanying it comport with the requirements of the statute. *See id.* Specifically, in her FOIA request and accompanying email, Wallace did not ask to be considered an "affected person" under section 44-1-60(E)(1) for issuance of a wastewater system permit and did not state she wanted to be notified of the issuance of a wastewater system permit. ~~*See S.C. Coastal Conservation League*, 390 S.C. at 425-26, 702 S.E.2d at 250.~~ ("[T]he words used in a statute must be given their ordinary meaning. When a statute's terms are clear and unambiguous . . . there is no room for statutory construction and a court must apply the statute according to its literal meaning." (citation omitted)). Accordingly, when DHEC issued the wastewater system permit on June 22, 2021, the fifteen-day timeline for an RFR began to run; thus, the Homeowners' RFR submitted in October 2021 was untimely because it was more than fifteen days after notice of the staff decision was mailed. *See* § 44-1-60(E)(2) ("The staff decision becomes the final agency decision fifteen calendar days after notice of the staff decision has been mailed to the applicant, unless a written request for final review accompanied by a filing fee is filed with the department by the applicant, permittee, licensee, or affected person.").

**AFFIRMED.**<sup>1</sup>

**THOMAS, MCDONALD, and VERDIN, JJ., concur.**

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<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

STATE OF SOUTH CAROLINA  
**Administrative Law Court**  
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