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Aug 27 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

Case No. 2021-CP-10-05211
Appellate Case No. 2023-001615

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 Board of Zoning Appeals;
Justin O'Toole Lucey; 415 Mill St., Inc.; and 69 Scott Street, LLC, are the

Appellants.

CONSENT MOTION FOR

- (1) LEAVE TO FILE/SERVE A SUPPLEMENTAL RECORD ON APPEAL,
(2) LEAVE TO FILE/SERVE FINAL BRIEFS THAT ACCOUNT FOR THE
DISMISSAL OF THE APPEAL IN CASE NO. 2021-CP-10-04416, AND
(3) AN EXTENSION OF TIME TO FILE/SERVE FINAL BRIEFS UNTIL
THE COURT RULES ON THIS MOTION**

Counsel identified on the next page

CLEMENT RIVERS, LLP

Stephen L. Brown (SC Bar No. 66468)

Stephanie Ramia Sandifer (SC Bar No. 100217)

Brian L. Quisenberry (SC Bar No. 73637)

Zachary M. Kern (SC Bar No. 103731)

Russell G. Hines (SC Bar No. 72100)

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

COME NOW Appellants The Town of Mount Pleasant, South Carolina, and The Town of Mount Pleasant Board of Zoning Appeals (collectively, the “Town”), by and through their undersigned counsel, joined by and with the express consent of Respondent, CKC Properties, LLC (“CKC”), 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, and hereby respectfully request that this Honorable Court grant (1) leave to file/serve the Supplemental Record on Appeal conditionally filed/served herewith (and to cite to the same as may be needed in the parties’ final briefs), (2) leave to file/serve final briefs that account for the Court’s order of June 6, 2024, dismissing the appeal in Case No. 2021-CP-10-04416, by allowing the parties’ final briefs to be altered from their initial briefs in such ways as may be necessary to omit needless reference(s) to the now-dismissed appeal in Case No. 2021-CP-10-04416, and (3) an extension of time to file/serve the parties’ final briefs until the Court rules on this motion.

Re: the Supplemental Record on Appeal

The Supplemental Record on Appeal conditionally filed/served herewith includes the following substantive matters: (1) Exhibits B, C, F, H, I, and R to CKC’s Appeal Petition, filed June 28, 2022, and (2) the Lucey Parties’ Notice of

Appeal and Proof of Service, the parties being agreed that these documents were inadvertently omitted from the previously filed Record on Appeal.

Re: Final Briefs

Under Rule 211(b), SCACR, final briefs are required to be identical to initial briefs but for certain exceptions. In this appeal, Appellants and Respondent filed/served their principal initial briefs before the dismissal of the appeal in Case No. 2021-CP-10-04416. Accordingly, their principal initial briefs include needless reference to the appeal in Case No. 2021-CP-10-04416. The parties agree that altering their final briefs (from their initial briefs) in such ways as may be necessary to omit needless reference(s) to the now-dismissed appeal in Case No. 2021-CP-10-04416, is warranted in the interests of clarity and judicial economy.

WHEREFORE, with the parties all in agreement that the relief sought herein is supported by good cause, the Town, joined by and with the express consent of CKC and the Lucey Parties, respectfully requests (1) that leave be granted to file/serve the Supplemental Record on Appeal, which is conditionally filed/served herewith, and which the Court is asked to accept as duly filed/served, and to which the parties ask the Court that they be allowed to cite as may be needed in their final briefs; (2) that leave be granted to file/serve final briefs that account for the Court's order of June 6, 2024, dismissing the appeal in Case No. 2021-CP-10-04416, by allowing the parties' final briefs to be altered from their initial briefs in such ways

as may be necessary to omit needless reference(s) to the now-dismissed appeal in Case No. 2021-CP-10-04416; and (3) that the parties be allowed until one (1) week after the Court rules on this motion to file/serve their final briefs.

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)
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*Attorneys for Appellants The Town of
Mount Pleasant, South Carolina, and
The Town of Mount Pleasant Board of
Zoning Appeals*

Charleston, South Carolina

August 9, 2024

<ADDITIONAL SIGNATURES ON THE FOLLOWING PAGE>

I CONSENT:

MCCULLOUGH KHAN APPEL

By: s/Ross A. Appel

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*Attorneys for Respondent
CKC Properties, LLC*

Mount Pleasant, South Carolina

August 9, 2024

I CONSENT:

BYBEE & TIBBALS, LLC

By: s/Evan P. Williams

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*Attorneys for Appellants Justin
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Mount Pleasant, South Carolina

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**THE STATE OF SOUTH CAROLINA
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Appeal from Charleston County
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Appellate Case No. 2023-001615

CKC Properties, LLC,

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Appellants.

PROOF OF SERVICE

Counsel identified on the next page

CLEMENT RIVERS, LLP

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

I, Russell G. Hines, of Clement Rivers, LLP, attorneys for Appellants The Town of Mount Pleasant, South Carolina, and The Town of Mount Pleasant Board of Zoning Appeals, hereby certify that the **CONSENT MOTION FOR (1) LEAVE TO FILE/SERVE A SUPPLEMENTAL RECORD ON APPEAL, (2) LEAVE TO FILE/SERVE FINAL BRIEFS THAT ACCOUNT FOR THE DISMISSAL OF THE APPEAL IN CASE NO. 2021-CP-10-04416, AND (3) AN EXTENSION OF TIME TO FILE/SERVE FINAL BRIEFS UNTIL THE COURT RULES ON THIS MOTION** was served on all other parties to this appeal on August 9, 2024, via email (see attached) to their following counsel of record:

Ross A. Appel, Esquire
ross@mklawsc.com
MCCULLOUGH KHAN APPEL
Mount Pleasant, South Carolina
*Attorneys for Respondent
CKC Properties, LLC*

Jeffrey S. Tibbals, Esquire
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BYBEE & TIBBALS, LLC
Mount Pleasant, South Carolina
*Attorneys for Appellants Justin O'Toole
Lucey, 415 Mill St., Inc., and
69 Scott Street, LLC*

Respectfully submitted,
CLEMENT RIVERS, LLP

By: s/Russell G. Hines
Russell G. Hines (SC Bar No. 72100)
*Attorneys for Appellants The Town of
Mount Pleasant, South Carolina, and
The Town of Mount Pleasant Board of
Zoning Appeals*

Charleston, South Carolina

August 9, 2024

From: [Hines, Russell](#)
To: [Ross Appel](#); [Evan Williams](#); [Jeff Tibbals](#)
Cc: [Brown, Stephen L.](#); [Sandifer, Stephanie](#); [Quisenberry, Brian](#); [Kern, Zachary \(Zach\)](#); [Justman, Aimee](#); [Bell, Pollyana \(Polly\)](#); [Justman, Barbara](#); [Liz Lademan](#)
Subject: CKC v. Mt. Pleasant (2023-001615) -- Consent Motion re Supplemental Record on Appeal etc.
Date: Friday, August 9, 2024 4:46:32 PM
Attachments: [image001.png](#)
[CKC v. Mt. Pleasant \(2023-001615\) -- Consent Mot. re Supp. ROA etc.pdf](#)
[CKC v. Mt. Pleasant \(2023-001615\) -- Supplemental ROA.pdf](#)

Attached for service in the above-referenced matter please find the **Consent Motion for (1) Leave to File/Serve a Supplemental Record on Appeal, (2) Leave to File/Serve Final Briefs that Account for the Dismissal of the Appeal in Case No. 2021-CP-10-04416, and (3) an Extension of Time to File/Serve Final Briefs until the Court Rules on this Motion**, as well as the **Supplemental Record on Appeal**, which is conditionally served as stated in said motion.

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