

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF BERKELEY)	Docket No.: 2024-CP-08-191
)	
JOHN LIVELY AND TRACEY)	
LIVELY,)	
)	
Plaintiffs,)	ORDER GRANTING DEFENDANTS'
)	MOTION TO STRIKE LIS PENDENS
v.)	FILED AGAINST DEFENDANT
)	DANIELSON'S RESIDENCE AT
CHARLESTON CUSTOM HOMES)	29 WOODFORD STREET, DANIEL
AND REMODELING, LLC, WILLIAM)	ISLAND, SC
E. DANIELSON, JR., AND STEVEN)	
P. EDMUNDS,)	
)	
Defendants.)	

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SC Court of Appeals

This matter came before the court for a hearing on September 19, 2024. After considering the arguments, the court grants Defendants’ motion and orders that the lis pendens filed by Plaintiffs on May 1, 2024 against Defendant Danielson’s personal residence at 29 Woodford Street, Daniel Island, SC be stricken and cancelled.

The current lawsuit alleged claims involving the construction of Plaintiffs’ residence. S.C. Code Ann. §§ 15-11-10 et al. and relevant case law did not provide the basis for Plaintiffs to have filed a lis pendens against Defendant Danielson’s residence. The statute states the action must affect the title to the real property where the lis pendens is filed, and, in this current matter, the real property involved in the lawsuit is Plaintiffs’ residence and not Danielson’s residence.

As stated in Pond Place Partners v. Poole, 351 S.C. 1, 567 S.E.2d 881 (Ct. App. 2002),

The lis pendens mechanism is not designed to aid either side in a dispute between private parties. Rather, lis pendens is designed primarily to protect unidentified third parties by alerting prospective purchasers of property as to what is already on public record, i.e., the fact of a suit involving property. Thus, it notifies potential purchasers that there is pending litigation that may affect their title

to real property and that the purchaser will take subject to the judgment, without any substantive rights.

Id. “Therefore, an action ‘affecting the title to real property’ clearly allows the filing of a lis pendens by an interested party in order to protect their ownership interest in the property subject to the litigation.” Id. The Pond Place Partners opinion cited Atkinson v. Fundaro, 400 So.2d 1324 (Fla.Dist.Ct.App. 1981) for the proposition “finding no privilege for the filing of a lis pendens on property that had absolutely no involvement in the underlying litigation.” Id.

Accordingly, the court strikes the lis pendens. Pursuant to S.C. Code Ann. § 15-11-40, the Berkeley County Clerk of Court is hereby ordered to take all steps necessary to cancel the lis pendens.

IT IS SO ORDERED.

Judge Jennifer McCoy

September _____, 2024
Moncks Corner, South Carolina



Berkeley Common Pleas

Case Caption: John Lively , plaintiff, et al VS Charleston Custom Homes And Renovations, Llc , defendant, et al

Case Number: 2024CP0800191

Type: Order/Other

So Ordered

s/Jennifer B. McCoy #2764