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Apr 10 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

Appellate Case No. 2024-001820

Allen University,.....Appellant,

v.

City of Columbia Design/Development Review Commission,Respondent.

MOTION TO DISMISS APPEAL

This is an appeal from a decision of the City of Columbia’s Design/Development Review Commission (the “DDRC”). The DDRC is an architectural board authorized by state statute. *See* S.C. Code Ann. § 6-29-870(A).

The DDRC denied Appellant’s request for a certificate of design approval for demolition of a structure at 1421 Heidt Street. The structure, a historic home, is located in an architectural protection area. Evidence was presented at the hearing below that Appellant has failed to maintain the structure and has allowed it to fall into disrepair. If there is no resolution of this matter, the structure will be demolished by neglect and an historic structure will be no more.

Appellant filed its notice of appeal on October 28, 2024. Upon information and belief, Appellant timely ordered a transcript of the hearing held in the circuit court. The transcript was made available to the parties on December 4, 2024.

Based on Appellant's failure to file its initial brief within 30 days of receipt of the transcript, Respondent filed a motion to dismiss the appeal on January 6, 2025.

Appellant filed a return to that motion, indicating there was some confusion amongst Appellant's counsel as to the receipt of the transcript and whether Counsel Shaffer would be participating in the appeal. Counsel Shaffer indicated he would likely be moving to be relieved from the case. Appellant also sought an extension until February 3, 2025, to file the initial brief and designation of matter.

On February 19, 2025, Respondent filed a "Renewed Motion to Dismiss" based on Appellant's failure to file its initial brief and designation of matter by its self-imposed deadline of February 3, 2025. (Copy of Renewed Motion to Dismiss attached as Exhibit One).

On February 21, 2025, the Court wrote to the undersigned counsel that if a \$50.00 filing fee was paid the Court would construe the renewed motion to dismiss as an amended motion to dismiss. On February 26, 2025, Respondent paid the filing fee. (Copy of letter and check attached as Exhibit Two). It does not appear as if the Court entered the amended/renewed motion to dismiss on the docket.

On March 4, 2025, this Court entered an order denying Respondent's motion to dismiss without prejudice. The Court instructed Appellant to "advise the court of the status of the transcript within ten days of the date of this order, or the appeal will be dismissed."

Counsel Shaffer responded to the Court's directive on March 14, 2025. Counsel Chaplin has been in possession of the transcript since November 18, 2024. Counsel Shaffer again explained there was confusion between the two offices responsible for the appeal. Counsel Shaffer asked for deadlines to be held in abeyance until March 21, 2025. Counsel Shaffer stated he would "either

move to be relieved or ensure that an initial brief and petition to file out of time is filed no later than March 21, 2025.”

The Court wrote to Appellant’s counsel on March 19, 2025, stating that the initial brief and designation of matter are overdue. The Court instructed Appellant to file a motion if it wished to request relief from the Court.

Despite the Court’s directive on March 19, 2025, and despite Counsel Shaffer’s assurance that something would be filed by March 21, 2025, nothing has happened. There has been no good explanation for this dilatory conduct.

Respondent objects to any further extension of time for briefing in this matter. Further delay will lead to further deterioration of the structure. Upon information and belief, the delay in this matter is calculated by Appellant to obtain demolition by neglect. Appellant is gaming the system, hoping the structure falls down. This disrespect for opposing counsel and the courts of this State should not be allowed.

For the reasons stated herein, Appellant’s appeal should be dismissed, and Appellant should not be allowed any extension of time to file its initial brief.

Respectfully submitted,

RILEY POPE & LANEY, LLC

s/Peter M. Balthazor

Peter M. Balthazor, SC Bar No. 68244

P.O. Box 11412

Columbia, South Carolina 29211

(803) 799-9993 – Office

peteb@rplfirm.com

Attorneys for Respondent

Columbia, South Carolina
April 10, 2025

THE STATE OF SOUTH CAROLINA
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Kristi F. Curtis, Circuit Court Judge

Appellate Case No. 2024-001820

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v.

City of Columbia Design/Development Review Commission,Respondent.

RENEWED MOTION TO DISMISS APPEAL

This is an appeal from a decision of the City of Columbia’s Design/Development Review Commission (the “DDRC”). The DDRC is an architectural board authorized by state statute. *See* S.C. Code Ann. § 6-29-870(A).

The DDRC denied Appellant’s request for a certificate of design approval for demolition of a structure at 1421 Heidt Street. The structure, a historic home, is located in an architectural protection area. Evidence was presented at the hearing below that Appellant has failed to maintain the structure and has allowed it to fall into disrepair. If there is no resolution of this matter, the structure will be demolished by neglect.

Appellant filed its notice of appeal on October 28, 2024. Upon information and belief, Appellant timely ordered a transcript of the hearing held in the circuit court. The transcript was made available to the parties on December 4, 2024. The following day, the undersigned counsel

emailed Appellant's counsel to inquire about the transcript and the briefing deadlines. The undersigned counsel did not receive any response from Appellant.

An appellant must file its initial brief within 30 days after receiving the transcript. Rule 208(a), SCACR.

Appellant failed to file its initial brief within 30 days after receiving the transcript, and Appellant had not sought an extension of time. Therefore, on January 6, 2025, Respondent filed a motion to dismiss this appeal.

On January 16, 2025, Appellant filed a return to Respondent's motion. Appellant explained that there was some confusion about who would be representing the Appellant for purposes of the appeal. Counsel Shaffer indicated he would be moving to be relieved from this case. Upon information and belief, Counsel Shaffer has not moved to be relieved. Appellant asked for permission to file its initial brief and designation of matter by February 3, 2025.

However, rather than take any action to move this appeal along, Appellant has done nothing. Appellant did not file its initial brief and designation of matter by its self-imposed deadline of February 3, 2025.

Respondent again asks for this appeal to be dismissed. Respondent objects to any extension of time for briefing in this matter. Further delay will lead to further deterioration of the structure. Upon information and belief, the delay in this matter is calculated by Appellant to obtain demotion by neglect. While this appeal was pending in the circuit court, Appellant moved for a continuance on the day of a scheduled hearing (March 22, 2024) so that mediation could be conducted. Appellant had made no attempts to schedule a mediation before this date.

For the reasons stated herein, Appellant's appeal should be dismissed, and Appellant should not be allowed any extension of time to file its initial brief.

Respectfully submitted,

RILEY POPE & LANEY, LLC

s/Peter M. Balthazor

Peter M. Balthazor, SC Bar No. 68244

P.O. Box 11412

Columbia, South Carolina 29211

(803) 799-9993 – Office

peteb@rplfirm.com

Attorneys for Respondent

Columbia, South Carolina
February 19, 2025

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

Appellate Case No. 2024-001820

Allen University,.....Appellant,

v.

City of Columbia Design/Development Review Commission,Respondent.

PROOF OF SERVICE

This is to certify that I, Peter M. Balthazor, have this day caused to be served upon the person named below the attached **RENEWED MOTION TO DISMISS APPEAL** in the above-captioned matter via electronic mail to the AIS e-mail address of the following attorneys:

Tristan Michael Shaffer, Esq.
P.O. Box 1135
Irmo, SC 29063
tristan@shafferlawsc.com

Joenathan Shelly Chaplin, Esq.
4511 N. Main Street
Columbia, SC 29203
info@jschaplinlaw.com

Respectfully submitted,

RILEY POPE & LANEY, LLC

s/Peter M. Balthazor

Peter M. Balthazor, SC Bar No. 68244
P.O. Box 11412
Columbia, South Carolina 29211
(803) 799-9993 – Office
peteb@rplfirm.com
Attorneys for Respondent

Columbia, South Carolina
February 19, 2025



South Carolina
Riley Pope & Laney, LLC
2838 Devine Street
Columbia, SC 29205
Phone: 803.799.9993
Fax: 803.239.1414
www.rplfirm.com

February 26, 2025

VIA U.S. MAIL

Jenny Abbott Kitchings
The South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: Allen University v. City of Columbia Design/Development Review Commission
Appellate Case No.: 2024-001820

Dear Ms. Kitchings:

Please find enclosed a check in the amount of \$50.00 for the Amended Motion to Dismiss filed on February 19, 2025.

If you have any questions, please let me know.

Sincerely,

s/Peter M. Balthazor

Peter M. Balthazor

PMB/ams

cc: tristan@shafferlawsc.com (via email only)
info@jschaplinlaw.com (via email only)

DATE	DESCRIPTION	INVOICE #	AMOUNT	CHECK DEDUCTION	NET AMOUNT
02/21/2025	Filing fee for Amended Motion to Dismiss	5253.00123	50.00		50.00

CHECK DATE	CONTROL NUMBER	TOTALS	Gross:	Ded:	Net:
02/25/2025	206707		50.00	0.00	50.00

VOID VOID VOID VOID VOID

RILEY POPE & LANEY, LLC.
 ATTORNEYS AT LAW
 2838 DEVINE ST
 COLUMBIA, SC 29205
 (803) 799-9993


AMERIS BANK
64-175/612

206707

DATE: 02/25/2025 AMOUNT: *****\$50.00

PAY *** FIFTY & 00/100 DOLLARS

TO THE ORDER OF: SC Court of Appeals


AUTHORIZED SIGNATURE

⑈ 206 707 ⑈ ⑆06 1 20 1 75 4⑆ 204903 168 1⑈

Security features included. Details on back.

RILEY POPE & LANEY, LLC.

206707

Vendor: SC Court of Appeals

Date	Description	Invoice #	Amount	Disc	Net Amt
02/21/2025	Filing fee for Amended Motion to Dismiss	5253.00123	50.00		50.00
<u>Check Date</u>	<u>Check #</u>	<u>Gross Amt</u>	<u>Disc Amt</u>	<u>Net Amt</u>	
02/25/2025	206707	50.00	0.00	50.00	

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v.

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PROOF OF SERVICE

This is to certify that I, Peter M. Balthazor, have this day caused to be served upon the person named below the attached **MOTION TO DISMISS APPEAL** in the above-captioned matter via electronic mail to the AIS e-mail address of the following attorneys:

Joenathan Shelly Chaplin, Esq.
4511 N. Main Street
Columbia, SC 29203
info@jschaplinlaw.com

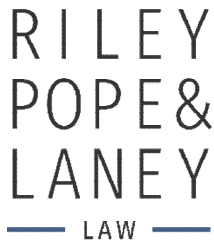
Tristan Michael Shaffer, Esq.
P.O. Box 1135
Irmo, SC 29063
tristan@shafferlawsc.com

Columbia, South Carolina
April 10, 2025

RILEY POPE & LANEY, LLC

s/Peter M. Balthazor

Peter M. Balthazor
P.O. Box 11412
Columbia, South Carolina 29211
(803) 799-9993 – Office
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Attorneys for Respondent



South Carolina | North Carolina

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April 10, 2025

VIA ELECTRONIC FILING AND ELECTRONIC MAIL

Jenny Abbott Kitchings
The South Carolina Court of Appeals
1220 Senate Street, Suite 200
Columbia, SC 29201

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SC Court of Appeals

Re: Allen University v. City of Columbia Design/Development Review Commission
C/A No.: 2024-001820
Our File No.: 5253.00123

Dear Ms. Kitchings:

Please find enclosed the Respondent's Motion to Dismiss Appeal in the above-mentioned matter. The filing fee of \$50.00 will be mailed under separate cover. By copy of this letter I am notifying the Appellant of my communication with the court.

If you have any questions, please let me know.

Thank you very much for your consideration in this matter.

Sincerely,

s/Peter M. Balthazor

Peter M. Balthazor

PMB/ams
Enclosure

cc: Joenathan Shelley Chaplin, Esq. (email only)
Tristain Michael Shaffer, Esq. (email only)