

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY  
Benjamin H. Culbertson, Circuit Court Judge

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Appellate Case Number 2013-000712  
Trial Court Case Number 2012-CP-22-00934

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Bonnie N. Charlton, Ronald L. Charlton, and Bayside Property, Inc. . . . . Plaintiffs,

v.

South Bay Properties, LLC, Stantec Consulting Services, Inc. f/k/a Trico Engineering Consultants, Inc., Milone & MacBroom, Inc., John Steven Goodwin, Louise C. Goodwin, Thomas I. Puckett, Brenda C. Puckett, Robert Nahama, Jeanne E. Nahama, Thomas Holland Sharon Louise Holland, Joyce K. Sobel, Robert W. Waruszewskiu, Richard N. Taylor, Robert K. Spillers (a/k/a Robert Spillers) Deborah T. Spillers (a/k/a Deborah Spillers), Patrick A. DiAngelo, Deborah A. DiAngelo, Gary E. Owens, and Joyce M. Owens, Fount L. Shults, Lynda M. Shults, Dennis Ridgeway, Teresa Lynn Ridgeway and Georgetown County Forfeited Land Commission . . . . . Defendants,

Of whom John Steven Goodwin, Louise C. Goodwin, Gary E. Owens and Joyce M. Owens are the Appellants,

and

Bonnie N. Charlton, Ronald L. Charlton, Bayside Property, Inc., South Bay Properties, LLC, Stantec Consulting Services, Inc. f/k/a Trico Engineering Consultants, Inc., Milone & MacBroom, Inc., Patrick A. DiAngelo, Deborah A. DiAngelo, and Georgetown County Forfeited Land Commission are the Respondents.

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RETURN TO MOTION  
FOR EXTENSION OF TIME

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**RECEIVED**

NOV 12 2013

**SC Court of Appeals**

Charles T. Smith  
608 Cypress Street  
Georgetown, South Carolina 29440  
(843) 545-6578  
Attorney for Respondents Bonnie N. Charlton,  
Ronald L. Charlton, and Bayside Property, Inc.

Respondents Bonnie N. Charlton, Ronald L. Charlton and Bayside Property, Inc. oppose Appellants' Motion for Extension of Time to File Reply Brief dated November 4, 2013.

This appeal is from an Order of Reference issued January 28, 2013, referring this mortgage foreclosure action to the Georgetown County Master in Equity. The Master in Equity's Order Returning Action to Circuit Court issued March 21, 2013, had the effect of vacating the Order of Reference and rendering this appeal moot. A copy of the Master in Equity's Order Returning Action to Circuit Court is attached.

No purpose is served by this appeal other than to stay the Circuit Court proceedings and thereby delay the mortgage foreclosure.

Appellants filed multiple motions for reconsideration in the Circuit Court. Appellants have requested and received multiple extensions of time in this Court. Appellants should not be permitted to continue to prolong and delay this appeal.

Charles T. Smith

Charles T. Smith  
608 Cypress Street  
Georgetown, South Carolina 29440  
(843) 545-6578  
Attorney for Respondents Bonnie N. Charlton,  
Ronald L. Charlton, and Bayside Property, Inc.

November 7, 2013

STATE OF SOUTH CAROLINA )  
)  
COUNTY OF GEORGETOWN )

IN THE COURT OF COMMON PLEAS

CASE NO.: 2012-CP-22-00934

Bonnie N. Charlton, Ronald L. Charlton, )  
and Bayside Property, Inc., )  
)  
Plaintiffs, )


vs. )

**ORDER RETURNING ACTION TO  
CIRCUIT COURT**

South Bay Properties, LLC, Stantec )  
Consulting Services, Inc. f/k/a Trico )  
Engineering Consultants, Inc., Milone )  
& MacBroom, Inc., John Steven Goodwin, )  
Louise C. Goodwin, Thomas I. Puckett, )  
Brenda C. Puckett, Robert Nahama, )  
Jeanne E. Nahama, Thomas Holland )  
Sharon Louise Holland, Joyce K. Sobel, )  
Robert W. Waruszewskiu, Richard N. )  
Taylor, Robert K. Spillers (a/k/a Robert )  
Spillers) Deborah T. Spillers (a/k/a Deborah )  
Spillers), Patrick A. DiAngelo, Deborah A. )  
DiAngelo, Gary E. Owens, and Joyce M. )  
Owens, Fount L. Shults, Lynda M. Shults, )  
Dennis Ridgeway, Teresa Lynn Ridgeway )  
and Georgetown County Forfeited Land )  
Commission, )  
)  
Defendants. )

FILED  
GEORGETOWN COUNTY, SC  
2013 MAR 22 PM 3:51  
ALMA Y. WHITE  
CLERK OF COURT

This is an action to foreclose a mortgage on real property located in Georgetown County, South Carolina. The Complaint alleges that the Defendant South Bay Properties, LLC made, executed and delivered a promissory note and purchase money mortgage to the Plaintiffs in September of 2007. South Bay Properties, LLC then created and marketed a development known as Harbor Club on Winyah Bay. Although some of the lots were sold, South Bay Properties, LLC



defaulted on the payments due on the promissory note. This action seeks to foreclose the mortgage on the property not sold by South Bay Properties, LLC.

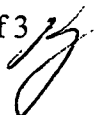
By an Order of Reference dated and filed January 28, 2013, the Honorable Benjamin H. Culbertson referred this action to the undersigned as Master in Equity for Georgetown County, to take the testimony arising under the pleadings and to make findings of fact and conclusions of law with authority to enter a final judgment in the cause with any appeal directly to the South Carolina Supreme Court.

On the same day Judge Culbertson heard the Motion for an Order of Reference, the Defendants John Steven Goodwin, Louise C. Goodwin, Gary E. Owens and Joyce M. Owens filed and served a Motion to Amend Answer. The time required by Rule 6(d), SCRPC, had not run, therefore Judge Culbertson did not consider the Motion to Amend Answer and the Order of Reference provided that the Motion to Amend may be considered by the undersigned.

On February 25, 2013, this action came before the undersigned for consideration of the Motion to Amend. Present were Charles T. Smith, attorney for the Plaintiffs, and K. Douglas Thornton and John M. Leiter, attorneys for John Steven Goodwin, Louise C. Goodwin, Gary E. Owens and Joyce M. Owens.

Upon reviewing the proposed amended answer it was apparent that one of the effects of granting the Motion to Amend would be to add The City of Georgetown as a third party defendant in this action. Since 2006 Elise Freeman Crosby has served as City Attorney for the City of Georgetown. Elise Freeman Crosby is the law partner and spouse of the undersigned.

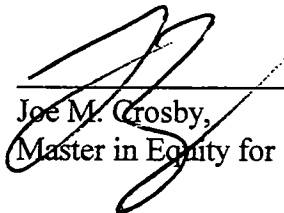
Canon 2 of the Code of Judicial Conduct, Rule 501 of the South Carolina Appellate Court Rules, demands that a judge shall avoid impropriety and the appearance of impropriety in all of the



judge's activities. The commentary states: "The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired."

Therefore, I conclude that I should refrain from ruling on the Motion to Amend filed by John Steven Goodwin, Louise C. Goodwin, Gary E. Owens and Joyce M. Owens and should return this action to the Circuit Court.

AND IT IS SO ORDERED.

  
\_\_\_\_\_  
Joe M. Crosby,  
Master in Equity for Georgetown County

March 21, 2013

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY  
Benjamin H. Culbertson, Circuit Court Judge

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Appellate Case Number 2013-000712  
Trial Court Case Number 2012-CP-22-00934

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Bonnie N. Charlton, Ronald L. Charlton, and Bayside Property, Inc. . . . . Plaintiffs,

v.

South Bay Properties, LLC, Stantec Consulting Services, Inc. f/k/a Trico Engineering Consultants, Inc., Milone & MacBroom, Inc., John Steven Goodwin, Louise C. Goodwin, Thomas I. Puckett, Brenda C. Puckett, Robert Nahama, Jeanne E. Nahama, Thomas Holland Sharon Louise Holland, Joyce K. Sobel, Robert W. Waruszewski, Richard N. Taylor, Robert K. Spillers (a/k/a Robert Spillers) Deborah T. Spillers (a/k/a Deborah Spillers), Patrick A. DiAngelo, Deborah A. DiAngelo, Gary E. Owens, and Joyce M. Owens, Fount L. Shults, Lynda M. Shults, Dennis Ridgeway, Teresa Lynn Ridgeway and Georgetown County Forfeited Land Commission . . . . . Defendants,

Of whom John Steven Goodwin, Louise C. Goodwin, Gary E. Owens and Joyce M. Owens are the Appellants,

and

Bonnie N. Charlton, Ronald L. Charlton, Bayside Property, Inc., South Bay Properties, LLC, Stantec Consulting Services, Inc. f/k/a Trico Engineering Consultants, Inc., Milone & MacBroom, Inc., Patrick A. DiAngelo, Deborah A. DiAngelo, and Georgetown County Forfeited Land Commission are the Respondents.

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PROOF OF SERVICE

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Charles T. Smith  
608 Cypress Street  
Georgetown, South Carolina 29440  
(843) 545-6578  
Attorney for Respondents Bonnie N. Charlton,  
Ronald L. Charlton, and Bayside Property, Inc.

I hereby certify that on the 7<sup>th</sup> day of November, 2013, I served the Return to Motion for Extension of Time by depositing copies in the United States Mail, postage prepaid, addressed to:

John W. Davidson, Esquire  
Nexsen Pruet  
Post Office Drawer 2426  
Columbia, SC 29202  
Attorney for Stantec Consulting Services, Inc.

Bryon L. Saintsing, Esquire  
Smith Debnam  
Post Office Box 26268  
Raleigh, NC 27611-6268  
Attorney for Milone & MacBroom, Inc.

K. Douglas Thornton, Esquire  
Thornton Law Firm, LLC  
1025 Third Avenue  
Conway, SC 29526  
Attorney for John Steven Goodwin, Louise C. Goodwin, Gary E. Owens and Joyce M. Owens

John M. Leiter, Esquire  
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Attorney for John Steven Goodwin, Louise C. Goodwin, Gary E. Owens and Joyce M. Owens

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Attorney for South Bay Properties, LLC

Donald G. Hunt, Jr., Esquire  
Kristin G. Atkins, Esquire  
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Attorneys for South Bay Properties, LLC

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Myrtle Beach, SC 29588  
Defendant

Deborah A. DiAngelo  
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Myrtle Beach, SC 29588  
Defendant

Wesley P. Bryant, Esquire  
Georgetown County Attorney  
Post Office Box 421270  
Georgetown, SC 29442  
Attorney for Georgetown County Forfeited Land Commission

*Charles T. Smith*

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November 7, 2013

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November 7, 2013

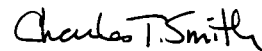
The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: Bonnie N. Charlton, et al. v. South Bay Properties, LLC, et al.  
Appellate Case Number 2013-000712

Dear Ms. Kitchings:

Enclosed for filing are the original and six copies of the Return to Motion for Extension of Time of Respondents Bonnie N. Charlton, Ronald L. Charlton, and Bayside Property, Inc. and Proof of Service. By copy of this letter copies of these documents are being served on the other parties of record.

Yours very truly,



Charles T. Smith

Enclosures

cc: Bonnie N. Charlton  
K. Douglas Thornton, Esquire  
John M. Leiter, Esquire  
John W. Davidson, Esquire  
Bryon L. Saintsing, Esquire  
Ronald L. Richter, Jr., Esquire  
Donald G. Hunt, Jr., Esquire  
Patrick A. DiAngelo  
Deborah A. DiAngelo  
Wesley P. Bryant, Esquire

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