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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Hon. Benjamin Alex Hyman, Circuit Court Judge

Civil Action No. 2025-CP-26-08430
Appellate Case No. 2026-001016

Crazy Horse Saloon and Restaurant, Inc., Samantha Christian, Melissa Ferguson, Amy Robinson, and Carlos Castillo Respondents

v.

Town of Atlantic Beach Appellant,

v.

Dog Leg Right, LLC, Backbay Group, LLC, Michael J. Peter, Thomas P. Hughes, and Laura Jean Watson Respondents.

APPELLANT'S INITIAL BRIEF

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PRELIMINARY STATEMENT

The plaintiffs, Crazy Horse Saloon and Restaurant, Inc., Samanta Christian, Melissa Ferguson, Amy Robinson, and Carlos Castillo¹ (the “Plaintiffs”), owners and operators of a sexually orientated business known as “Thee Dollhouse,” filed the present lawsuit in an attempt to invalidate the Sexually Oriented Business Code (the “SOB Code”) enacted by the Town of Atlantic Beach, South Carolina (the “Town”) and enjoin the Town from enforcing it against Thee Dollhouse. In response, the Town asserted counterclaims against the Plaintiffs and third-party counterclaim defendants Dog Leg Right, LLC, Backbay Group, LLC, Michael J. Peter, Thomas P. Hughes, and Laura Jean Watson (together, with the Plaintiffs, “Thee Dollhouse”), for injunctive relief and fines due to the Thee Dollhouse’s ongoing violation of the SOB Code. On March 30, 2026, the trial court entered its Order Granting Plaintiffs’ Motion for Temporary Injunction and Denying Defendant’s Motion for Temporary Injunction (the “Order”). The Town now appeals the Order due to the trial court’s failure to consider and comply with centuries of sound South Carolina precedent and the potential overreaching impact of the Order’s language.

This is a case about the “de facto doctrine.” *Zaman v. S.C. Bd. of Medical Examiners*, 305 S.C. 281, 284, 408 S.E.2d 213, 214 (1991). For more than two hundred years, South Carolina has applied the doctrine to preserve official acts despite post hoc challenges to the legal status of the official or body that acted. *See, e.g., Taylor v. Skrin*, 2 Tread 696, 7. S.C.L. 696 (1815) (the public acts of officers de facto are valid despite invalid authority to act – a principle “too well established to admit of a doubt”). Our Supreme Court has repeatedly warned that invalidating laws due to a defect in a governing body’s composition would result in “untold chaos and confusion.” *State ex rel. McLeod v. West*, 249 S.C. 243, 248, 153 S.E.2d 892, 894 (1967); *Cromer v. Boinest*, 27 S.C.

¹ Carlos Castillo is not involved in this appeal.

436, 3 S.E. 849 (1887); *see also Rockingham County v. Luten Bridge Co.*, 35 F.2d 301, 306, 66 A.L.R. 735 (4th Cir.). The court below ignored that warning.

In direct contradiction of the de facto officer doctrine, the lower court ruled the Town's SOB Code is void *ab initio* because Edward Lamar Campbell, a member of the Town Council of the Town of Atlantic Beach (the "Town Council"), the governing body of the Town, that passed the SOB Code in 2025, was not eligible to seek office when he was elected to his four-year term beginning in 2021. Worse, the trial court entered the Plaintiff's proposed order, which stated that *all Town actions* involving Councilmember Campbell—from setting budgets, to adopting business license fees, to entering into contracts—are "null and void *ab initio*, for lacking any properly composed Council to conduct the governmental functions of the Town." (Order Granting Plaintiffs' Motion for Temporary Injunction and Denying Defendant's Motion for Temporary Injunction ("Order") at 7-8 (entered Mar. 30, 2026)). This overreaching conclusion far exceeds the limited issues on which the lower court was to rule – competing motions for temporary injunction relating to the continued enforcement of the SOB Code. Moreover, it violates the de facto officer doctrine, a common law doctrine recognized in all fifty states rooted in English jurisprudence that has been continuously applied in South Carolina for over two hundred years.

The trial court erred. The de facto officer doctrine preserves the Town's acts from 2022 to 2025, including the adoption of the SOB Code. And because the Plaintiffs admittedly operate their strip club—Thee Dollhouse—in ways that admittedly violate the SOB Code, the trial court should have instead enjoined their unlawful conduct. *Greenville Bistro, LLC v. Greenville Cnty.*, 435 S.C. 146, 174, 866 S.E.2d 562, 576 (2021).

For the reasons set forth herein, this Court should reverse the trial court's temporary injunction order and remand with instructions that the trial court enjoin Thee Dollhouse from

continuing to operate in a manner that violates the SOB Code. *Id.*

STATEMENT OF ISSUES ON APPEAL

- I. Under the de facto officer doctrine, an official's acts are validated, even if he is later found to have been ineligible for office, if the official had full and peaceable possession of the powers of the office. At all times since his 2021 election, Councilmember Campbell had full and peaceable possession of the powers of Town Councilmember.
- II. When a municipality seeks a temporary injunction to enforce an ordinance, it need only show that it has an ordinance covering the situation and that the ordinance is being violated. The Town showed that its SOB Code regulates Thee Dollhouse, and that Thee Dollhouse habitually violates the restrictions on operating hours, sexual contact, and private rooms. Did the trial court err in denying the Town's motion for temporary injunction?

STATEMENT OF THE CASE

Plaintiffs commenced this action on October 27, 2025. (Compl.). They filed an Amended Complaint on October 31, 2025. (Am. Compl.). On November 19, Plaintiffs moved for a temporary injunction. (Plaintiff's Motion for Temporary Injunction ("MTI")).

On December 3, 2025, the Town answered and asserted counterclaims against Plaintiffs and third-party counterclaim defendants Dog Leg Right, LLC, Backbay Group, LLC, Michael J. Peter, Thomas P. Hughes, seeking injunctive relief and fines for ongoing violations of the SOB Code. (Defendant's Answer and Affirmative Defenses and Counterclaim for Injunctive Relief (Ans. & CCLM)).

On January 2, 2026, the Town filed an Amended Answer and Counterclaim. (Def.'s Am. Ans. & CCLM). Thee Dollhouse answered the counterclaim on January 6, 2026, and again on February 3, 2026, following the amendment. (Pls.' Answer to Countercl. (Jan. 6, 2026); Pls.' Answer to Am. Countercl. (Feb. 3, 2026)).

On January 7, 2026, the Town moved for a temporary injunction to enjoin Thee Dollhouse's ongoing violations of the SOB Code. (Town MTI). On February 9, 2026, Thee Dollhouse responded to the Town's motion for temporary injunction. (Thee Dollhouse MTI Resp.). On February 13, 2026, the Town filed its brief supporting its motion for temporary injunction and opposing Thee Dollhouse's motion. (Def.'s MTI Br.).

The trial court (Hyman, J.) held a hearing on both motions on February 24, 2026. (Tr. at p. 1). The court heard the matter on the pleadings, briefing, exhibits, and testimony from two witnesses presented at that hearing.

On February 26, 2026, the Town filed a supplemental brief supporting its motion and responding to arguments raised at the February 24 hearing.

On March 4, 2026, the court entered a Form 4 Order stating that Plaintiffs' Motion for Temporary Injunction was granted and the Town's Motion for Temporary Injunction was denied. (Form 4 Order (Mar. 4, 2026)). On the same day, court staff emailed the parties stating that "Plaintiff's Motion for Temporary Injunction is granted **solely** on the ground that Ordinance 11-2025 is null and void *ab initio* due to the Town's failure to have a lawfully composed governmental body at the time of its purported adoption." (March 4, 2026, 8:40 A.M., Email from court staff (emphasis in original)). The court asked Thee Dollhouse to prepare a proposed order.

On March 16, 2026, the Town moved the circuit court to reconsider its ruling. (Def.'s Mot. Recons. (Mar. 16, 2026)). The Town also objected to Thee Dollhouse's proposed order.

The court signed Thee Dollhouse's proposed order on March 27, 2026, and filed it on March 30. Despite the narrow basis for the court's ruling articulated in its March 3 correspondence, the Order broadly concludes all actions of the Town Council in which Councilmember Campbell participated are void *ab initio*, including the adoption of Ordinance No. 11-2015. (Order at 7-8). It

further specifically grants Thee Dollhouse a temporary injunction against enforcement of the SOB Code. (Order at 9-10).

The circuit court denied the Town's motion for reconsideration by Form 4 Order entered April 6, 2026. (Form 4 Order Denying Mot. Recons. (Apr. 6, 2026)).

The Town served and timely filed its Notice of Appeal on April 24, 2026, pursuant to South Carolina Code Annotated Section 14-3-330(4). (Notice of Appeal).

This appeal does not involve a monetary judgment. The Town's pending counterclaim seeks statutory fines of \$500 per violation per day, which the Town alleged as of December 2, 2025, but that claim remains before the circuit court and is not itself at issue in this appeal. (Def.'s Am. Ans. & CCLM at 28-29).

STATEMENT OF THE FACTS

A. Councilmember Campbell is elected in November 2021, and serves his four-year term unchallenged.

Edward Lamar Campbell pled guilty to a federal felony on September 18, 2001. On January 19, 2007, his sentence was commuted to time served and four years of supervised release. (Order at 5). On November 12, 2009, the United States District Court discharged him from supervised release because he had "complied with the rules and regulations of supervised release and is no longer in need of supervised release." (Pl.'s Ex. E). He did not serve any *probation* or *parole*.

On August 31, 2021, Councilmember Campbell submitted a "Statement of Candidacy General Elections." (Am. Compl. Ex. B). The form stated the following:

I have never been convicted of, pled guilty or nolo contendere to a felony or an offense against the South Carolina election laws. If so, I have been pardoned under State or Federal law or it has been 15 years or more after the completed service of the sentence, including probation and parole time. My signature below attests to this.

(*Id.*).

Councilmember Campbell was elected to the Town Council in November 2021. (Tr. at 13:6-7). He then served on Town Council as a “participant, commentator, and voting member” from “01/01/2022 to the present.” (Am. Compl. at 12 ¶ 62; Order at 4, 7-8).

It is undisputed that no one sought to remove Councilmember Campbell from office under Section 15-63-60 of the Code of Laws of South Carolina 1976, as amended, which provides a direct cause of action against a person who is unlawfully holding or exercising a public office. It is also undisputed that Councilmember Campbell became fully eligible for election by November 12, 2024. (Am. Compl. at 12, ¶ 61).

B. In 2025, near the end of Councilmember Campbell’s term, the Town adopts Ordinance 11-2025 to regulate sexually oriented businesses to prevent their deleterious secondary effects.

In September 2025—the last half of the fourth year in Campbell’s four-year term—the Town Council adopted the SOB Code. (Exhibit 1 to Town of Atlantic Beach’s Brief Supporting Motion for Temporary Injunction, Certified Ordinance No. 11-2025, at 23).

The SOB Code recites an extensive legislative record documenting the negative secondary effects of sexually oriented businesses—including crime, prostitution, adverse effects on surrounding property values, and urban blight—and cites numerous federal and state judicial decisions establishing a governmental body’s authority to regulate such businesses. (SOB Code at 1–5, § 1(b)). The purpose of the SOB Code is “to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the Town, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses.” (*Id.* at 2, § 1(a)).

One type of sexually oriented business under the SOB Code is an adult cabaret. (*Id.* at 9, § 2). An “Adult Cabaret” is “a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment that regularly offers live semi-nude conduct.” (SOB Code at 6, § 2).

The SOB Code prohibits any sexually oriented business from remaining open between 2:30 a.m. and 6:00 a.m. (*Id.* at 18, § 12). It requires semi-nude employees to remain at least six feet from all patrons on a stage at least eighteen inches from the floor in a room of at least 600 square feet. (*Id.* at 21, § 17(b)). It prohibits any employee appearing semi-nude from touching a patron or a patron's clothing and, likewise, prohibits a patron from touching such an employee or the employee's clothing. (*Id.* at 21, § 17(c)). It also prohibits a patron and a semi-nude employee from sharing a private room unless a business operator is present in the same room. (*Id.* at 21, § 17(e)).

Any structure where a sexually oriented business is “repeatedly operated or maintained in violation of this [SOB Code] shall constitute a nuisance.” (*Id.* at 20, § 15(b)). The Code authorizes the Town to “institute civil proceedings necessary for the enforcement of this ordinance to enjoin, prosecute, restrain, or correct violations hereof.” (*Id.* at 20, § 15(c)).

C. Thee Dollhouse admits, and unrefuted testimony confirms, that Thee Dollhouse habitually violates the SOB Code.

The Town's motion for temporary injunction alleges that Thee Dollhouse violates five provisions of the SOB Code.

First, Thee Dollhouse remains open from 4:00 p.m. through 4:00 a.m. seven days a week, in violation of the Code's 2:30 a.m. closing requirement. (Town MTI at 5, ¶ 13). Second, Thee Dollhouse's employees “appear in a state of nudity” by appearing topless and exposing their nipples, contrary to SOB Code Section 17(a). (*Id.* at 5, ¶ 14). Third, the strip club's semi-nude employees do not remain six feet from patrons on a stage at least eighteen inches from the floor in a room of at least 600 square feet. (*Id.* at 5, ¶ 15). Fourth, Thee Dollhouse's semi-nude employees engage in full-friction lap dances involving touching, in violation of the Code's no-touching provision. (*Id.* at 5, ¶ 16). Fifth, Thee Dollhouse allows patrons and semi-nude employees to occupy private rooms together with no operator present. (*Id.* at 5, ¶ 17).

Thee Dollhouse *admitted* each of these violations. (Pl./Counter-defendant’s Response Opp. Def.’s Mot. Temp. Inj. at 3-4, ¶¶ 13-17). Testimony at the hearing confirmed them.

The Town called Thomas A. “Tab” Blackburn, a licensed South Carolina private investigator and former United States Secret Service special agent and state trooper. (Tr., p. 41, line 22-p. 42, line 8). Blackburn testified that when he visited Thee Dollhouse on November 22, 2025, he observed a full house with semi-nude dancers active on all three stages, patrons paying dancers directly at the stage, and floor staff who did nothing to stop patrons from receiving lap dances in the main room. (Tr., p. 42, line 23-p. 44, line 4). Thee Dollhouse’s public website, admitted as Defendant’s Exhibit 18, depicted performer attire matching what Blackburn had observed. (Tr., p. 55, line 22-p. 57, line 3).

A dancer identified as Ava “straddled” Blackburn, “placed her bare breast in and around [his] face or mouth,” and “grind[ed] on [him] with her butt cheeks on [his] groin area”—all in the main room, not on any stage. (Tr., p. 45, lines 1-6). Ava then took Blackburn to a more private dance in a segregated private room with partitioned couches. (Tr., p. 45, lines 7-15). There, with no operator present, she again “put her breast against [his] face,” “put her nipple in [his] mouth,” and “grind[ed] [his] covered penis” with both her buttocks and her G-string-covered vaginal area. (Tr., p. 47, lines 1-14). Later that same evening, a second dancer, Myra, took Blackburn to “that same room, same couch” and “conducted the same type [of] dance,” including “[g]rinding, placing her breast in and around [his] face and mouth.” (Tr., p. 47, line 18-p. 48, line 9).

Blackburn returned on January 15, 2026. (Tr., p. 48, line 25-p. 49, line 3). He received a “double dance” from dancers “Marie” and “Geisha,” who “placed [his] hands on different parts of their body, their breasts, buttocks, and . . . vagina” and “tr[ie]d to stimulate [his] penis.” (Tr., p. 51, lines 4-21). Geisha also exposed her vagina and placed Blackburn’s hand on it. (Tr., p. 52,

lines 4-8). She invited Blackburn to go to the VIP room to “have even more fun.” (Tr., p. 52, lines 7-8).

STANDARD OF REVIEW

An order granting or denying a temporary injunction is reviewed for abuse of discretion. *Greenville Bistro, LLC*, 435 S.C. at 160, 866 S.E.2d at 569. “An abuse of discretion occurs where the trial court is controlled by an error of law or where the trial court’s order is based on factual conclusions without evidentiary support.” *Id.*

However, if the trial court’s injunction decision turns on statutory interpretation, “this presents a question of law” and “the appellate court need not give deference to the trial court’s interpretation.” *Atkins v. Wilson*, 417 S.C. 3, 11, 788 S.E.2d 228, 232 (2016).

LAW AND ARGUMENT

I. The de facto officer doctrine precludes Thee Dollhouse’s collateral attack on the SOB Code.

The lower court committed an error of law by ignoring the longstanding de facto officer doctrine. Councilmember Campbell is a de facto officer and, in any event, the Town has de facto authority to conduct its affairs even if one of its members was (unknowingly) disqualified.

The de facto officer doctrine provides that “[o]ne in office, and transacting its duties, is supposed to be rightfully there, and so far as third persons are concerned legalizes his acts.” *Kottman v. Ayer*, 34 S.C.L. (3 Strob.) 92, 92 (1848). “The reason of the rule, and the rule itself, embrace every officer from the highest to the lowest.” *Id.*

In other words, a public officer with “a presumptive or apparent right to exercise the office” may exercise the powers of the office even if he is not lawfully entitled to hold it. *Ex parte Norris*, 8 S.C. 408, 473 (1877). Such a right to exercise the office “result[s] from either a full and peaceable possession of the powers of such office or reasonable color of title with actual use of the office.”

Id. Full possession means “possession as would enable its incumbent to fulfill all the substantial purposes of the office.” *Id.*

The *Norris* Court held that even after a court later declares an election “unconstitutional and void,” the acts of an official who occupied the office “with full recognition and the possession of all the powers of the office” remain “entitled to respect as valid.” 8 S.C. at 473. Thus, the official acts of that officer cannot be subject to collateral attack. *Id.*; *see also*, *State v. McJunkin*, 7 S.C. 21, 23-24, 7 Richardson 21 (1876) (long-standing South Carolina jurisprudence prohibits collateral challenges to title of office).

In 1887, the Supreme Court, after noting the far-reaching consequences of nullifying official actions taken by a public official due to a subsequently discovered illegality of office, extolled the de facto officer doctrine, stating:

The de facto doctrine rests upon considerations of public policy and necessity. It was introduced into the law for the purpose of protecting the interests of the public, as well as those of private individuals, where those interests were involved in the official acts of one who may be found exercising the duties of an office, though without lawful authority.

Cromer, 27 S.C. 436, 3 S.E. at 849.

Nearly one hundred years later, our Supreme Court quoted this language and described the doctrine as “indispensable to the prompt and proper dispatch of governmental affairs,” because requiring citizens to verify each official’s title before relying on official acts would cause “endless confusion and expense.” *State ex rel. McLeod v. Court of Probate of Colleton Cnty.*, 266 S.C. 279, 301-02, 223 S.E.2d 166, 178 (1975).

In *Court of Probate*, the Court held that judges who had been unlawfully appointed—or appointed to unconstitutionally created courts—were nevertheless de facto judges, and their orders and decrees were as valid as those of judges *de jure*. 266 S.C. at 305, 223 S.E.2d at 179.

The Court has applied the doctrine similarly to improperly constituted governmental

bodies. *See West*, 249 S.C. at 248, 153 S.E.2d at 894 (holding that legislative acts of an unconstitutionally composed fifty-member Senate remain valid to avoid “untold chaos and confusion”); *Zaman*, 305 S.C. at 284, 408 S.E.2d at 213 (holding a regulation valid even though the board that adopted it was unconstitutionally composed).

In *West*, the Court rejected the argument that its earlier decision invalidating the Senate’s composition dissolved the legislature or rendered its acts void. 249 S.C. at 248, 153 S.E.2d at 894. Rather than void the legislative body’s past acts, the Court held that the members of the legislature were “authorized to serve until the next general election” because otherwise “the people will be deprived for a time of the benefit of representative government to which they are constitutionally entitled.” *Id.*

In *Zaman*, the Court relied on *West* to reject a similar challenge to a medical board regulation adopted when the board was unlawfully composed. 305 S.C. at 284.

Here, no matter whether the focus is on Councilmember Campbell’s status as a de facto officer or the Town Council’s status as a legislative body, the SOB Code is valid under the de facto doctrine.

A. Councilmember Campbell was a de facto officer when the SOB Code was adopted because he had full and peaceable possession of the powers of his office as well as reasonable color of title.

Councilmember Campbell meets both disjunctive prongs of *Norris*. 8 S.C. at 473 (right to exercise office may stem from either “full and peaceable possession or reasonable color of title with actual use”).

Norris explained that “full possession” means “such possession as would enable its incumbent to fulfill all the substantial purposes of such office.” 8 S.C. at 473. If a claimant lacks full possession by exercising only some of the office’s powers, or by sharing those powers with a rival claimant—as in *Norris*—the court then proceeds to evaluate whether the official had

reasonable color of title with actual use of the office. *Id.* The Court’s example is on point:

An instance of the first class may be supposed when one claims and occupies the office of Governor with full recognition and the possession of all the powers of the office in virtue of an election. It happens that subsequently it is determined judicially that the election under which such claim is made was unconstitutional and void. We suppose a case where the judgment does not proceed on the direct right to hold the office of Governor, but collaterally to it. It is clear that, notwithstanding such a decision, the official acts of a person filling the office of Governor **would still be entitled to respect as valid.**

Id. (emphasis added).

The Court also described a more extreme case, “[a]s when, after the election and before the installation of the person elected Governor, a judicial determination declaring the election void had occurred, and yet the person claiming election proceeds and takes the office and becomes fully and peaceably invested with all its powers. **In this case it cannot be doubted that the official acts of such person would be entitled to be respected.**” *Id.* at 474 (emphasis added).

Thus, “full and peaceable possession” is decisive even when color of title is lacking.

Voters elected Councilmember Campbell in November 2021. The results were certified. And Campbell was sworn in. Plaintiffs do not dispute any of these facts. (Tr. at p. 13, lines 6-7 (Plaintiffs’ counsel acknowledging “Mr. Campbell was elected to office in November 2021”)).

Councilmember Campbell has served continuously on the Town Council since being sworn in early January 2022, attending meetings, casting votes, and exercising every power of the office, including his vote on Ordinance No. 11-2025 at its September 22, 2025 second reading. (SOB Code at 23).

Independently, Councilmember Campbell also meets the second, disjunctive prong of *Norris*. He claimed the office under an election, certification, and oath—the ordinary indicia of title to a public office—and he has made actual, uninterrupted use of the office ever since. (Tr. at p. 62, lines 9-10). Under *Norris*, that alone is enough. 8 S.C. at 473.

The case for validating Councilmember Campbell's official acts is stronger than in *Court of Probate*, *West*, or *Zaman*. In those cases, a court had already adjudicated the legal defect through *direct* (i.e., not collateral) proceedings. But, here, Thee Dollhouse raises the issue of Councilmember Campbell's eligibility for the first time, collaterally, in a suit that is not an election contest or a quo warranto proceeding.

Thus, under governing law, Councilmember Campbell was a de facto officer, and his official acts cannot be collaterally attacked. The trial court erred as a matter of law in concluding otherwise.

B. Alternatively, the acts of the Town are valid because the Town is invested with de facto authority to legislate regardless of its composition.

Even setting Councilmember Campbell's individual status aside, the SOB Code survives for the separate reason that *West* and *Zaman* validate the acts of an entire governmental body composed in good faith, regardless of whether it is later determined to be defectively composed.

West refutes the trial court's conclusion that the SOB Code is invalid for lack of a properly composed body. The Town occupies the same position as the Senate in *West*. The Town acted in good faith, in compliance with the law, under an apparently valid composition. And the interest *West* protected—the public's entitlement to the benefit of representative government, 249 S.C. at 249, 153 S.E.2d at 894—would vanish if a collateral, years-later challenge to one member's eligibility could invalidate every ordinance the full Council adopted during that member's term.

Likewise, the SOB Code stands in at least as strong a position as the regulation in *Zaman*, which an improperly composed board promulgated. 305 S.C. at 284.

Further, the trial court's order unleashes the "untold chaos and confusion" that the *West* Court counseled against. As the Town explained in its motion for reconsideration, during Councilmember Campbell's tenure, the Council has "legislated extensively, adopting annual

budgets that collectively authorize millions of dollars in public expenditures, regulating the safe construction and maintenance of homes and commercial buildings, authorizing contracts with third parties for essential public services, governing land use and zoning, [and] franchising utilities.” (Def.’s Mot. Recons. (Mar. 16, 2026), at 4-5). The voiding of all Council actions that Councilmember Campbell touched causes numerous “third parties [to] question whether they can rely upon legislative acts that affect their lives, property, and businesses.” (*Id.* at 5). The protection of the public through the preservation of official actions taken by governmental officials and bodies while operating under color of authority is the basic tenant of the de facto officer doctrine, and the trial court’s order is contrary to this sound precedent.

For these reasons, the Court should reverse the trial court’s order granting Plaintiffs’ motion for temporary injunction.

C. The trial court’s citations do not address the de facto officer doctrine.

The two cases that the lower court cited are inapposite. Neither concerns the de facto officer doctrine, but rather general rules about election fairness that are not relevant here.

First, the court relied on a trial court order that Thee Dollhouse references in its motion for temporary injunction: *Booker v. McIvert, et al.*, Case No.: Case No. 2024-CP-26-06062. That case concerned the attempt of a candidate, Swinson, to challenge the election results in his failed bid for a council seat. The court found Swinson’s election protest to be untimely, as it was filed roughly 147 days late. Moreover, Swinson testified before the Municipal Election Commission (“MEC”) that “he was not eligible to run for Town Council in 2023. Nor will he be eligible to run for public office until 2028.” (Ex. To Pls. MTI at 7). The court stated: “Based on Swinson’s October 17, 2024 testimony, this Court finds by overwhelming evidence that Swinson’s attested statements on the Statement of Candidacy were untrue.” (*Id.* at 8). Because Swinson was not eligible to run for office, the court found his protest should have been dismissed.

Not only does the trial court order lack precedential value, it is factually distinct and legally immaterial to the present dispute. *Booker* involves an election protest. Swinson was not, nor has he ever been, an incumbent member of Town Council. That a different trial court found a *failed* candidate ineligible to run for office due to a conviction says nothing about whether Councilmember Campbell—a successful candidate who served his entire four years in office—is a de facto officer whose official acts are valid against collateral attacks.

Further, unlike the failed candidate in *Booker*, Councilmember Campbell never testified regarding his eligibility for office. Here, the trial court did not have an evidentiary basis for its ruling or to enter Thee Dollhouse’s proposed order, which included unsupported statements that Councilmember Campbell “purposely engaged in intentional misrepresentations” or “blatant fraud.” Those claims go to Councilmember’s Campbell’s state of mind, which was never before the court.

There is no evidence that Councilmember Campbell knew, or should have known, that his statement was untrue. Councilmember Campbell filled out his Statement of Candidacy three years *before* a trial court determined that supervised release triggered disqualification for Swinson. The form Councilmember Campbell signed quotes the state constitutional language about “the completed service of the sentence, including probation and parole time,” but Councilmember Campbell was technically never on parole. Thus, any false information may have easily been given due to mistake, faulty memory, confusion about the passage of years, or confusion over the meaning of a word (“parole”) on the form. And, despite Thee Dollhouse’s proclivity for casting aspersions without evidence, Councilmember Campbell has never been convicted of (or even prosecuted for) perjury. Moreover, these facts are not relevant to the issue before the trial court – the request for a temporary injunction preventing the Town from enforcing its SOB Code against

Thee Dollhouse during the pendency of this litigation.

Second, the trial court relied on *Cole v. Atlantic Beach Election Commission*, 393 S.C. 264, 712 S.E.2d 440 (2011). In *Cole*, the appellate court vacated the MEC's decision to de-certify election results because the MEC unreasonably delayed and prevented the winners of an election from serving in their capacities as town councilmembers. *Id.* at 264, 712 S.E.2d at 446.

The Court noted the general rule that “[i]n the interest of avoiding the disenfranchisement of voters after an election has taken place, a statute that uses seemingly mandatory terms such as ‘shall’ or ‘must,’ will be considered directory if the party seeking enforcement alleges no fraud or if that party fails to prove fraud.” *Cole*, 393 S.C. at 274, 712 S.E.2d at 445. Nevertheless, “courts may deem statutory provisions mandatory after an election when the provisions substantially affect the free and intelligent casting of a vote, the determination of the results, an essential element of the election, or the fundamental integrity of the election.” *Id.* The MEC's months-long delay in holding a hearing was an example of the latter. *Id.*

Cole is irrelevant to the validity of the Town Council's acts involving Campbell under the de facto officer doctrine. Like *Booker*, *Cole* concerned whether an election protest could proceed. Here, there has never been a direct election protest, only the present attempt to indirectly challenge Councilmember Campbell's title to office.

To the extent that *Cole*'s rule concerning whether election statutes are mandatory or directory is relevant, it undermines the trial court's decision. For the reasons stated above, there was no evidence that Councilmember Campbell engaged in fraud. Moreover, Councilmember Campbell won election despite his past record, which voters could have discovered and considered. His conviction twenty years earlier did not “substantially affect the free and intelligent casting of a vote, the determination of the results, an essential element of the election, or the fundamental

integrity of the election.” *Id.*

Thus, to the extent that *Cole* is applicable here, it supports honoring the voters’ will to elect Councilmember Campbell and reversing the trial court’s failure to apply the de facto officer doctrine. Any other conclusion would be contrary to over 200 years of South Carolina precedent.

II. Governing law shows that the trial court abused its discretion in not enjoining Thee Dollhouse’s blatant violations of the SOB Code.

As shown above, the trial court’s sole ground for denying the Town’s motion for a temporary injunction—invalidating the Town’s legislative acts for a purported lack of a properly composed legislative body—was erroneous. Governing law requires that an injunction issue against Thee Dollhouse’s admitted violations of the SOB Code.

A local government “may obtain injunctive relief to prevent violations of its ordinances.” *Greenville Bistro, LLC*, 435 S.C. at 174, 866 S.E.2d at 576.

Although entitlement to a temporary injunction normally raises “questions as to whether the moving party has established a likelihood of success on the merits, an inadequate remedy at law, and irreparable harm,” our Supreme Court has specifically “held that these considerations do not apply when a city seeks an injunction to enforce an ordinance.” *Id.* Further, “this Court affords ordinances regulating sexually oriented businesses a presumption of constitutionality which the attacking party has the burden of overcoming.” *Id.* at 163, 866 S.E.2d at 571.

All that a local government must show to get an injunction in this context is “(1) that it has an ordinance covering the situation; and (2) that there is a violation of that ordinance.” *Id.* at 174, 866 S.E.2d at 576 (cleaned up).

The Town satisfies both elements of the *Greenville Bistro* test.

First, the Town has “an ordinance covering the situation.” *Id.* The SOB Code defines an “adult cabaret” as “a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial

establishment that regularly offers live semi-nude conduct.” (SOB Code at 6, § 2). Thee Dollhouse admits that it operates as an adult cabaret. (Am. Compl. at 5 ¶ 25) (calling its primary function an adult cabaret)).

The SOB Code requires SOBs to close at 2:30 a.m. (SOB Code at 18, § 12). It requires that semi-nude employees remain at least six feet from patrons, on a stage at least eighteen inches high, in a room of at least 600 square feet. (*Id.* at 21, § 17(b)). It prohibits touching between semi-nude employees and patrons. (*Id.* § 17(c)). And it prohibits patrons and semi-nude employees from occupying a room together unless a business operator is present. (*Id.* § 17(e)).

Thee Dollhouse admits each violation. In response to the Town’s motion, Thee Dollhouse admitted “as to the hours of operation,” (Resp. Opp. Def.’s Mot. Temp. Inj. (Feb. 9, 2026) ¶ 13), conceding that it remains open past the SOB Code’s 2:30 a.m. closing requirement. It admitted “as to the location of the performances,” (*id.* ¶ 15), conceding that its semi-nude performers do not remain six feet from patrons on an elevated stage. Thee Dollhouse also admitted the Town’s allegations “as to the nature of the performances,” (*id.* ¶ 16), conceding that its semi-nude performers touch patrons in violation of the Code’s no-touching provision. And it admitted “as to the location and nature of the performances,” (*id.* ¶ 17), conceding that patrons and semi-nude employees occupy private rooms together unsupervised. In each instance, Thee Dollhouse disputed only whether the SOB Code is constitutional or lawfully adopted—the theory the Town refuted above—but *not* that Thee Dollhouse engages in the conduct alleged. (*Id.* ¶¶ 13, 15-17).

Moreover, unrefuted hearing testimony confirms what Thee Dollhouse admitted. An investigator testified that in November 2025, an erotic dancer “straddled” him in the main room—not on any stage—and “placed her bare breast in and around [his] face or mouth” while “grind[ing]” against him. (Tr. at p. 45, lines 1-6). She then took him to a segregated private room,

where, with no operator present, she “placed her breast against [his] face,” “put her nipple in [his] mouth,” and continued grinding against him. (Tr. at p. 47, lines 1-14). A second erotic dancer took Blackburn to the same private room that same evening and “conducted the same type [of] dance,” including “[g]rinding, placing her breast in and around [his] face and mouth.” (Tr. at p. 47, line 18-p. 48, line 9).

The investigator returned in January 2026. Two more dancers took him to that same private room, and—again with no operator present—“placed [his] hands on different parts of their body, their breasts, buttocks, and . . . vagina” and “tr[ie]d to stimulate [his] penis.” (Tr. at p. 51, lines 4-21). One of the dancers exposed her vagina and placed Blackburn’s hand on it. (Tr. at p. 5, lines 4-8). On cross-examination, Thee Dollhouse did not dispute that any of this occurred. (Tr. at p. 53, line 21-p. 55, lines 18).

Because the Town “has an ordinance covering the situation” and there is “a violation of that ordinance,” *Greenville Bistro*, 435 S.C. at 174, 866 S.E.2d at 576 (cleaned up), the circuit court was required to grant the Town’s motion for a temporary injunction. Its failure to do so was a clear error of law, and an abuse of discretion. *Id.* Thus, the Court should reverse and “remand to the trial court with instructions to enter the injunction.” *Greenville Bistro*, 435 S.C. at 175, 866 S.E.2d at 577.

CONCLUSION

For these reasons, the Court should reverse and vacate the lower court’s order granting Thee Dollhouse’s motion to enjoin the SOB Code, and remand with instructions that the lower court enjoin Thee Dollhouse’s blatant violations of that law.

Respectfully submitted,

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Hon. Benjamin Alex Hyman, Circuit Court Judge

Civil Action No. 2025-CP-26-08430
Appellate Case No. 2026-001016

Crazy Horse Saloon and Restaurant, Inc., Samantha Christian, Melissa Ferguson, Amy Robinson, and Carlos Castillo Respondents

v.

Town of Atlantic Beach Appellant,

v.

Dog Leg Right, LLC, Backbay Group, LLC, Michael J. Peter, Thomas P. Hughes, and Laura Jean Watson Respondents.

PROOF OF SERVICE

I certify that on August 28, 2026, I served all counsel in this action with a copy of **Appellant's Initial Brief**, via electronic mail, to the following addresses:

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