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Sep 18 2026

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In The Court of Common Pleas,
Ninth Judicial Circuit
The Hon. Thomas J. Rode, Circuit Court Judge

Case No. 2024-CP-10-04208
Ct. App. Case No. 2026-001918

Park Lane Partners, LLC, and Elizabeth Spratt CooperRespondents,

v.

City of Folly Beach.....Appellant.

**MOTION TO TRANSFER APPEAL TO SOUTH CAROLINA SUPREME COURT
OR, IN THE ALTERNATIVE, MOTION TO CERTIFY APPEAL
TO SOUTH CAROLINA SUPREME COURT**

Pursuant to Rule 203(d)(1)(A)(iv), SCACR, Rule 204(a), SCACR, and S.C. Code § 14-8-200(b)(5), Respondents Park Lane Partners, LLC, and Elizabeth Spratt Cooper respectfully move for an Order transferring this appeal from the South Carolina Court of Appeals to the South Carolina Supreme Court on the grounds that this appeal pertains to elections and election procedure and must, therefore, be appealed directly to the South Carolina Supreme Court. *See* Rule 203(d)(1)(A)(iv), SCACR (Requiring for jurisdictional reasons that the notice of appeal to be filed with the Clerk of the Supreme Court in the case of: “Any final judgment from the circuit court pertaining to elections and election procedure.”). Here, Appellant City of Folly Beach (“City”) filed its Notice of Appeal on

August 21, 2026 with the Charleston County Court of Common Pleas and the South Carolina Court of Appeals.

This case involves the validity of the Appellant City's short-term rental business license ordinance, which defines two separate subclasses of short-term rental business licenses and limits the City's authority to issue more than 800 business licenses to one of those subclasses. The ordinance's business license classifications, and its limitation on the City's authority to issue those licenses, were enacted *via* the Initiative and Referendum process.¹ See S.C. Code § 5-17-10; § 5-17-30. Separately, City Council adopted a provision requiring the annual payment of a "rental registration permit fee," calculated as \$17.50 per \$1,000 of the business income reported on the license, to be made in addition to the payment of a business license tax.

I. Because the circuit court's order pertains to an initiative and referendum, this appeal pertains to elections and election procedure and thus belongs in the South Carolina Supreme Court.

The relevant Order on appeal rules, in part, that the City unlawfully enacted the Ordinance at issue through the Initiative and Referendum process because the electorate cannot use the process to authorize the levy of a tax.² See Order on Cross-Mots. Summ. J. at 10-11 ("The Use of the Initiative and Referendum Process in this Case Violated South Carolina law, Therefore, the Resulting Short Term Rental Ordinance Imposing a Cap on

¹ The Initiative and Referendum process permits the electorate to "propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes," and it contemplates a special election where the city council fails to adopt the proposed ordinance, which special election occurred, here. S.C. Code § 5-17-10; § 5-17-30.

² Separately, the Order on appeal finds that the City's "rental registration permit fee" constitutes an unlawful tax. For clarity and candor to this Court in consideration of this motion: the permit fee was adopted by City Council and not by initiative and referendum.

Investor Short Term Rentals is Invalid. . . . The STR-Ordinance Proposed by the Referendum ‘Authorizes the Levy of Taxes’ in Violation of S.C. Code § 5-17-10 *et seq.*”).

Because the circuit court’s order and this appeal fundamentally concern the Initiative and Referendum process, this appeal is one “pertaining to elections and election procedure” and must be appealed directly to the South Carolina Supreme Court rather than the South Carolina Court of Appeals. Rule 203(d)(1)(A)(iv); S.C. Code § 14-8-200(b)(5); *S.C. Pub. Int. Found. v. Calhoun Cnty. Council*, 432 S.C. 492, 854 S.E.2d 836 (2021) (involving a direct appeal to the South Carolina Supreme Court pursuant to, in part, Rule 203(d)(1)(A)(iv), SCACR, in a case dealing with the validity of a referendum approving a sales and use tax).

Accordingly, Respondents respectfully request an Order under Rule 204(a), SCACR, transferring this appeal to the South Carolina Supreme Court.

II. In the alternative, the South Carolina Supreme Court should certify this appeal.

Alternatively, Respondents respectfully move the South Carolina Supreme Court to exercise its discretion to certify this appeal directly to the South Carolina Supreme Court as a matter of significant public interest and a matter involving legal principals of major importance pursuant to Rule 204(b), SCACR, and S.C. Code § 14-8-210(b). As to this appeal being a matter of significant public interest, those with property and business interests in Folly Beach have been extraordinarily vocal ever since the circuit court issued the Order on appeal. Multiple news outlets and social media forums have covered the matter, and the City has made the rulings the subject of numerous, well-attended, and lively city council meetings. Short-term rentals in general are a “hot topic” across South

Carolina and nationwide. Moreover, the City's collection of "rental registration permit fees" has prompted demands for refunds, including in a separate class-action lawsuit filed by certain business owners.

As to this appeal being a matter involving a legal principal of major importance, the outcome of this appeal could have a state-wide effect as various municipalities grapple with their own short-term rental ordinances. More broadly than that, however, the question of whether business license classifications and limitations may be proposed and enacted by Petition and Referendum is not confined to short-term rental businesses — it could conceivably apply to any business operation at all. Moreover, this Court has heard and decided a number of challenges to "fees" charged by local governing bodies, and this case likewise pertains to the authority of councils to impose such fees and the question of when and why such a fee may be an unlawful tax.

Therefore, Respondents alternatively ask the South Carolina Supreme Court to exercise its discretion to certify this appeal directly to the South Carolina Supreme Court.

CONCLUSION

Respondents respectfully move for an Order transferring this appeal to the South Carolina Supreme Court on the grounds that this appeal pertains to elections and election procedure, which requires this appeal to proceed directly to the South Carolina Supreme Court. In the alternative, Respondents respectfully ask the South Carolina Supreme Court to exercise its discretion to certify this appeal directly to the South Carolina Supreme Court as a matter of significant public interest and a matter involving a legal principal of major importance.

[Signature Page to Motion]

Respectfully submitted,

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**PROOF OF SERVICE OF MOTION TO TRANSFER APPEAL TO SOUTH
CAROLINA SUPREME COURT OR, IN THE ALTERNATIVE, MOTION TO
CERTIFY APPEAL TO SOUTH CAROLINA SUPREME COURT**

The undersigned hereby certifies that on September 18, 2026, I served a copy of
Respondents' *Motion to Transfer Appeal to South Carolina Supreme Court or, in the
Alternative, Motion to Certify Appeal to South Carolina Supreme Court* to all counsel of record
via the email address on file with the Attorney Information System noted below.

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