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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

The Honorable Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. 2026-001957

Sunset Lodge, LLC,Respondent,

v.

Town of Pawleys Island,Petitioner,

and

Franklin D. Beattie, as trustee of the Franklin D. Beattie
Preservation Trust,Respondent,

v.

Town of Pawleys Island,Petitioner,

and

M. Baron Stanton,Respondent,

v.

Town of Pawleys Island,Petitioner.

**TOWN OF PAWLEYS ISLAND'S REPLY
TO RESPONDENTS LANDOWNERS' RETURN**

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INTRODUCTION

Petitioner Town of Pawleys Island (“Town”) hereby submits its Reply to the Respondents Sunset Lodge, LLC, Franklin D. Beattie, as trustee of The Franklin D. Beattie Preservation Trust, and M. Baron Stanton (“Landowners”)’ *Return to [Petitioner] Town’s Petition for Certiorari*.

ARGUMENTS

The Landowners’ Return continues their long-running approach of making broad, acrimonious accusations against the Town and its current and former officials without any meaningful reference to the record. The Return even goes so far as to make a vague threat of “criminal prosecution” of some unspecified Town representative(s) without explaining what possible basis there could be for such an extreme assertion (Return p.8, fn.6). The Respondents argue that the Town’s Petition refers to matters outside of the record.¹ They then spend the majority of their Return making lengthy factual allegations with virtually no citation to the record other than occasional references to their own pleadings or the summary judgment order in the separate “Challenge 1” litigation.² This unfocused approach threatens, whether intentionally or not, to distract the Court from the actual narrow purpose of the appeal: the review of a circuit fee award for any error of law or abuse of discretion. The Town continues to deny Landowners’ sweeping

¹ The Town respectfully contends that it is appropriate to provide the Court with general notice of why the issues discussed in its Petition are important in the context of the Town’s ongoing efforts to secure federal funding for shore protection.

² As one example among many, while the “Challenge 1” summary judgment order did find that the Town failed to provide a copy of the appraisal prior to service of the condemnation notice (R. pp.699, 710), it did not include any finding, as asserted on p.19 of the Return, that “the Town made false certifications regarding the providing of the appraisals in the condemnation papers themselves.” The order simply did not address what if any certifications were made by the Town. As the former Town Attorney explained in the Challenge 1 proceedings, “[t]he initial attempt to serve the condemnation notice included a copy of the appraisal. A second attempt was made after the initial attempt failed; the second attempt was successful but, due to honest oversight and inadvertence, the appraisal was omitted from the packet at that time.” (Challenge 1 R. p.500, fn.12).

and unsupported allegations about its conduct.³ In this Reply, as set forth below, the Town responds to certain specific matters in the Landowners' Return.

I. The record does not support Landowners' position regarding the assertion that the easements were "extremely overbroad."

Landowners argue that the summary judgment order in the separate "Challenge 1" litigation justifies statements from the Court of Appeals in this "Challenge 2" litigation that the easements sought were "extremely overbroad." In particular, Landowners seem to argue that because the Challenge 1 summary judgment order recounted the Town's decision to move forward with initial renourishment work without these three easements (and, because those easements were not in hand, without federal financial support), there has somehow been a determination that that the easements are generally unnecessary and, they contend, "extremely overbroad." The Landowners' position mischaracterizes the record and the Challenge 1 summary judgment order.

The merits of the question of the "necessity" of the easements, and whether the easements were "extremely overbroad," was not addressed by the circuit court in either the Challenge 1 or Challenge 2 cases, has no bearing on the relevant question of review of the fee award, and was outside the scope of review of the Court of Appeals. The Town's performance of a renourishment project without these three easements did not demonstrate that the easements are not necessary. While the Challenge 1 summary judgment order notes that the Town eventually performed the initial work without federal funds (or these three easements) (R.p.696-697), the purpose of pursuing the easements

³ As one more example, the Landowners' Return asserts that the Town's Mayor sought to use a "nuclear option" . . . against its constituents, the objecting Landowners." (Return p.16). The reality, as explained by the Mayor, is that in referring in an email to a "nuclear option" he was intending to initiate discussion "of the possibility of an arrangement in which the Corps would agree to adjust the project boundaries for the program to exclude the portion of the beach adjacent to the three properties at issue, even if only temporarily, in order to allow the Town and the Corps to commit to the long-term renourishment program as soon as possible . . . [The Mayor] considered this option a last resort and a worst-case scenario because of the potential for problems with leaving 'gaps' in the project, including potential impacts to nearby property owners." (R. p.765).

was and is to become eligible for long-term federal assistance. Footnote 2 of the summary judgment order describes the Town’s position that it is pursuing a partnership with the Army Corps to be eligible for federal renourishment assistance over a period of decades. (R.p.697). This “necessity” question simply was not addressed on summary judgment in Challenge 1, had no impact on the question of reasonable fees and, respectfully, should not have been addressed *sua sponte* by the Court of Appeals in its review of the fee award in this Challenge 2 appeal.⁴

II. The Landowners’ Return mischaracterizes the Town’s prior arguments regarding the “mootness” of the Challenge 2 challenge actions.

The Landowners seem to argue that the Town has been inconsistent in its position regarding the Challenge 2 challenge actions being “moot.” This characterization misrepresents what has happened in the litigation. After the Town abandoned (i.e., withdrew) the second set of condemnation notices at issue in this litigation, the circuit court agreed with the Town that the action was moot. As set forth in the Order of Dismissal, the sole relief sought in the Complaint, quashing that second set of condemnation notices, “warrant[ed] no further challenge” after the notices were abandoned. (R. p.13-14). The circuit court agreed that, although the dispute was capable of repetition in the form of future condemnation efforts, it did not evade review. (R. p.14-16). The South Carolina Court of Appeals affirmed the circuit court in the Landowners’ separate appeal of that dismissal.⁵ As reflected in the circuit court and Court of Appeals rulings on the earlier dismissal of the case, it is perfectly consistent to recognize that the Challenge 2 effort to quash the second set of condemnation notices

⁴ The scope of the Challenge 1 summary judgment ruling is discussed in more detail in the Town’s briefing in the pending Petition for Certiorari in that matter and includes more detailed reference to the record in that appeal (Appellate Case No. 2026-001955).

⁵ The Court of Appeals ruled that (1) the Town properly abandoned the notices, (2) the challenge actions to those notices were therefore moot (capable of repetition, but not evading review), and (3) Landowners’ claims for prospective relief regarding future attempts were not ripe for judicial review. See Appellate Case No. 2021-000757, Unpublished Op. No. 2023-UP-055 (filed February 8, 2023).

was moot while also contemplating possible future condemnation efforts by the Town and future objections by the Landowners.

CONCLUSION

For the additional reasons set forth above, Petitioner Town of Pawleys Island respectfully asks that the Court grant its petition for a writ of certiorari.

Respectfully submitted,

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