

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson
Circuit Court Judge

Case No.: 2012-CP-26-8652

RECEIVED

JAN 09 2014

SC Court of Appeals

TriStar Investors, Inc., Minerva Realty, LLC, and
Angeline Johnson, Appellants

v.

The Horry County Council and American Towers, LLC. Respondents

**RESPONDENT THE HORRY COUNTY COUNCIL'S
DESIGNATION OF MATTER**

The Respondent The Horry County Council proposes the following to be included
in the Record on Appeal:

ORDERS:

1. Order Entering Final Judgment Against Appellants dated May 8, 2013
2. Order Denying Supersedeas filed June 13, 2013
3. Order Temporarily Granting Appellant's Petition for Supersedeas filed June 7, 2013
4. Order Denying Petition for *Ex Parte* Supersedeas Relief filed June 5, 2013
5. Form 4 Order Denying Appellants' Motion for Supersedeas dated May 31, 2013
6. Form 4 Order Affirming Decision of Horry County Council in Passing Resolution R-73-12 dated April 26, 2013

7. Order Granting Temporary Restraining Order and Preliminary Injunction and Reforming Caption dated March 26, 2013

PLEADINGS:

8. Complaint and Application for Temporary Restraining Order and Preliminary Injunction
9. Affidavit of David Schwerd Submitted by Defendant Horry County Council in Response to Plaintiff's Application for Temporary Restraining Order with Affidavit and Exhibits
 - a. Application/Letter dated August 31, 2012 from Jonathan L. Yates, Esquire
 - i. Site Plans and Drawings
 - ii. FCC Compliance Letter by Jason Groseclose of American Towers, LLC dated August 8, 2012
 - iii. FAA Determination of No Hazard to Air Navigation dated July 20, 2012
 - iv. Inventory and Map of Existing American Towers, LLC Sites
 - v. ASR Search Results
 - vi. Memorandum of Lease Agreement between American Towers, LLC and Brenda G. Huggins with attached:
 - vii. Photo Simulation of the Proposed Tower
 - viii. Aerial Map Showing Existing Tower in Relation to Proposed Relocated Tower
 - b. County Council Decision Memorandum regarding Telecommunication Tower ATC 278053 dated October 5, 2012
 - c. Telecommunications Tower Permit Review Sheet – Applicant: American Tower; Report Dated October 5, 2012
 - i. Site Plans, Drawings, Photograph and Aerial Map
 - d. Public Notice and Letter from David Schwerd dated October 1, 2012
 - e. Resolution No. R-73-12
 - f. TriStar Investors, Inc. Submittal Package dated October 11, 2012
 - i. Letter from David C. Bruening dated October 11, 2012 to David Schwerd
 - ii. Site Plans and Drawings
 - iii. Presentation: A Communications Tower Replacement Application dated November 13, 2013
 - g. Public Notice and Letter from David Schwerd dated October 26, 2012
 - h. County Council Decision Memorandum regarding Telecommunication Tower TriStar dated November 5, 2012
 - i. Telecommunications Tower Permit Review Sheet – Applicant: TriStar; Report dated November 5, 2012
10. Respondent American Towers' Memorandum in Opposition to Plaintiffs'

Application for Temporary Restraining Order and Preliminary Injunction

- a. Easement Agreement
 - b. Breach of Lease Lawsuit Complaint
 - c. Breach of Lease Lawsuit Answer
 - d. Affidavit of Brenda G. Huggins
 - e. American Towers' Relocation Petition
 - f. Affidavit of David Schwerd
 - g. Transcript of Horry County Council Hearing held October 16, 2012
 - h. TriStar's Rehearing Request dated October 23, 2012
11. Respondent American Towers' Verified Answer and Affirmative Defenses to Plaintiff's Original Complaint and Application for Temporary Restraining Order and Preliminary Injunction
 12. Respondent American Towers LLC's Supplemental Response in Opposition to Plaintiffs' Application for Temporary Restraining Order and Preliminary Injunction
 - a. Affidavit of Jason Groseclose
 13. Answer of Respondent Horry County Council to Plaintiffs' Complaint
 14. Additional Submittal to Court on Behalf of Respondent The Horry County Council
 - a. Minutes of Regular Council Meeting dated October 16, 2012
 15. Notice of Appeal dated May 22, 2013
 16. Appellants' Motion for Supersedeas dated May 22, 2013
 17. Appellants' Petition for *Ex Parte* Supersedeas Relief filed June 3, 2013
 18. Appellants' Petition for Supersedeas Relief with Request for Expedited Decision dated June 6, 2013
 19. Respondent Horry County's Return to Appellant's Petition for Supersedeas Relief
 - a. Affidavit of David Schwerd
 - b. Application/Letter dated August 31, 2012 from Jonathan L. Yates, Esquire and attachments
 - c. Order Entering Final Judgment Against Plaintiffs dated May 8, 2013
 - d. Transcript of Horry County Council Hearing held before The Horry County Council on October 16, 2012

TRANSCRIPTS:

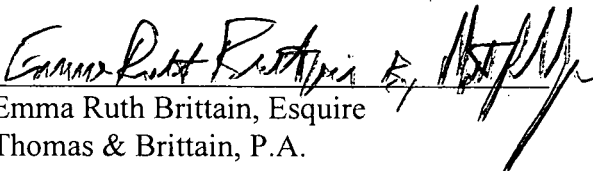
20. Transcript of Proceedings Before Horry County Council During Regular Council Meeting Held on October 16, 2012 Regarding Agenda Item No. 5: Resolution R-73-12 and Public Hearing
21. Transcript of Hearing before the Honorable Benjamin H. Culbertson on April 26, 2013
22. Transcript of Hearing before the Honorable Benjamin H. Culbertson on May 31, 2013

RESOLUTION AND ORDINANCES:

23. Resolution No. R-73-12
24. Horry County, South Carolina, Code of Ordinances, Chapter 13 – Offenses and Miscellaneous Provisions – Article VII, Telecommunications Tower Permits, Sections 13-70, 13-71, 13-72 and 13-73.
25. Horry County, South Carolina, Code of Ordinances, Appendix B-Zoning, Article XVI, Telecommunication Facilities, Section 1605

CERTIFICATION

Pursuant to Rule 209, SCACR, I certify that this designation contains no matter which is irrelevant to this appeal.


Emma Ruth Brittain, Esquire
Thomas & Brittain, P.A.
Post Office Box 1290
Myrtle Beach, South Carolina 29578
(843) 692-2628
ATTORNEYS FOR RESPONDENT
THE HORRY COUNTY COUNCIL

January 6, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson
Circuit Court Judge

Case No.: 2012-CP-26-8652
Appellate Case No.: 2013-001178

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TriStar Investors, Inc., Minerva Realty, LLC, and
Angeline Johnson Appellant

v.

The Horry County Council and American Towers, LLC Respondents

PROOF OF SERVICE

I, Kimberly W. Nobles, legal assistant for the attorney representing Respondent
The Horry County Council, hereby certify that I have served all counsel in this action
with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by
United States Mail, postage prepaid, to the following address(es):

Pleadings:

Respondent The Horry County Council's Designation of Matter

Counsel Served:

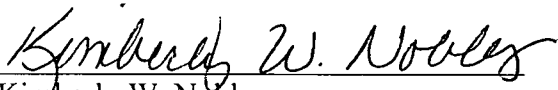
Susan P. MacDonald, Esquire
Nelson, Mullins, Riley & Scarborough, LLP
3751 Robert M. Grissom Parkway I Suite 300
Post Office Box 3939 (29578-3939)
Myrtle Beach, South Carolina 29577-3165

Michael J. Anzelmo, Esquire
Nelson, Mullins, Riley & Scarborough, LLP
1320 Main Street I 17th Floor
Post Office Box 11070
Columbia, South Carolina 29201
Attorneys for Appellants TriStar Investors, Inc.,
Minerva Realty, LLC, and Angeline Johnson

David C. Slough, Esquire
Nexsen Pruet, LLC
1101 Johnson Avenue, Suite 300
Myrtle Beach, SC 29577
Attorneys for Defendant American Tower, LLC

Thomas C. Brittain, Esquire
A. Preston Brittain, Esquire
The Brittain Law Firm, P.A.
4614 Oleander Drive
Myrtle Beach, SC 29577
Attorneys for Defendant American Tower, LLC

Jonathan L. Yates, Esquire
Hellman Yates & Tisdale, PA
145 King Street, Suite 102
Charleston, SC 29401
Attorneys for Defendant American Tower, LLC


Kimberly W. Nobles
THOMAS & BRITTAİN, P.A.
Post Office Box 1290
Myrtle Beach, South Carolina 29578
(843) 692-2628

January 6, 2014

THOMAS & BRITTAIN, P.A.

ATTORNEYS AT LAW

1314 PROFESSIONAL DRIVE
MYRTLE BEACH, SOUTH CAROLINA 29577

TELEPHONE (843) 692-2628

FACSIMILE (843) 692-0928

MAILING ADDRESS:
POST OFFICE BOX 1290
MYRTLE BEACH, SC 29578

EMMA RUTH BRITTAIN*
ERBrittain@MYRlaw.com

*CERTIFIED EMPLOYMENT
& LABOR LAW SPECIALIST

January 6, 2014

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

Re: TriStar Investors, Inc., Minerva Realty, LLC and Angeline Johnson v.
The Horry County Council and American Towers, LLC
Civil Action No.: 2012-CP-26-8652
Appellate Case No: 2013-001178

Dear Ms. Kitchings:

Our firm represents The Horry County Council in the above-referenced matter. Please find enclosed for filing the Respondent The Horry County Council's Initial Brief and Designation of Matter in this case. Please return a clocked copy of the documents to our office in the enclosed self-addressed stamped envelope.

Please do not hesitate to contact our office if you have any questions.

Sincerely yours,

THOMAS & BRITTAIN, P.A.



Emma Ruth Brittain

ERB/kwn
Enclosures

cc: Susan P. MacDonald, Esquire
Michael J. Anzelmo, Esquire
David C. Slough, Esquire
Thomas C. Brittain, Esquire
A. Preston Brittain, Esquire
Jonathan L. Yates, Esquire
Arrigo P. Carotti, Esquire, Horry County Attorney

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