

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

RECEIVED

The Honorable John Hamilton Smith, Special Referee

APR 22 2014

S.C. Supreme Court

Case No. 2010-CP-40-8943R
Appellate Case No. 2013-001067

COLUMBIA VENTURE, LLC,.....APPELLANT,

v.

RICHLAND COUNTY,.....RESPONDENT.

**RESPONDENT’S MOTION TO AMEND ITS DESIGNATION OF MATTER TO BE INCLUDED IN THE
RECORD ON APPEAL**

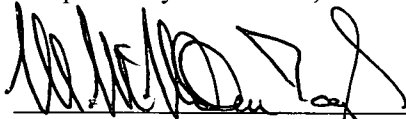
Pursuant to Rule 240, SCACR, Respondent Richland County hereby moves to amend its designation of matter to be included in the record on appeal. On July 25, 2013, Appellant filed its Initial Brief asserting that this Court’s standard of review of the Special Referee’s findings of fact was de novo, and in its Designation of Record, Appellant designated the entire 2,937-page trial transcript, all exhibits entered at trial, and all evidence (excluding redundant material) it entered in support or opposition to summary judgment. On October 28, 2013, Respondent served and filed its Initial Brief disagreeing with Appellant’s asserted standard of review, but nonetheless felt obligated, for its own protection, to designate matter for the record to counter Appellant’s statement of the facts and fact-based arguments. In its Designation of Matter to be Included in the Record on Appeal (“Designation”), Respondent designated a total of 4,496 pages of transcript pages, exhibits, pleadings and other materials.

On February 20, 2014, in response to Appellant's request to file a record on appeal approximately 11,795 pages in length by electronic means, this Court issued an order instructing the parties to make every effort to pare down the record so that it may "make a decision in an efficient and timely manner without having to wade through volumes of unnecessary materials." This Amended Designation reduces the total volume of material designated by Respondent from approximately 4,495 pages to 2,420 pages. Respondent has accomplished this reduction primarily by: 1) eliminating certain trial exhibits concerning facts that Respondent believes, based upon review of Appellant's Reply Brief, are not in dispute or are immaterial; and 2) reducing the length of other trial exhibit designations that, upon further reflection, may have been useful to this Court, but not necessary or critical. Respondent has consulted with Appellant in good faith to reduce the record on appeal.

Respondent respectfully requests that this Court accept the Amended Designation attached hereto.

[SIGNATURE BLOCK FOLLOWS]

Respectfully submitted,



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Attorneys for Respondent Richland County

April 22, 2014.

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v.

RICHLAND COUNTY, RESPONDENT.

**RESPONDENT'S AMENDED DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondent designates the following to be included in the Record on Appeal:

1. Order Denying Defendant's Motion to Dismiss Pursuant to Rule 12(b)(6) (filed Dec. 2, 2009);
2. Plaintiff's Motion for Partial Summary Judgment (filed March 14, 2012);
3. Defendant's Motion for Summary Judgment on Physical Taking Claim (filed March 14, 2012);
4. Defendant's Motion for Partial Summary Judgment (March 14, 2012);
5. Defendant's Memo in Support of Motion for Protective Order (June 12, 2012);
6. Order Regarding Certain Discovery Motions (June 26, 2012);
7. Parties' Joint Submission of Case Documents to Judge Smith for Review (July 2012);
8. Order Granting Defendant's Motion for Protective Order (July 20, 2012);
9. Plaintiff's Memorandum in Support of Motion for Partial Summary Judgment in its

- Physical Taking Claim (July 9, 2012);
10. Plaintiff's Memorandum in Opposition to Defendant's Motion for Partial Summary Judgment (Physical Takings Claim) (July 16, 2012);
 11. Dispositive Motion Hearing Transcript, pp. 1-56, 126 (July 18, 2012);
 12. Order Granting Defendant's Motion for Protective Order (July 20, 2012);
 13. Plaintiff's Pre-Trial Brief (Sept. 6, 2012);
 14. Plaintiff's Proposed Order (Feb. 4, 2013);
 15. Defendant's Proposed Order (Feb. 4, 2013);
 16. Plaintiff's Memorandum in Response to Defendant's Proposed Order (March 8, 2013);
 17. Defendant's Memorandum in Opposition to Plaintiff's Proposed Order (March 8, 2013);
 18. Plaintiff's Motion to Reconsider Order Entered March 19, 2013 (March 29, 2013);
 19. Defendant's Opposition to Plaintiff's Motion to Reconsider (April 8, 2013);
 20. Order Denying Plaintiff's Motion to Reconsider (April 22, 2013);
 21. All Pages of Plaintiff's Trial Exhibits: 4, 11, 12, 13, 14, 17, 18, 24, 26, 31, 51, 60, 112, 114, 118, 119, 120, 184, 185, 204, 208, 229, 230, 237, 254, 262, 264, 266, 270, 287, 294, 304, 338, 344, 345, 362, 374, 391, 501, 506, 507, 508, 509, 510, 511, 520, 523, 551, 557;
 22. Partial designation of Plaintiff's Trial Exhibits:
 - a. Plaintiff's Trial Exhibit 8: DEF-00000002 – DEF-00000006.
 - b. Plaintiff's Trial Exhibit 10: COSD001-00569 – COSD001-00584.
 - c. Plaintiff's Trial Exhibit 147: DEF-00012030 – DEF-00012033.
 - d. Plaintiff's Trial Exhibit 195: DEF-00012293 – DEF-00012328; DEF-00012342 – DEF-00012350; DEF-00012364 – DEF-00012367; DEF-00012384 – DEF-00012386; DEF-00012407.
 - e. Plaintiff's Trial Exhibit 250a: cover page, pp. 429, 431, 440-441, 448, 484-494, 546-554.
 - f. Plaintiff's Trial Exhibit 255: CV005993 – CV006010.
 - g. Plaintiff's Trial Exhibit 266: CV10134 – CV10137.
 - h. Plaintiff's Trial Exhibit 268: CV010144 – CV010145.
 - i. Plaintiff's Trial Exhibit 275: CVMcNair000250 – CVMcNair000253.
 - j. Plaintiff's Trial Exhibit 394: CV006287 – CV006307, CV006312, CV006316, CV006333-CV006336, CV006355 – CV006356, CV006358 – CV006364, CV006623 – CV006624, CV006629 – CV006633, CV006641 – CV006658.

- k. Plaintiff's Trial Exhibit 425: CV006098 – CV006107, CV006114 – CV006117, CV006140, CV006157, CV006163 – CV006172, CV006206 – CV006210.
- l. Plaintiff's Trial Exhibit 497: CV013556 – CV013564.
- m. Plaintiff's Trial Exhibit 550: DEF-00002945 – DEF-00002947.

23. All pages of Defendant's Trial Exhibits: 1, 2, 7, 9, 10, 12, 14, 15, 17, 20a, 31, 34, 45, 46, 48, 49, 53, 54, 59, 63, 64, 67, 69, 72, 74, 76, 77, 79, 81, 85, 103, 104, 105, 106, 108, 109, 110, 111, 112, 113, 128, 129, 130, 131, 133, 140, 142, 151, 156, 158;

24. Partial designation of Defendant's Trial Exhibits:

- a. Defendant's Trial Exhibit 4: BandC020627, BandC20629-BandC020630
- b. Defendant's Trial Exhibit 5: BandC020604 – BandC020609, BandC020612
- c. Defendant's Trial Exhibit 11: BandC000496.
- d. Defendant's Trial Exhibit 13: BandC020477, BandC020483
- e. Defendant's Trial Exhibit 37: CV013516 – CV013522.
- f. Defendant's Trial Exhibit 51: CV012849.
- g. Defendant's Trial Exhibit 70: DEF-00002059 – DEF-00002063
- h. Defendant's Trial Exhibit 73: BandC020866, BandC020876, BandC020880.
- i. Defendant's Trial Exhibit 82: pp. 5-12.
- j. Defendant's Trial Exhibit 84: DEF-00002438 – DEF-00002439.
- k. Defendant's Trial Exhibit 88: DEF-0002547 – DEF-00002551.
- l. Defendant's Trial Exhibit 99: CV000455 – CV000472; CV000521 – CV000545.
- m. Defendant's Trial Exhibit 144: CV-MCNAIR000955, CV-MCNAIR000971 - CV-MCNAIR000972, CV-MCNAIR000998.
- n. Defendant's Trial Exhibit 147: p. 4.
- o. Defendant's Trial Exhibit 157: CV008066 – CV008069.

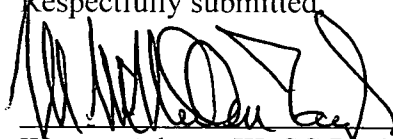
25. Defendant's Exhibits to Deposition of Douglas P. Wendel: 136, 238;

26. Trial Transcript pp. 23-24, 33-34, 37-40, 42, 48, 66, 70, 78-79, 84-86, 126-128, 130, 136-143, 155-156, 176-177, 194-195, 207, 248-249, 264-270, 276-277, 385-386, 449, 504, 514-518, 549-552, 562-563, 571-572, 575, 599-602, 627-630, 656, 668-669, 673-674, 682-685, 698-699, 705-709, 711, 771, 779-780, 810, 839, 844-851, 859-860, 864, 873, 881-882, 878-879, 893-894, 896-904, 922-925, 936-937, 939, 943-945, 951-962, 964-968, 975, 977, 994-997, 1005-1007, 1048-1060, 1077-1078, 1089, 1116-1129, 1139-1140, 1196-1199, 1207-1213, 1207-1213, 1236, 1281-1282, 1290-1296, 1309-1310, 1315, 1323-1324, 1336, 1339-1340, 1384-1391, 1399-1401, 1447-1448, 1453, 1461, 1490-1491, 1624-1626, 1665-1666, 1720-1724, 1727, 1741, 1746-1749, 1842-1844, 1848-1856, 1869-1872, 1879-1885, 1894, 1897-1898, 1940-1964, 2111-2147, 2150-2157, 2161, 2164-2165, 2190-2191, 2206-2212, 2216-2219, 2225-2229, 2231-2234, 2250-2252, 2261-2269, 2272-2284, 2288-2295, 2307-2507, 2512-2530, 2535-2538, 2544-2548, 2557-2559, 2583-2588, 2593-2596, 2598, 2609-2622, 2689-2697, 2702, 2796-2817, 2868-2871, 2898-2901;

27. Transcript of Deposition of Douglas P. Wendel (July 12, 2011): pp. 9, 128-129, 161-164, 180-194;
28. Transcript of Deposition of Douglas P. Wendel (October 25, 2011): pp. 47-49, 81;
29. Transcript of Deposition of H. Wilson Tillotson, pp. 12, 47-53, 58-59, 67; and
30. Transcript of Deposition of James E. Wiseman, pp. 64-65, 113-114, 146-147, 210-211.

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,



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PROOF OF SERVICE

I certify that I have served Respondent's Motion To Amend Its Designation Of Matter To Be Included In The Record On Appeal and Respondent's Amended Designation Of Matter To Be Included In The Record On Appeal by placing in the United States Mail, on the 22nd day of April, 2014, addressed to counsel of record, as follows:

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