

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

APR 23 2014

John Hamilton Smith, Special Referee

S.C. Supreme Court

Case No. 2010-CP-40-8943R

Columbia Venture, LLC,

Appellant,

v.

Richland County,

Respondent.

**AMENDED DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL¹**

Appellant, Columbia Venture, LLC, proposes the following matter to be included in the Record on Appeal:

Orders:

1. Order Denying Plaintiff's Motion to Reconsider, Etc. of April 22, 2013.
2. Order of March 19, 2013.
3. Order Denying Plaintiff's Motion to Reconsider, Alter, or Amend of February 13, 2013.
4. Order Granting in Part and Denying in Part Defendant's Motions for Partial Summary Judgment of September 11, 2012.

¹ Appellant Columbia Venture, LLC filed its Designation of Matter to be Included in the Record on Appeal on July 25, 2013, and filed its Additional Designation of Matter to be Included in the Record on Appeal on December 23, 2013. In response to the Supreme Court's Order of February 20, 2014, Appellant herein amends its Designation of Matter to be Included in the Record on Appeal and, in accordance with the Court's Order of March 3, 2014, will serve the Amended Record on Appeal on Respondent on or before May 2, 2014.

5. Order Denying Plaintiff's Motion to Reconsider, Alter, or Amend of September 4, 2012.
6. Order Granting Partial Summary Judgment to Defendant on Physical Takings Claim, and Denying Partial Summary Judgment to Plaintiff on Physical Takings Claim of August 9, 2012.
7. Order Granting Defendant Richland County's Motion for Protective Order of July 20, 2012.
8. Consent Order of Reference of May 22, 2012.
9. Consent Order to Restore to the Docket Pursuant to Rule 40(j) and Agreements of the Parties of December 23, 2010.
10. Consent Order to Strike from Docket Pursuant to Rule 40(j) and Consent Scheduling Order of January 5, 2010.
11. Order Denying Defendant's Motion to Dismiss Pursuant to Rule 12(b)(6), SCRCF of December 2, 2009.
12. Order Denying Defendant's Motion to Dismiss Pursuant to Rule 12(b)(7), SCRCF of December 2, 2009.
13. Order Denying Defendant's Motion to Strike Pursuant to Rule 12(f), SCRCF of December 2, 2009.
14. Consent Order of May 2, 2005.

Pleadings:

15. Summons and Complaint of August 19, 2004.
16. Amended and Supplemental Complaint of October 5, 2009.
17. Defendant Richland County's Notice of Motion and Motion to Dismiss Pursuant to SCRCF 12(b)(6) of October 9, 2009.
18. Plaintiff Columbia Venture's Memorandum of Law in Opposition to Defendant's Motions to Dismiss Pursuant to SCRCF 12(b)(6) and 12(b)(7), SCRCF and Motion to Strike Pursuant to Rule 12(f), SCRCF of October 21, 2009.
19. Defendant Richland County's Memorandum in Support of its Motion to Dismiss Pursuant to SCRCF 12(b)(6) of October 22, 2009.
20. Defendant Richland County's Answer to Plaintiff's First Amended and Supplemental Complaint of December 8, 2009.

21. Notice of Motion and Motion of Defendant Richland County for Summary Judgment of Plaintiff's Due Process Claims of September 20, 2011.
22. Defendant Richland County's Motion for Protective Order of October 31, 2011.
23. Notice of Motion and Motion of Defendant Richland County for Summary Judgment on All Claims of March 14, 2012.
24. Notice of Motion and Motion of Defendant Richland County for Summary Judgment on Claim of Regulatory Taking of March 14, 2012.
25. Notice of Motion and Motion of Defendant Richland County for Summary Judgment on Claim of Physical Taking of March 14, 2012.
26. Columbia Venture, LLC's Notice of Motion and Motion for Partial Summary Judgment of March 14, 2012.
27. Plaintiff's Motion to Reconsider, Alter, or Amend of August 20, 2012.
28. Plaintiff Columbia Venture's Deposition Designation of Gregory Pearce of September 12, 2012.
29. Defendant Richland County's Objections to Deposition Designations of Gregory Pearce of September 14, 2012.
30. Plaintiff's Motion to Reconsider, Alter, or Amend of September 21, 2012.
31. Plaintiff's Motion to Reconsider, Alter, or Amend Order Entered March 19, 2013, of March 29, 2013.

Transcripts:

32. Motions Hearing Transcript of July 18, 2012: Pages 1-178.
33. Trial Transcript of September 10, 2012: Pages 15-47, 54-67, 71, 79-82, 90-135, 159-162, 178-184, 189-192, 198-204, 212-232, 236-247, 271.
34. Trial Transcript of September 11, 2012: Pages 281-285, 290-294, 300-302, 306, 326-327, 344, 367-369, 376-386, 399-404, 420-423, 448-454.
35. Trial Transcript of September 12, 2012: Pages 474-475, 483-488, 503, 519-523, 546-551, 572-574, 583-589, 621-625, 643-646, 652-653, 667-718.
36. Trial Transcript of September 13, 2012: Pages 731-812, 814-819, 852-889, 892, 897-903, 909-910, 937-943.

37. Trial Transcript of September 14, 2012: Pages 958, 963-965, 967, 976, 987-989, 1008, 1016-1021, 1090-1092.
38. Trial Transcript of September 17, 2012: Pages 1104-1115, 1122-1152, 1173-1175, 1182-1203, 1229-1267, 1287-1306, 1310-1315, 1323-1335, 1341, 1343, 1354-1356.
39. Trial Transcript of September 18, 2012: Pages 1390-1400, 1426-1441, 1444-1445, 1456-1459, 1478, 1482-1585.
40. Trial Transcript of September 19, 2012: Pages 1593-1801.
41. Trial Transcript of September 20, 2012: Pages 1807-1908.
42. Trial Transcript of November 13, 2012: Pages 2127-2145, 2148, 2156-2157, 2180-2183, 2187-2189, 2198-2204, 2237-2238, 2249-2254, 2267, 2274-2282.
43. Trial Transcript of November 14, 2012: Pages 2307-2450, 2456, 2476-2497, 2517-2518, 2544-2545, 2548-2599.
44. Trial Transcript of November 15, 2012: Pages 2619-2623, 2634, 2650-2652.
45. Trial Transcript of November 16, 2012: Pages 2689-2736, 2758-2795, 2855-2861.
46. Trial Transcript of December 20, 2012: Pages 2928-2929.
47. Redacted Transcript of Deposition of Gregory Pearce taken October 27, 2011, per Designations, Objections, and Counter Designations: Pages 11-15, 23-27, 42-51, 56-58, 60-63, 92-97, 103-104, 131-139, 160-162, 199-200.
48. Redacted Transcript of Deposition of J. Milton Pope taken August 24, 2011, per Designations, Objections, and Counter Designations: Pages 5-8, 15-21, 34-41, 71-72, 95-97, 117, 121-122, 126, 134-138, 160, 181.
49. Transcript of Deposition of Herman Wilson Tillotson, Jr. taken March 12, 2012, per Designations, Objections, and Counter Designations: Pages 9-44, 53-60, 73-74.
50. Redacted Transcript of Deposition of Douglas P. Wendel, taken July 12, 2011, per Designations, Objections, and Counter Designations: Pages 10, 77, 123-126, 130-132, 165, 180-183.

51. Redacted Transcript of Deposition of Douglas P. Wendel, taken October 25, 2011, per Designations, Objections, and Counter Designations: Pages 7, 31-35, 47-49.
52. Redacted Transcript of James E. Wiseman, III, taken September 1, 2011, per Designations, Objections, and Counter Designations: Pages 14-15, 31, 43-44, 49-51, 60-63, 77-80, 83-84, 89-90, 93-96, 112-118, 151-155.

Exhibits and Documents:

53. Plaintiff's Trial Exhibits (PTEs) in full: 004, 008, 011, 012, 013, 017, 018, 020, 022, 024, 026, 027, 031, 032, 034, 047, 051, 056, 057, 060, 061, 062, 067, 081, 108, 109, 110, 114, 117, 118, 119, 120, 123, 125, 127, 133, 135, 146, 147, 150, 157, 162, 166, 169, 170, 183, 184, 185, 186, 190, 191, 199, 203, 204, 207, 208, 209, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 229, 230, 231, 233, 234, 236, 237, 238, 239, 246, 247, 251, 252, 254, 255, 262, 264, 275, 283, 285, 287, 294, 299, 301, 302, 304, 306, 307, 308, 311, 314, 319, 320, 323, 335, 337, 338, 345, 346, 349, 350, 360, 362, 369, 374, 378, 381, 396, 397, 417, 430, 449, 452, 474, 498, 499, 500, 502, 504, 516, 517, 518, 520, 521, 523, 527, 529, 533, 534, 535, 536, 542, 543, 549, 551, 553, 554, 555, 556, 560, 567, 572, 573, 574, 575, 576, 578, 580.
54. PTEs in part:
 - a. 003: pages FEMA001, inside cover, i-iii, 6-9, 22-25, Congaree River-Saluda River Data Table, 65-67, Community Map History Table, 69-71, Congaree River Flood Profiles Tables;
 - b. 010: pages COSD001-00569 – COSD001-00573, COSD001-00579 – COSD001-00581, COSD001-00598, COSD001-00614 – COSD001-00619;
 - c. 112: pages DEF-00002173 - DEF-00002177, DEF-00002195 – DEF-00002196;
 - d. 113: pages DEF-00001511, DEF-00001529 – DEF-00001533;
 - e. 195: pages DEF-00012293, DEF-00012298;
 - f. 211: first 33 pages of pdf;
 - g. 235: pages COSD001-00639, COSD001-00652 – COSD001-00654, COSD001-00665 – COSD001-00669;
 - h. 250A: pages DEF-00012743.002, DEF-00012767.002, DEF-00012800.002 – DEF-00012810.002;

- i. 286: pages COSD001-00307 – COSD001-00311, COSD001-00317 – COSD001-00320, COSD001-00334 – COSD001-00335, COSD001-00349 – COSD001-00355;
 - j. 303: pages COSD001-00386 – COSD001-00390, COSD001-00395, COSD001-00403 – COSD001-00404, COSD001-00419 – COSD001-00420, COSD001-00424, COSD001-00438 – COSD001-00442;
 - k. 305: pages COSD001-00446 – COSD001-00450, COSD001-00453, COSD001-00458, COSD001-00471 – COSD001-00473, COSD001-00479, COSD001-00489 – COSD001-00493;
 - l. 326: page CVMcNair000998;
 - m. 334: pages FEMA-002-001093, FEMA-002-001100 – FEMA-002-001105, FEMA-002-001116 – FEMA-002-001120;
 - n. 336: pages FEMA-002-001060, FEMA-002-001065 – FEMA-002-001070, FEMA-002-001075 – FEMA-002-001082;
 - o. 379: pages FEMA-001-000001 – FEMA-001-000005, FEMA-001-000018 – FEMA-001-000019, FEMA-001-000029, FEMA-001-000032, FEMA-001-000036, FEMA-001-000038, FEMA-001-000054 – FEMA-001-000058;
 - p. 382: pages FEMA-001-000066 – FEMA-001-000070, FEMA-001-000078 – FEMA-001-000079, FEMA-001-000091 – FEMA-001-000095, FEMA-001-000106 – FEMA-001-000113;
 - q. 394: pages CV006287 – CV006658;
 - r. 425: pages CV006098 – CV006210;
 - s. 497: pages CV013556 – CV013564;
 - t. 528: pages 2-9, 37, 52-58 of pdf;
 - u. 550: pages DEF-00002945 – DEF-00002956;
 - v. 577: pages SELC000029 – SELC000030;
 - w. 581: pages CV005579 – CV005602.
55. Defendant's Trial Exhibits in full: 2, 3, 4, 5, 10, 12, 13, 14, 17, 18, 19, 21, 40, 45, 55, 62, 66, 67, 72, 76, 87, 93, 129, 130, 133, 140, 141, 142, 146, 156, 160.

56. Defendant's Trial Exhibits in part:

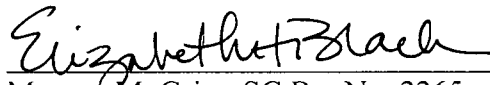
- a. 44: page DEF-00012652;
 - b. 51: cover letter;
 - c. 82: pages 1-4, 15 of pdf;
 - d. 151: page DEF-00002130.
57. Deposition Exhibits to Deposition of Gregory Pearce taken October 27, 2011, per Designations and Counter Designations: Pearce Cross-Reference Sheet (attached),² Plaintiff's Exhibits 147, 148, 166, 168, 173, 179, 180, 186, 187.
58. Deposition Exhibits to Deposition of J. Milton Pope taken August 24, 2011, per Designations and Counter Designations: Pope Cross-Reference Sheet (attached), Plaintiff's Exhibits 122, 123, 146, 147.
59. Deposition Exhibits to Deposition of Herman Wilson Tillotson, Jr., taken March 12, 2012, per Designations and Counter Designations: Tillotson Cross-Reference Sheet (attached), Plaintiff's Exhibits 004, 015, 017, 019, 021, 118, 207, 208.
60. Deposition Exhibits to Depositions of Douglas P. Wendel, taken July 12, 2011, and October 25, 2011, per Designations and Counter Designations: Wendel Cross-Reference Sheet (attached), Defendant's Exhibits 42, 45, 136.
61. Deposition Exhibits to Deposition of James E. Wiseman, III, taken September 1, 2011, per Designations and Counter Designations: Wiseman Cross-Reference Sheet (attached), Defendant's Exhibits 160, 162, 171, 172, 180, 181, 182, 197, 198, 199.
62. Appendix to Plaintiff Columbia Venture's Omnibus Memorandum in Opposition to Defendant's Various Motions for Summary Judgment of July 13, 2012, including attached Cross-Reference Index.
63. Appendix to Plaintiff's Motion to Reconsider, Alter, or Amend Order Entered March 19, 2013, of March 29, 2013, Item 9 (Richard County Regulations – Division 3 – Preservation of Council Actions, § 2-39 through § 2-48).

² The cross-reference sheets described in items 57, 58, 59, 60, 61, and 62 are attached hereto in draft format. As they include a column identifying the page number where the document referenced appears in the Record on Appeal, the cross-reference sheets will be finalized with page numbers for inclusion in the Record on Appeal to be served on Respondent and filed with the Court.

64. Index to Plaintiff's Reply to Defendant's Memorandum in Opposition to Plaintiff's Motion to Reconsider, Alter, or Amend of April 15, 2013, Tab 3 (Certified Copy of Richland County Code of Ordinances (various)).

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

Respectfully submitted,



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April 23, 2014

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THE STATE OF SOUTH CAROLINA
In The Supreme Court

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John Hamilton Smith, Special Referee

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

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S.C. Supreme Court

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v.

Columbia Venture, LLC, Appellant.

CERTIFICATE OF SERVICE

This is to certify that I caused a copy of the foregoing Appellant's Amended Designation of Matter to be Included in the Record on Appeal to be served on the following individuals in the manner expressed below and addressed as follows:

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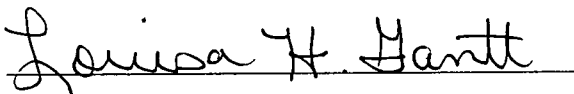
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April 23, 2014



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