

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

S.C. Supreme Court

Deborah Brooks Durden, Administrative Law Judge

Case No. 2012-210327

Carolina Walk, LLC and Serrus Carolina Walk, LLC Appellants,

v.

Richland County Assessor. Respondent.

APPELLANTS' OPPOSITION TO MOTION FOR COSTS

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Richland County continues its anti-business, high tax ways (see attached) of doing business by seeking costs on this property tax appeal regarding the valuation of certain condo units in Richland County.

The County admitted at the Administrative hearing that it did not lower the value of a single condo that didn't appeal in the reassessment year, notwithstanding the multiple testimony that condo values had precipitously dropped.

The value arrived at by the County for the units during the worse real estate recession since the Great Depression was some \$4 million higher than what Appellant paid for the condo units in 2010 – when the economy was much better.

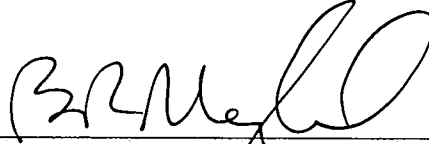
The tax value of real estate rose in Richland County in the reassessment year during the very height of the great recession – surely one of the few places in the United State where this occurred.

The County used related party sales, false and fraudulent comp sales, and violated numerous appraisal regulations by using too few valid comps.

The ALC upheld the appraiser's valuation in part because she felt the realtor who testified on the comparable sales issue was not credible – notwithstanding that he won several national awards and was the sole listing agent for the condo development.

Admittedly both the ALC and the Supreme Court ruled for the County's valuation but Appellant accordingly asks that costs be denied.

Respectfully submitted,



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July 7, 2014

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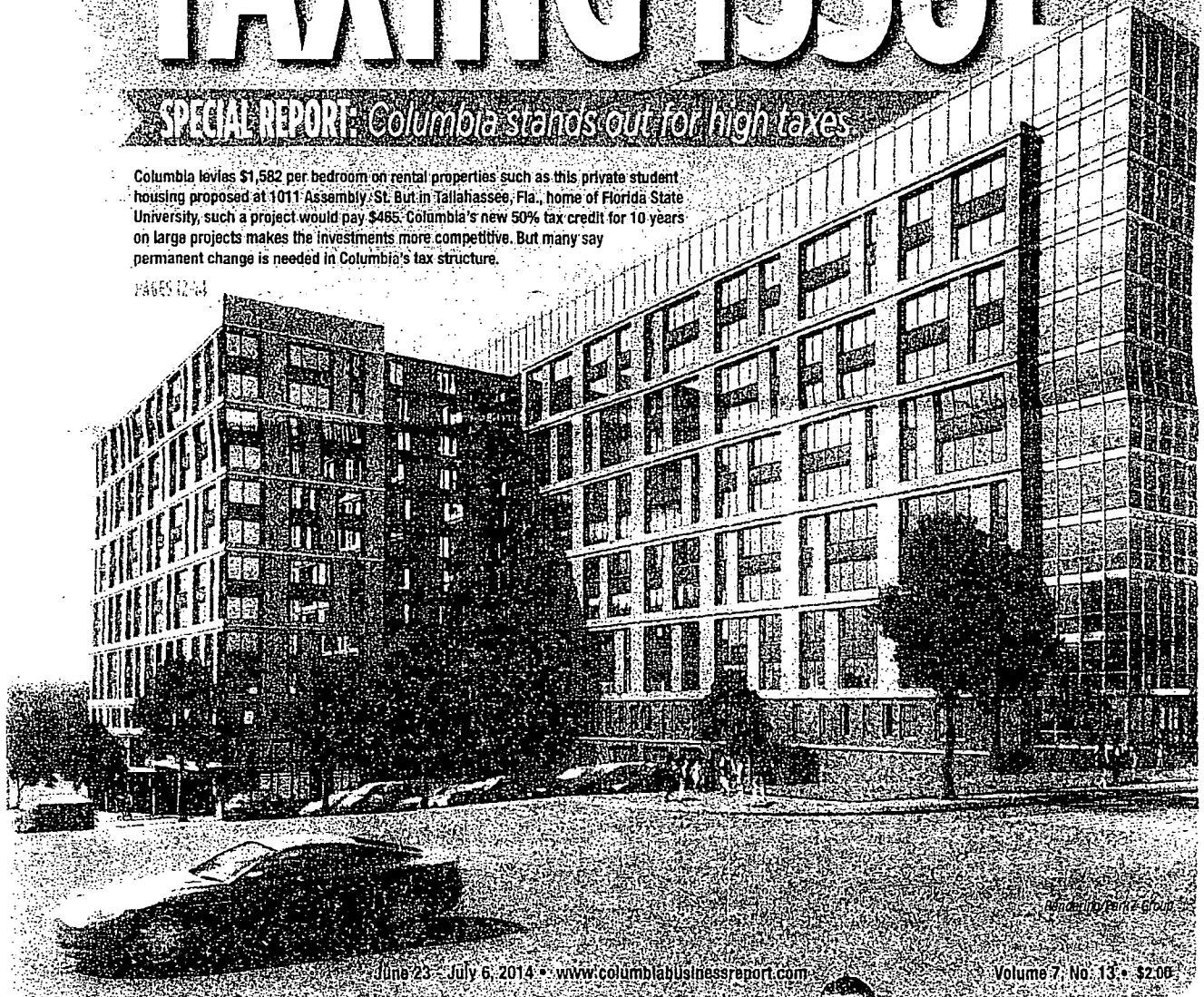
COLUMBIA REGIONAL
BUSINESS REPORT

TAXING ISSUE

SPECIAL REPORT: Columbia stands out for high taxes

Columbia levies \$1,582 per bedroom on rental properties such as this private student housing proposed at 1011 Assembly St. But in Tallahassee, Fla., home of Florida State University, such a project would pay \$465. Columbia's new 50% tax credit for 10 years on large projects makes the investments more competitive. But many say permanent change is needed in Columbia's tax structure.

PAGES 12-14



Rendering by Park Group

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INSIDE

Singapore tire maker to build in Chester County. **Page 3.**

Capital Angels seeks 40 investors in startups. **Page 4.**

Home building gets back to normal in Midlands. **Page 11.**



Steve Johnson, Craft and Draft Work. **PAGE 19**

High property tax on business chills Columbia's growth

By Mike Fitts
colanews@scbiznews.com

In 2012, an investment group opened a private student housing project right across from Coastal Carolina University in Conway. Called Monarch 544, the project brought 440 beds to the growing campus area without expending the college's capital.

The investors then looked for sites in Columbia near the University of South Carolina to follow up on its success in the state, as they had around the country. But they quickly backed off and went elsewhere, according to experts in commercial real estate.

The reason: Property taxes for the project they wanted to build in Columbia were much higher than what they were paying in Conway, or would pay in many other college towns.

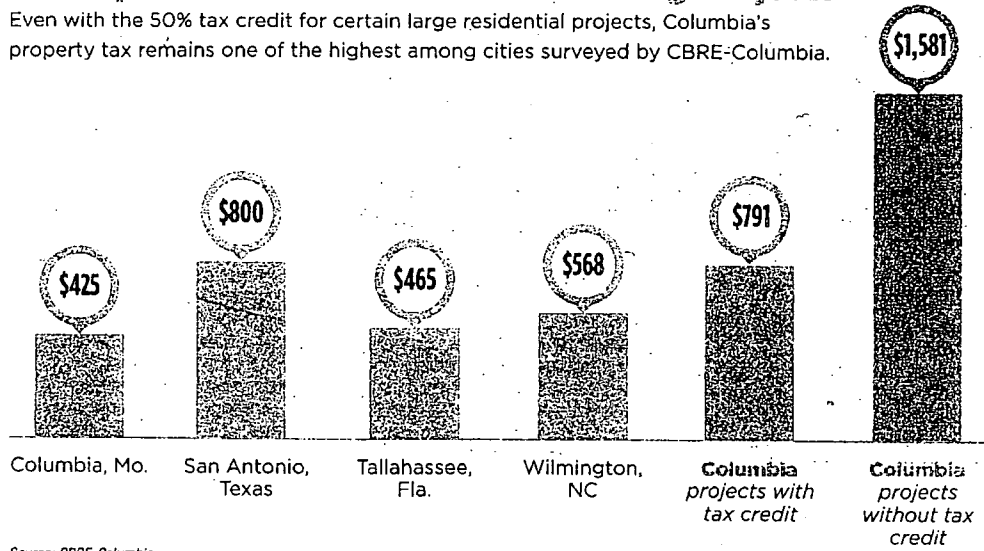
According to data compiled by CBRE real estate firm, the initial tax assessment for another investor's project on the same Vista site was three times what Monarch 544 pays in Conway.

Land in downtown Columbia is more expensive than in Conway, and the planned project for USC would welcome more residents. Still, the huge disparity highlights an issue that could be holding back growth here: property taxes in Columbia and Richland County are considered to be the highest of any South Carolina metro area for commercial development. One national survey even puts Columbia's commercial taxes among the highest in the United States (see sidebar on page 13).

David Lockwood, executive vice president for South Carolina at Colliers International real estate firm, said that potential commercial investors first look across the river to Lexington County or elsewhere in the Midlands. "You develop in Richland County and Columbia if you have to do it," Lockwood said.

Taxes per Bedroom for Student Housing Projects

Even with the 50% tax credit for certain large residential projects, Columbia's property tax remains one of the highest among cities surveyed by CBRE-Columbia.



Source: CBRE-Columbia

Business license fees combine with property tax rates make Columbia an unappealing commercial investment, he said.

"The layering of these tax components is extremely detrimental to growth in Richland County and the City of Columbia," Lockwood said.

John Darby, president and CEO of the Beach Co. in Charleston, said that his company found tax rates in Columbia to be the highest it has dealt with in the state. The Beach Co. developed the CanalSide project in the Vista along with numerous projects in the Lowcountry, and its latest development is in Greenville.

Columbia's tax rates could be a major factor in discouraging development here, Darby said.

"It's more than taxes, but taxes sure

could affect the profit of the investment," he said.

Do these tax rates scare away possible customers before representatives of the area even can talk about the benefits of the region or special incentives? Some in the commercial real estate field fear that they do.

Leaders at CBRE Columbia, the commercial real estate firm that has helped close two deals to bring student housing to the Vista, point to some local sites that have sat vacant for years, including those involved in these deals. The former Heart of Columbia motel site is directly across Assembly from the Statehouse, for example, which should be prime real estate. But deals to put the site to some use have been tried for years only to fall apart, said Martin Moore, executive vice president at

CBRE.

Columbia ought to do much better than it does, but it's difficult to know how many potential investors don't really explore Columbia as an option.

"It's hard to know when somebody doesn't call," Senior Managing Director Mary Winter Teaster said.

Columbia Mayor Steve Benjamin concedes that some developers could be put off from considering Columbia by the tax rates, but he expects that most companies would explore incentives and other options to see if Columbia could be a good fit.

"Most businesses are pretty savvy," Benjamin said.

The state and local bind

What makes the property taxes for

New Student Housing Construction Projects in Columbia

Legend: [Icon] = No. of beds

Arnold site: Blossom at Huger

[Icon] 673

Investment: \$40 million

Developer: Park7 Group

Bernstein site: Assembly at Pendleton

[Icon] about 700

Investment \$62 million

Developer: Park7 Group

Also featuring: ground-floor retail space

Edwards site: 620 Blossom St.

[Icon] 818

Investment: \$40 million

Developer: Edwards Student Housing

USC site: Park at Blossom

[Icon] about 880 in two phases

Investment: \$94 million

Developer: Holder Properties and USC

Source: City of Columbia



This student housing project proposed at Blossom and Huger Streets would benefit from the city's 50% tax credit for certain residential properties.

Private student housing merited a break, backers say

By MIKE FITTS
colanews@scbiznews.com

The tax breaks given to three new private student housing projects in Columbia have broken a precedent. Others may be keen to follow, but elected officials say they will be careful in deciding which projects measure up.

In the past, such tax benefits have been given in order to attract more traditional employers, such as manufacturers. Those advocating for the change argue that the size of these investments makes them deserve the tax credit — and that these projects will not come inside the city limits without them. The main reasons cited: high property tax rates and pricey city requirements, including parking structures.

Real estate company CBRE Columbia represented the buyer, Manhattan-based Park 7 Group, for the first two projects to gain approval, and made the case to the city and county councils for the tax break. Together, the two projects will bring more than 1,300 new beds to the city. In both cases, approval was unanimous.

Leaders at CBRE Columbia reject the argument that the projects would have come to the city without the tax credit, which gives them a 50% tax break for 10 years. There are too many options outside the city to build in, and too many cities

competing to attract this capital, according to Martin Moore, executive vice president.

Columbia requires these projects to build their own parking garages and to build to the city's standards for vertical development, Moore said. Going outside the city limits has allowed developers to use less expensive land and surface parking and to build lower-rise units, as have proliferated in the Bluff Road area.

Building outside the city limits also means not paying the city's allotment of property tax. Moore and CBRE Research Director Ben Johnson maintain that the taxes on the proposed student housing projects would have been prohibitive without the tax credit. Without it, Moore said, the two projects and their \$100 million total investment would go elsewhere. "You have a major impact on the community that you wouldn't have otherwise," Moore said.

A survey of other student housing projects in comparable cities finds that most

paid a much lower property tax. Columbia was prepared to tax the properties at \$1,582 per bedroom while a private project in Tallahassee, Fla., home of Florida State University, pays \$465, and the March 544 project in Conway, near Coastal Carolina University, pays \$458. Even during the 10-year tax credit, the Columbia projects will pay \$791 per bedroom, according to Johnson.

The tax difference in Columbia would be difficult to pass along to tenants, according to David Lockwood, executive vice president for South Carolina at Colliers International real estate firm. The pricing of the market won't allow it, if a city project's competitors are charging less for housing in Richland or Lexington County. "High taxes hit these projects hard," Lockwood said. "You can't pass them on."

Truly Compelling Case

Local elected officials, who had not approved such a tax break before, call the case for these projects convincing. "These numbers are truly compelling," said Columbia Mayor Steve Benjamin.

"We would have lost hundreds of millions of development if we didn't act decisively."

The tax credit helps the community increase downtown population density, rather than let population continue to sprawl into unincorporated areas. These student populations

will continue to add to the economic vigor of the downtown area, Benjamin believes.

The two projects on the Arnold and Bernstein sites will pay more than \$1 million in annual property taxes, even after the 50% tax credit, according to CBRE estimates. That includes about \$640,000 for Richland One schools, from tenants who will enroll few if any children in the system, Moore of CBRE notes.

"It's still a huge win for the people of Columbia," Benjamin said.

Kelvin Washington of Richland County Council said it was a challenge at first to see the housing projects as eligible. He said he became convinced that it was worth doing because the tax credit ends after 10 years and because of the continuing need to add assets to the county's tax rolls.

Without the tax break, the county would have added nothing to its tax rolls, County Council Member Greg Pearce decided. Giving the tax break was better

commercial ventures in Columbia and Richland County so high? Start with S.C. law.

South Carolina puts more of its tax burden on businesses than many other states, a situation the S.C. Chamber of Commerce has sought to change for years. The state chamber has campaigned to correct what it sees as an unfair shift of the tax burden that resulted from the passage of Act 388. That law exempted single-family homeowners from paying school districts' operating costs on their primary residence. To the chamber, that means that businesses and multifamily residences pay too much of the tax burden.

Municipalities also have restrictions on ways in which to raise revenue. Other revenue sources such as hospitality taxes come with limits on the uses of the revenue.

"We have almost no tools," Benjamin said. "That's why we have to be creative."

Add to that state framework the special challenges of the Richland County economy.

As Benjamin puts it, "It's an interesting challenge."

Benjamin pointed to several workhorses of the city's economy and how many of them do not contribute to the

property tax, at least not directly. He rattles off a list of the Midlands' top employers: the Statehouse and state agencies, the colleges including USC and its dormitories and Fort Jackson. None of these organizations pay property tax on buildings they own. That leaves a significantly smaller chunk of the Richland County economy to provide all the local government funds that usually are paid for by property taxes.

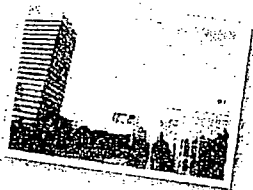
Many state capitals have similar issues, Benjamin notes, but Columbia's mix of employers makes the challenge even more pronounced. "The tax base is not representative of a city of our size," Benjamin said.

To meet the challenge, Benjamin said, Columbia puts out a focused, combined effort. That includes individual attention to possible projects and teamwork on economic development. Benjamin notes with pride that Columbia officials have been directly involved in most of the economic development efforts that have brought new businesses and tenants to Main Street.

Use of Incentives

Overcoming the challenging tax rates

See PROPERTY TAX, Page 14 >



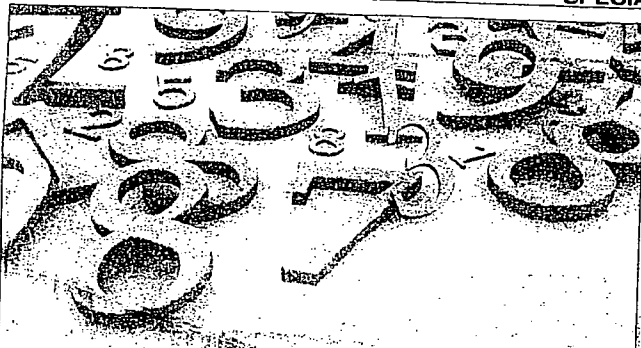
Columbia Stands Out in National Survey

A study by the Lincoln Institute of Land Policy comparing effective tax rates across the country rated Columbia as the highest among 53 cities for industrial tax rate, with an effective tax rate of 3.496%, versus a national average of 1.424%. The survey assumed that 60% of the business assets were taxed as personal property.

For urban apartment tax rates, Columbia was ranked 14th of the 53 cities, with an effective tax rate of 2.416% on a property valued at \$600,000. The national average rate was 1.961%.

Columbia also has the second-lowest property tax on a median home, in part because of exemptions. Combined, that gave Columbia the fourth-highest ratio of the 53 cities surveyed by the institute for the difference between its commercial and homeowner property tax rates.

See STUDENT HOUSING, Page 14 >



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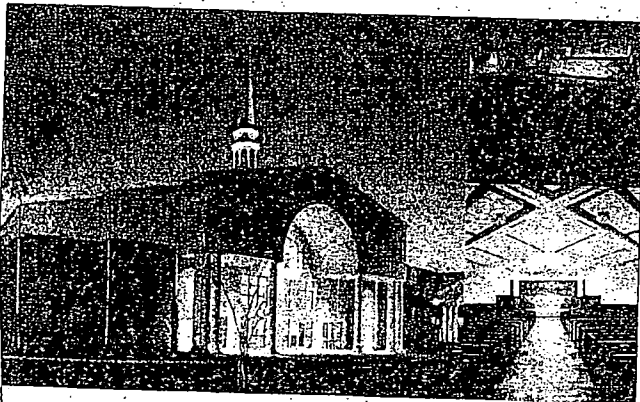
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PROPERTY TAX, continued from Page 14

also involves the use of incentives. Benjamin notes that can mean the major tax incentives that often are part of economic development, but also smaller efforts, too. For Main Street, that has meant using a special fund for property owners to improve the building facades or working to provide solutions for parking using city facilities. This was used for the Hub at Columbia student housing project in the former SCANA space, resolving the thorny issue of parking for several hundred new downtown residents.

Burnie Maybank, economic development attorney at Nexsen Pruet and former director of the S.C. Department of Revenue, notes that county councils have the power in South Carolina to change their property tax codes as they see fit to land a particular project. Maybank remembers working with one S.C. county to land a high-tech target. The county cut its tax assessment on data servers to match what a rival in another area was offering and landed the project.

Both Benjamin and Richland County Council Member Kelvin Washington wonder if the current tax incentives serve Columbia and other urban areas well. Washington, a member of county council's economic development committee, believes the economy has changed from the old, factory-centered view and that incentives have not kept up. "We have to change the model," Washington said.

Washington said over years he has grown weary of companies that receive a property tax incentive lasting several years coming back at the expiration to seek an extension. When do these deals

actually pay off for local governments Washington wonders.

Benjamin also believes that local governments need better options from the state on incentives and revenue.

"I'd like the Legislature to recognize the face that the metropolitan economies are driving the growth in the state," Benjamin said.

In the nearer term, Benjamin anticipates that the property tax burden on businesses will improve. He notes that voters approved new school bonds in recent years in Richland 1, Richland 2 and Lexington-Richland District 5. Those bonds moving off the tax rolls in the years ahead will provide some relief. There also would be tax benefits if the city and Richland County can consolidate some functions, he said. It's an idea that has existed locally for years but has not come to pass yet.

In the longer term, Benjamin and others say that they are seeking to increase private business growth in Columbia, in part because growing the tax base with new investment would spread the burden around better. Benjamin has cited the need for growth as a reason for his support of the tax credits given to two new student housing projects and for the public expenditures being used in the Bull Street project.

Bob Hughes, lead developer of the Bull Street project, said that the project's success would give Columbia a more diverse and vibrant economy with more visitors, and would add greatly to the tax base, which would provide some property tax relief.

"It solves a number of problems," Hughes said.

STUDENT HOUSING, continued from Page 14

than "to get 0% of zero," Pearce said.

Both Pearce and Washington cited the example of the project that Holder Properties has launched with USC to build office and student housing on land near the old Carolina Coliseum. The project will create more than 750 beds and spend more than \$90 million over its two phases. And the county will garner no property taxes from the project, the two men said, as the land will continue to belong to the university, even as Holder builds and maintains it. Holder Properties declined to comment for this article.

While the 50% property tax credit is new, Moore at CBRE argues that some kind of tax or other incentive has been at work in many local projects. New tenants moving in this August at the Hub on Main Street, for instance, will park in a city garage, instead of the owners having to build (and pay property taxes) on one of their own. Other downtown projects have used Bailey Bill redevelopment tax benefits or other economic development bonuses.

Going Forward

Now that the precedent has been set on this issue, local government leaders know that other developers are interesting in benefiting, too. "There is a significant amount of interest," Benjamin said.

City council has been specific about what will deserve a credit, Benjamin said. To be eligible, projects will need to be designated as a student housing project and have an investment of \$40 million or more, with a minimum tax bill of \$750,000 per year before all credits are taken into account.

Washington, too, knows that others will be interested. He emphasizes that the usual tax benefits don't seem to fit the kind of growth that is possible in the city limits, citing the continuing discussion about a tax break for discount retailer Costco, which he supports. Traditional metrics about the size or potential jobs of a project seem outdated and inadequate, Washington said.

Only similarly big investments will deserve consideration for a similar tax credit to the student housing projects, Washington said. "We're going to take them case by case."

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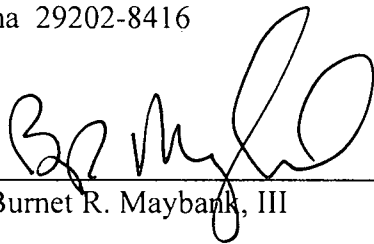
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This is to certify that I have caused to be served this day one (1) copy of Appellant's Opposition to Motion for Costs by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

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July 7, 2014