

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
DeAndrea Gist Benjamin, Circuit Court Judge

Case No. 2013-CP-40-1643

RECEIVED

OCT 28 2014

SC Court of Appeals

Samuel T. Brick, Appellant,

v.

Richland County Planning Commission and
Fairways Development, LLC, Intervenor, Respondents.

**RESPONDENT'S RETURN TO APPELLANT'S
MOTION FOR RELIEF**

The Appellant Samuel T. Brick has filed a motion requesting that the Court relieve him of the requirements of Rules 210(b) and 211(a), SCACR, that the Appellant file fifteen copies of the Record on Appeal and Final Briefs. The Respondent Richland County Planning Commission does not take a position on

that motion but would note that the Appellate Court Rules do not provide for separate filing requirements for *pro se* litigants. Further, while the Plaintiff may technically be a *pro se* litigant, he is an attorney licensed in another jurisdiction and thus is not the typical *pro se* litigant.

Moreover, from a historical standpoint, the Supreme Court has previously refused to excuse filing requirements and expenses for an appellant who even was granted *in forma pauperis* status. In *Quillian v. Evatt*, 308 S.C. 555, 419 S.E.2d 783 (1992), the Supreme Court wrote: "Appellant is reminded that the scope of a grant to proceed *in forma pauperis* extends only to those fees associated with filing the appeal and related motions with this Court. The costs of the court reporter's transcript and of copying the record and brief remain the responsibility of the appellant." 419 S.E.2d at 783.

The Appellant also challenges the designations by the Respondent Richland County Planning Commission, specifically with regard to the designation of the entire transcript of the motion hearing and the designation of the Appellant's Notice of Appeal from the Commission to the Circuit Court.

As for the transcript, the Commission believes that it is appropriate for the Record on Appeal to include the entire hearing before Circuit Judge DeAndrea Benjamin. However, the Commission is willing to withdraw its designation of pages 3-6 of the transcript which is specifically a brief colloquy between the judge

and two of the lawyers while awaiting the arrival of the third lawyer. The remaining portions of the transcript to which the Appellant raises an objection are relevant to the issues and defenses argued on appeal by the parties. Most of the pages that the Appellant seeks to exclude are the arguments made by the Commission's counsel on the standing issue. It is not appropriate for the Appellant to include his arguments and not those in opposition.

The Appellant also argues that only portions of his Notice of Appeal from the Planning Commission to the Circuit Court should be included. The challenged document is the Appellant's filing which actually commenced his Circuit Court appeal and frames the issues for the appeal. It is the dismissal of that very appeal which is on appeal to this Court. The Planning Commission believes that it is appropriate for this Court to have the entire Notice of Appeal as filed by the Appellant in the Circuit Court both as background information and so as to fully understand the issues raised in this litigation and on appeal.

In sum, the Planning Commission will agree to withdraw pages 3-6 of the hearing transcript as not necessary for the adjudication of this appeal; however, the other challenged transcript pages and the Appellant's own Notice of Appeal which initiated the action in Circuit Court were properly designated and should be included in the Record on Appeal. To that extent, the Appellant's motion should be denied.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY:  _____

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Columbia, South Carolina

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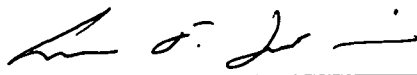
Richland County Planning Commission and
Fairways Development, LLC, Intervenor, Respondents.

CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Respondent Richland County Planning Commission, does hereby certify that service of the **Respondent's Return to Appellant's Motion for Relief** in the above-captioned appeal was made upon the *pro se* Appellant and all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelope this the 28th day of October 2014:

Mr. Samuel T. Brick
124 Runneymede Drive
Blythewood, South Carolina 29016

Tobias G. Ward, Jr., Esquire
J. Derrick Jackson, Esquire
Tobias G. Ward, Jr., P.A.
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October 28, 2014

Of Counsel
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Hand Delivered

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

RE: Samuel T. Brick v. Richland County Planning Commission and
Fairways Development, LLC, Intervenor
Appellate Case Number: 2014-000583
Civil Action Number: 2013-CP-40-1643
Our File Number: 314.9169

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven copies of the **Respondent's Return to Appellant's Motion for Relief** with regard to the above referenced matter. Please file the originals and return a clocked-in copy to me by way of my courier.

Thank you for your assistance in this matter.

Sincerely,

DAVIDSON & LINDEMANN, P.A.



Andrew F. Lindemann

AFL/
Enclosures

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
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Page Two

cc: (w/Enclosures)

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