

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

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JAN 30 2015
SC Court of Appeals

Samuel T. Brick, Appellant,

v.

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

**MEMORANDUM IN SUPPORT OF
MOTION TO CORRECT RECORD ON APPEAL**

The Respondent Richland County Planning Commission has moved this Court for an order requiring the Appellant to file a corrected Record on Appeal that corrects the deficiencies outlined below.

Rule 210(c) SCACR, provides that "[t]he Record on Appeal shall include all matter designated to be included by any party under Rule 209." The Respondents designated the Complaint filed October 31, 2012 in Civil Action Number 2012-

CP-40-7337, for inclusion in the Record on Appeal. The Respondent Richland County Planning Commission actually cites to that document in its Initial Brief. However, the Appellant failed to include a copy of that Complaint in the Amended Record on Appeal. Instead, the Appellant erroneously included the Amended and Supplemented Complaint in Civil Action Number 2012-CP-40-7337, which was not designated by any of the parties. (Amended ROA pp. 234-253). The Appellant should be ordered to correct the Record on Appeal and include the Complaint filed October 31, 2012, and to remove the Amended and Supplemented Complaint.

In addition, the Appellant has included documents that were not even in existence when this appeal was filed. The Notice of Appeal was filed March 11, 2014. After the appeal was filed, the Respondent Fairways Development, LLC filed a Motion to Lift Automatic Stay to which the Appellant filed a return. Pages 222 through 233 in the Amended Record on Appeal are documents that were filed with that motion or in opposition to that motion. In fact, the affidavit of R. Steve McNair is dated May 22, 2014. Those documents are not properly in this record because they were filed after Judge DeAndrea Benjamin issued the orders on appeal and after this appeal was filed.

Finally, there are additional deficiencies with the Amended Record on Appeal as filed. Rule 210(c), SCACR, provides that "[e]ach page of the Record on Appeal shall be numbered consecutively beginning with the index." The page

numbering by the Appellant is confusing and not consistent with this rule. The Appellant did not use sequential page numbering but rather used hyphenated page numbers in numerous places. In addition, given the placement of the handwritten page numbers and the poor photocopying, there are numerous places where the page numbering is cut off the page or otherwise not legible.

In addition, none of the documents in the Amended Record on Appeal which were generated by the Appellant are reproductions of the originals on file. In fact, none of the documents bear the Appellant's signature.

Based on the foregoing discussion, the Respondent Richland County Planning Commission respectfully requests that the Court require the Appellant to file a corrected Record on Appeal to correct the errors and deficiencies addressed in this motion.

DAVIDSON & LINDEMANN, P.A.

BY: 

ANDREW F. LINDEMANN
MICHAEL B. WREN
1611 Devonshire Drive
Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8222

*Counsel for Respondent
Richland County Planning Commission*

Columbia, South Carolina

January 27, 2015

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CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., counsel for the Respondent Richland County Planning Commission, does hereby certify that service of the **Motion to Correct Record on Appeal** and **Memorandum in Support of Motion to Correct Record on Appeal** was made upon the *pro se* Appellant and all other counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 27th day of January 2015:

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

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Tobias G. Ward, Jr., Esquire
J. Derrick Jackson, Esquire
Tobias G. Ward, Jr., P.A.
Post Office Box 6138
Columbia, South Carolina 29260



DAVIDSON & LINDEMANN, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

William H. Davidson, II
Andrew F. Lindemann*
James M. Davis, Jr.†
Robert D. Garfield
Michael B. Wren

1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568
Telephone: (803) 806-8222
Facsimile: (803) 806-8855
www.dml-law.com

Daniel C. Plyler
Joel S. Hughes
Justin T. Bagwell
David A. DeMasters
Steven R. Spreuwers
Todd R. Flippin

*Also Admitted In North Carolina
†Certified Mediator

January 27, 2015

Of Counsel
Kenneth P. Woodington

Writer's Email: alindemann@dml-law.com

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
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 originals and seven copies each of the **Motion to Correct Record on Appeal** and **Memorandum in Support of Motion to Correct Record on Appeal** in the above referenced matter. Please file the originals and return a clocked-in copy of each document to me in the enclosed envelope.

By copy of this letter, I am serving copies on the *pro se* Appellant and all counsel of record.

Thank you for your assistance in this matter.

Sincerely,

DAVIDSON & LINDEMANN, P.A.



Andrew F. Lindemann

AFL/jmb
Enclosures

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January 27, 2015
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cc: (w/ Enclosures)

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J. Derrick Jackson, Esquire
Tobias G. Ward, Jr., P.A.
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Columbia, South Carolina 29260