

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

Samuel T. Brick, Appellant,

v.

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

**RETURN TO APPELLANT'S MOTION FOR
CLARIFICATION OF ORDER AND RELIEF**

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MAR 9 1 2015
SC Court of Appeals

The Respondent Richland County Planning Commission previously filed a motion seeking an order requiring the Appellant to file a corrected Record on Appeal in certain particulars. By Order filed March 9, 2015, the Court granted that motion in its entirety and ordered the Appellant to "serve and file an amended record on appeal that cures the deficiencies listed in Respondent's motion." The

Appellant Samuel T. Brick has now filed an additional motion styled as "Motion for Clarification of Order."

In reality, the Appellant's latest filing is a motion for reconsideration given the rather obvious attempt by the Appellant to re-argue the issues already decided by the Court in its Order filed March 9, 2015. Rule 240(i), SCACR, however, provides that "[t]he court will not entertain petitions for rehearing on a motion ... unless the action of the court on the motion ... has the effect of dismissing or finally deciding a party's appeal." Rule 240(i), SCACR. In effect, no motions for reconsideration of a previous ruling are permitted, except where the order dismisses or finally decides the appeal. The Court's Order filed March 9, 2015, does neither – it does not dismiss or finally decide the merits of the Appellant's appeal. Therefore, the Court should recognize the Appellant's motion for precisely what it is – an improper attempt to seek reconsideration or a rehearing of the Court's decision as memorialized in the Order filed March 9, 2015.


Moreover, no clarification is truly required for the Appellant to comply with the Order filed March 9, 2015. That Order requires the Appellant to file an Amended Record on Appeal which corrects all of the deficiencies as stated in the Respondent Commission's motion. That means the Amended Record on Appeal should include the Complaint filed October 31, 2012 in Civil Action Number 2012-CP-40-7337 (the FOIA action). In addition, the Amended Record on Appeal "shall not include any matters that were not in existence at the time the appeal was

filed." *See*, Order filed March 9, 2015. That means, as the Commission's prior motion states, that pages 222 through 233 of the prior Record on Appeal should be excluded because those documents were filed after Judge DeAndrea Benjamin issued the orders on appeal and after this appeal was filed.

Again, it is submitted that no "clarification" of the prior Order is really required. Instead, the Appellant is not very subtly seeking reconsideration of the Court's decision on the Commission's motion to correct the deficiencies in the Record on Appeal. As such, the Appellant's current motion is clearly in violation of Rule 240(i), SCACR, and respectfully should be denied on that basis.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY: 

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*Counsel for Respondent
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Columbia, South Carolina

March 26, 2015

THE STATE OF SOUTH CAROLINA
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APPEAL FROM RICHLAND COUNTY
DeAndrea Gist Benjamin, Circuit Court Judge

SC Court of Appeals

Case No. 2013-CP-40-1643

Samuel T. Brick, Appellant,

v.

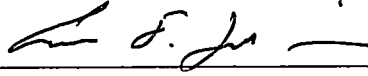
Richland County Planning Commission and
Fairways Development, LLC, Intervenor, Respondents.

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 **Return to Appellant's Motion for Clarification of Order and Relief** 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 26th day of March 2015:

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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Columbia, South Carolina 29260



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March 26, 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 original and seven copies of the **Return to Appellant's Motion for Clarification of Order and Relief** in the above referenced matter. Please file the original and return a clocked-in copy 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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The Honorable Jenny Abbott Kitchings
March 26, 2015
Page Two

cc: (w/ Enclosure)

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