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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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MAY 01 2015

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas
DeAndrea Gist Benjamin, Circuit Court Judge
Case No. 2013-CP-400-1643

Appellate Case No. 2014-000583

Samuel T. Brick, Appellant

v.

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

APPELLANT'S RETURN TO FAIRWAYS DEVELOPMENT, LLC'S
MOTION TO EXPEDITE APPEAL

Respondent/Intervenor Fairways Development, LLC requests this Honorable Court for an Order expediting consideration of the appeal. Your movant reiterates the matters in which final briefings already are complete except for referencing the record. An Amended Record on Appeal is pending publication to a Motion for Clarification at which time the briefs can be finalized and filed. Appellant and Intervenor/Respondent have filed final briefs. Respondent Richland County Planning Commission was granted yet another

extension to January 30, 2015, to file its final brief and now is waiting for an Amended Record. As a consequence of renumbering the Record pages, the final briefs will need revision to meet the Amended Record references. The appeal is close to being provided the Court for its consideration. Intervenor/Respondent in a concurrent motion to this moved to allow another entity to join the appeal which may further delay the proceedings.

Your movant alleges the delays of the proceedings are unfair and that it wants to develop the property as soon as possible. Appellant consistently has stated he has no objection to the development of the property where the project is proposed as long as the developer follows the law. The Intervenor/Respondent instead seeks to stretch the provisions of relaxed zoning by filing as a county Green Code project but not following its requirements or provisions for bonuses. In the instant matter, the developer is ignoring the specific bonus provisions that make bonus percentages dependent on percentages of set asides. It also is ignoring a prerequisite that half the developed surfaces be pervious. By doing so the developer is able to project a high density zoning district instead of the already zoned low density district. This provides more units for sale and avoids rezoning processes and procedures. The lower court has yet to interpret the relevant regulatory provisions. Instead it dismissed the case stating it was a jurisdictional defect for Appellant not to have joined the developer to the proceeding. Who the developer actually is still remains a mystery. The project application was made on behalf of an unincorporated group without any public persona or association

profile. Ownership of the property is addressed in a concurrent motion to this regarding intervention in these proceedings. The respondents not only did not tell the lower court of changes in ownership but misled the lower court that Fairways was the property owner to convince the court that Fairways was its developer. The lower court considered the project's ownership of major importance in its decision to include Fairways Development, LLC to the proceeding as a necessary party and in its dismissal action stating that it was the project developer. Soon after Appellant filed his initial brief in this matter (May 23, 2014) Fairways Development, LLC filed a motion with the lower court in which it asked for lifting the stay including an affidavit that another party owned the property. Appellant had no reason to believe that the property was sold not just once but twice. Intervenor/Respondent's withholding of this information to the lower court and its aggressive attempts to overdevelop based on specious interpretations of Richland County's development regulations has had a substantial part in the project delays, more so than court procedures.

Appellant vigorously has litigated this matter throughout the appeals process with motions filed by respondents many at the last minute delaying its eventual consideration. Your movant's footnote # 1 that he filed its final brief in a timely manner on the amended record is misstated. Appellant filed the Amended Record on December 19, 2014, half the time authorized by Judge Short's Order directing it to be filed within 30 days of the Order. Judge Short ordered briefs to be served and filed within 20 days after the Record was filed.

The final briefs should have been filed by January 8, 2015. Intervenor/Respondent did not serve its final brief until January 20, 2015. Respondent Richland County Planning Commission obtained an extension subsequent to the required filing date to January 30, 2015, and it still has not filed its brief. Appellant has not delayed the matter and his actions consistently have been filed early in the periods within which they were required, the only time being a reply to Respondent's Return on his Motion for Clarification that he received after the five-day period due to travel outside the area. Appellant replied within a day of its receipt.

In the meantime Respondent Richland County Planning Commission has requested extensions, for one action several times necessitating the clerk to state there would be no more. Yet the clerk granted another extension in January, as mentioned above. It filed its most recent motion regarding facts known to it for months. It waited until after Appellant and Intervenor Respondent filed their final briefs to move further delaying the proceedings.

Appellant understands the burdens on this Honorable Court and is not qualified to comment on its deliberations process. Appellant notes however that Intervenor/Respondent is attempting a questionable reading of county regulations to authorize a major change in land density that would upset the harmony of the area, increase infrastructure requirements, reduce tree cover, increase impervious surfaces, and otherwise disturb the good order, economy, and general welfare of the community, all issues addressed in the purpose sections of the South Carolina

land development regulations¹ and the Richland County Green Code.²

Appellant prays for a careful consideration of the issues presented in this appeal; issues relating to jurisdiction, process, and fairness. Appellant cannot comment on the importance of the many other appellate issues before this Honorable Court but feels deprivation of personal liberties and a decision on such matters are more important than a developer trying to misinterpret county regulations to place more houses than authorized in an area in which many have invested heavily and where their homes are their most important asset. Appellant prays for a careful deliberative process fair to all parties and respectfully requests this Honorable Court to deny the motion.

Very respectfully submitted,



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May 1, 2015
Date

¹ SC Code §6-29-1120.

² Richland County Code, § 26-186 (repealed as applicable for the instant project on September 10, 2013. Council designation for the action is "045-13HR." The Green Code is set out in full text the Amended Record (page yet to be determined).

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CERTIFICATE OF SERVICE

Samuel T. Brick, Appellant pro se hereby certifies that the undersigned Appellant, pro se, served a copy of Appellant's Return to Fairways Development, LLC's Motion to Expedite the Appeal upon the parties to this action by depositing a copy of same, enclosed in a First Class postpaid prepaid envelope addressed to the attorneys of record in a post office or official postal depository

under the exclusive care and custody of the United States Postal Service, on May
 , 2015, addressed in the following manner:

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