

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

MAY 07 2015

SC Court of Appeals

Samuel T. Brick, Appellant,

v.

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

**RETURN TO FAIRWAYS DEVELOPMENT, LLC'S
MOTION TO DISMISS APPEAL**

The Respondent Fairways Development, LLC has filed a Motion to Dismiss Appeal whereby Fairways seeks an order dismissing the Appellant's appeal for lack of jurisdiction. The Respondent Richland County Planning Commission agrees with Fairways' position and consents to Fairways' motion.

In fact, the Planning Commission has made the identical argument as an additional sustaining ground in Section II of its Respondent's Brief, which is incorporated herein by reference.

In sum, the Appellant Samuel Brick lacked standing or the required statutory authorization to appeal the Planning Commission decision to the Circuit Court. Section 6-29-1150(D)(2) of the Code of Laws addresses who may properly appeal from a decision of the planning commission. That section provides: "A property owner whose land is the subject of a decision of the planning commission may appeal by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-1155." S.C. Code Ann. § 6-29-1150(D)(2). Therefore, only a "property owner whose land is the subject of a decision of the planning commission" has standing or authority to appeal. The Appellant Brick, however, does not meet that statutory definition of an aggrieved party authorized to appeal to the Circuit Court. The decision of the Planning Commission involved Fairways' land, not Brick's land. On that basis alone, the Circuit Court could have and should have dismissed Brick's appeal. Moreover, because the Circuit Court lacked jurisdiction to consider Brick's appeal, this Court likewise lacks jurisdiction. This appeal should be dismissed on this basis.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY:  _____

ANDREW F. LINDEMANN

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Counsel for Respondent

Richland County Planning Commission

Columbia, South Carolina

May 4, 2015

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CERTIFICATE OF SERVICE

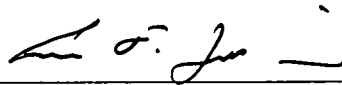
The undersigned employee of Davidson & Lindemann, P.A., counsel for the Respondent Richland County Planning Commission, does hereby certify that service of the below listed documents was made upon the *pro se* Appellant and all other counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 4th day of May 2015:

1. Return to Fairways Development, LLC's Motion for Substitution on Appeal
2. Return to Fairways Development, LLC's Motion to Expedite Appeal

3. Return to Fairways Development, LLC's Motion to Dismiss Appeal

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.
Post Office Box 6138
Columbia, South Carolina 29260



DAVIDSON & LINDEMANN, P.A.

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May 4, 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

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MAY 07 2015

SC Court of Appeals

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 below listed documents with regard to the above referenced matter.

1. Return to Fairways Development, LLC's Motion for Substitution on Appeal
2. Return to Fairways Development, LLC's Motion to Expedite Appeal
3. Return to Fairways Development, LLC's Motion to Dismiss Appeal

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.

The Honorable Jenny Abbott Kitchings
May 4, 2015
Page Two

Sincerely,

DAVIDSON & LINDEMANN, P.A.



Andrew F. Lindemann

AFL/jmb
Enclosures

cc: (w/ Enclosures)

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