

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2015-CP-10-3660

**RECEIVED**

OCT 20 2015

SC Court of Appeals

Charlestowne Neighborhood Association, Harleston Village Association,  
Preservation Society of Charleston and Historic Charleston Foundation,

Appellants,

Beach Jasper, LLC and Beach Equity Investments, LLC,

Respondents,

v.

City of Charleston and City of Charleston Board of Architectural Review,

Respondents.

AFFIDAVIT OF JOHN DARBY

PERSONALLY APPEARED before me, JOHN DARBY, who being duly sworn does  
state as follows:

1. I am the President and Chief Executive Officer of The Beach Company, which  
owns Beach Jasper, LLC and Beach Equity Investments, LLC (both hereinafter referred to as  
"Beach"). I am over the age of 18 and am competent to provide this affidavit.

2. Beach owns the 4.163 acres of property on the corner of Barre and Broad Streets. In the early 1950s, Beach built on this property the existing 14 story Sergeant Jasper Apartments Building with 234 residential units, plus surface parking.

3. After obtaining written confirmation of the zoning restrictions on the property from the City of Charleston and determining that it was in Beach's and the City's best interest to proceed with a new development on the property, Beach began terminating its leases with tenants of the Sergeant Jasper Apartments. Once the building was emptied, Beach stopped receiving approximately \$2.8 million in gross annual income from the tenants and spent over \$2.7 million in consulting, architectural and legal fees and preparing the building for demolition.

4. Beach applied to the City's Board of Architectural Review ("BAR") for permission to demolish the existing building, and the BAR approved this request and issued a demolition permit in September of 2014.

5. Over many months, many different proposed developments and more than fifty meetings with City staff and interested members of the Charleston community, Beach prepared a redevelopment plan based on existing zoning requirements confirmed in writing with the City staff and applied for a Certificate of Appropriateness from the BAR in April of 2015.

6. After two public hearings before the BAR and revising the plans in accordance with the directions of the BAR, the BAR denied Beach's application.

7. Beach filed a Notice of Appeal with a request for pre-litigation mediation in the hopes of resolving the matter so that Beach could proceed with the redevelopment of this property in a financially feasible manner.

8. The mediation was conducted and the Historic Charleston Foundation, the Preservation Society of Charleston, the Charlestowne Neighborhood Association and the

Harleston Village Association (“Appellants”) attended with their lawyers and a representative from each group. The mediation was unsuccessful.

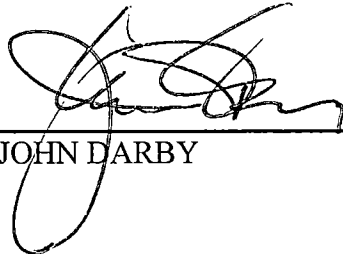
9. Beach filed its appeal petition with the understanding that the appeal would be heard “[a]t the next term of the circuit court or in chambers upon ten days’ notice to the parties” in accordance with S.C.Code Ann. 6-29-930(A) (2004). Now, the Appellants have filed appeals claiming that they are entitled to be parties to the appeal. Because they are not a party, the only possible motivation for filing these appeals is to delay the resolution of this matter.

10. Time is of the essence for Beach. In the time that we have been delayed in beginning construction, construction costs have increased by approximately 18%. We are facing a risk that the interest rates will continue to rise before we can obtain a construction loan. Based on past experience, I know that it will take four (4) years to construct the buildings and reach a stabilized income.

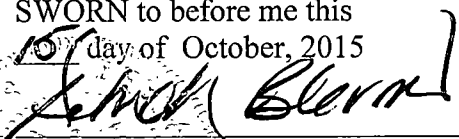
11. At this point, Beach is having to keep all options open, including moving forward with renovating the existing building in case the delay renders the redevelopment of the property financially infeasible. Beach needs a very quick resolution of this appeal.

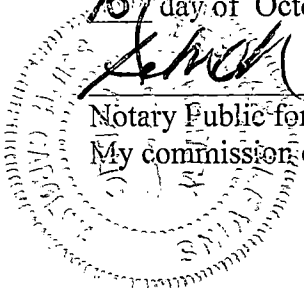
12. Based on the direction of City staff, the BAR and Mayor Joe Riley, Beach has spent millions to date to move this project forward and is ready to proceed with the project, but any additional delays will continue to pose huge hurdles for us.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
JOHN DARBY

SWORN to before me this  
10<sup>th</sup> day of October, 2015

  
\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires: 6/3/2024



**DEBRAH BLEVINS**  
Notary Public, State of South Carolina  
My Commission Expires 6/3/2024