THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
JUL 07 2015
SC 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.

BRIEF OF RESPONDENT RICHLAND COUNTY PLANNING COMMISSION

Andrew F. Lindemann
Michael B. Wren
DAVIDSON & LINDEMANN, P.A.
1611 Devonshire Drive
Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8222

Counsel for Respondent
Richland County Planning Commission

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes and Rules

STATEMENT OF THE CASE

This an appeal of a dismissal by the Circuit Court of an appeal from the Richland County Planning Commission filed by the Appellant Samuel T. Brick ("Brick").

On November 7, 2012, the Respondent Fairways Development, LLC ("Fairways") submitted a Subdivision Review Application and the Sketch Plan to the Richland County Planning and Development Services Department with respect to a proposed development known as "The Villages at Longcreek." (Amended ROA 45-46). The application and submittals were reviewed and approved by the Richland County Development Review Team ("DRT") at its meeting held on November 29, 2012. (Amended ROA 49). The Appellant Brick then filed an appeal of the DRT's decision to the Respondent Richland County Planning Commission ("Commission"). (Amended ROA 52-60).

At its meeting on February 4, 2013, the Planning Commission heard and denied Brick's appeal. A written order was issued by the Commission on March 4, 2013. (Amended ROA 66-69). Brick received a copy of that written order on March 11, 2013, and subsequently filed a Notice of Appeal in the Circuit Court on March 18, 2013. (Amended ROA 32-42). The Planning Commission was the only respondent named in the Notice of Appeal.

On June 5, 2013, the Planning Commission filed a motion to dismiss Brick's appeal contending that Brick "does not have standing to appeal the Respondent's Order because he is not a property owner whose land is the subject of a planning commission decision pursuant to S.C. Code Ann. § 6-29-1150(D)(2)." (Amended ROA 70-71). Fairways Development, LLC also filed a motion to intervene in the appeal and its own motion to dismiss the appeal. Fairways argued in part that Brick failed to timely name or join Fairways, the development permittee, as a necessary party to the appeal. (Amended ROA 85-86). Thereafter, on June 27, 2013, Brick filed a motion to amend the Notice of Appeal to add Fairways as a party. (Amended ROA 99).

A hearing on the various motions was held on August 30, 2013, before Circuit Judge DeAndrea Gist Benjamin. At the hearing, Judge Benjamin granted Fairways' motion to intervene and denied Brick's motion to amend his Notice of Appeal. She took the motions to dismiss under advisement. Later, on December 17, 2013, Judge Benjamin issued two orders granting those motions and dismissing Brick's appeal to the Circuit Court from the Richland County Planning Commission because Brick failed to name Fairways Development, LLC as a necessary party to the appeal. (Amended ROA 5-11). Brick filed a Rule 59(e) motion to reconsider, which was denied by form order filed February 5, 2014. (Amended ROA 17).

Brick subsequently appealed to this Court.

ARGUMENTS

I. The Circuit Court ruled correctly in dismissing the Appellant's appeal to the Circuit Court based on the failure to timely name the development permittee as a necessary party to the appeal.

Judge DeAndrea Gist Benjamin dismissed the Appellant Samuel Brick's appeal to the Circuit Court from the Richland County Planning Commission because Brick failed to name the Respondent Fairways Development, LLC as a necessary party to the appeal. Judge Benjamin's decision is premised on the decision of the South Carolina Supreme Court in *Spanish Wells Property Owners Association v. Board of Adjustment of the Town of Hilton Head Island*, 295 S.C. 67, 367 S.E.2d 160 (1988), in which the Court adopted the majority rule nationally and ruled that a development permittee is a necessary party to an appeal from a planning commission to the Circuit Court. The Supreme Court explained that "[d]esignating the permittee a necessary party insures the most vitally interested party's participation in the appellate process." 367 S.E.2d at 161. "Additionally, the majority rule insures that where a circuit court reverses a permit approval, the permittee will be bound because it is a party to the appeal." *Id.*

On appeal, the Appellant Brick does not appear to challenge the rule announced in *Spanish Wells* that the development permittee, here the owner of the proposed development known as "The Villages at Longcreek," is a necessary party to

the Circuit Court appeal. Brick also does not dispute that he did not name Fairways Development, LLC as a party to the appeal initially or within the thirty day period he was allowed by Section 6-29-1150(D)(1) to commence the appeal. Instead, Brick makes the following arguments: (1) Fairways was made an intervenor in the appeal and thus has the opportunity to be heard; (2) Fairways Development, LLC is not a necessary party because "Fairways Development Group" was identified as the applicant; and (3) Fairways is subject to collateral estoppel because it sought dismissal as a party in a Freedom of Information Act (FOIA) action brought by Brick. Each of these arguments is meritless.

As an initial argument, Brick insists that Fairways was allowed to intervene in the appeal and thus has achieved the status of a party. Brick fails to recognize, however, that the failure to name a necessary party to an appeal is jurisdictional and cannot be corrected after the appeal time has elapsed. Thus, as Judge Benjamin correctly ruled, his failure to make Fairways a party to the appeal within thirty days of the receipt of the decision of the Planning Commission is fatal to his appeal. That ruling is consistent with *Spanish Wells*, where the Supreme Court affirmed the dismissal of a circuit court appeal for the failure of the appealing party to timely join the development permittee to the appeal.[1]

[1] Brick points out that the lower court in *Spanish Wells* had given the appellant fifteen days to join the development permittee as a necessary party. Importantly, the Supreme Court affirmed the dismissal of the Circuit Court appeal. The Supreme Court offered no explicit

In *Vulcan Materials Co. v. Greenville County Board of Adjustment*, 342 S.C. 480, 536 S.E.2d 892 (Ct. App. 2000), this Court held that "the timeliness of an appeal from a zoning board's decision is a jurisdictional requirement." 536 S.E.2d at 896, n.7. The timeliness of an appeal from a planning commission is no different. Section 6-29-1150(D) governs the filing of appeals from a decision of a planning commission to the Circuit Court. Section 6-29-1150(D)(1) provides that "[a]n appeal from the decision of the planning commission must be taken to the circuit court within thirty days after actual notice of the decision." S.C. Code Ann. § 6-29-1150(D)(1). Here, Brick received actual notice of the challenged decision of the Planning Commission on March 11, 2013. Thus, he had thirty days – until April 10, 2013 – to file a appeal naming all necessary parties, including Fairways. However, Fairways was not named in the initial appeal or added by an amended notice of appeal within the thirty-day appeal period provided by Section 6-29-1150(D)(1). Consequently, his appeal was not perfected within the thirty-day appeal period and was correctly dismissed on this basis.

As an excuse for his failure to name Fairways as a necessary party to the appeal, Brick argues that Fairways Development Group rather than Fairways Development, LLC was the "applicant" on the Subdivision Review Application

---

comment on whether it was proper that the lower court had given the appellant fifteen days to join the development permittee, but it is telling that the Supreme Court did not remand the case for any further proceedings.

and the Sketch Plan submitted to the Richland County Planning and Development Services Department. He contends that Fairways Development Group is an unincorporated entity and cannot be sued. This argument in meritless for several reasons.

First, both the Subdivision Review Application and the Sketch Plan were signed by John T. Bakhaus for "Fairways Development, LLC." (Amended ROA 45-46). Thus, as Judge Benjamin correctly found, the development permittee was Fairways Development, LLC, and that was evident from the documents submitted to the Planning Commission. Brick knew or should have known that Fairways Development, LLC was the appropriate party to join as a necessary party to the appeal.

Second, any confusion about the precise name of the Fairways does not excuse the failure of Brick to name the development permittee as a party to the appeal. If Brick was of the belief that Fairways Development Group was the applicant based on the Subdivision Review Application and the Sketch Plan, that entity, at the very least, should have been named as a party to the appeal. Brick, however, made no attempt to name *any* "Fairways" entity. He simply did not name the development permittee as a party to the appeal, and that is fatal to his appeal.

Finally, Brick contends that he could not name Fairways Development Group as a party to the appeal because it was unincorporated. That is not a valid

basis for failing to name that entity as a party. Section 15-5-160 provides as follows: "All unincorporated associations may be sued and proceeded against under the name and style by which they are usually known without naming the individual members of the association." S.C. Code Ann. § 15-5-160. Thus, Fairways Development Group, even though unincorporated, was subject to being named as the development permittee on appeal.

Finally, Brick's collateral estoppel argument is equally unavailing. He argues that Fairways sought to be dismissed as a party-defendant in a FOIA action brought against Richland County. *See, Brick v. Richland County*, Civil Action Number 2012-CP-40-7337. Collateral estoppel is inapplicable in this context. Fairways was dismissed as a party to the FOIA action because Fairways was not a necessary or even proper party in that litigation. (Amended ROA 20-21). Section 30-4-80 places the responsibilities of compliance with FOIA on the "public body." S.C. Code Ann. § 30-4-80. Therefore, the "public body," in this case Richland County, is the only proper defendant for an enforcement action under FOIA. Fairways, as a private entity, has no responsibilities or duties under FOIA. In that action, Fairways was an improper party. In contrast, in the present appeal, Fairways is a necessary party per the *Spanish Wells* decision. There is no preclusive effect from the FOIA action, and Brick's suggestion to the contrary is legally frivolous.

In fact, Brick's reliance on the FOIA action shows that he, in actuality, had no confusion regarding the identity of Fairways Development, LLC as the development permittee. The Court is urged to take judicial notice of Brick's complaint in the FOIA action, which was filed October 12, 2012, thereby pre-dating the Circuit Court appeal at issue, and which names Fairways Development, LLC as a party-defendant. *See*, *Freeman v. McBee*, 280 S.C. 490, 313 S.E.2d 325, 327 (Ct. App. 1984) ("[a] court can take judicial notice of its own records, files, and proceedings for all proper purposes including facts established in its records"). In that complaint, Fairways Development, LLC is identified as the "owner of property in a residential, single family low density district (Section 26-89 of the code) in Richland County, [which] applied to the Richland County Planning and Development Services Department for development of approximately 100.7 acres under section 26-186 of the code." (Supp. ROA 5). Thus, there can be no doubt that Brick was aware in March 2013 that Fairways Development, LLC was the owner of the subject development.

In sum, it is undisputed that Fairways Development, LLC, as the development permittee, was a necessary party to the appeal. It is further undisputed that Fairways was not named as a party to the appeal within the thirty-day appeal period. Consequently, Judge Benjamin was correct in finding a

jurisdictional defect and dismissing the appeal consistent with existing precedent, specifically the *Spanish Wells* decision.[2]

II. As an additional sustaining ground, the Court should find that the Appellant lacked standing or the required statutory authorization to appeal the Planning Commission decision to the Circuit Court.

As an additional sustaining ground, the Richland County Planning Commission submits that Brick lacked standing or the required statutory authorization to appeal the Planning Commission decision to the Circuit Court. In her order, Judge Benjamin briefly addressed this ground for dismissal and then "declined to address" the issue further. (Amended ROA 11). Instead, she granted the relief sought by the Commission and dismissed the appeal based upon Brick's failure to join Fairways as a party to the appeal. (Amended ROA 11). Nonetheless, this issue of standing remains as an additional sustaining ground that this Court may address to sustain the dismissal of Brick's appeal.

In *I'On v. Town of Mt. Pleasant*, 338 S.C. 406, 526 S.E.2d 716 (2000), the Supreme Court discussed at length the law governing additional sustaining

---

[2] On or about June 27, 2013, the Appellant Brick filed a motion to amend his appeal to name Fairways Development, LLC as a respondent to the appeal. (Amended ROA 99). That motion was denied by Form Order issued September 16, 2013. (Amended ROA 16). The denial of that motion was not challenged in Brick's subsequent Rule 59(e) motion, nor has that Form Order been appealed. *See*, Notice of Appeal, dated March 11, 2014. (Amended ROA 253-1).

grounds. The Supreme Court explained that "in raising an additional sustaining ground in an appeal, the party who prevailed in the lower court urges an appellate court to affirm the lower court's ruling for a reason other than one primarily relied upon by the lower court." 526 S.E.2d at 722. The Supreme Court further explained that a respondent "may raise on appeal any additional reasons the appellate court should affirm the lower court's ruling, regardless of whether those reasons have been presented to or ruled on by the lower court." 526 S.E.2d at 723. "The appellate court may review respondent's additional reasons and, if convinced it is proper and fair to do so, rely on them or any other reason appearing in the record to affirm the lower court's judgment." *Id.* *See also*, Rule 220(c), SCACR ("[t]he appellate court may affirm any ruling, order, or judgment upon any ground(s) appearing in the record"); Rule 207(b)(2), SCACR ("[r]espondent's brief may also contain argument asking the court to affirm for any ground appearing on the record as provided by Rule 220(c)").

As this Court recognized in the recent case of *Sims v. Amisub of South Carolina, Inc.*, 408 S.C. 202, 758 S.E.2d 187 (Ct. App. 2014), an appellate court may in its discretion consider as additional sustaining grounds even those grounds raised below on which the lower court ruled adversely to the ultimate prevailing party (i.e., normally the respondent on appeal). The *Sims* Court explained that "[a]lthough the circuit court denied the statute of limitations defense, the

Respondents are not precluded from raising this defense as an additional sustaining ground." 758 S.E.2d at 194. In addition to mentioning its authority under Rule 220(c), this Court pointed out that the denial of summary judgment does not decide the merits of the defense and "the defense may be raised again later in the proceedings." *Id.*, *citing Ballenger v. Bowen*, 313 S.C. 476, 443 S.E.2d 379, 380 (1994).

The same is obviously true with a motion to dismiss. The Supreme Court has recognized that "[l]ike the denial of a motion for summary judgment, the denial of a motion to dismiss does not establish the law of the case and the issue raised by the motion can be raised again at a later stage of the proceedings." *McLendon v. South Carolina Department of Highways and Public Transportation*, 313 S.C. 525, 443 S.E.2d 539, 540, n.2 (1994). *Accord*, *Brown v. County of Berkeley*, 366 S.C. 354, 622 S.E.2d 533 (2005). Consequently, because Judge Benjamin's order denying dismissal on the basis of standing did not decide the merits of the issue, the standing issue is ripe for reconsideration by the lower court. The issue likewise is ripe for consideration by this Court as an additional sustaining ground on appeal.

Turning to the merits of the standing issue, the Commission submits that Section 6-29-1150(D) governs the filing of appeals from a decision of a planning commission to the Circuit Court. Section 6-29-1150(D)(1) provides that "[a]n appeal from the decision of the planning commission must be taken to the circuit

court within thirty days after actual notice of the decision." S.C. Code Ann. § 6-29-1150(D)(1). That section addresses the timing of an appeal. Section 6-29-1150(D)(2) then 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 Samuel Brick, however, does not meet that statutory definition of an aggrieved party authorized to appeal to the Circuit Court. The decision of the Commission involved Fairways' land, not Brick's land. On that basis alone, the Circuit Court could have and should have dismissed Brick's appeal.

Judge Benjamin, however, ruled that Section 6-29-1150(D)(1) "does not limit standing to appeal [to] a property owner." (Amended ROA 10). She was mistaken. Section 6-29-1150(D)(1), however, does not establish who may appeal; that is determined by the next subsection, Section 6-29-1150(D)(2), which very clearly gives the right of appeal only to a "property owner whose land is the subject of a decision of the planning commission." S.C. Code Ann. § 6-29-1150(D)(2).

Brick, on the other hand, makes a different argument. He argues that Section 6-29-1150(C) allows for an appeal "by any party in interest." However, Section 6-29-1150(C) governs appeals not *from* the planning commission but rather appeals *to* the planning commission from a staff decision (here the DRT decision). Section 6-29-1150(C) further provides that "the action of the planning commission is final." S.C. Code Ann. § 6-29-1150(C).

To the extent that there is any confusion, a review of legislative changes in 2003 shed light on the proper interpretation of the current version of Section 6-29-1150. Prior to 2003 Act No. 39, Section 6-29-1150 consisted of three subsections; there was no subsection (D). At that time, Section 6-29-1150(C) read as follows:

> Staff action, if authorized, to approve or disapprove a land development plan may be appealed to the planning commission by any party in interest. The planning commission shall act on the appeal within sixty days and the action of the planning commission is final. An appeal from the decision of the planning commission may be taken to circuit court within thirty days with actual notice of the decision.

S.C. Code Ann. § 6-29-1150(C) (pre-2003 version). With 2003 Act No. 39, subsection (D) was added, and the General Assembly specified who was statutorily authorized to appeal from the planning commission to the Circuit Court, which was not specified in the pre-2003 version of Section 6-29-1150.

This intent is clear from the title to 2003 Act No. 39, which reads in pertinent part: "to amend Section 6-29-1150, relating to an appeal from a decision

of a planning commission, so as to provide that a property owner may file a notice of appeal..." *See*, 2003 Act No. 39. It is a well settled rule of statutory construction that a court may "consider the title or caption of an act in determining the intent of the Legislature." *Beaufort County v. South Carolina State Election Commission*, 395 S.C. 366, 718 S.E.2d 432, 436, n.2 (2011). Likewise, the Supreme Court has explained that "it is presumed the Legislature, in adopting an amendment to a statute, intended to make some change in the existing law." *Berkeley County School District v. South Carolina Department of Revenue*, 383 S.C. 334, 679 S.E.2d 913, 920 (2009). Similarly, the Supreme Court explained that a "subsequent statutory amendment may be interpreted as clarifying original legislative intent." *Id.* Thus, in 2003, the General Assembly made a change to Section 6-29-1150 to establish or at least clarify that the only party with the statutory authority to appeal from the planning commission to the Circuit Court is a "property owner whose land is the subject of a decision of the planning commission." S.C. Code Ann. § 6-29-1150(D)(2). It was established or at least clarified that "any party in interest" (except the property owner) does not have the requisite statutory authority to appeal to the Circuit Court.

This intent is further evident by reference to Section 6-29-1155, which was enacted as part of 2003 Act No. 39. Section 6-29-1155 provides for the pre-litigation mediation process that was identified in Section 6-29-1150(D)(2).

Section 6-29-1155(A) begins as follows: "If a *property owner* filed a notice of appeal with a request for pre-litigation mediation ..." S.C. Code Ann. § 6-29-1155(A). (Emphasis added). That clearly shows that only a "property owner" has the right to file a notice of appeal to the Circuit Court. Further, Section 6-29-1155 addresses the rights of interested parties who are not the property owner. The statute provides: "A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the planning commission." S.C. Code Ann. § 6-29-1155(A). Therefore, a person with a "substantial interest" in the decision of the planning commission – who is not the aggrieved property owner – lacks standing to appeal but is granted the status of an intervenor. Section 6-29-1155 thus demonstrates the intent of the General Assembly that an "interested party" who is not the property owner of the land at issue cannot file the appeal but may participate as an intervenor if an appeal is filed by the property owner.

In applying this statutory framework to the present case, it is clear that Samuel Brick is not the property owner of the land at issue. Thus, he has no standing or authority to file the appeal to the Circuit Court. Only if the aggrieved property owner filed an appeal, which did not happen here, could Brick have sought to intervene, that is, assuming he could demonstrate that he has a "substantial interest" in the decision of the planning commission, which is

disputed. Yet, Brick could not appeal himself, and for that reason, he lacks the requisite standing or authority to have even initiated the Circuit Court appeal at issue. On this additional basis, therefore, this Court should affirm the dismissal of Brick's appeal.[3]

[3] In her order, Judge Benjamin suggests that the Commission "waived" its "arguments refuting the Appellant's interest in the decision of the Planning Commission" because the Commission permitted Brick to appeal the decision of the DRT to the Commission and then ruled on the merits of that appeal. (Amended ROA 11). That ruling is in error for several reasons. First, the right to appeal from the decision of the DRT is governed by Section 6-29-1150(C), which does allow an appeal "by any party in interest" and which, as discussed at length above, is not the standard for appeals to the Circuit Court as established by Section 6-29-1150(D)(2). Second, Judge Benjamin referred to a waiver of any "arguments refuting the Appellant's interest in the decision of the Planning Commission," but the standing issue under Section 6-29-1150(D)(2) does not turn on whether Brick has any "interest" in the decision of the Planning Commission on appeal. Instead, only Brick's status as a potential intervenor per Section 6-29-1155 would be based on a showing of "substantial interest" in the decision of the Planning Commission. Finally, the Commission could not have "waived" the argument that Brick lacks standing or authority to appeal because this issue is jurisdictional, and it is well settled that "issues related to subject matter jurisdiction may be raised at any time" and that "[t]he lack of subject matter jurisdiction may not be waived, even by consent of the parties." *State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494, 498 (2005).

CONCLUSION

Based on the foregoing discussion and analysis, the Respondent Richland County Planning Commission respectfully requests that this Court affirm the lower court's dismissal of the Appellant Samuel Brick's appeal to the Circuit Court on one or both of the bases argued herein.

Respectfully submitted,

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

July 7, 2015

RECEIVED
JUL 07 2015
SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned counsel for the Respondent Respondent Richland County Planning Commission certifies that the Final Brief of Respondent Richland County Planning Commission complies with Rule 211(b), SCACR.

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

July 7, 2015

RECEIVED
JUL 07 2015
SC Court of Appeals

CERTIFICATE OF COMPLIANCE

The undersigned counsel for the Respondent Richland County Planning Commission certifies that the Final Brief of Respondent Richland County Planning Commission complies with the Supreme Court's Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings, issued April 15, 2014.

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

July 7, 2015

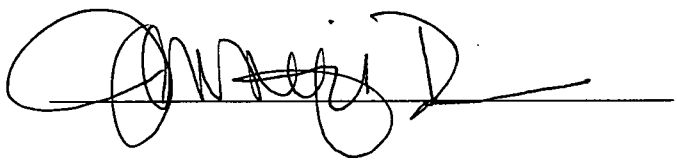
RECEIVED
JUL 07 2015
SC Court of Appeals

CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Respondent Richland County Planning Commission, does hereby certify that service of the **Brief of Respondent Richland County Planning Commission** was made upon the pro se Appellant and all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelope this the 7th day of July 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.
Post Office Box 6138
Columbia, South Carolina 29260



DAVIDSON & LINDEMANN, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

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

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

*Also Admitted In North Carolina
†Certified Mediator

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

Of Counsel
Kenneth P. Woodington

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

July 7, 2015

Hand Delivered
The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

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 ten copies of the **Brief of Respondent Richland County Planning Commission** with regard to the above referenced matter. Per the Court's December 4, 2014 Order, the parties are only required to file ten copies of their final briefs. Please file the original and return a clocked-in copy by way of my courier.

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

cc: (w/ Enclosure)

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