

ORIGINAL

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STATE OF SOUTH CAROLINA 2015 JAN 16 A 9 46	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	C/A NO: 15-CP-32-00008

Michael J. Bryan and Kimberly Groh, <p style="text-align: center;">Appellants,</p> vs. Town of Lexington SC Zoning Board, <p style="text-align: center;">Respondent.</p>	<p>ANSWER (To Notice of Appeal)</p> <p>RECEIVED FEB 01 2016</p>
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SC Court of Appeals

Respondent, Town of Lexington (hereinafter "Town"), on behalf of its Board of Zoning Appeals, in answer to the Complaint / Notice of Appeal herein, respectfully alleges as follows:

AS A FIRST DEFENSE

1. Each and every allegation of the Complaint / Notice of Appeal not hereinafter admitted, qualified, or explained is denied, and strict proof is demanded thereof
2. The paragraphs contained in the Notice of Appeal are not numbered, but are being answered in the order in which they appear. Paragraph One (1), the first paragraph appearing, contains notification of Appeal by the Plaintiff / Appellant and does not appear to require a response. However, to the extent a response is deemed necessary, all allegations contained in Paragraph One (1) are denied and strict proof thereof is demanded.
3. Paragraph Two (2), the second paragraph appearing, does not appear to require a response. However, to the extent a response is deemed necessary, all allegations

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contained in Paragraph Two (2) are denied and strict proof thereof is demanded.

4. As to Paragraph Three (3), the third paragraph appearing, all allegations contained therein are denied in their entirety, and strict proof thereof is demanded.

FOR A SECOND DEFENSE

(Immunity)

5. Each and every paragraph of the First Defense above is incorporated within this Defense as though reiterated verbatim therein.
6. The Defendant and its agents, at all times relevant to this Complaint, did not perform any acts, or fail to perform any acts, in bad faith, in a malicious matter, with corrupt motives, or with deliberate indifference, and therefore the Defendant is immune from suit.
7. The Defendant and its agents, at all times relevant to this Complaint, acted according to, and in compliance with, the laws of the State of South Carolina and/or regulations duly promulgated thereunder, and is, therefore, immune from suit. The Defendant pleads such statutory, regulatory, and/or common law authorization as a complete defense and bar to any and all of the Plaintiff's causes of action.
8. The Defendant and its agents, at all times relevant to this Complaint, were engaged in the performance of their official duties and at no time violated any clearly established constitutional rights of the Plaintiff which were known, or should have been known to them, and therefore the Defendant is entitled to immunity as a matter of law.
9. The Defendant and its agents, at all times relevant to this Complaint, were governmental officials performing discretionary functions and actions which would reasonably have been thought consistent with the rights of the Plaintiff and of which they are alleged to

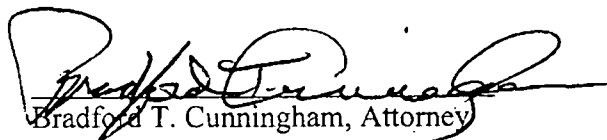


have violated. Therefore, the Defendant is entitled to immunity as a matter of law.

10. The Defendant and its agents, at all times relevant to this Complaint, were acting as officers, employees, and officials of a political subdivision of the State of South Carolina, with such political subdivision specifically described as a municipal corporation organized and legally grounded in the laws of the State of South Carolina. As such, Defendant is immune from liability and cannot be sued without an express waiver of sovereign immunity.

WHEREFORE, having fully answered, the Defendant / Respondent prays as follows:

1. For an Order dismissing the Appeal and Complaint with prejudice;
2. For attorneys fees and costs as deemed appropriate by the court;
3. For such other relief as the Court deems just and proper.


Bradford T. Cunningham, Attorney
Town of Lexington
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111 Maiden Lane
Lexington, SC 29072
(803)951-2232

Lexington, South Carolina
January 16, 2015

Attorney for Defendant / Respondent

CLERK OF COURT
JAN 16 2015

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STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
Michael J. Bryan and Kimberly Groh)
Appellants)
vs.)
Town of Lexington SC Zoning Board.)
Respondent.)

IN THE COURT OF COMMON PLEAS

FILE NO: 2015-CP-32-00008

CERTIFICATE OF SERVICE

I certify that, on this date, I served a copy of the Answer in this action, dated January 16, 2015, on Michael J. Bryan and Kimberly Groh, Appellants:

delivering it to him/her personally; or,

mailing it to him/her, at his/her last known address, by depositing it in the U.S. Mail, via Certified Mail, Return Receipt Requested, with sufficient postage affixed, addressed as follows:

Michael J. Bryan / Kimberly Groh
205 Corley Street
Lexington, SC 29072

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SC Court of Appeals

Other:
[See Rule 5(b)(1), SCRPC]

1-16-15
(Date)

Bradford Henning
(Signature)

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DEBRA A. CASNER
CLERK OF COURT