

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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AUG 24 2016

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Honorable H. W. Funderburk, Jr., Administrative Law Judge
Case No.: 2015-002255

Tommy J. BellamyAppellant

vs.

Horry County AssessorRespondent

**RESPONDENT'S SECOND MOTION FOR EXTENSION OF TIME TO
FILE FINAL BRIEF DUE TO INCOMPLETE RECORD ON APPEAL**

Respondent Horry County Assessor ("Respondent"), hereby respectfully moves the Court, pursuant to Rule 240(a), SCACR, for a second extension of time to file its Final Brief, as the result of Appellant's submission of an incomplete Record on Appeal¹.

On July 27, 2016, Respondent's counsel received a copy of the Appellant's Amended Record on Appeal. Upon comparing the Amended Record on Appeal with the Respondent's Designation of Matter dated May 6, 2016, Respondent's counsel discovered that documents which were designated to be included in the Record on Appeal and cited in the Respondent's

¹ Respondent served the *pro se* Appellant with a copy of its Initial Brief and Designation of Matter on May 6, 2016. Respondent received Appellant's original Record on Appeal ("Record") on May 17, 2016. Upon review of the Record, Respondent determined that certain items in the Record were omitted or incomplete and filed a motion for extension of time dated May 19, 2016. On June 16, 2016, Respondent filed a Motion to Dismiss Appeal for Failure to Comply with the South Carolina Appellate Court Rules, or in the Alternative, to Require Appellant to Correct the Record on Appeal by Including all Designated Matter after receipt and review of Appellant's Final Brief and accompanying submissions dated June 11, 2016.

Initial Brief, were not included in the Amended Record on Appeal. Accordingly, Respondent's counsel submitted a letter dated July 28, 2016, to the Court notifying the Court of the deficiencies noted in the Appellant's Amended Record on Appeal.

Since the filing of a letter to the Court on July 28, 2016, the Appellant has responded with his explanation of the documents. Appellant's responses contending that certain documents Respondent has noted as not included in the Amended Record on Appeal were, in fact, included, are incorrect as follows.² Below is a list of the documents at issue and an explanation of each item.

1. **Order Denying Mr. Bellamy's Motion for Reconsideration dated October 23, 2015.** This item has been corrected in Appellant's letter dated August 23, 2016, copy attached.
2. **Notice of Intent to Appeal and Request for a Contested Case Hearing with Administrative Law Judge.** Appellant's documents contained on pages 44-45 of the Amended Record on Appeal are copies of the October 16, 2015, Certificate of Service for an Order and a Notice of Intent to Appeal to South Carolina Court of Appeals. Neither of these documents are the Notice of Intent to Appeal and Request for a Contested Case Hearing with Administrative Law Judge referenced in Respondent's Designation of Matter to be Included in the Record on Appeal.
3. **Request for Refund from Tommy J. Bellamy Submitted March 20, 2015.** Appellant's documents contained on pages 16 and 17 of the Amended Record on Appeal are copies of a two page letter titled "Request for an Appeal." These documents are not the Appellant's Request for Refund which Appellant submitted to Horry County on March 20, 2015, as referenced in Respondent's Designation of Matter to be Included in the Record on Appeal.
4. **Deed dated February 10, 2010, recorded March 4, 2010, in Deed Book 3448, Page 3341.** As noted in his letter of July 28, 2016, Mr. Bellamy included the deed originally recorded February 25, 2010, but this is not the deed referenced in the Respondent's Designation of Matter to be Included in the Record on Appeal; this deed had an incorrect TMS number and was re-recorded on March 4, 2010.

² Significantly, the documents which Appellant notes in italics in his response letter to be included in the Amended Record on Appeal, are not the same documents cited by the Respondent in its Designation of Matter.

The re-recorded deed is not included in the Amended Record on Appeal although designated in Respondent's Designation of Matter to be Included in the Record on Appeal.³

Portions of the following documents are included in the Amended Record on Appeal, and are incomplete and do not conform with Respondent's Designation of Matter to be Included in the Record on Appeal.

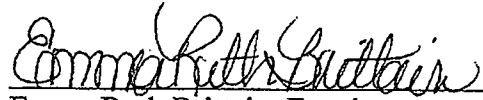
1. **Letter from Dana B. Fogner (Horry County Assistant Assessor) to Tommy Bellamy dated October 8, 2014.** Contrary to Appellant's response, the signature page of the letter was not the final page of the letter as indicated by the Appellant. The final page of the letter lists Horry County's findings of Law, Facts and Conclusion, and is not included in the Amended Record on Appeal.
2. **Letter from Tommy Bellamy, BC Fund, LLC to Horry County's Assessor's Office dated March 3, 2010.** Appellant's documents contained on page 15 of the Record on Appeal do not contain the second page of the letter submitted by Appellant to the Respondent Horry County.

Because the above items have been omitted or partially omitted from the Record on Appeal and are cited in Respondent's Initial Brief, and since Appellant has failed to properly respond to Respondent's prior efforts to have these matters designated by it included in the Record on Appeal, Respondent respectfully requests an extension of time in which to file its Final Brief until the Appellant addresses the deficiencies in the Amended Record on Appeal to include all of the correct documents listed in Respondent's Designation of Matter to be Included in the Record on Appeal.

Accordingly, Respondent requests the Court to enter an Order enlarging the time for the Respondent to submit its Final Brief until such time that the Record on Appeal has been either corrected and filed with the Court, or such other relief as the Court may find just and proper.

³ The re-recorded deed contains a mark-through on the TMS No. and a handwritten TMS No. printed on the deed. The Respondent did not make this correction nor was the Respondent responsible for re-recording the deed, as indicated by Mr. Bellamy in his response.

Respectfully submitted,



Emma Ruth Brittain, Esquire

S.C. Bar No. 5298

THOMAS & BRITTAİN, P.A.

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Attorneys for Respondent

August 24, 2016

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APPEAL FROM THE STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Honorable H. W. Funderburk, Jr., Administrative Law Judge

Docket No.: 15-ALJ-17-0462-CC

Tommy J. Bellamy.....Appellant

vs.

Horry County Assessor.....Respondent

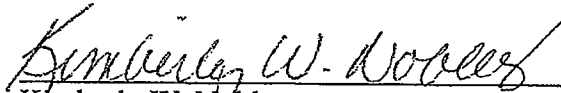
PROOF OF SERVICE

I certify that I have served the Respondent's Second Motion for Extension of Time to File Final Brief Due to Incomplete Record on Appeal by depositing a copy of it in the United States mail, postage prepaid, on August 24, 2016, addressed to the *pro se* Appellant as follows:

Tommy J. Bellamy
3684 Sea Mountain Highway
Little River, South Carolina 29566

And a copy served on:

Arrigo P. Carotti, Esquire
Horry County Attorney
Post Office Box 1236
Conway, South Carolina 29528



Kimberly W. Nobles

Thomas & Brittain, P.A.

Post Office Box 1290 (zip 29578)

1314 Professional Drive (zip 29577)

Myrtle Beach, South Carolina

Telephone: 843-692-2628

Fax: 843-692-0928

August 24, 2016

Thomas & Brittain, P.A.

**1314 Professional Drive
Post Office Box 1290
Myrtle Beach, South Carolina 29578
843/ 692-2628 (Phone)
843/ 692-0928 (Facsimile)**

Fax Cover Sheet

From the Office of Emma Ruth Brittain, Esquire

DATE: August 24, 2016
TO: Honorable Jenny Abbott Kitchings
Clerk for the S.C. Court of Appeals
FAX: (803) 734-1839
RE: Tommy Bellamy v. Horry County Assessor
Appellate Case No.: 2015-002255
Pages: 8 (including cover sheet)

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SC Court of Appeals

MESSAGE:

Attached please find the Respondent's Second Motion For Extension of Time to File Final Brief Due to Incomplete Record on Appeal. If you have any questions, please do not hesitate to contact our office. The original and our check for the filing fee is being placed in the mail to you today.

The information contained in this facsimile message is attorney privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

THOMAS & BRITTAI, P.A.

ATTORNEYS AT LAW

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MYRTLE BEACH, SC 29578

*CERTIFIED EMPLOYMENT
& LABOR LAW SPECIALIST

August 24, 2016

Via Fax Transmission and U.S. Mail

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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SC Court of Appeals

Re: Tommy Bellamy v. Horry County Assessor
Appellate Case No. 2015-002255

Dear Ms. Kitchings:

Our firm represents the Horry County Assessor in the above-referenced matter. Please find enclosed for filing the original and seven (7) copies of Respondent's Second Motion for Extension of Time to File Final Brief Due to Incomplete Record on Appeal. Also enclosed is our filing fee in the amount of \$25.00.

Please do not hesitate to contact our office if you have any questions.

Sincerely yours,

THOMAS & BRITTAI, P.A.



Emma Ruth Brittain

ERB/kwn
Enclosures

cc: Mr. Tommy J. Bellamy
Arrigo P. Carotti, Esquire, Horry County Attorney