

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

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

RECEIVED

AUG 29 2016

SC Court of Appeals

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.

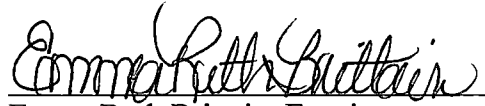
1. **Letter from Dana B. Fogner (Horry County Assistant Assessor) to Tommy Bellamy dated October 8, 2014.** Contrary to Appellant's response, the signature page of the letter was not the final page of the letter as indicated by the Appellant. The final page of the letter lists Horry County's findings 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 & BRITTAIN, P.A.

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Attorneys for Respondent

August 24, 2016

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Case No. 2015-002255

Tommy J. Bellamy-----, Appellant

v.

Horry County Assessor-----, Respondent

**MOTION TO SUBSTITUTE RESPONDENT'S EXHIBIT NUMBER TWO
PAGE 39 AND MOTION TO APPROVE AMENDED RECORD ON FILE UNDER
RULE 240, SCACR.**

August 20, 2016

Appellant moves the court for an Order to Substitute Respondents Exhibit No. 2 page 39, titled Notice of Assignment dated October 15, 2015 and replace with correct Order Denying Mr. Bellamy's Motion for Reconsideration dated October 23, 2015 under Rule 240, SCACR. The correct order will substitute with the same exhibit number and same page number. Additionally, Appellant moves for an order to approve Amended Record on Appeal with no additional changes.

The Respondent has alleged documents are not included in the Amended Record on Appeal in a letter to The Honorable Jenny Abbott Kitching, dated July 28, 2016. The appropriate exhibit number and page number is provided below for location of documents that are provided in the Amended Record on Appeal as follows:

1. Order Denying Mr. Bellamy's Motion for reconsideration dated October 23, 2015. Respondents request to substitute See: *Respondents Exhibit list No.2 page 39*. **Appellant filed the wrong order in error, but has moved the court for an order to replace the correct order with the same exhibit number and page number.**
2. Notice of Intent to Appeal and Request for a Contested Case hearing with Administrative Law Judge. See: *Respondents Exhibit List No. 5 page 44, 45*. **Appellant filed the correct exhibit.**

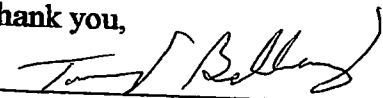
3. Request for Refund from Tommy J. Bellamy Submitted May 12, 2015. See: *Appellants Exhibit list No. 7 page 16, 17. Appellant filed the correct exhibit.*
4. Deed dated February 10, 2010, recorded February 25, 2010, in Deed Book 3447, Page 1341. See: *Respondent Exhibit List No. 12 page 60-62*, according to the Respondent, there was an incorrect TMS number that was re-recorded. Respondent does not have the authority to correct or re-record a deed by changing the TMS number on a signed deed. The TMS number is the correct TMS number from the parent tract to Tommy Bellamy property. **Appellant filed the correct exhibit.**

Documents that were alleged to be incomplete.

1. Letter from Dana B. Fogner (Horry County Assistant Assessor) to Tommy Bellamy dated October 8, 2014. The Respondent requested the letter from Dana B. Fogner in the Designation of Matter dated May 6, 2016, signature page is final page. See: *Appellants Exhibit list No. 9 page 26, 27* (The final page does not contain Horry County's findings of law, fact and conclusion). **Appellant filed the correct exhibit.**
2. Letter from Tommy Bellamy, BC Fund, LLC to Horry County's Assessor's Office dated March 3, 2010. See: *Appellants Exhibit No. 7 page 15. Appellant filed the correct exhibit.*

The Appellant prays that this Honorable Court approves the Amended Record on Appeal and allow this case to move forward.

Thank you,

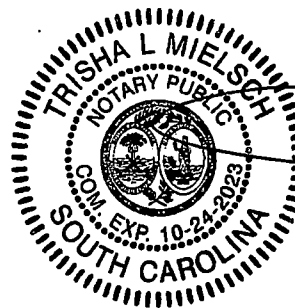


Tommy Bellamy, Appellant
Attorney Pro se,
3684 Sea Mountain Highway,
Little River S.C, 29566
843 457-3625

Attorneys for the Respondent

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Horry County Attorney's Office
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AP 10/24/2023

IN THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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

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SC Court of Appeals

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

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

RECEIVED
8-23-16

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

Re: Tommy J. Bellamy v Horry County Assessor's Office
Appellate Case No. 2015-002255

Dear Ms. Kitchings:

Enclosed, please find, Motion for Substitution and Motion to Approve Amended Record on Appeal. I am enclosing the correct order dated October 23 2015 from the Administrative Law Judge. I am requesting permission to substitute the Respondent's Exhibit No. 2 page 39 titled Notice of Assignment dated October 15, 2015 and replace with correct Order Denying Mr. Bellamy's Motion for Reconsideration dated October 23, 2015. If permission is granted please replace with the same exhibit number and page number of the original exhibit.

Thank you,



Tommy J. Bellamy, Attorney Pro se, Appellant

Cc: Arrigo Paul Carotti, Esquire
Emma Ruth Brittan, Esquire

THOMAS & BRITTAIN, P.A.

ATTORNEYS AT LAW

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*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

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 & BRITTAIN, P.A.



Emma Ruth Brittain

ERB/kwn
Enclosures

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

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AUG 29 2016
SC Court of Appeals

✓



EMMA RUTH BRITTAIN
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TO:

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