THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

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

Opinion No: 5419 (S. C. Ct. App. filed June 29, 2016)
(791 S.E.2d 305)

Arkay, LLC and Robert R. Knoth, its member.....Petitioners,

v.

City of Charleston, City of Charleston Board of Zoning Appeals, Andrew Pinckney Inn and Michael A. Molony.....Respondents.

PETITION FOR A WRIT OF CERTIORARI

Capers G. Barr, III
SC Bar ID# 542
11 Broad Street
Charleston, South Carolina 29401
Telephone: (843) 577-5083
Facsimile: (843) 723-9039
cgb@barrungermcintosh.com
Attorney for Petitioners Arkay, LLC
And Robert R. Knoth, its member

Other Counsel of Record:

Frances Isaac Cantwell, Esq.
City of Charleston
50 Broad Street
Charleston, SC 29401

Thomas S. Tisdale Jr., Esq.
Hellman, Yates & Tisdale, PA
145 King Street, Suite 102
Charleston, SC 29401

Wilbur E. Johnson, Esq.
Young Clement Rivers, LLP
P. O. Box 993
Charleston, SC 29402-0993

INDEX

PAGE

TABLE OFAUTHORITIES

CASES: PAGE:

OTHER:

INTRODUCTION

Petitioners Arkay, LLC and Robert R. Knoth Petition this Court to issue a Writ of Certiorari to the Court of Appeals to review its decision filed in this case on June 29, 2016 in opinion Number 5419 (and reported at 791 S.E.2d 305). The Court of Appeals ruled in the case by a vote of two to one, Hon. Paula H. Thomas, dissenting.

CERTIFICATE OF COUNSEL

Counsel for Petitioner certifies that a Petition for Rehearing in the within matter was made and finally ruled on by the Court of Appeals on October 27, 2016.

QUESTION PRESENTED

Did the Court of Appeals misapply the Rules of Statutory Construction by rendering the word "Building" in the City ordinance to be meaningless?

STATEMENT OF THE CASE

This zoning case presents a question of the statutory construction of a City of Charleston ordinance regulating horse tour carriage stables in the city's Historic Market Street District. Petitioner Robert R. Knoth is one of five licensed horse carriage tour operators in the City, doing business under the name of Carolina Polo and Carriage Company. Mr. Knoth has been a licensed tour carriage operator for more than 25 years.

The central question in the case is whether Petitioner's "stable" is greater than 100 feet distant from the nearest "residential zone district". More specifically, the question is whether that distance must be measured from the larger building in which a

stable is contained, or from the area within the building where the horses are kept, where the larger building includes uses other than the keeping and stabling of horses.

The property at issue is located at 45 Pinckney Street. Petitioner had operated his horse tour carriage business at the same 45 Pinckney Street address from 1990-1996, and had moved to another location on nearby Hayne Street when his lease expired. When Petitioner's lease at Hayne Street expired in 2013 and could not be renewed, he purchased 45 Pinckney Street for the purpose of relocating his tour carriage business there. Title to 45 Pinkney Street was then taken in the name of the Petitioner Arkay, LLC.

The Applicable Ordinance. In the 1990's, after Mr. Knoth had first left 45 Pinckney Street, the City enacted Ordinance Section 54-206(p) (R. p. 038, Vol. I), providing that horse tour carriage stables would be permitted in a general business district as a Special Exception Use, provided that certain special exception criteria are met. Section 54-206(p) provides as follows:

"Stables shall be permitted within the GB and UC district as an exception where the Board (of Zoning Appeals), after review, finds that:

1. The stable is not located within 100 feet of any residential zone district.
2. The City of Charleston Tourism Commission has issued a Certificate of Appropriateness for the stable.
3. The stable complies with all city, county and state regulations for stables.
4. A site plan is provided showing that the cleaning/loading/tacking area shall not impede traffic flow in a public right-of-way.

5. A written explanation is submitted detailing how refuse will be handled in accordance with city, county, state and federal regulations. This shall be reviewed by the Department of Public Service.
6. A plan is submitted showing how drainage on the property is to be collected in accordance with city, county, state, and federal regulations. This shall be reviewed by the Commissioners of Public Works and the Department of Public Service.
7. Buildings are designed utilizing appropriate ventilation to prevent objectionable odors from being emitted."

The Geography of the Location is Relevant. Pinckney Street in the City of Charleston lies on an east-west axis, intersecting with East Bay Street to the East and with Meeting Street to the West. Paralleling Pinckney Street to the South are Hayne Street, North Market Street, South Market Street, and Cumberland Street. To the North, Hasell Street runs parallel to Pinckney Street. (R.p. 443, Vol. II)

The area comprising Pinckney Street on the north, Cumberland Street on the south, East Bay Street on the East, and Meeting Street on the west is known generally, as well as in other legislative contexts, as the "Market Street District".

The parties agree that Petitioners meet the criteria of subsections (2) through (7) of Section 54-206(p). The single issue in the case is whether Petitioner meets the criteria of subsection (1): that "The stable is not located within 100 feet of any residential zone district".

The Property: 45 Pinckney Street consists of a large, warehouse type building (a former automobile garage), that measures 37.5 feet wide and 69.5 feet deep. The

buildings' walls are constructed to the zero lot line, so that the building and the lot contain the same dimensions. (R.p. 375; pp 369-370, 377; Vol. II)

The nearest residential zone district to 45 Pinkney is to the north, and is defined by the irregular rear lot lines of the properties fronting on Hasell Street. The rear (south) lot lines of the Hasell Street properties, and the front (north) lot line of 45 Pinckney Street are not parallel, so that the lines diverge away from each other as they are extended from west to east. The result is that the northwest corner of 45 Pinckney Street is somewhat closer to the residential zone district than the northeast corner. (R. p. 109, Vol. 109).

The surveyed distance from the northwest corner of 45 Pinckney Street to the residential zone district—and therefore the closest distance—is 93.5 feet. (R.p. 109, Vol. I).

To efficiently operate a tour carriage business requires stable capacity for six horses, each horse contained within a stall measuring approximately sixty-six square feet (approximately six feet by eleven feet). The total square footage of the building at 45 Pinckney Street is 2,606 square feet, thus providing far more space than is necessary for the stabling of six horses. (R.p. 107, pp 94-95, Vol. I).

Like any other business operation, the operation of a tour carriage business requires office space for staff personnel, with desks, file cabinets, telephones, computers, and spaces for files, books and records. Additionally, space for waiting customers is preferred.

At its former Hayne Street address, far smaller than 45 Pinckney Street, the offices of Carolina Polo were housed in an attic area. At 45 Pinckney Street, however, the space is sufficiently large to house a stable area with stalls for six horses; and in addition

there is adequate space for offices, a waiting area for customers, restrooms for employees and customers, and an additional space for office use, which may be either related or unrelated to the horse tour carriage business. (R.p. 107, pp 94-95, Vol. I).

Notably, and as will be discussed in the argument of this brief, nothing in the record of this case supports a finding or a conclusion that these business offices, customer waiting area, restrooms, and collateral office space uses are typically found in "stables".

Petitioners made application to the City of Charleston Board of Zoning Appeals for the Special Exception Use of 45 Pinkney Street as a stable. In its application, Petitioners configured the property so that the front eleven feet of the building on Pinckney Street is used as office space, together with a common easement for access to the rear of the building. The next 14 feet consists of a customer waiting area and restrooms for customers and employees. The rearmost space, 44 feet in depth and 37.6 feet wide, containing 1,650 square feet, is the stable area where six horse stalls are to be situated. (R.p. 375, Vol. II; "Plot Plan").

To assure the City and the public that the spaces within 45 Pinckney Street are dedicated to the separation of uses as proposed in its application, Petitioner Arkay proposes to create a horizontal property regime, most importantly restricting the front 25.5 feet of the property against use as a stable for the housing and keeping of animals.

Because it is set back from the front of Pinckney Street a distance of 25.5 feet, the stable at 45 Pinckney Street, consisting of six stalls, is therefore 119 feet distant from the residential zone district. It is Petitioners' position in this case that they meet the 100-foot separation between residential zone district and stable.

In the zoning process below, the City of Charleston Zoning Administrator agreed with Petitioners' position and recommended the approval of the Special Exception Use. The Board of Zoning Appeals disagreed by a vote of 3 to 1, denying the application. On appeal, the Circuit Court reversed the Board of Zoning Appeals, concluding, *inter alia*, that in a larger building in which the housing and keeping of horses is but one of several uses, it is appropriate to measure the 100-foot separation from the area used as a stable, and not from the façade of the building itself. In a two to one decision the Court of Appeals reversed the Circuit Court.

ARGUMENT I

REASON TO GRANT THE WRIT: THE OPINION OF THE COURT OF APPEALS MISAPPLIES RULES OF STATUTORY CONSTRUCTION BY RENDERING THE WORD "BUILDING" IN THE CITY ORDINANCE TO BE MEANINGLESS.

It is a settled principle of statutory construction that a statute must be read so that no word, clause, sentence, provision or part should be rendered surplusage or superfluous, for the General Assembly obviously intended the statute to have some efficacy, or the legislature would not have enacted it into law. *CFRE, LLC vs. Greenville County Assessor, 395 S.C. 67, 716 SE2d 877 (S.Ct. 2011), Hembree vs. One-Thousand, Eight Hundred Forty-Seven Dollars, 404 S.C.241, 743 S.E.2d 864 (Ct.App. 2013).*

This Court has held that courts presume the legislature understood the meaning of the words that it used, and that it intended to use them. *82 CJS Statutes, Section 385; in accord, Hadden vs. South Carolina Tax Commission, 183 S.C. 38, 190 S.E.249 (1937),* ("...it is clear that the legislature used the word 'individual' in the Act of 1933 advisedly, intending thereby to expressly eliminate from the terms thereof fiduciaries, partnerships, and corporations...") *Davenport vs. City of Rock Hill, 315 S.C. 114, 117,*

432 S.E.2d 451, 453(1993), ("...it is never supposed that a single word was inserted in the laws of this state without the intention of thereby conveying some meaning"); *State vs. Hercheck, 403 S.C.597, 743 S.E.2d 798 (S.Ct. 2013); Ravenel vs. Dekle, 265 S.C. 364, 218 S.E.2d 521 (S.Ct.)*("...it is never to be supposed that a single word was inserted in the organic law of the state without the intention of conveying thereby some meaning.")

The Court of Appeals is in agreement with Petitioners that the intent of Charleston City Council by enacting section 54-206(p), was to separate the potentially obnoxious characteristics of keeping horses at least 100 feet distant from a residential zone district. Where Petitioners take exception with the Court of Appeals, and here appeal to this Court, is with respect to the more specific question: Where the keeping or "stabling" of horses is but one of several activities in a larger building, must the 100-foot distance be measured from the location where the horses are stabled or kept? Or must the measurement be taken from the exterior of the building?

An analysis of the question should begin with the broader, contextual perspective of the ordinance in question.

The City of Charleston drafted its zoning ordinance with respect to stables to accommodate and to regulate the housing of animals—primarily horses and mules—within a densely mixed-use and vibrant area of the City, an area referred to in the ordinances as the "Market Street District". Within the densely built Market Street District, there is little space for single purpose structures. Former large warehouses have been subdivided and partitioned into multiple store front uses, restaurants, ice cream shops, hat shops t-shirt shops and apparel shops. The old City Market itself is an open stall, three blocks in length, at which vendors sell their wares, ranging from foods to

jewelry to art objects to clothing and accessories. Within this principally pedestrian activity, horse tour carriages are circulating. (R.p. 443, Vol. II).

In the heart of this dense, vibrant activity is the horse tour carriage "Gate", at the northeast corner of North Market Street and Church Street. The Gate is the place at which horse tour carriages queue up to load passengers and to receive from city tourism employees their assignments to tour specific sections of the City. With only few exceptions all horse carriage tours depart from the Gate.

Building space is at a premium in the Market Street District. That a horse tour carriage stable would occupy a structure that also includes other business activities would certainly have been within the knowledge and contemplation of City Council when it enacted the legislation at issue in this case.

Because of the dense, urban environment in which a stable would be located within the Market Street District, the trial court concluded that City Council "...envisioned a physical circumstance such as is presented in this case, where the use of the property as a 'stable' is but one of several uses contained in a larger 'building'".

As for the specific ordinance, it is clear from its different usages in the ordinance that the term "stable" was intended by City Council to mean different things depending upon context, in Council's drafting of Section 54-206(p). (R.p. 038, Vol I):

Subsection (1) is at issue in this case. Petitioners contend that "stable" in that subsection means that area of a larger building where horses are kept, rather than the entire building in the case of a building with multiple uses. The Trial Court agreed. The City of Charleston Zoning Administrator agreed. However, the Board of Zoning Appeals and the Court of Appeals contend that the entire building, regardless of its size and

regardless of other activities occurring there, is a stable. That is the ultimate question for decision by this Court.

In Subsection (2), however, City Council requires that the "...Tourism Commission has issued a Certificate of Appropriateness for the stable..." This reference to "stable" cannot refer to either a place where horses are kept, or to a barn, or to a "building". Rather, a "Certificate of Appropriateness" is a regulatory device issued by the Tourism Commission for the tour carriages that are drawn by the horses, as is provided in Section 29-208(c) of the Tourism Chapter of the city ordinances. (R.p. 048, Vol. I). So, "stable" in subsection (2) is used to describe a business activity of operating a horse tour carriage business, and more specifically a component of that business, the configuration of the business's tour carriages.

Subsection (3) of Section 54-206(p) requires that the "stable" must comply with all city, county and state regulations for stables. This provision probably does apply to both the physical thing that is a stable, as well as to the business activity of operating the carriage tour business, such as obtaining a city business license, complying with health regulations, etc.

Subsections (4), (5) and (6) of 54-206(p) do not use the term "stable", at all, but those subparagraphs are descriptive of how the activity of operating a tour carriage business must be conducted: the tacking of horses shall not impede traffic flow (4); provision must be made for the handling of refuse (5); a plan must be approved for the direction and diversion of drainage (6). Nevertheless, those activities are included within the section entitled, and beginning, "Stables shall be permitted..." (Emphasis included in original.)

In drafting subsection (7) of Section 54-206(p) City Council utilized a singular term used nowhere else in the section, which Petitioners suggest is the defining paragraph that addresses the ultimate question before this court. Section 54-206(p)(7) provides: "Buildings are designed utilizing appropriate ventilation to prevent objectionable odors from being emitted." (Emphasis added.)

In his order reversing the Board of Zoning Appeals (R.p. 001, Vol. I) the Circuit Judge discussed the use by City Council of the term, "building": "In discerning legislative intent, the Court must assume that City Council used the word "building" in subsection (7) advisedly. If it were the legislative intent that "stable" as used in 54-206(p) referred to a physical structure, rather than a "use" associated with a property, City Council would have stated in subsection (7) 'that stables are designed using appropriate ventilation...etc.' However, by using the word 'buildings', I conclude that City Council intended a differentiation, and envisioned a physical circumstance such as is presented in this case, where the use of the property as a 'stable' is but one of several uses in a 'building'." (Circuit Court Order at R.p. 008, Vol. I)

Consistently with the reasoning of the trial court and with the authorities cited, it must be presumed that City Council used the term "building" advisedly in drafting subsection (7). City Council deliberately provided that stables be separated by 100-feet from a residential district; but that buildings must be ventilated. The court is compelled to conclude that the use of the separate and distinctive terms was for a deliberate purpose. That purpose was to acknowledge and to provide that, in the dense, urban environment of Charleston's Market Street District, stables would be one of several other uses in a larger

"building"; thus affirming Petitioner's position that the 100-foot separation must be measured from that area of a building used as a stable.

The Flaw in the Reasoning of the Court of Appeals.

In its opinion the Court of Appeals dismisses this distinction: "Additionally, we disagree with the circuit court's finding that the council made a relevant distinction between a stable and a building in Section 54-206(p)(7) because a stable already comes under the definition of a building in the Zoning Code." (791 S.E.2d 305, at discussion under headnote 5.)

This holding by the Court of Appeals ignores the established principle that legislative bodies are presumed to use words advisedly, and renders the term "building" meaningless. The conclusion further speaks to the flaw at the heart of the Court of Appeals' reasoning. In the first place, it does not logically follow that because a "building" may "house animals", that the terms "building" and "stable" are therefore synonymous. More significantly, however, the distinctions between the terms "building" and "stable" better support the position of Petitioners. The broader definition of "building" as including "any structure" built for the numerous purposes stated in the definition, including for animals (See Section 54-120 of the City Code) supports the position that a "building", the broader term, may encompass multiple uses, including a stable.

City Council deliberately did not require in Section 54-206(p) that "buildings" be 100 feet distant from the residential district, but only that a "stable" maintain such distance. Council's deliberate choice of words cannot be summarily treated, and

following clear precedent a reason must be presumed for Council's choice of two distinct terms in the same section of the ordinance.

Although Petitioners contend that 54-206(p) may be construed by its own plain language and terms, the Court of Appeals incorporates the definition of "stables" from the tourism section of the Code, Section 29-212(b)(12), as "the barn where the animals are kept".

But even the Tourism Code's 29-212 definition is specific in describing the stable as a place where animals are kept. Moreover, Section 29-212's definitions are expressly conditioned on their context; and Petitioners have shown that "stable" as used in 54-206(p) is used in different contexts. In the case of 45 Pinckney Street, areas of the building are set aside for customer waiting, for restrooms for customers and employees, and for business offices of the company, as well as a second office which may be totally unrelated to the company operation. It is clear that the Tourism Code's definition would not include those other activities, that are unrelated to "keeping" of animals. It is also clear that horses will not be "kept" in these ancillary areas.

With respect to the offices, the customer waiting area, and the rest rooms of 45 Pinckney Street, singularly human spaces and activities, the Court of Appeals is steadfast: "This does not change the building's status as a barn. Moreover, we find these areas and rooms in the front portion of 45 Pinckney Street are commonly associated with horse stables". (791 S.E.2d 305, discussion under headnote 5.) (Emphasis added.)

There is simply no basis in the record of this case for the Court of Appeals to have "found" and concluded that customer waiting areas, restrooms and business offices "are

commonly associated with horse stables"; nor do Petitioners believe that any such usage is common or of common knowledge.

The Court of Appeals suggests that Petitioner's interpretation leads to absurd results, because smoking would not be prohibited in Pinckney Street's customer waiting, loading and office spaces, or that fire inspections would not occur, or that horse excreta could accumulate in Mr. Knoth's office, or that Arkay would not be required to clean the sidewalks. (The latter, notably, not a part of Arkay's property.)

However, and respectfully, Petitioners suggest that this argument may be turned on its head. Because smoking is not allowed in stables, does that mean that Mr. Knoth may not allow smoking in his private, enclosed office of the same building? In the northeast corner of 45 Pinckney is a second office. (See R.p. 375, Vol. II; plot plan.) Are the occupants of that office prohibited from smoking? Does the ordinance require that the offices be free from horse excreta? Respectfully, these opposite and equally absurd results would follow the interpretation adopted by the Court of Appeals.

The operative activity of a stable is the keeping and housing of animals. Every aspect of the stabling of horses at 45 Pinckney Street will occur at a distance of 119 feet or greater from the residential district. It defies logic and common sense to conclude that the office uses of the same building must be greater than 100 feet away. Certainly no horses will be "kept" in the offices or in the customer waiting area or restrooms.

That the animals pass through an easement area to enter and exit the building is no different from their coming and going through residential districts of the City every day. They will no more be "kept" or "housed" on the easement than on the streets. In

each instance, they are merely passing by. The Circuit Court was correct in its conclusions about the relevance of the easement.

CONCLUSION

Although buildings where horses are kept are commonly referred to as stables, a stable is different from other buildings because of the activities that take place there, namely the feeding, sheltering and care of domestic animals. To include other uses such as office space, restrooms or a customer waiting area as part of a stable---and requiring their separation from a residential district under a statute clearly enacted to separate obnoxious activities—merely because they are housed within the same physical structure is not supported by any grammatical analysis or by any construction of any provision of the Charleston City Code.

This Court should grant a Writ of Certiorari because of the reasons discussed, to enable a more complete briefing and arguments on the issues.

Respectfully submitted,

Capers G. Barr, III
SC Bar No: 00542
Barr, Unger and McIntosh
11 Broad Street (29401)
P.O. Box 1037
Charleston, SC 29402
Telephone: 843-577-5083
Facsimile: 843-723-9039
Attorney for Respondents Arkay, LLC and Robert R. Knoth, its member

Charleston, South Carolina
November 22, 2016

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

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

Opinion No: 5419 (S.C. Ct. App. filed June 29, 2016)
(791 S.E.2d 305)

Arkay, LLC and Robert R. Knoth, its member.....Petitioners,

v.

City of Charleston, City of Charleston Board of Zoning Appeals, Andrew Pinckney Inn and Michael A. Molony.....Respondents.

PROOF OF SERVICE

I certify that I have served a copy of the following on the following attorneys by e-mail and by depositing a copy of same in the United States Mail, postage prepaid, on November 22, 2016, addressed as follows:

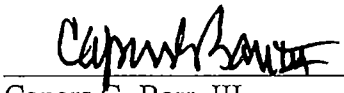
Frances Isaac Cantwell, Esq.
City of Charleston
50 Broad Street
Charleston, SC 29401

Thomas S. Tisdale Jr., Esq.
Hellman, Yates & Tisdale, PA
145 King Street, Suite 102
Charleston, SC 29401

Wilbur E. Johnson, Esq.
Young Clement Rivers, LLP
P. O. Box 993
Charleston, SC 29402-0993

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

BARR, UNGER & MCINTOSH



Capers G. Barr, III
SC Bar ID# 542
11 Broad Street
Charleston, South Carolina 29401
Telephone: (843) 577-5083
Facsimile: (843) 723-9039
cgb@barrungermcintosh.com
Attorney for Petitioners Arkay, LLC
And Robert R. Knoth, its member

Charleston, South Carolina
November 22, 2016

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

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

Opinion No: 5419, filed June 29, 2016
791 S.E.2d 305

Arkay, LLC and Robert R. Knoth, its member.....Petitioners,

v.

City of Charleston, City of Charleston Board of Zoning Appeals, Andrew Pinckney Inn and Michael A. Molony.....Respondents.

APPENDIX TO
PETITION FOR A WRIT OF CERTIORARI

Capers G. Barr, III
SC Bar ID# 542
11 Broad Street
Charleston, South Carolina 29401
Telephone: (843) 577-5083
Facsimile: (843) 723-9039
cgb@barrungermcintosh.com
Attorney for Petitioners Arkay, LLC
And Robert R. Knoth, its member

Other Counsel of Record:

Frances Isaac Cantwell, Esq.
City of Charleston
50 Broad Street
Charleston, SC 29401

Thomas S. Tisdale Jr., Esq.
Hellman, Yates & Tisdale, PA
145 King Street, Suite 102
Charleston, SC 29401

Wilbur E. Johnson, Esq.
Young Clement Rivers, LLP
P. O. Box 993
Charleston, SC 29402-0993

Index to Appendix
To Petition for a Writ of Certiorari

Signature line on following page

Respectfully submitted,

BARR, UNGER & McINTOSH

Capers G. Barr, III
Barr, Unger and McIntosh
11 Broad Street (29401)
P.O. Box 1037
Charleston, SC 29402
Telephone: 843-577-5083
Facsimile: 843-723-9039
Attorney for Petitioners Arkay, LLC
And Robert R. Knoth, its member

Charleston, South Carolina
November 22, 2016

BARR, UNGER & MCINTOSH LLC

ATTORNEYS AT LAW

Capers G. Barr, III
Direct Dial: 843-377-1227
Email: cgb@barrungermcintosh.com

November 22, 2016

(By E-Mail and First Class Mail)

Frances Isaac Cantwell, Esq.
City of Charleston
50 Broad Street
Charleston, SC 29401

Wilbur E. Johnson, Esq.
Young Clement Rivers, LLP
P. O. Box 993
Charleston, SC 29402-0993

Thomas S. Tisdale Jr., Esq.
Hellman, Yates & Tisdale, PA
145 King Street, Suite 102
Charleston, SC 29401

RE: Arkay, LLC and Robert R. Knoth, its member, v.
City of Charleston, City of Charleston Board of Zoning Appeals, Andrew Pinckney Inn and Michael A. Molony
Opinion No: 5419, filed June 29, 2016
Case Information No. 2014-001466

Dear Frances, Tom and Wilbur:

Enclosed you will find the Petition for a Writ of Certiorari, together with a Proof of Service.

With best regards,

Sincerely yours,

Capers G. Barr, III

CGBIII/meg
Enclosures (as stated)
cc: Robert R. Knoth (by e-mail; w/enclosure)
Richard Knoth (by e-mail; w/enclosure)

BARR, UNGER & MCINTOSH LLC
ATTORNEYS AT LAW

Capers G., Barr, III
Direct Dial: 843-377-1226
Email: cgb@barrungermcintosh.com

November 22, 2016

FEDERAL EXPRESS 7777 7615 5080

Honorable Daniel E. Shearouse
Supreme Court of South Carolina
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

RE: Arkay, LLC and Robert R. Knoth, its member, Petitioners vs.
City of Charleston, City of Charleston Board of Zoning Appeals, Andrew Pinckney Inn and Michael A. Molony, Respondents
Petition for a Writ of Certiorari
Ct. App. Opinion No: 5419, filed June 29, 2016

Dear Mr. Shearouse:

Please find enclosed the following, for filing:

1. An original and seven (7) copies of the Petition for a Writ of Certiorari;
2. Two copies of the Appendix, consisting of:
    a. Record on Appeal (two volumes);
    b. Principal and Reply Briefs of Appellant;
    c. Brief of Respondent;
    d. Decision of Court of Appeals (including West's Southeastern Reporter version);
    e. Petitioner's Petition for Rehearing and Suggestion for Rehearing *En Banc*
    f. Respondent's Return to Petition for Rehearing and Suggestion for Rehearing *En Banc*
    g. Order Denying Rehearing

3. Our check for $100.00 as the filing fee and

4. Proof of Service

Will you please return to me in the enclosed envelope a clocked copy of the Petition for Writ of Certiorari and Proof of Service? Also please advise me whether anything further is required for this filing.

With kind regards,

Sincerely yours,

Capers G. Barr, III

CGBIII/meg
Enclosures (as stated)
cc: Robert R. Knoth (by e-mail and First Class Mail; w/ Petition only)
Richard Knoth (by e-mail and First Class Mail; w/ Petition only)
Frances Isaac Cantwell, Esq. (By E-Mail and First Class Mail, w/ Petition only)
Wilbur E. Johnson, Esq. (By E-Mail and First Class Mail, w/ Petition only)
Thomas S. Tisdale Jr., Esq. (By E-Mail and First Class Mail, w/ petition only)
The Honorable Jenny Abbott Kitchings, Clerk of Court, S. C. Court of Appeals (By E-mail and First Class Mail, w/petition only)

UNITED STATES POSTAGE
PITNEY BOWES
02 1P $ 001.78⁰
0000274471 NOV 22 2016
MAILED FROM ZIP CODE 29401

BARR, UNGER AND MCINTOSH, L.L.C.
ATTORNEYS AT LAW
11 BROAD STREET
P. O. BOX 1037
CHARLESTON, SOUTH CAROLINA 29402-1037

TO:

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