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S.C. SUPREME COURT

IN THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas for the Fourteenth Circuit

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2016-002187
South Carolina Court of Appeals Opinion 5434

The Callawassie Island Members Club, Inc.Petitioner,

v.

Ronnie D. Dennis and Jeanette DennisRespondents.

**RESPONDENTS' OPPOSITION TO MOTION FOR LEAVE TO FILE AMICUS
CURIAE BRIEF OF THE CALLAWASSIE ISLAND PROPERTY OWNERS
ASSOCIATION, INC.**

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**OPPOSITION TO MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF
THE CALLAWASSIE ISLAND PROPERTY OWNERS ASSOCIATION, INC.**

Respondents Ronnie and Jeanette Dennis respectfully oppose the Motion for Leave to File Amicus Curiae Brief of the Callawassie Island Property Owners Association, Inc. (“CIPOA”).¹ The Motion should be denied on several grounds.

First, the Motion is untimely. Briefing on the Petition to this Court has closed, and CIPOA offers no explanation for failing to submit its briefing on time. Given that for years CIPOA has been closely watching this case, and coordinating with the Club, no good cause exists for re-opening the briefing period.

Second, the Motion offers no adequate reason, as required by Rule 213, as to “why a brief of an amicus curiae is desirable” from CIPOA. This Court already has accepted an amicus curiae brief by the Community Association Institute (CAI), which purports to make arguments on behalf of property owners associations. Other than its own curiosity in the outcome of the Petition, CIPOA has no additional interest beyond what has been articulated in previous briefing.

Third, CIPOA’s brief, respectfully, adds nothing of substance to the briefing already submitted. The first page or so appear to be borrowed from CIPOA’s promotional materials, and much of the remainder of the brief repeats arguments already made: interpretation of S.C. Code § 33-31-620 and the purported need for all residents to be

¹ In this Opposition, Respondents will not address each point made in the Amicus Curiae Brief, with the understanding that, under Rule 213, “if leave to file an amicus curiae brief is granted, the appellate court will specify the period in which a response to the brief may be filed.”

members of the CIPOA. Many of the citations in the brief appear to have been copied from the previous briefing (*see, e.g.*, pp. 4, 5, 6, 7, 8, 10, 11), and therefore add nothing of substance.

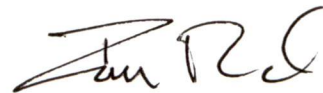
Fourth, when the brief does make a new argument, it violates Rule 213 by discussing issues not raised on, or preserved for, appeal. Rule 213 for amicus curiae briefing states that “The brief shall be limited to argument of the issues on appeal as presented by the parties” To the extent the CIPOA brief delves into new arguments—such as covenants and purported availability of bank financing (*see, e.g.*, pp. 6-7, 10)—those portions should be stricken. In addition, the brief goes on at length about items not in the Record on Appeal (*see, e.g.*, pp. 2 n. 2, 3, 5, 9), which also should be stricken.

CONCLUSION

For these reasons, the Motion should be denied. In the alternative, portions of the brief that have not been preserved for appeal, or are not in the Record on Appeal, should be stricken.

Respectfully submitted,

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February 9, 2017
Charleston, South Carolina

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I certify that I have served the Respondents' Opposition to Motion For Leave to File Amicus Curiae Brief of the Callawassie Island Property Owners Association, Inc. on all counsel of record by depositing a copy of it in the United States Mail, postage prepaid, on February 9, 2017, addressed to their attorneys of record:

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A handwritten signature in black ink, appearing to read "Ian S. Ford". The signature is written in a cursive style with a horizontal line underneath it.

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