

Hopkins, Debbie

From: Bernard Ferrara <BFerrara@charlestoncounty.org>
Sent: Friday, April 21, 2017 10:57 AM
To: Hopkins, Debbie
Subject: FW: Case No. 2015-CP-10- 1901 / David Engelman, Betty S. Engelman and Robert E. Welch, Jr., on behalf of themselves and others similarly situated v. Town of James Island
Attachments: Conent Order Modifying July 7 2016 Order - electronic signatures 4-20-17.pdf

Dear Debra,

Pursuant to your request, I forward the County's email to Judge Nicholson and attorneys of record attaching the Consent Order Modifying July 7, 2016 Order with consents of the parties.

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RECEIVED

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S.C. SUPREME COURT

From: Johanna S. Gardner
Sent: Thursday, April 20, 2017 3:32 PM
To: Nicholson, J. C. Law Clerk (Brooklyn A. O'Shea) <JNicholsonLC@sccourts.org>; 'Alison Sessoms' <asessons@kernodlelaw.com>; Caroline Crisler. Leonard <ccleonard@charlestoncounty.org>
Cc: Trent Kernodle <tkernodle@kernodlelaw.com>; danny@crowelafave.com; bwilson@wilsonheyward.com; angus@lawtonlawfirm.net; jessica@lawtonlawfirm.net; fulmer@mcculleymccluer.com; bmcculley@mcculleymccluer.com; smccluer@mcculleymccluer.com; andrew@lawtonlawfirm.net; michael@tktlawyers.com; thomas@tktlawyers.com; wmccravy@wilsonheyward.com; Joe Dawson <JDawson@charlestoncounty.org>; Bernard Ferrara <BFerrara@charlestoncounty.org>
Subject: RE: Case No. 2015-CP-10- 1901 / David Engelman, Betty S. Engelman and Robert E. Welch, Jr., on behalf of themselves and others similarly situated v. Town of James Island

Hello Brook:

I have attached a copy of the Consent Order Modifying the July 7, 2016 Order with the electronic signatures of the parties, which should resolve the need for a hearing on Monday. I will be submitting the Consent Order with the original signatures for the Judge's consideration as soon as I receive them (they are en route).

Kind regards,

Johanna

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2015-CP-10-1901

David Engelman, Betty S. Engelman)
and Robert E. Welch, Jr., on behalf)
of themselves and other similarly)
situated, and Charleston County,)

Plaintiffs,

vs.

Town of James Island,)

Defendant.)

**CONSENT ORDER
MODIFYING JULY 7, 2016 ORDER**

On March 9, 2017, Defendant Town of James Island, South Carolina (the "Town") appealed the Order of the Honorable J.C. Nicholson, Jr. Circuit Court Judge *sua sponte* granting Temporary Injunction filed on July 7, 2016, and subsequently modified by Orders on August 18, 2016 and February 8, 2017. By way of the Order of July 7, 2016, Judge Nicholson *sua sponte* enjoined the Town from "spending, crediting, dissipating, or otherwise obligating for expenditures of Local Option Sales Tax (LOST) funds yet to be acquired or currently held until final resolution of the action" and *sua sponte* added Charleston County (the "County") as a necessary party to this action pursuant to Rule 19, SCRPC. See July 7, 2016 Order. The County and Town both subsequently moved the court to reconsider, alter or amend the July 7, 2016 Order.

In its motion to reconsider, Charleston County argued that the July 7, 2016 Order prevents the Charleston County Auditor from crediting LOST funds against the Town's 20 mill tax levy for tax year 2016, which contravenes S.C. Code Ann. § 4-10-40(B)(1). Consequently, the 20 mill tax levy without the corresponding statutory property tax credit relief would result in a significantly greater tax liability for the Town's taxpayers for tax

year 2016.

On August 18, 2016, Judge Nicholson amended his July 7, 2016 Order by vacating his *sua sponte* injunction for the 2016 tax year; however, the injunction still applies to the 2017 tax year and all future tax years because it applies to "Local Option Sales Tax (LOST) funds, yet to be acquired." See July 7, 2016 Order.

Now, therefore, on joint motion and consent of Plaintiffs Charleston County and David Engelman, Betty S. Engelman and Robert E. Welch, Jr., on behalf of themselves and others similarly situated, and Defendant Town of James Island,

IT IS ORDERED that the July 7, 2016 Order is modified such that the Temporary Injunction issued pursuant to the July 7, 2016 Order is vacated as it applies to the 2017 tax year and all future tax years to the extent the Town levies a property tax in those years for which there is property tax liability against which to apply a credit.

AND IT IS SO ORDERED.

Honorable J.C. Nicholson, Jr.
Ninth Judicial Circuit

March _____, 2017
Charleston, South Carolina

We move and consent:



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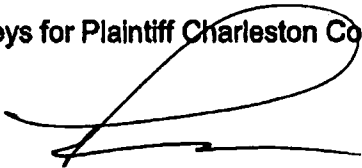
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