

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
In the Supreme Court

66848

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

The Honorable Michael G. Nettles, Circuit Court Judge

Case No.: 2009-CP-21-1934 (Appellants' documents state 2010-CP-17-0786)

Jay and Sandra Morgan, Appellants,

vs.

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James Lee Properties, LLC, Respondent.

JAN 10 2013

SC Court of Appeals

MOTION TO DISMISS

YOU WILL PLEASE TAKE NOTICE that the undersigned as attorney for the Respondent, James Lee Properties, LLC, in the above-captioned matter, hereby moves to dismiss the Appeal of Jay and Sandra Morgan on the following grounds:

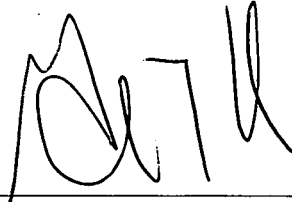
1. The Appellants have failed to complete a proper Record on Appeal, including all of the matters designated to be included by the Respondent. Specifically, from a cursory review of the Record on Appeal, the Respondent cannot locate the following item numbers requested to be included in the Respondent's "Designation of Matter to be Included in the Record on Appeal": Document Numbers 1, 3, 4, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 22, and 23.

2. The Appeal is moot in that the Respondent is a defunct corporation, and that although an appropriate filing has not been made with the South Carolina Secretary of State, the sole member of this company, James Barnes, deceased in early 2011 and his estate was probated in Florence County Probate Court Case Number 2011-ES-21-326,

wherein this company was noted as having a negative value based upon the debts and obligations owed to third parties. The estate was closed in January 2012. Therefore, any judgment against James Lee Properties, LLC, would be futile and the estate of James Barnes, the sole member of the limited liability company, has been closed.

January 7, 2013

Florence, South Carolina



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Joshua A. Bailey
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Of Counsel
B. Hicks Harwell, Jr. (1933-2012)

January 7, 2013

Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

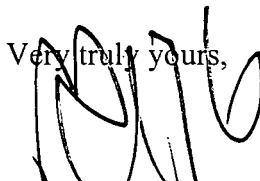
Re: James Lee Properties, LLC adv.
Jay and Sandra Morgan
C/A#: 2010170786
Our File No.: 8086

Dear Mrs. Allen:

Enclosed for filing in the above matter are an original and six copies of the Motion to Dismiss. I would appreciate your office filing. I have also enclosed a firm check in the amount of twenty-five dollars (\$25.00) representing the filing fee. I appreciate your assistance.

With kindest regards, I am

Very truly yours,



GARY I. FINKLEA

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GIF:lda
Enclosures
cc: Jay and Sandra Morgan

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