

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable Shirley C. Robinson
Administrative Law Judge

Case No. 11-ALJ-17-0546-CC
Appellant Case No. 2012-212861

Be Mi, Inc., d/b/a St. Clements Beach Bar & Grill,.....Respondent,

v.

South Carolina Department of Revenue,
and St. Clements Homeowners Association, Intervener,
Of whom St. Clements Home Owners AssociationAppellant,
and South Carolina Department of RevenueRespondent.

FINAL BRIEF OF RESPONDENT

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ISSUE ON APPEAL

Did the Administrative Law Court err by finding that the Respondent, Be Mi, Inc. d/b/a St. Clements Beach Bar and Grill, met the statutory restaurant requirements to be granted a liquor by the drink license?

STATEMENT OF THE CASE

This appeal arises from an Order of the South Carolina Administrative Law Court (ALC) granting the renewal of the restaurant liquor-by-the-drink license of Respondent, Be Mi, Inc. d/b/a St. Clements Beach Bar & Grill (Be Mi).

On or about May 18, 2011, Respondent, Department of Revenue (Department), received an application for renewal of an on premises beer and wine permit and a restaurant liquor by the drink license from Be Mi for its location at 202 70th Avenue North, Myrtle Beach, South Carolina. Thereafter, the Department completed a review of the renewal application and the South Carolina Law Enforcement Division (SLED) conducted a standard investigation of the location. On September 30, 2011, the Department issued its Department Determination (Determination) denying Be Mi a license and permit based on the Department's receipt of a valid public protest pursuant to S.C. Code Ann. §§ 61-4-525 and 61-6-1825 (2009), as well as Be Mi's failure to be engaged primarily and substantially in the preparation and service of meals as required by S.C. Code Ann. § 61-6-1610 (2009). However, in its Determination, the Department gave Be Mi the opportunity to cure certain deficiencies noted in the SLED inspection report in relation to Be Mi's failure to be engaged primarily and substantially in the preparation and service of meals. Be Mi commenced this action in the ALC by timely protesting the Department's Determination with a request for a contested case hearing on October 27, 2011. Thereafter, Be Mi cured the deficiencies noted in the Department's Determination and a follow up inspection with SLED showed that Be Mi now met all the statutory requirements for licensure as required by § 61-6-1610. On November 30, 2011, Department issued an Amended Department Determination which withdrew the part of

its denial that was based on Be Mi's failure to meet the requirements of § 61-6-1610 and S.C. Code Ann. § 61-6-20 (Supp. 2012). The Department determined, however, that the license and permit must still be denied based on the Department's receipt of a valid public protest from St. Clements Homeowner's Association (Appellant). Specifically, on April 1, 2011, Appellant filed a written protest with the Department objecting to the renewal of the permit and license which were scheduled to expire on May 31, 2011. In accordance with §§ 61-4-525 and 61-6-1825, upon receipt of a timely and valid public protest, the Department must deny the application and refer the matter to the ALC. However, but for the valid public protests, the Department determined that Be Mi met all statutory requirements to be granted a renewal of its on premises beer and wine permit and a restaurant liquor by the drink license. On December 12, 2011, Appellant filed a motion with the ALC seeking intervenor status pursuant to ALC Rule 20. The motion was granted on December 22, 2011.

The ALC conducted a contested case hearing in the matter on January 4, 2012, with all parties in attendance. The ALC was informed at the outset of the hearing that the parties were in agreement that the Appellant was not protesting the renewal of Be Mi's on-premises beer and wine permit. Appellant protested only the issuance of the restaurant liquor by the drink license for failure to meet the requirements of §§ 61-6-20(2) and 61-6-1610, and 23 S.C. Code Ann. Regs. § 7-401.3 (Supp. 2011). On June 5, 2012, the ALC found that Be Mi met its burden of proof in establishing that it meets all the statutory requirements for renewal of its liquor by the drink license and ordered that Be Mi's application for renewal of its liquor by the drink license be approved. On June 19, 2012, the Appellant moved for reconsideration before the ALC. Be Mi filed a

response opposing the Appellant's motion on June 28, 2012. The ALC denied the Appellant's motion on July 30, 2012.

On August 31, 2012, the Appellant filed a Notice of Appeal with this Court.

STATEMENT OF THE FACTS

Raymond Luke Goude is the sole owner and officer of the Respondent, Be Mi.¹ The location has been licensed to sell beer, wine, and liquor for more than twenty years, and is a seasonal business that opens in March and closes in October.² Be Mi operates the St. Clements Bar & Grill from a one story commercial oceanfront condominium unit with an attached covered wooden deck.³ The unit is poolside and is located near an access point to the beach.⁴ Because it is part of the St. Clements Beach Condominiums/Hotel, the unit is governed by the Master Deed of the St. Clements HOA.⁵

Mr. Goude testified that in the early years, the then-developer/HOA gave him permission to open the bar and grill at the location.⁶ While other condominiums in the St. Clements complex have balconies, the developer gave Be Mi permission to expand the bar and grill by adding a covered wooden deck to the unit.⁷ Mr. Goude testified that

¹(R., p. 3, ALC Order, p. 3, para. 3).

²(R., p. 3, ALC Order, p. 3, para. 3).

³(R., p. 3, ALC Order, p. 3, para. 3).

⁴(R., p. 3, ALC Order, p. 3, para. 3).

⁵(R., p. 3, ALC Order, p. 3, para. 3).

⁶(R., p. 3, ALC Order, p. 3, para. 4).

⁷(R., p. 3, ALC Order, p. 3, para. 4).

he built and maintains the deck.⁸ Mr. Goude also testified that he manages and controls the use and clean-up of the deck area.⁹ When SLED did its initial investigation in response to the renewal application, the agent's report indicated that Be Mi did not meet restaurant requirements because there were not a sufficient number of tables and chairs to provide seating for forty customers, and there was also a question of whether the location had adequate food storage.¹⁰ However, during a subsequent inspection, SLED determined that there was adequate seating and food storage at the location to meet the statutory requirements.¹¹ SLED's subsequent report indicated that Be Mi had twenty-one cubic feet of cold storage and seating for at least forty patrons at tables, as required for a liquor license.¹²

According to Mr. Goude, at least twenty chairs are set around five tables on the covered deck, and there are additional tables and eighteen chairs on the rooftop.¹³ He also testified that he purchased the chairs and tables on the deck and rooftop.¹⁴ He also explained that there is bar stool space for four to six patrons at a wide rail on the edge of the deck structure.¹⁵ This area is not in the covered deck area but outside in the common

⁸(R., pp. 107-109, Tr., pp. 24-26).

⁹(R., pp. 129-139, Tr., pp. 46-56).

¹⁰(R., p. 3, ALC Order, p. 3, para. 4).

¹¹(R., p. 3, ALC Order, p. 3, para. 4).

¹²(R., p. 3, ALC Order, p. 3, para. 4).

¹³(R., p. 4, ALC Order, p. 4, para. 1).

¹⁴(R., pp. 138-139, Tr., pp. 55-56).

¹⁵(R., p. 4, ALC Order, p. 4, para. 1).

area.¹⁶ However, Mr. Goude explained that the bar stools can easily be moved out of the common area by placing them on the other side of the wide rail.¹⁷

Barbara Brown testified on behalf of the Appellant.¹⁸ Ms. Brown is a long time unit owner, member of the St. Clements HOA, and was also a HOA Board Member.¹⁹ She testified that it is the position of the HOA that the seats under the covered deck built by Mr. Goude are actually common area seats, and are located on top of two parking spaces owned by the HOA.²⁰ “According to Ms. Brown, in her opinion, one could not reasonably fit more than four tables and sixteen chairs in the covered deck area, and the bar stools Mr. Goude contend are additional seating are on other common area and are not at tables.”²¹ Ms. Brown also contends that the rooftop could only accommodate sixteen seats for normal and reasonable use.²²

According to both Mr. Goude and the Appellant, the Appellant filed an action in Circuit Court seeking removal of the wooden deck.²³ The Master-in-Equity ruled in Be Mi’s favor and that ruling is being appealed.²⁴ However, at the time of the ALC’s ruling,

¹⁶(R., p. 4, ALC Order, p. 4, para. 1).

¹⁷(R., p. 4, ALC Order, p. 4, para. 1).

¹⁸(R., p. 4, ALC Order, p. 4, para. 2).

¹⁹(R., p. 4, ALC Order, p. 4, para. 2).

²⁰(R., p. 4, ALC Order, p. 4, para. 2).

²¹(R., p. 4, ALC Order, p. 4, para. 2).

²²(R., p. 4, ALC Order, p. 4, para. 2).

²³(R., p. 4, ALC Order, p. 4, para. 2).

²⁴(R., p. 4, ALC Order, p. 4, para. 2).

the deck and seating arrangement described by Mr. Goude and the SLED report remained in place.²⁵

“Appeals from the ALC are governed by the Administrative Procedures Act (APA).”²⁶

Pursuant to the APA, the Court of Appeals may reverse or modify the ALC if the appellant's substantial rights have been prejudiced because the administrative decisions are: (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) affected by an error of law; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.²⁷

Here, the judgment of the ALC was not in error. The ALC’s finding that Be Mi met the statutory requirements for a restaurant liquor by the drink license was not affected by an error of law and is supported by substantial evidence. Accordingly, this Court should uphold the ALC’s Order and affirm the issuance of Be Mi’s restaurant liquor by the drink license.

ARGUMENT

THE ALC DID NOT ERR IN FINDING THAT THE RESPONDENT, BE MI, MET THE STATUTORY REQUIREMENTS TO BE GRANTED A RESTAURANT LIQUOR BY THE DRINK LICENSE.

²⁵(R., p. 4, ALC Order, p. 4, para. 2).

²⁶MRI at Belfair, LLC v. S.C. Dep't of Health & Env'tl. Control, 394 S.C. 567, 572, 716 S.E.2d 111, 113 (Ct. App. 2011); see S.C. Code Ann. §§ 1-23-310 to 1-23-400 (2005 & Supp. 2011).

²⁷MRI at Belfair, 394 S.C. at 572, 716 S.E.2d at 113 (citing S.C. Code Ann. § 1-23-380(5) (Supp. 2012)).

At issue here is whether the ALC erred in finding that Be Mi met the statutory requirements to be granted a restaurant liquor by the drink license. In matters concerning the sale and consumption of alcoholic beverages in South Carolina, the Department holds the “sole and exclusive power to issue all licenses, permits, and certificates provided for in Title [61].”²⁸ Further, “[t]he State, through the [D]epartment, is the sole and exclusive authority empowered to regulate the operation of all locations authorized to sell beer, wine, or alcoholic liquors”²⁹ In conjunction with Department, SLED enforces the provisions regulating alcohol and alcoholic beverages which includes investigating license applications and renewals.³⁰ In cases where the licensing decision of the Department is challenged, jurisdiction rests with the ALC.³¹ “[T]he issuance or granting of a license to sell beer or alcoholic beverages rests in the sound discretion of the body or official to whom the duty of issuing it is committed[.]”³² The weight and credibility assigned to evidence presented at the hearing of a matter is within the province of the trier of fact.³³ The standard of proof in these administrative proceedings is a preponderance of the evidence.³⁴

²⁸S.C. Code Ann. § 61-2-70 (2009).

²⁹S.C. Code Ann. § 61-6-80 (Supp. 2012).

³⁰S.C. Code Ann. § 61-6-80 (2009).

³¹See S.C. Code Ann. §§ 1-23-310 (Supp. 2012) *et seq.*, 1-23-600(B) (Supp. 2012) and 61-2-260 (Supp. 2012).

³²Palmer v. Alcoholic Beverage Control Comm’n, 282 S.C. 246, 248, 317 S.E.2d 476, 477 (Ct. App. 1984); *see also* Wall v. S.C. Alcoholic Beverage Control Comm’n, 269 S.C. 13, 235 S.E.2d 806 (1977).

Section 61-6-1610(A) requires that an establishment must be “bona fide engaged primarily and substantially in the preparation and service of meals” to hold a restaurant liquor by the drink license. Included in the requirement that an establishment be bona fide engaged primarily and substantially in the preparation and serving of meals is the requirement that the establishment “provides facilities for seating not fewer than forty persons simultaneously at tables for the service of meals . . .” on its premises.³⁵ As a general requirement for all licenses, 23 S.C. Code Ann. Regs. 7-202.1(Supp. 2011) defines the “premises” of the licensed location.

7-202.1. General Requirements - All Licenses.

A. Unless otherwise limited by statute or regulation, as used in Title 61, "premises" means **all of the buildings and grounds that are both (1) subject to the direct control of the license holder** and (2) used by the license holder to conduct its business.

B. For purposes of establishing the premises:

(1) The license holder's direct control of buildings and grounds **may be shown** by any of the following: (a) a deed or lease conveying to the license holder an appropriate interest that includes the premises; (b) a writing from a local governmental jurisdiction giving the license holder the right to use and the duty to maintain an area owned or controlled by the local governmental jurisdiction; (c) an enforceable written contract granting the license holder a right to use the premises.

(Emphasis added).

³³See S.C. Cable Television Ass'n v. S. Bell Tel. & Tel. Co., 308 S.C. 216, 222, 417 S.E.2d 586, 589 (1992).

³⁴Anonymous v. State Bd. of Med. Exam'rs, 329 S.C. 371, 496 S.E.2d 17 (1988).

³⁵S.C. Code Ann. § 61-6-20(2) (2009).

A. **The ALC's Finding That The Respondent, Be Mi, Met The Statutory Requirements To Be Granted A Restaurant Liquor By The Drink License Was Not Affected By An Error of Law.**

At issue here is whether the ALC erred as a matter of law when it found that Be Mi met the statutory restaurant requirement of providing, on its premises, seating for not fewer than forty persons at tables for the service of meals. Specifically, whether the seating located on the covered deck, which is attached to Be Mi's building and built over two parking spaces, should be included in determining whether Be Mi meets the statutory restaurant seating requirements. The Appellant argues that the ALC's inclusion of the seats on the deck is an error of law for three reasons: First, that the deck upon which the seats are situated is, pursuant to the St. Clements Master Deed, built over a common area and therefore cannot be considered to be under the "direct control" of Be Mi as a matter of law. Second, because Be Mi lacks a written lease or contract from the St. Clements HOA granting Be Mi the authority to either build or use the deck, the seats situated there are not under Be Mi's direct control pursuant to the requirements of Regulation 7-202.1. And finally, the Appellant argues that a "wide rail" with two barstools is not sufficient to meet the requirements of "seating at tables" as required by § 61-6-1610.

The Appellant asserts that the ALC erred as a matter of law by failing to consider or, alternatively, ensuring that its ruling was consistent with the St. Clements Master Deed in finding that Be Mi met the statutory seating requirements. However, the question of whether or not Be Mi is in compliance with any or all of the terms of the St. Clements Master Deed is an issue to be addressed by another tribunal. The ALC lacks the subject matter jurisdiction to adjudicate differences between a co-owner in the St. Clements Condominiums, the Homeowners Association, and the interpretation of the

Master Deed. Section 27-31-170 of The Horizontal Property Act, states that a failure of any co-owner to comply with the covenants, conditions, and restrictions set forth in the Master Deed shall be grounds for a civil action to recover sums due for damages or injunctive relief, or both.³⁶ The proper forum to bring such action would be the Circuit Court. The ALC is simply not the proper forum to address issues concerning Be Mi's compliance with the Master Deed. In fact, according to both Be Mi and the Appellant, a case regarding this deck was brought before the Master in Equity, who ruled in Be Mi's favor.³⁷ Because the Master ordered that Be Mi has the right to maintain the deck and because Be Mi has control over that deck and seating on that deck, the ALC cannot adjudge that Be Mi fails to meet the statutory seating requirements based on Appellant's assertion that such violates conditions or restrictions in the Master Deed. Accordingly, the ALC did not err as a matter of law by failing to consider or, alternatively, ensuring that its ruling was consistent with the St. Clements Master Deed in finding that Be Mi met the statutory seating requirements.

Further, the Appellant asserts that the ALC erred as a matter of law pursuant to Regulation 7-202.1 by failing to require that Be Mi present evidence of a lease or contract showing that the deck is under Be Mi's direct control. Contrary to the Appellant's assertion, the regulations do not require proof of a lease or contract. Regulation 7-202.1(B)(1) merely states that the license holder's direct control of the premises **may** be shown by a contract or lease, not that it **must** be shown by a contract or lease. In this case, testimony before the ALC by credible witnesses regarding Be Mi's control over the

³⁶S.C. Code Ann. § 27-31-10 (Supp. 2012), *et seq.*

³⁷Be Mi's testimony is that this case is currently under appeal.

deck, as well as the Master of Equity's ruling about the deck satisfied the ALC that the deck in question is "subject to the direct control of the license holder." Therefore the ALC properly applied the requirements of Regulation 7-202.1, and the ALC's finding that the seats located on the deck are located on Be Mi's premises was not an error of law. Accordingly, the ALC did not err as a matter of law by finding that the seating located on the deck should be included in its determination that Be Mi met the statutory seating requirements.

Finally, the Appellant argues that a "wide rail" with two bar stools is not sufficient to meet the requirements of seating at tables as required by § 61-6-1610. In determining that Be Mi had sufficient seating for forty people, both SLED and the ALC included bar stools located along a wide rail in their calculations. The Appellant did not put forth evidence that these seats and the wide rail were not used as seating, rather the Appellant disputes whether such constitute seating, regardless of use. The ALC's inclusion of these bar stools is consistent with the statute, moreover such is supported by the evidence. "Where a word is not defined in a statute, our appellate courts have looked to the usual dictionary meaning to supply its meaning."³⁸ The "wide rail" fits within the dictionary definition of a table as either a "flat, slablike top supported on one or more legs or other supports" or as "a piece of furniture specifically used for serving food to those seated at it."³⁹ Because the seating at the wide rail satisfies the definition of seating

³⁸Lee v. Thermal Eng'g Corp., 352 S.C. 81, 91-92, 572 S.E.2d 298, 303 (Ct. App. 2002). Berkeley County Sch. Dist. v. S. Carolina Dept. of Revenue, 383 S.C. 334, 345, 679 S.E.2d 913, 919 (2009).

³⁹The Random House Dictionary of the English Language defines a "table," first as either "an article of furniture consisting of a flat, slablike top supported on one or more

at a table, such seating can be included in determining the amount of seating provided at tables as required by § 61-6-1610. Furthermore, Be Mi offered testimony that it places bar stools along the wide rail for people to sit and eat from while guest of the restaurant. Because the seating at the wide rail constitutes seating at tables, and because of the testimony presented regarding the existence and use of seating at the wide rail, it was proper for the ALC to include that seating in its calculation of the seating provided by Be Mi. Accordingly, it was not an error of law for the ALC to include the seating at the wide rail in its analysis of § 61-6-1610. Moreover such inclusion is supported by the evidence in this case.

As explained herein, it was not an error of law for the ALC to include the deck, and the seating and tables on that deck in its determination that Be Mi satisfies the statutory requirements for a liquor by the drink license.

B. **The Evidence In The Case Supports The ALC's Finding That The Respondent, Be Mi, Met The Statutory Requirements To Be Granted A Restaurant Liquor By The Drink License.**

The ALC's finding that Be Mi met the statutory requirements to be granted a restaurant liquor by the drink license rested upon substantial evidence. "As to factual issues, judicial review of administrative agency orders is limited to a determination [of] whether the order is supported by substantial evidence."⁴⁰ Substantial evidence is not a mere scintilla; rather, it is evidence which, considering the record as a whole, would

legs or other supports" and second as "such a piece of furniture specifically used for serving food to those seated at it." The Random House Dictionary of the English Language 1933 (2d Ed. 1987).

⁴⁰MRI at Belfair, 394 S.C. at 572, 716 S.E.2d at 113 (citing S.C. Code Ann. § 1-23-380(5) (Supp.2012)), (quoting MRI at Belfair, LLC v. S.C. Dep't of Health & Envtl. Control, 379 S.C. 1, 6, 664 S.E.2d 471, 474 (2008)).

allow reasonable minds to reach the same conclusion as the agency.⁴¹ This Court's analysis "'must not be either judicial fact-finding or a substitution of judicial judgment for agency judgment;' and a judgment upon which reasonable men might differ will not be set aside."⁴²

After careful review of the testimony and evidence presented in this case, the ALC found, by a preponderance of the evidence, that Be Mi met the statutory seating requirements. The Appellant asserts that Be Mi failed to present sufficient evidence of its control over the deck, and therefore the ALC's inclusion of the seating on the deck in its calculations of seating is not supported by sufficient evidence. Contrary to the Appellant's assertions, the weight of the evidence in this matter supports the ALC's ruling. In particular, the Appellant argues that Be Mi's reference to the Master in Equity's ruling in its favor, without actually entering the order into evidence, does not constitute sufficient evidence upon which the ALC could base its ruling. Contrary to the Appellant's argument, the Court properly included the Master in Equity's ruling in its analysis. It is undisputed that the Appellant brought suit before the Master in Equity challenging the permissibility of the deck as a violation of the Master Deed. It is undisputed that the Master in Equity ruled in Be Mi's favor in that lawsuit and the deck remains in place as a result of that ruling. At the hearing before the ALC, both Appellant and Be Mi put forth testimonial evidence regarding the ruling. While there is clearly

⁴¹Friends of Earth v. Public Service Com'n of South Carolina, 387 S.C. 360, 692 S.E.2d 910 (2010).

⁴²Lark v. Bi-Lo, Inc., 276 S.C. 130, 136, 276 S.E.2d 304, 307 (quoting Dickinson-Tidewater, Inc. v. Supervisor of Assess., 273 Md. 245, 329 A.2d 18, 25 (Ct. App. Md. 1974)).

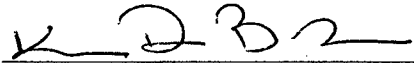
disagreement regarding whether the Master's ruling was correct, there is no disagreement regarding whether that ruling was in Be Mi's favor and that the deck remains in place as a result of that ruling. There is no requirement that the Master's order itself be entered into evidence before the ALC can consider that ruling as evidence, especially when there is no dispute as to the holding in that ruling.

In addition to the ruling of the Master in Equity, Be Mi also put forth testimony regarding its control of the deck area, including its building and maintaining the deck area and purchasing the seating and tables located on that area. Furthermore, Be Mi put forth testimony regarding its efforts to restrict use of that seating to patrons of its business. The Appellant did not put forth evidence disputing Be Mi's exercise of control over the deck area. To the contrary, at the hearing the Appellant argued that the existence of the deck and Be Mi's continued use of the deck violated the restrictions in the Master Deed. As explained previously, the Appellant's assertions regarding the Master Deed are not supported by the Master in Equity's ruling. Therefore, the evidence before the ALC supporting Be Mi's position consisted of substantial evidence showing Be Mi's long standing use, maintenance, and control of the deck area, as well as the fact the Master in Equity ruled in Be Mi's favor in a dispute over the permissibility of the deck. On the other hand, the evidence supporting the Appellant's position consisted of assertions that the deck violates the Master Deed, assertions that are not supported by the Master in Equity's ruling. Clearly the vast majority of the evidence supports Be Mi's position, and therefore the ALC's ruling is supported by sufficient evidence. Furthermore, the Department asserts that Appellant has not satisfied its burden of proving that substantial evidence supports Appellant's assertion that the ALC's ruling was erroneous.

CONCLUSION

For the foregoing reasons, the Department requests that this Court uphold the order of the ALC and affirm the approval of Be Mi's renewal application for a restaurant liquor by the drink license.

Respectfully submitted,



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Columbia, South Carolina
July 25, 2013

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable Shirley C. Robinson
Administrative Law Judge

Case No. 11-ALJ-17-0546-CC
Appellant Case No. 2012-212861

Be Mi, Inc., d/b/a St. Clements Beach Bar & GrillRespondent,

v.

South Carolina Department of Revenue, and St. Clements Homeowners
Association, Intervener,
Of whom St. Clements Home Owners AssociationAppellant,
and
South Carolina Department of Revenue Respondent.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b),
SCACR.



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and South Carolina Department of RevenueRespondent.

CERTIFICATE OF SERVICE

I, Jean M. O'Connor, hereby certify that I have caused to be mailed, postage prepaid, a copy of the South Carolina Department of Revenue's Final Brief in re: Be Mi, Inc., d/b/a St. Clements Beach Bar and Grill, Respondent vs. South Carolina Department of Revenue, Respondent, and St. Clements Homeowners Association, of whom St. Clements Homeowners Association is the Appellant, Appellate Case No. 2012-212861 to James J. Corbett, Esquire, Holler, Garner, Corbett, Ormond, Plante & Dunn, Post Office Box 11006, Columbia, SC 29211, Clifford L. Welsh, Esquire, 457 Main Street, North

RECEIVED

JUL 29 2013

SC Court of Appeals

Myrtle Beach, SC 29582 and Kenneth E. Allen, Esquire, Suite 1980, 1201 Main Street,
Columbia, SC 29201 this 29th day of July 2013.


Jean M. O'Connor