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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Eugene C. Griffith, Jr., Circuit Court Judge

RECEIVED
JUL 01 2019
SC Court of Appeals

Case No. 2018-CP-10-0851
Appellant Case No.: 19-000728

National Trust for Historic Preservation in the United States and the
City of Charleston.....Respondents/Appellants,

v.

City of North Charleston.....Appellant/Respondent.

**RESPONDENT/APPELLANT NATIONAL TRUST FOR HISTORIC PRESERVATION
IN THE UNITED STATES' MOTION TO STAY FURTHER BRIEFING UNTIL AFTER
RECEIPT OF THE TRANSCRIPT OF HEARING AND FOR BRIEFING SCHEDULE**

Appellant/Respondent National Trust for Historic Preservation in the United States ("National Trust") moves this Court to stay further briefing in this appeal until after receipt of the transcript of the hearing before the lower court and for a briefing schedule that establishes the deadline for its initial respondent's brief and initial appellant's brief as 30 days after receipt of that transcript. The circumstances making this Motion necessary as well as the grounds for it are set forth below.

Appellant/Respondent City of North Charleston ("North Charleston") served its Notice of Cross Appeal on April 29, 2019, filed on May 2, 2019. Respondent/Appellant City of Charleston ("Charleston") served its Notice of Appeal on May 24, 2019, filed on May 28, 2019. Respondent/Appellant National Trust served its Notice of Appeal on May 31, 2019, filed on June

3, 2019.

North Charleston served its initial brief and designation of matter on the National Trust and Charleston on June 18, 2019. North Charleston filed its initial brief *without* ordering the transcript of the hearing on December 10, 2018; it does not designate the transcript in its designation of matter. The parties did not agree that the transcript would not be ordered or that that appeal would proceed without it.

Charleston made written request to the court reporter for the transcript on May 24, 2019, at the time of its appeal, in accordance with Rule 207 (a)(1), SCACR. Because Charleston had ordered the transcript before the National Trust appealed, it was unnecessary for the National Trust to make a separate order for the transcript.

The National Trust intends to designate the transcript of the hearing in its designation of matter and probably will refer to the transcript in its initial brief as appellant and in its initial brief as respondent. The National Trust seeks to stay the briefing until the transcript is received. The National Trust's initial briefs as appellant and respondent would then be due 30 days after receipt of the transcript.

Rule 206, SCACR, provides that, where more than one party serves a notice of appeal, the party whose notice of appeal is first received by the appellate court shall be designated as the primary appellant and shall be responsible for performing all duties required of the appellant under Rules 207 and 210, SCACR. North Charleston filed its notice of appeal first and is the primary appellant. The Court confirmed this alignment of the parties by letter dated June 17, 2019.

Rule 207 (a)(1) requires the primary appellant to order the transcript of the entire proceedings below: "Unless the parties otherwise agree in writing, appellant must order a

transcript of the entire proceedings below.” Rule 207(a)(1), SCACR. In this instance North Charleston apparently did not order the transcript. North Charleston did not obtain an agreement in writing from Charleston and the National Trust that the appeal would proceed without the transcript of the hearing on December 10, 2019.

No party is allowed to serve an initial brief and designation of matter prior to the transcript being received, especially in a case involving multiple notices of appeal. Rule 208(a)(1) requires the appellant to serve its initial brief and designation of matter within 30 days “after receiving the transcript,” unless no transcript is ordered. However, in cases involving multiple notices of appeal, Rule 206, SCACR, provides: “Upon receipt of notification that the primary appellant has received the transcript of the proceeding, the clerk of the appellate court shall establish a briefing schedule.”

Rule 208(a)(2) requires the respondent to serve respondent’s initial brief within 30 days after service of appellant’s brief. Here, because the National Trust desires to review the transcript of the hearing before preparing both its initial respondent’s brief and initial appellant’s brief, the National Trust requests that the briefing deadlines not commence until after receipt of the transcript. The National Trust seeks protection and clarification, in particular, that its respondent’s initial brief is not due on July 18, 2019, which is 30 days after North Charleston served its initial appellant’s brief, but instead will be due 30 days after receipt of the transcript of the hearing.

CONCLUSION

For these reasons, the National Trust requests this Court stay all further briefing until receipt of the transcript of the hearing in the lower court and establish a briefing schedule that specifies, among other things, the National Trust’s initial respondent’s brief and initial

appellant's brief shall be due 30 days after the transcript is received.

Respectfully submitted,



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ATTORNEYS FOR RESPONDENT/APPELLANT
NATIONAL TRUST FOR HISTORIC
PRESERVATION IN THE UNITED STATES

June 21, 2019

Charleston, SC

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
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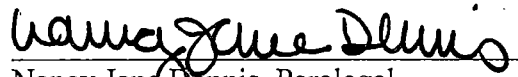
City of North Charleston.....Appellant/Respondent.

PROOF OF SERVICE

I certify that I have served the **Respondent-Appellant National Trust for Historic Preservation in the United States' Motion to Stay Further Briefing Until After Receipt of the Transcript of Hearing and for Briefing Schedule** by depositing a copy in the United States Mail, postage prepaid, on June 27, 2019, addressed to the attorneys of record:

Susan J. Herdina, Esq.
Frances I. Cantwell, Esq.
Daniel S. ("Chip") McQueeney, Jr., Esq.
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June 27, 2019

U.S. Mail

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

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SC Court of Appeals

Re: National Trust for Historic Preservation in the United States and City of Charleston v. City of North Charleston, Case No. 2018-CP-10-0851
Appellate Case No. 2019-000728
WGFL File No. : 8081-001

Dear Ms. Kitchings:

Enclosed please find the original and 6 copies of Respondent/Appellant National Trust's Motion to Stay Further Briefing Until After Receipt of the Transcript of Hearing and for Briefing Schedule with certificate of service and filing fee of \$50.:

Thank you for filing the enclosures. With kind regards, I am,

Very Truly Yours,

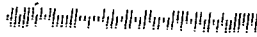
WALKER, GRESSETTE, FREEMAN, & LINTON, LLC



G. Trenholm Walker

Enclosures (As Stated)

c: J. Brady Hair, Esq.
Derk Van Raalte, Esq.
Susan J. Herdina, Esq.
Frances I. Cantwell, Esq.
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