

The South Carolina Court of Appeals

One Belle Hall Property Owners Association, Inc., and
Marvin T. Meek and Francis E. Hill, individually and on
behalf of all others similarly situated, Respondents,

v.

Builders FirstSource-Southeast Group, LLC, Appellant.

Appellate Case No. 2018-001230

ORDER

Appellant has filed, with the consent of Respondents, a motion requesting this Court to seal Volume 12 of the record on appeal in this case. "Judicial proceedings and court records are presumptively open to the public under the common law, the First Amendment of the federal constitution, and the state constitution." *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 10, 630 S.E.2d 464, 469 (2006); S.C. Const. art. I § 9 ("All courts shall be public . . ."). Although there is no provision in the South Carolina Appellate Court Rules for sealing records in the appellate court, we have the power to control our own records. *See Ex parte Capital U-Drive-It, Inc.*, 369 S.C. at 10, 630 S.E.2d at 469. For guidance, we look to Rule 41.1(b), SCRCP, which requires a party asking to seal a record to identify, with specificity, the documents or portions of documents for which sealing is considered necessary, to include a non-confidential description of the documents, and to provide the court a separately sealed attachment labeled "Confidential Information to be submitted to Court in Connection with the Motion to Seal." The rule also requires the moving party to state the reasons why sealing is necessary, explain why less drastic alternatives to sealing will not afford adequate protection, and address the following factors:

- (1) ensuring the parties' right to a fair trial or hearing;
- (2) the need for witness cooperation;
- (3) the reliance of the parties upon expectations of confidentiality of the proceeding;
- (4) the public or professional significance of

the proceeding; (5) the perceived harm to the parties from disclosure; (6) why alternatives other than sealing the documents are not available to protect legitimate private interests; and (7) why the public interest, including, but not limited to, the public health and safety, is best served by sealing the documents.

When ruling on a motion to seal, the court must also consider the public interest in the proceeding; the private or public status of the litigants and case generally; whether release would enhance the public's understanding of an important historical event; whether the public already has access to information contained in the records; whether a particular decision will sustain or offend the fundamental interests of public access, and any other relevant factors. *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. at 12, 630 S.E.2d at 470 (2006).

After careful consideration, this court finds the factors weigh in favor of sealing only Volume 12 of the record on appeal. Accordingly, the motion is granted.


FOR THE COURT

Columbia, South Carolina

cc:

C. Mitchell Brown, Esquire
William C. Wood, Jr., Esquire
Justin O'Toole Lucey, Esquire
Dabny Lynn, Esquire
Anna Scarborough McCann, Esquire

FILED
September 6, 2019