

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Walton J. McLeod, Circuit Court Judge

RECEIVED
OCT 31 2019
SC Court of Appeals

CASE NO. 09-CP-40-01307
CASE NO. 13-CP-40-02159

Frieda H. Dortch, Appellant,

v.

City of Columbia, Planning & Development Services/Zoning Division a/k/a City of Columbia
Board of Zoning Appeals, Respondent.

APPELLANT’S REPLY TO RESPONDENT’S OCTOBER 22
OPPOSITION TO MOTION
TO EXCEED PAGE LIMIT

Appellant submits that Appellant has correctly assessed what is necessary for Appellant to adequately present the issues Appellant has included in Appellant’s appeal.

As stated in Appellant’s motion, the facts and arguments are naturally lengthened in this appeal, even in the briefest discussion, in that this appeal is from a consolidation of two Circuit Court cases which are reviews of three zoning board decisions from three zoning board proceedings.

As stated in the motion, the undisputed factual background is obviously longer than in some one-or-two issue appeals arising from one Circuit Court case. The statement of the case is supposed to include such matters as may have affected the appeal, or may throw light upon the questions involved, and is required, at minimum, to include numerous matters, including the nature of the matter, the nature of the defense or response, the action taken by those making decisions, the nature of those decisions, and the dates of various proceedings and acts.

In this appeal, the incipient background facts and the procedural facts both form the bases for appellate arguments.

This appeal includes more than one constitutional argument under more than one constitution. The procedural facts include the manner of conduct of proceedings, and include the rulings, and failures to rule, of the zoning administrator, zoning board and Circuit Court, and include the reasons given, and not given, by the zoning administrator and the zoning board.

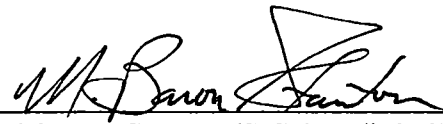
Among the issues on appeal are the following: The constitutionality of the retroactive application of a zoning ordinance to prohibit a use that already existed; the constitutionality of procedures of the zoning board in relying on information not in evidence, relying on information not even known to the party applying or appealing to the board, or relying on information from persons purporting to speak for anonymous people not present; and the constitutionality of a scope of review urged by Respondent to be applicable to zoning board variance proceedings.

In addition, outside of strictly constitutional principles, the appeal includes arguments as to the applicability or enforceability of certain statutes and ordinances, and assigns error and arbitrariness to numerous matters involved in the variance decisions of the board.

As explained in the motion, numerous issues are presented on appeal, and in addition to extra pages for a still concise statement of case, at least six extra pages are necessary for the discussion of the scope of review of a zoning board's variance decision.

For these reasons and those in the motion, leave to exceed the ordinary limit should be granted. As it turns out, the brief has been filed and is 60 pages. Appellant still consents in the event Respondent similarly needs to exceed the ordinary limit.

Respectfully submitted,



M. Baron Stanton (S.C. Bar #7970)
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ATTORNEY FOR APPELLANT
FRIEDA H. DORTCH

Date: October 29, 2019

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IN THE COURT OF APPEALS

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CASE NO. 13-CP-40-02159

Frieda H. Dortch, Appellant,

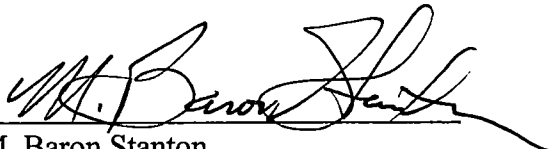
v.

City of Columbia, Planning & Development Services/Zoning Division a/k/a City of Columbia
Board of Zoning Appeals, Respondent.

CERTIFICATE OF SERVICE

I, M. Baron Stanton, do hereby certify that I have, on October 29, 2019,
served the foregoing **Reply** upon the Respondent by causing a copy thereof to be mailed with
proper postage to the address indicated below:

Peter M. Balthazor, Esquire
P. O. Box 11412
Columbia, SC 29211


M. Baron Stanton

STANTON LAW OFFICES, P.A.

POST OFFICE BOX 245
COLUMBIA, SOUTH CAROLINA 29202

1728 MAIN STREET
COLUMBIA, SOUTH CAROLINA 29201

October 29, 2019

TELEPHONE 803-929-1484
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M. BARON STANTON
ATTORNEY AT LAW

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

Re: **Frieda H. Dortch**, Appellant v. City of Columbia, Planning & Development
Services/Zoning Division a/k/a City of Columbia Board of Zoning Appeals,
Respondent
Case No. 09-CP-40-1307
Case No. 13-CP-40-02159
Appellate Case No. 2019-000868

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SC Court of Appeals

Dear Ms. Kitchings:

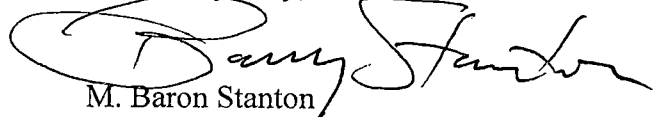
We enclose the following:

1. The original and six (6) copies of a reply to Respondent's October 22 opposition to our motion to exceed page limit (including in the document, certificate of service).

The Respondent's Return came with a letter dated October 21 and bore a certificate of service recounting October 21 as the service date, but the certificate was also dated October 22, the same date as the date of the Return itself. The discrepancy does not concern us, but as the envelope was also metered October 22, we determined that our reply herein was due today, October 29. If we have determined incorrectly, I hope the Court will excuse the difference without further motion, but of course I will oblige if determined necessary.

With kind regards,

Yours very truly,


M. Baron Stanton

MBS:dmy
Enclosures

cc w/encl.: Peter M. Balthazor, Esquire



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