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February 20, 2013

**VIA HAND-DELIVERY**

Honorable Daniel E. Shearouse  
Clerk of Court  
The Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, South Carolina 29211

RECEIVED

FEB 20 2013

S.C. Supreme Court

Re: *Windy Price v. Horry County Election Commission*  
Appellate Case No. 2012-213489  
Lower Court or Tribunal No. 2012-CP-26-04403

and

*Retha Pierce v. Atlantic Beach May 22, 2012 Election*  
Appellate Case No. 2012-212914  
Lower Court or Tribunal No. 2012-CP-26-04404

Dear Mr. Shearouse:

Please allow this letter to serve as a reply to Jason Luck's letter, dated February 12, 2013, in which he objected to the consolidation of the Retha Pierce and Windy Price appeals referenced above. (A copy of Mr. Luck's letter is attached hereto.) We respectfully disagree with Mr. Luck's position and ask the Supreme Court to consolidate the appeals for the reasons stated below.

Consolidation is appropriate with respect to these two appeals. Rule 214 of the South Carolina Appellate Court Rules provides as follows:


Where there is more than one appeal from the same order, judgment, decision or decree, or ***where the same question is involved in two or more appeals in***

*different cases*, the appellate court may, in its discretion, order the appeal to be consolidated.

(Emphasis added.) Here, the issues are identical – whether the Town of Atlantic Beach’s mayoral race on May 22, 2012 was proper. The appeals arise from the protests of the same election, in which Pierce received five (5) of the ninety-one (91) votes cast and Price received one (1) vote. The certified mayoral winner, Jake Evans, who received eighty-four (84) votes, has not yet been seated as Mayor of the Town of Atlantic Beach due to these two appeals. Thus, judicial economy and efficiency are best served from resolving these matters together.

While slight factual differences may exist, the Court has held “In municipal election cases, this Court will review the lower decision for errors of law, and will not overturn findings of fact unless those findings are wholly unsupported by the evidence.”) *See In re Nov. 4, 2008 Bluffton Town Council Election*, 385 S.C. 632, 636, 686 S.E.2d 683, 685 (2009) Therefore, any slight factual differences are not sufficient to prevent consolidation. The Pierce and Price appeals involve the same question; thus, pursuant to Rule 214, we respectfully request that the Supreme Court consolidate the appeals.

Sincerely,

  
Robert E. Tyson, Jr.

RETjr:

Enclosure

cc: Jason Scott Luck, Esquire (via U.S. Mail, w/ enclosure)  
Retha Pierce (via U.S. Mail, w/ enclosure)  
J. C. Nicholson, II, Esquire (via U.S. Mail, with enclosure)  
Sanford C. Graves, Esquire (via U.S. Mail, with enclosure)  
Bess J. DuRant, Esquire (via email)