

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas
Gordon G. Cooper, Master-In-Equity
Trial Court Case No. 2011-CP-42-0500

Appellate Case No. 2019-000404

RECEIVED
FEB 20 2020
SC Court of Appeals

Super Suds, LLC, Appellant,

v.

Carolina Properties Holdings, LLC, Walter W. Parker, IV, the United States of America by and through the U.S. Small Business Administration, Carolina Clean Greer I, LLC, and Community Development & Improvement Corporation, Defendants,

Of Which Carolina Properties Holdings, LLC, and Walter W. Parker, IV are the Respondents.

APPELLANT’S MOTION TO DISMISS APPEAL

Pursuant to Rules 240 and 260(c), SCACR, Appellant Super Suds, LLC (“Super Suds”) moves this Court for an Order dismissing Super Suds’ appeal in this matter. The basis for this Motion is that Super Suds reached an agreed-upon resolution with the U.S. Small Business Administration, ending its need for relief from this Court. Super Suds has recorded the Deed in Lieu, and the Satisfaction of Mortgage from the U.S. Small Business Administration; therefore, the issues upon which Super Suds sought relief from this Court are now moot. A copy of the recorded **Deed in Lieu is attached hereto as Exhibit A**, and a copy of the **Satisfaction of Lien is attached hereto as Exhibit B**.

“A case becomes moot, when judgment, if rendered, will have no practical legal effect upon existing controversy.” *Matthis v. S.C. State Highway Dep’t*, 260 S.C. 344, 195 S.E.2d 713

(1973). Because Super Suds has recorded its deed and merged title, Super Suds does not require further relief from the Court and its claims are moot. Accordingly, the Court of Appeals should dismiss this matter.

Super Suds stands ready to pay the costs of appeal and the court-specified attorney's fee of \$2,500.00 to Respondent, pursuant to Rule 222, SCACR, once Respondent sets forth the recoverable costs it has incurred, provided those costs are recoverable under the Appellate Court Rules.

Super Suds will confer with Respondent regarding this Motion to Dismiss, and it will advise if Respondent so consents.

February 20, 2020



Michael B.T. Wilkes (S.C. Bar #6107)

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Wilkes Law Firm, P.A.

127 Dunbar Street, Suite 200

Spartanburg, SC 29306

(864) 591-1113

Attorneys for Appellant Super Suds, LLC

EXHIBIT A

SCHEDULE "A"

ALL that piece, parcel or lot of land, with all improvements thereon or to be constructed thereon, being shown as 0.56 acres on a survey for Jones Cooley and Raja Marzouca, dated April 24, 2003, by Site Design, Inc. recorded in Plat Book 154, Page 279, in the Spartanburg County ROD Office.

This being the same property conveyed to the Grantor herein by Jones M. Colley, Jr. and Rajai Y. Marzouca recorded in the Spartanburg County ROD office on August 26, 2005, in Deed Book 83-U at Page 906.

TMS#: 9 03-10 092.00

Grantor's Name: **Carolina Properties Holdings, LLC**

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

AFFIDAVIT FOR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on the back of this affidavit and I understand such information.

2. The property being transferred is located at 14115 E. Wade Hampton Boulevard, Greer, bearing Spartanburg County Tax Map Number 9 03-10 092.00, was transferred by Carolina Properties Holdings, LLC to Super Suds, LLC on October 24, 2011

3. The deed is exempt from the deed recording fee because (See Information section of affidavit):

#13 Deed in Lieu of Foreclosure given to mortgagee.

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes or No

4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as:

Attorney

5. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Responsible Person Connected with the Transaction

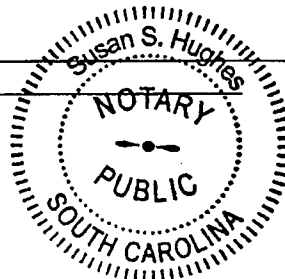
Charles D. LeGrand

Print or Type Name Here

SWORN to before me this 18 day of February 2020

Susan S. Hughes
Notary Public for South Carolina

My Commission Expires: 6/2/2025



INFORMATION

Except as provided in this paragraph, the term "value" means the consideration paid or to be paid in money or money's worth for the realty. Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, a value means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A family partnership is a partnership whose partners are all members of the same family. A family trust is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. A family means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A charitable entity means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
- (11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,
- (12) that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.
- (13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagee or deed pursuant to foreclosure proceedings.
- (14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
- (15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

EXHIBIT B

STATE OF SOUTH CAROLINA
In the Court of Appeals

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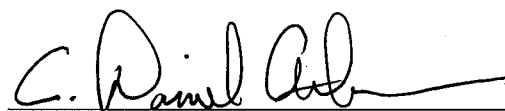
CERTIFICATE OF SERVICE

I certify that I have served Appellant's Motion to Dismiss Appeal on the following counsel of record by depositing a copy of it in the United States Mail, postage prepaid, on February 20, 2019:

Barbara E. Brunson, Esq.
Law Office of Barbara E. Brunson, LLC
P.O. Box 50943
Columbia, SC 29250

Patrick C. Wooten, Esq.
Liberty Center, Suite 600
151 Meeting Street
Charleston, SC 29401
(also served via hand-delivery)

George J. Conits
Assistant U.S. Attorney
55 Beattie Place, Suite 700
Greenville, SC 29601


C. Daniel Atkinson

WILKES LAW FIRM P.A.

MICHAEL B.T. WILKES**
ELLEN S. CHEEK*
C. DANIEL ATKINSON**
J. ALEXANDER JOYNER*
W. SPENCER BARROW

- CHARLESTON OFFICE
- ALSO MEMBER GEORGIA BAR
- ALSO MEMBER NORTH CAROLINA BAR
- CERTIFIED MEDIATOR

WILKES LAW FIRM, P.A.
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200 MEETING STREET, SUITE 205
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843.737.6229

WWW.WILKESLAW.COM

February 20, 2020

Via Hand Delivery

The Honorable Jenny Abbott Kitchings
The South Carolina Court of Appeals
1220 Senate St.
Columbia, SC 29211

**Re: *Super Suds, LLC, Appellant, v. Carolina Properties Holdings, LLC,
et al, Respondents***
In the Court of Appeals for the State of South Carolina
Appellate Case No. 2019-000404

Dear Ms. Kitchings:

Please find enclosed an original and one copy of Appellant's Motion to Dismiss Appeal in the above matter, along with this firm's check in the amount of \$50.00 for the motion filing fee. Please file in accordance with your usual procedures and return to me a filed-stamped copy of the motion via Lori Rogers, the paralegal that is handling this for me.

If you have any questions, please advise.

Sincerely,



C. Daniel Atkinson (S.C. Bar #72721)
datakinson@wilkeslaw.com

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FEB 20 2020

SC Court of Appeals

CDA:jjjs

Enclosures

cc (via hand delivery): Patrick C. Wooten, Esq.

cc (via U.S. Mail): All other Counsel of Record