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May 27 2020

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Mikell R. Scarborough

Case No. 2018-CP-10-00749

Appellate Case No. 2019-002044

CAHOC 8, LLC, Respondent,

v.

King and Calhoun, LLC a/k/a King and Calhoun, LLC a/k/a K&C, LLC, Curtis Corp., and
Werner Real Estate Holdings, LLC, and Thalhimer Charleston, LLC, Defendants,

Of which King and Calhoun, LLC a/k/a King and Calhoun, LLC a/k/a K&C, LLC, Curtis Corp.,
and Werner Real Estate Holdings, LLC are the Appellants.

**RESPONDENT'S OPPOSITION TO APPELLANTS' (THIRD) MOTION FOR AN
EXTENSION OF TIME TO FILE INITIAL BRIEF AND DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

The Respondent, by and through its undersigned counsel, hereby submits its opposition to Appellants' (Third) Motion for an Extension of Time to File Initial Brief and Designation of Matter requesting an additional thirty-day extension without any specific support, rationale, or advance consultation with Respondent.

This Court previously granted requests for extensions on March 4, 2020, and April 30, 2020, each time extending the Appellants' deadline to file by 30 days.

Respondent requests that the Court deny Appellants' third Motion for an Extension of Time and require Appellants' to file their initial brief and designation of matter. It should be denied not

only for failure to specify justification and failure to consult before filing, but also because Respondent is being prejudiced by these continuing delays.

This is an appeal of a partial summary judgment; Appellants used this appeal to stay the trial of the underlying action. Respondent has noted to the Trial Court that the appealed issues are distinct from, and not affected by, the remaining issues; and Respondent has requested that the remaining issues be again set for trial. Until Appellants submit an initial brief detailing the issues on appeal, Appellants will be able to obfuscate in the Trial Court as to an alleged inter-dependency of appealed issues and un-appealed issues – causing a continued delay in this matter.

Additionally, Respondent is a restaurant and sports bar in downtown Charleston, and is suffering the economic downturn caused by the COVID-19 pandemic. Continued delays simply increase the cost of this litigation and the cost of doing business, at a time when no one can afford such, Respondent included. Respondent understands and is sympathetic to the need for flexibility and civility in the current climate; however, the prejudice to Respondent by this continued delay must also be considered.

Conclusion

Respondent prays the (Third) Request for an Extension be denied and that the initial brief of the Respondent be filed and served in seven (7) calendar days.

JUSTIN O'TOOLE LUCEY, P.A.

/s/Justin O'Toole Lucey _____

Justin O'Toole Lucey

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Attorneys for Respondent

Mount Pleasant, SC
May 27, 2020

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Of which King and Calhoun, LLC a/k/a King and Calhoun, LLC a/k/a K&C, LLC, Curtis Corp.,
and Werner Real Estate Holdings, LLC are the Appellants.

PROOF OF SERVICE

I certify that I have served the Respondent's Opposition to Appellants' Motion for
Extension of Time to File Initial Brief and Designation of Matter via Electronic Mail on
May 27, 2020, addressed to G. Hamlin O'Kelley, III, Esquire, Buist, Byars & Taylor, LLC, 652
Coleman Boulevard, Suite 200, Mount Pleasant, SC 29464.

JUSTIN O'TOOLE LUCEY, P.A.

/s/Justin O'Toole Lucey

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May 27, 2020

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

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SC Court of Appeals

Re: *CAHOC 8, LLC v. King and Calhoun, LLC, et al*
C.A. No.: 2018-CP-10-00749
Appellate Case No.: 2019-002044

Dear Ms. Kitchings:

Enclosed for filing please find the Respondent's Opposition to Appellants' Motion for Extension of Time and Proof of Service in the above-referenced matter. Please file the originals and email the file-stamped copies to me at your convenience. By copy of this letter to all counsel of record, I am serving them with a copy of the same.

Thank you for your assistance with this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Lee Ellen Weiland
Paralegal

/lw
Enclosures
cc/enc: G. Hamlin O'Kelley, III, Esq. (*Via E-mail*)