

The South Carolina Court of Appeals

CareAlliance Health Services, d/b/a Roper St. Francis
Healthcare, Roper Hospital, Inc., Bon Secours-St. Francis
Xavier Hospital, Inc., Roper St. Francis Berkeley
Hospital and Roper Mount Pleasant Hospital,
Respondent,

v.

South Carolina Department of Health and Environmental
Control and Medical University Hospital Authority, d/b/a
MUHA Community Hospital, Respondents,

AND

Walterboro Community Hospital, Inc, d/b/a Colleton
Medical Center, Appellant,

v.

South Carolina Department of Health and Environmental
Control and Medical University Hospital Authority, d/b/a
MUHA Community Authority, Respondents,

AND

Trident Medical Center, LLC, d/b/a Trident Medical
Center and Summerville Medical Center, Appellants,

v.

South Carolina Department of Health and Environmental
Control and Medical University Hospital Authority, d/b/a
MUHA Community Hospital, Respondents.

Appellate Case No. 2020-001323

ORDER

Trident Medical Center, LLC d/b/a Trident Medical Center and Summerville Medical Center ("Trident") and Walterboro Community Hospital d/b/a Colleton Medical Center ("CMC") (collectively, Appellants) appeal the Administrative Law Court's (ALC's) order affirming the Department of Health and Environmental Control's (DHEC's) decision to issue a Certificate of Need (CON) to Medical University Hospital Authority d/b/a MUHA Community Hospital ("MUHA") for a hospital located in Berkeley County.¹

Section 44-7-220(B) of the South Carolina Code (2018), requires that Appellants post an appeal bond to perfect their appeals; however, Appellants have moved for relief from the bond requirement, arguing the statutory requirement is unconstitutional. Appellants further request that this court stay any dismissal of their appeals for failure to deposit the appeal bonds within the five-day time frame required by section 44-7-220(B). Respondents have moved to dismiss the appeals, arguing Appellants' failure to post the bonds, as well as their concession that they will not do so, mandates dismissal.

We deny Appellants' requests for relief from the application of the appeal bond statute; however, Appellants' requests to stay dismissal of their appeals are granted to the extent that Appellants shall post a collective \$1.5 million bond by Friday, December 4, 2020, or their appeals will be dismissed.² We deny Respondents' motion to dismiss at this time.³

¹ CareAlliance Health Services d/b/a Roper St. Francis Healthcare, Roper Hospital, Inc., Bon Secours-St. Francis Xavier Hospital, Inc., Roper St. Francis Berkeley Hospital, and Roper Mount Pleasant Hospital ("Roper") joined in Appellants' motion; however, Roper and MUHA agreed to the dismissal of Roper's appeal; this court issued an order dismissing Roper's appeal on October 26, 2020.

² This December 4 deadline reflects our consideration of section 44-7-220(B)'s five calendar day deadline as well as the Thanksgiving holiday closings.

³ Nothing in this order prevents the parties from presenting arguments in their briefs addressing the issues raised in the current motions.

James E. Lasker

C.J.

Stephen P. McDonald

J.

D. Hanlin

J.

Columbia, South Carolina

cc:

Jennifer Joan Hollingsworth, Esquire

Shannon Vogan Lipham, Esquire

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Mary Elizabeth Crum, Esquire

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Rupinderjit Singh Grewal, Esquire

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William R. Thomas, Esquire

Faye Anne Flowers, Esquire

Robert L. Widener, Esquire

FILED

Nov. 25, 2020