

THE STATE OF SOUTH CAROLINA
in the Court of Appeals

APPREAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

RECEIVED
Dec 10 2020
SC Court of Appeals

Case No. 2020-CP-40-03475
Appellate Case No. 2020-001586

University Hill Neighborhood Association.Plaintiff/Respondent

City of Columbia, City of Columbia Design and Development Review Commission and Trinitas Ventures LLC.Defendants/Appellants

RESPONDENT’S MOTION TO DISMISS APPEAL

City of Columbia, City of Columbia Design/Development Review Commission, and Trinitas Ventures LLC (collectively “Appellants”), have appealed the Order dated October 7, 2020, of the Honorable L. Casey Manning denying the Defendants’ Motions to Dismiss and the Order dated November 19, 2020, denying Defendants’ Motions to Alter, Amend, or Reconsider pursuant to Rule 59(e), SCRCF.

Respondent University Hill Neighborhood Association moves to dismiss this appeal on the ground that the denial of a motion to dismiss is not a final order and is, therefore, not appealable. More specifically, the denial of a Rule 12(b)(1) motion to dismiss cannot be appealed before a

final judgment. *Woodward v. Westvaco Corp.*, 319 S.C. 240, 460 S.E.2d 392 (1993), *overruled on other grounds by Sabb v. South Carolina State Univ.*, 350 S.C. 416, 567 S.E.2d 231 (2002). Similarly, the denial of a Rule 12(b)(6) motion to dismiss cannot be appealed. *Moyd v. Johnson*, 289 S.C. 482, 347 S.E.2d 97 (1986).

For reasons given in this Motion, Defendants' appeal should be dismissed.

Respectfully submitted,

s/Richard A. Harpootlian
Richard A. Harpootlian (SC Bar No. 2725)
RICHARD A. HARPOOTLIAN, P.A.
1410 Laurel Street (29201)
Post Office Box 1090
Columbia, South Carolina 29202
(803) 252-4848
(803) 252-4810 (facsimile)
rah@harpootlianlaw.com

F. Patrick Hubbard (SC Bar No. 12614)
Attorney for Plaintiff
University of S.C. School of Law
1525 Senate Street
Columbia, SC 29208
(803) 422-6762
phubbard@law.sc.edu

ATTORNEYS FOR
PLAINTIFF/RESPONDENT

December 10, 2020
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
in the Court of Appeals

APPREAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning. Circuit Court Judge

RECEIVED

Dec 10 2020

SC Court of Appeals

Case No. 2020-CP-40-03475
Appellate Case No. 2020-001586

University Hill Neighborhood Association.Plaintiff/Respondent

City of Columbia, City of Columbia Design and Development Review Commission and Trinitas Ventures LLC.Defendants/Appellants

CERTIFICATE OF SERVICE

Pursuant to the Supreme Court’s Order “RE: Operation of the Appellate Courts During the Coronavirus Emergency,” dated March 20, 2020, the undersigned hereby certifies a true copy of Plaintiff/Respondent’s Motion to Dismiss Appeal is being served upon Lyndey R.Z. Bryant, W. Cliff Moore, III, and Kirby D. Shealy, III, attorneys for Trinitas Ventures, LLC, M. McMullen Taylor, attorney for City of Columbia and Peter M. Balthazor, attorney for City of Columbia Design/Development Review Commission at the primary e-mail address listed in the Attorney Information System on this 10th day of December 2020.

Respectfully submitted by,

s/Richard A. Harpootlian
Richard A. Harpootlian (SC Bar No. 2725)
RICHARD A. HARPOOTLIAN, P.A.
1410 Laurel Street (29201)
Post Office Box 1090

Columbia, SC 29202
(803) 252-4848
(803) 252-4810 (facsimile)
rah@harpootlianlaw.com

December 10, 2020
Columbia, South Carolina.

