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Dec 21 2021

SC Court of Appeals

October 18, 2021

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

Re: **Frieda H. Dortch**, Appellant v. City of Columbia, Planning & Development
Services/Zoning Division a/k/a City of Columbia Board of Zoning Appeals,
Respondent
Case No. 09-CP-40-1307
Case No. 13-CP-40-02159
Appellate Case No. 2019-000868

Dear Ms. Kitchings:

I write to follow up on the South Carolina Supreme Court's Order dated June 6, 2019.

That order directs that if after the final briefs are filed, the Court of Appeals determines that this appeal does in fact involve a challenge on state or federal grounds to the constitutionality of a municipal ordinance where the principal issue is one of constitutionality of the ordinance, the Court of Appeals should transfer the case under Rule 204(a) back to the South Carolina Supreme Court.

The final briefs are filed. Issue on Appeal Number One is whether applying City Ordinance §17-202(e) to allow retroactive application of City Ordinance §17-275 is unconstitutional. Of the approximately 29 pages of argument in the opening brief, approximately 13 are devoted to Issue on Appeal Number One.

The brief contains other outcome-determinative substantial constitutional issues as well, such as, for instance, within a four-page discussion of standard of review at pages 38-42, assertion that the substantial-evidence standard of review for appeal of zoning board decisions is unconstitutional.

The respondent's brief agrees at page 9 that the principal issue addressed by the Appellant in the appeal to this Court is whether the application of the zoning ordinance unconstitutionally terminated her vested rights.

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The Appellant's reply brief also devotes approximately six pages to argument of the unconstitutionality of applying the city ordinances to destroy vested rights. The reply brief also devotes approximately five pages to the unconstitutionality of the standard of review applied below and urged by the respondent on the present appeal.

I wrote to you on September 4, 2020 and on February 22, 2021 inquiring about the transfer pursuant to the S.C. Supreme Court's order, but did not receive a reply.

With kind regards,

Yours very truly,

M. Baron Stanton

MBS:dmy
Enclosures

cc: Peter M. Balthazor, Esquire

