RECEIVED

MAY 20 2022

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Benjamin H. Culbertson, Circuit Court Judge
Case No. 2020-CP-26-00785

APPELLATE CASE NO. 2021-001074

ANI CREATION, INC. d/b/a Rasta; ANI CREATION, INC. d/b/a Wacky T's; BLUE SMOKE, LLC d/b/a Doctor Vape; BLUE SMOKE, LLC d/b/a Blue Smoke Vape Shop; ABNME, LLC d/b/a Best for Less; KORETZKY, LLC d/b/a Grasshopper; RED HOT SHOPPE, INC.; E.T. SPORTSWEAR, INC. d/b/a Pacific Beachwear; MYRTLE BEACH GENERAL STORE, LLC; I AM IT, INC. d/b/a T-Shirt King; and BLUE BAY RETAIL, INC. d/b/a Surf's Up, Petitioners,

Appellants

vs.

CITY OF MYRTLE BEACH BOARD OF ZONING APPEALS and KEN MAY, ZONING ADMININISTRATOR FOR CITY OF MYRTLE BEACH, Respondents,

Respondents

FINAL REPLY BRIEF OF APPELLANTS

Reese R. Boyd, III (S.C. Bar No. 7151)
Davis & Boyd, LLC
1110 London Street, Suite 201
Myrtle Beach, SC 29577
(843) 839-9800
reese@davisboydlaw.com

Gene M. Connell, Jr. (S.C. Bar No. 1358)
KELAHER, CONNELL & CONNOR, P.C.
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
(843) 238-5648 (phone)
(843) 238-5050 (facsimile)
gconnell@classactlaw.net

Attorneys for Appellants

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Other Authorities

Constitutional Provisions

The Appellants offer the following reply arguments in response to Respondent's Initial Brief.

ARGUMENT

I. THE APPELLANTS HAD A GOOD FAITH RELIANCE ON A ZONING ORDINANCE WHEN THEY OPENED THEIR BUSINESSES.

Appellants have in good faith relied upon the City of Myrtle Beach and the various zoning ordinances when they opened their businesses many years ago on Ocean Boulevard in the OBEOD. Appellants have been in business continuously for over 30 years and have sold cigarettes, novelty items, pipes and more recently CBD oil without restriction. Once the OBEOD Ordinance was enacted Appellants were told they could no longer sell those items or risk fines or imprisonment for violation of the zoning ordinances. Appellants obtained an injunction from the United States District Court to keep the City from enacting the draconian policy. (R. p. 65).

This Court has held that a good faith reliance upon a zoning ordinance existing at the time a business was commenced creates a vested right that withstands ordinance changes. In *Pure Oil Division v. City of Columbia*, 254 S.C. 28, 173 S.E.2d 140 (1970), this Court held that good faith reliance is a defense to a change in a zoning ordinance. Underlying this general rule is the policy concern that a business owner should be able to rely on a zoning ordinance when he opens a business. South Carolina is one of about half a dozen states that limits the retrospect application of zoning ordinances.[1]

[1] Other states include Pennsylvania, California, Illinois, and by implication Idaho. *See, e.g. City of Los Angeles v. Superior Court*, 34 Cal. Rptr. 161 (Dist. Ct. App. 1963); *Lomond, Inc. v. City of Idaho Falls*, 92 Idaho, 595, 448 P.2d 209 (1968); *Westerheide v. Obernueferman*, 3 Ill. App. 3d 996, 279 N.E. 2d 402 (1972); *Boron Oil Co. v. Kimple*, 445 Pa. 327, 284 A.2d 744 (1971). *See generally* Annot, 50 A.L.R. 3d 596, 620-32 (1973). Several states do not allow zoning statutes to have any retroactive effects. See 3 A. Rathkopp, The Law of Zoning and Planning, note 10, at 57-4 to -6.

In sum, this Court' policy has consistently been that a citizen should be able to depend upon the laws of its municipality. A citizen with an existing business who is selling products should not lose his vested right to sell those products just because the zoning ordinance is changed by the City.

The language of *Pure Oil Division v. City of Columbia* is telling:

> We see no sound reason to protect vested rights acquired after a permit is issued, and to deny such protection to similar rights acquired under an ordinance as it existed at the time a proper application for permit is made. In both instances, the right protected is the same, that is, the good faith reliance by the owner on the right to use his property as permitted under the zoning ordinance in force at the time of the application for a permit. There are no intervening considerations of public necessity involved under the facts of this case. 254 S.C. at 34, 135, 173 S.E.2d at 143.

See also *Kerr v. City of Columbia*, 232 S.C. 405, 102 S.E.2d 364 (1958) (This court held that the owner was entitled to the permit in accordance with the vested rights acquired by her under the ordinance of the Town of Eau Claire, and that the City of Columbia stood "in Eau Claire's shoes". Since Eau Claire could not deny the permit, because rights had become vested, neither could the City of Columbia, even if the latter's zoning ordinance applied so as to change the classification of this owner's property from business to residential.) .

This Court in *Pure Oil* made it clear that vested rights are protected. It said:

> The *Kerr* case is authority for the principle that vested rights acquired under a zoning ordinance in effect at the time of the application for a permit will be protected even against a change in the zoning ordinance and controls our decision here on this issue. 173 S.E.2d at 144.

II. THE OBEOD ORDINANCE IS UNREASONABLE AND ARBITRARY.

The City of Myrtle Beach is the only municipality in South Carolina to require an existing business stop selling legal products to its customers. When the OBEOD ordinance passed, the Appellants were legally operating and selling items which the OBEOD ordinance made illegal on December 31, 2018. These same products (CBD oil, pipes, smoking materials, cigarettes) are all

legally sold throughout the State of South Carolina except in the narrow OBEOD between 6th Avenue South and 16th Avenue North in Myrtle Beach. These same products are sold at every gas station, variety store, big box store, pharmacy and supermarket throughout the City. However, because the City indicates those items are not "family friendly" and fails to define what that means, the store owners in the OBEOD are prohibited from selling the same products that are legally sold elsewhere throughout the City. Further, the City does not explain why those same products are legal for sale throughout the rest of the city and that the "family friendly" argument does not apply to those stores. See *Wyndham Enterprises v. North Augusta*, 401 S.C. 144, 735 S.E.2d 659 (2012) (court reverses trial court in zoning dispute when other fireworks stores are located directly across the street from appellants proposed fireworks store and another fireworks store that was located nearby).

Also, the City of Myrtle Beach argued that the OBEOD is based on the "historically known old downtown" district of Myrtle Beach. However, this is not the case. The historically old downtown area of Myrtle Beach includes the center part of the city including the old Chapin shopping center, the Flat Iron building and various other buildings which front on U.S. Highway 17 Business. In those buildings the same products which can't be sold in the OBEOD can be sold legally. See *Cosmopolitan National Bank v. Niles*, 454 N.E. 2d 703 Ill. App. Ct. (1983) (denial of McDonald's permit for fast-food restaurant unreasonable when four other restaurants existed and there was a "clear, commercial pattern."). Thus, the City impermissibly discriminates in allowing the products to be sold in parts of the historic downtown section of Myrtle Beach while not allowing them to be sold in the area between 6th Avenue South and 16th Avenue North Ocean Boulevard. This, of course, is a clear violation of Appellants' constitutional rights because those same products had been sold up until the ordinance was enacted. Further, Respondent's Brief admits and concedes that these same items are sold in other parts of the "historic downtown" section of Myrtle Beach which completely

undercuts Respondent's argument that the OBEOD is based on the boundaries of the old downtown district of Myrtle Beach.[2]

Thus, the OBEOD is unconstitutional. In fact, by its own terms, the OBEOD unfairly discriminates in favor of some merchants who can sell the banned products while other merchants within a stone's throw cannot sell the banned products. As a result, this Court must hold that the City of Myrtle Beach's zoning scheme is fatally deficient as a matter of law.

III. THE OBEOD ORDINANCE DOES NOT DEFINE THE TERM "FAMILY FRIENDLY" AND IS VOID FOR VAGUENESS.

The OBEOD Ordinance does not define "family friendly" and the City's brief argues that the continued sale of CBD consumables, tobacco, and tobacco products along with heightened risks of negative aesthetic impacts give it authority to require the businesses in the OBEOD not to sell these products. This premise is false. There is no law regulating the sale of CBD consumables in South Carolina. CBD products are sold everywhere throughout South Carolina to anyone regardless of age. First, Appellants do not sell tobacco to minors as this is against State law and there is nothing in this record that Appellants have ever sold tobacco to minors. Second, the sale of tobacco rolling papers, pipes and related products are also allowed throughout the state and there are no restrictions on its sale. Third, the City's argument that there is a heightened risk of negative aesthetic impacts is incorrect and logically flawed. As an example, stores in the OBEOD cannot sell the banned products while across the street and indeed throughout the City those same products are sold. It can hardly be argued that if those products are sold throughout the City that there would be negative aesthetic impact

[2] The OBEOD Ordinance does not define "family friendly" or how it is to be interpreted thus making the term vague. Here, the City intended to discriminate against Appellants' businesses but provides no basis in the OBEOD Ordinance for its action.

only in the OBEOD. In fact, Appellants' real property is worth less since it cannot sell all the consumer products other merchants can legally sell in the same area of the city.

IV. EXPERT TESTIMONY WAS OFFERED BY APPELLANTS.

The City argues that no expert testimony was offered; however, the City fails to address the Affidavit of Carl Sivertsen. (R. p. 470). Sivertsen, a prior member of the Planning Commission, made the following observations about the OBEOD Ordinance:

> A citywide ban of these products was discussed by the Planning Commission and felt to be the only fair method for all merchants in the city. I, along with other Planning Commission members could not understand why other areas of the city could sell the same products that are being banned in the ordinance. As an example, the products which are currently banned are being sold at Broadway at the Beach and at the Mall of South Carolina, specifically, Spencer's Gifts, could sell the same products that are banned on the Boulevard.
>
> I also raised concerns over how these products were going to be banned over a short period of time such that it would become illegal to sell such products. Many of the merchants in the affected area have this merchandise in their stores and would be unable to sell it. A more consistent way to ban such products would be to allow those merchants who are selling the products to continue to sell the products until they eventually went out of business.
>
> As a Zoning Administrator and Planning Commissioner with over 25 years of experience and one who has testified before, it is my expert opinion that the City of Myrtle Beach Ordinance 2017-23 for the Ocean Boulevard area between Sixth Avenue South and Sixteenth Avenue North is arbitrary and capricious and would not pass constitutional muster.
>
> (Affidavit of Sivertsen, R. pp. 471-472)

Sivertsen's Affidavit clearly exposes the fallacy of the City's argument about the sale of these same products at Broadway at the Beach, the big box stores and around the City, but not in the OBEOD. Further Sivertsen's Affidavit exposes the fact that the right to sell these products when people are already in business was being impaired by failing to have any escape clause or grandfather

clause in the OBEOD Ordinance. Indeed Sivertsen's testimony, coupled with the testimony of Wilkes, clearly shows the folly of the City's enactment of the OBEOD zoning ordinance.

It is without dispute that this case centers around businesses who were legally selling products prior to the adoption to the OBEOD ordinance which the OBEOD ordinance now makes illegal. This case has nothing to do with the neighbor's greener pasture lawsuit as described in Respondent's brief but has everything to do with the sale of legal products. Respondent in its brief argues there are different districts throughout the City with permitted and prohibited uses and different regulations conserving the height, the density and the bulk and the type of structure. This is certainly not an applicable argument here as Appellants only seek to sell legal consumer products which are offered throughout the state.

V. THE BOUNDARY OF THE OBEOD IS ARBITRARY AND IRRATIONAL.

Respondent argues in its brief that cases from Virginia including *Fairfax County v. Pyles*, 224 Va. 629, 300 S.E. 2d 794, 84 (1983) are applicable. However, those cases have no application to this case. The boundaries of the OBEOD are completely arbitrary and capricious and violate South Carolina law. As an example, Appellants on the corner of 16th Avenue North and Ocean Boulevard are prohibited from selling the consumer products, while directly across the street less than 20 feet away, a store on the north side of 16th Avenue North would be able to sell the same products. Obviously, the OBEOD is not part of a comprehensive zoning plan since it allows stores around the OBEOD to sell exactly what is prohibited in the OBEOD. It is not "fairly debatable" that the decision of the Myrtle Beach City Council is logical and rational and in fact the City's decision in drawing the boundary lines of the OBEOD is "so unreasonable as to impair Appellants' constitutional rights." See *Byrd v. City of North Augusta*, 261 S.C. 591, 201 S.E.2d 744 (1974).

VI. THE OBEOD ZONING DISTRICT DOES NOT PROMOTE THE GENERAL WELFARE OF THE CITY.

Respondent vigorously argues that the OBEOD was enacted to promote the "general welfare" and "family friendly" values of the City. In fact, the OBEOD is an oppressive measure on the businesses who are already in that district when the ordinance was passed. It is completely illogical to ban legal products from being sold in the OBEOD while those same products can be sold on the outskirts of the OBEOD and throughout the City and in fact throughout the State of South Carolina. The cases that Respondent cites including *Hadacheck v. Sebastian*, 239 U.S. 394, 36 S. Ct. 143, 60 L .Ed. 348 (1915) and *Miller v. Schoene*, 276 U.S. 272, 48 S. Ct. 246, 72 L. Ed. 568 (1928) have no application. In *Hadacheck*, the issue was a law barring the operation of a brick mill in a residential neighborhood. In *Miller* it was an order requiring diseased cedar trees be destroyed to prevent infection of nearby orchards. In this case, merchants in the OBEOD cannot sell the consumer products (cigarettes, CBD oil, tobacco products and pipes) while immediately adjacent to that same area other businesses are allowed to sell such products. This is the height of hypocrisy! Here, the Appellants are severely burdened by the zoning ordinance, and not only have they lost business revenue, but their real properties are significantly devalued because they cannot sell the wide array of consumer products which the other businesses on the outskirts of the OBEOD can do so without restriction.

Respondent also argues that the sale of these products in the OBEOD promotes an atmosphere that is repulsive to mothers and fathers in the care of their children. This argument is completely without basis in fact since the same products are sold on the outskirts of the OBEOD and are sold throughout the City. In fact, vacationers and tourists who are walking in the OBEOD may simply cross the street or an alleyway in some cases, buy the same products which the City finds so repulsive in the OBEOD, and walk back across the street into the OBEOD with those products. This shows the Court "family friendly" is complete nonsense. Further as has been mentioned previously, these are

legal products and Appellants businesses have been made to suffer while other businesses on the outskirts of the OBEOD and throughout the City will actually profit from selling the same products which cannot be sold by Appellants in their stores.

VII. THE RESPONDENT'S ARGUMENT THAT APPELLANTS ARE NOT SUBJECT TO CRIMINAL PENALTIES IS ERRONEOUS.

The Respondent in its brief goes to great length to argue that the OBEOD ordinance does not criminalize the sale of the restricted products in the OBEOD. The Respondent's argument is misleading at best. Under the OBEOD ordinance, Section 1807(f), if Appellants continue to sell the banned products their business license will either be suspended or terminated. Failure to have an active and current business license violates the City of Myrtle Beach ordinances and is a criminal violation. Thus, instead of receiving a civil fine for selling the banned products, Appellants' business license would be suspended or terminated and if Appellants continue to operate, they would be arrested. Also, this is one of the reasons why Appellants filed suit in the United States District Court and obtained an injunction pending the outcome of this litigation. Any way you want to cut it, if Appellants sell the banned consumer products, they are subject to criminal sanctions for the sale of legal consumer products. In this case CBD oil, pipes, cigarettes and the other banned consumer products are legal throughout the state and throughout the City of Myrtle Beach. South Carolina's Constitution Article VIII, Section 14(5) prohibits a municipality from criminalizing behavior which is not criminalized statewide. The Respondent in its argument at page 29 of their brief admits that the City zoning ordinance provides criminal penalties but in the same breath states that it does not criminalize the sale of the restricted products in the OBEOD. This is incorrect since the City would suspend the business license of Appellants and arrest anyone who operated without a license.[3]

[3] See also Section 110 of the Myrtle Beach Zoning Ordinance which makes it a misdemeanor to change the use of or occupy and land…without first obtaining the appropriate permit….

In sum, Appellants are subject to criminal prosecution for the sale of products which are sold legally throughout the state of South Carolina. Obviously, the ordinance fails because it criminalizes conduct allowable throughout the rest of South Carolina. See *Connor v. Town Hilton Head*, 314 S.C. 251, 442 S.E.2d 608 (1994) in which this Court specifically held a town or city may not criminalize conduct that is not unlawful under relevant State law.

VIII. THE CITY OF MYRTLE BEACH ENGAGED IN ILLEGAL SPOT ZONING AND/OR REVERSE SPOT ZONING WHEN IT ADOPTED THE OBEOD.

Respondent argues on page 31 of its brief, that the City of Myrtle Beach did not engage in spot zoning or reverse spot zoning. However, the City of Myrtle Beach fails to address that the relevant case law clearly shows that spot zoning occurred in the OBEOD. The crux of this case is that the OBEOD is a small area of the City of Myrtle Beach and indeed an even smaller area of Ocean Boulevard. The OBEOD is at best 20 blocks in length and at some points only one block wide. The entire length of Ocean Boulevard in the City of Myrtle Beach is more than five miles, and the City has cherry picked a small area of Ocean Boulevard to prohibit the sale of legal consumer products such as CBD oil, cigarettes and smoking materials. How the City can do this when the business character of Ocean Boulevard from 29th Avenue South to 82nd Avenue North has the same stores, hotels, bars and other businesses is mind boggling. The same products that the City refuses to allow Appellants to sell in a small 20 block area can be sold anywhere else on Ocean Boulevard and can be sold throughout the City. How is this "family friendly"? The City's zoning ordinance made it illegal to sell the banned consumer products by certain businesses which had been in operation for over 30 years and had sold those products. The cases cited by Appellants clearly show an intent by the City to argue that the character of Ocean Boulevard is different in different parts of Ocean Boulevard. This is utter nonsense since any merchants outside the OBEOD can sell the same products that cannot be sold inside the OBEOD. It is irrational and arbitrary to argue that the same products which are banned

in the OBEOD can be sold on other parts of Ocean Boulevard and indeed directly across the street from where they are banned when the rest of Ocean Boulevard has the same types of businesses from 29th Avenue South to 82nd Avenue North. How does any of this support the idea the City is "family friendly" and what does "family friendly" mean?

The cases cited by the Appellants from the Florida courts show the City's approval of an unconstitutional zoning change which harmed merchants in that zoning district is illegal The Court in *Debes v. City of Key West*, 690 So.2 700 (Fla. 3d DCA 1997) said it best when it wrote: "The courts...will not and cannot approve a zoning regulation or any governmental action adversely affecting the right of others – which is based on no more than the fact that those who support it have the power to work their will." 690 So. 2d at 703.

Appellants' property was singled out for disparate treatment and represents an impermissible incident of discriminatory spot zoning, or in this context spot zoning in reverse, especially in light of the fact that the physical characteristics described in the OBEOD are the same throughout the Ocean Boulevard section of Myrtle Beach.

IX. THE CITY HAS NO ANSWER FOR THE UNCONSTITUTIONAL TAKING ARGUMENT.

The City argues that there has been no taking of Appellants' property. In this case, Tim Wilkes testified at the October 10, 2019 hearing before the Board of Zoning and Appeals. He testified that his business was in the OBEOD (R. p. 284, line 8); that he had owned it for 30 years (R. p. 284, line 12); that all nine plaintiffs owned businesses in the OBEOD (R. p. 284, lines 13-16); that all the named businesses, like Walmart, sell an array of things, whatever the market is looking for (R. p. 284, lines 17-20); that not being able to sell the same items that the competitor sells across the street would be an economic hardship and put him out of business (R. p. 285, lines 17-21); that there are people selling the same items on 17th Avenue and 7th Avenue which is just across the street from the OBEOD

(R. p. 285, lines 22-25; R. p. 286, lines 1-5); that being unable to sell the same products would affect the property value of properties he owns in the area (R. p. 286, lines 18-24); that pictures he took of CBD oil in the Mall is sold next to the children's area (R. p. 287, lines 17-20); that he would like the Board to grant a variance for the nine businesses (R. p. 295, lines 23-25).

Wilkes' testimony described a partial regulatory taking not unlike the *City of San Antonio v. Eldorado Amusement Co.*, 195 S.W.3d 238 (Tx. App. 2006) in which Eldorado Amusement Co. was no longer able to sell liquor but of course could use the building for other business purposes which were less profitable. Appellants disagree with Respondent's argument and its conclusions of the *Eldorado* case in that obviously the Eldorado Amusement Co. could use the property for other business but could not sell alcohol which was a significant part of its business and thus a governmental taking arose when the permit to sell alcohol was revoked.

In this case, Appellants can sell a variety of goods just not the legal products banned by the City's unconstitutional ordinance. This is clearly a taking and Appellants' revenues and profits are directly affected when competitors can sell those same products next door to them. In sum, the City of Myrtle Beach has intentionally discriminated against Appellants by allowing the same products to be sold immediately outside the OBEOD. Thus, a constitutional taking occurred of Appellants' private property with the enactment of the OBEOD Ordinance.

CONCLUSION

Picture yourself on a summer day in Myrtle Beach, South Carolina at the corner of Third Avenue South and Ocean Boulevard in front of the Pacific Beachwear Store. You would really like a cigarette, so you go into the Pacific Beachwear Store, but a zoning ordinance does not allow the sale of cigarettes. You thus go out of the Pacific Beachwear Store, walk about 100 feet past the Family

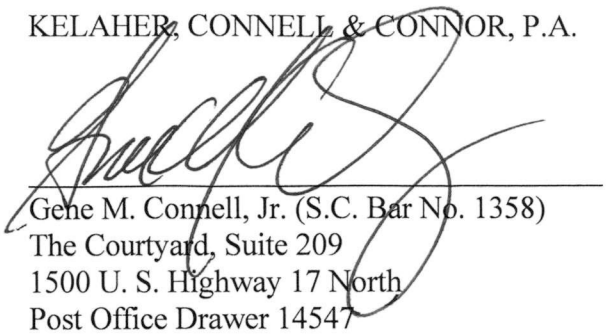
Kingdom Amusement Park and go into another store, buy a pack of cigarettes, come out, and legally smoke those same cigarettes in front of Pacific Beachwear.

Such an arbitrary and capricious scenario has been implemented by the City of Myrtle Beach in enacting the Ocean Boulevard Entertainment Overlay District (OBEOD) for a very small portion of Ocean Boulevard. The tourist, the vacationer, the resident can buy certain items across the street from another store where he or she can't buy those items at all because the City of Myrtle Beach has enacted an onerous and arbitrary zoning ordinance which says that those products (CBD oil, cigarettes, rolling papers and pipes) are not "family friendly" in one area of the city. However, those same products can be sold throughout the City of Myrtle Beach and indeed on other parts of Ocean Boulevard with impunity. If those products are not "family friendly" on part of the Boulevard, why are they acceptable on other parts of the Boulevard or in the rest of the city. The City's reasoning in defending the OBEOD Ordinance is arbitrary, unreasonable and capricious and for this reason this Court must reverse the circuit court.

Respectfully submitted,

(Signatures on following page)

KELAHER, CONNELL & CONNOR, P.A.



Gene M. Connell, Jr. (S.C. Bar No. 1358)
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
(843) 238-5648 (phone)
(843) 238-5050 (facsimile)
gconnell@classactlaw.net

Reese R. Boyd, III (S.C. Bar No. 7151)
Davis & Boyd, LLC
1110 London Street, Suite 201
Myrtle Beach, SC 29577
(843) 839-9800
reese@davisboydlaw.com

May 19, 2022

Attorneys for Appellants

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Benjamin H. Culbertson, Circuit Court Judge
Case No. 2020-CP-26-00785

APPELLATE CASE NO. 2021-001074

ANI CREATION, INC. d/b/a Rasta; ANI CREATION, INC. d/b/a Wacky T's; BLUE SMOKE, LLC d/b/a Doctor Vape; BLUE SMOKE, LLC d/b/a Blue Smoke Vape Shop; ABNME, LLC d/b/a Best for Less; KORETZKY, LLC d/b/a Grasshopper; RED HOT SHOPPE, INC.; E.T. SPORTSWEAR, INC. d/b/a Pacific Beachwear; MYRTLE BEACH GENERAL STORE, LLC; I AM IT, INC. d/b/a T-Shirt King; and BLUE BAY RETAIL, INC. d/b/a Surf's Up, Petitioners,

Appellants

vs.

CITY OF MYRTLE BEACH BOARD OF ZONING APPEALS and KEN MAY, ZONING ADMINISTRATOR FOR CITY OF MYRTLE BEACH, Respondents,

Respondents

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Reply Brief of Appellants complies with Rule 211(b) SCACR.

KELAHER, CONNELL & CONNOR, P.A.

Gene M. Connell, Jr. (S.C. Bar No. 1358)
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547

(843) 238-5648 (phone)
(843) 238-5050 (facsimile)
gconnell@classactlaw.net

Reese R. Boyd, III (S.C. Bar No. 7151)
Davis & Boyd, LLC
1110 London Street, Suite 201
Myrtle Beach, SC 29577
(843) 839-9800
reese@davisboydlaw.com

May 19, 2022

Attorneys for Appellants