

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY

EDWARD HALE, JANE ARONSON,
MICHAEL ARONSON, MARY K. GOETTE,
MARY M. LOUGH, KATHLEEN HUSER,
EMILY SATTERWHITE, PHIL OLSON, LISA
ONEGA, LUCINDA JENNINGS, ROBERT
BEATON, JEANNE BEATON, JANA DOYLE,
MARY ROSS, VAN COBLE, LAUREN
COBLE, THOMAS DILLER, DANIEL
BRESLAU, MARK LATTANZI, GREGG
LUSTIG and ANN LINDEN,

Petitioners,

v.

BOARD OF ZONING APPEALS FOR THE
TOWN OF BLACKSBURG, VIRGINIA;
FAIRMOUNT PROPERTIES LLC;
FAIRMOUNT UNIVERSITY REALTY
TRUST, LLC; DIVERSIFIED INVESTORS
XIII, LLC; AND LLAMAS, LLC,

Respondents.

Civil Action No.: _____
(In Chancery)

PETITION FOR
WRIT OF CERTIORARI

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PETITION FOR A WRIT OF CERTIORARI

TO THE HONORABLE JUDGES OF SAID COURT:

Pursuant to the provisions of Va. Code Ann. § 15.2-2314, Edward Hale, Jane Aronson, Michael Aronson, Mary K. Goette, Mary M. Lough, Kathleen Huser, Emily Satterwhite, Phil Olson, Lisa Onega, Lucinda Jennings, Robert Beaton, Jeanne Beaton, Jana Doyle, Mary Ross, Van Coble, Lauren Coble, Thomas Diller, Daniel Breslau, Mark Lattanzi, Gregg Lustig and Ann Linden (hereinafter the “Petitioners”), here present this Petition for a Writ of Certiorari to the Honorable Judges of this Court to grant and allow a Writ of Certiorari to review the July 31, 2007 decision of the Town of Blacksburg

Board of Zoning Appeals (“BZA”) approving appeal No. BZA070307 (the “Decision”).
The grounds for this appeal are further set forth below.

I. The Parties

1. The Petitioners are taxpayers of the Town of Blacksburg, Virginia (“Town”), who reside in the Town and own property located adjacent to or in close proximity to the property subject to the Decision. Said Petitioners are aggrieved persons who are directly and adversely affected by the Decision, having suffered an actual and/or imminent injury as a direct result of the Decision.

2. The Petitioners rely on the provisions and requirements of the Code of the Town of Blacksburg, Virginia, of 1999, as amended (“Town Code”), and claim that their right to the use and quiet enjoyment of their properties in reliance on the provisions of the Town Code will be directly and adversely affected by the Decision, as further alleged herein.

3. The Town of Blacksburg Board of Zoning Appeals is the entity created by Virginia law to exercise the statutory authority granted by Va. Code Ann. § 15.2-2309. Among the powers vested in the BZA is the power, pursuant to § 1241 of the Town Code, to hear and decide appeals from a vested rights determination by the Zoning Administrator.

4. Fairmount Properties LLC is an Ohio company with its principal offices in Cleveland, Ohio, and conducting business in the Commonwealth of Virginia, among other places, and is the contract purchaser of the subject property. On information and belief, at all times relevant to this proceeding, Fairmount Properties LLC has been a resident of Virginia.

5. On information and belief, Fairmount University Realty Trust, LLC is an Ohio company that has not registered with the State Corporation Commission to do business in Virginia, but has nevertheless been conducting business in the Commonwealth of Virginia, among other places. On information and belief, at all times relevant to this proceeding, Fairmount University Realty Trust, LLC has been a resident of Virginia.

6. Diversified Investors XIII, LLC is a Virginia company with its principal offices in Blacksburg, Virginia, and conducting business in the Commonwealth of Virginia, among other places, and is the owner of the subject property. On information and belief, at all times relevant to this proceeding, Diversified Investors XIII, LLC has been a resident of Virginia.

7. LLAMAS, LLC is a Virginia company with its principal offices in Blacksburg, Virginia, and conducting business in the Commonwealth of Virginia, among other places. On information and belief, at all times relevant to this proceeding, LLAMAS, LLC has been a resident of Virginia. Fairmount Properties LLC, Fairmount University Realty Trust, LLC, Diversified Investors XIII, LLC, and LLAMAS, LLC are collectively referred to herein as the “Applicants.”

II. Nature of the Dispute

A. Ordinance 1450

8. On or about March 27, 2007, the Town Council passed Resolution 3-G-07 that made certain findings regarding the substantial adverse impacts to the public of retail establishments in excess of 80,000 square feet and instructed the Town Attorney to draft an amendment to the Town Code that would limit retail structures in excess of 80,000

square feet to the General Commercial District, where such uses would be permitted only by special use permit.

9. On May 29, 2007, Ordinance 1450 was enacted, which effectuated said changes to the Zoning Ordinance of the Town Code in the form of an amendment.

B. The Applicants' Pre-Approval Proposal for Development

10. On or about January 17, 2006, the Applicants submitted a Request for a Change of Zoning Classification ("Application") to the Town of Blacksburg's Planning and Engineering Department, requesting that Blacksburg Tax Parcels 287-A-27, 287-A-27A, 287-A-28, 287-A-28A, 287-A-41A and 317-A-7 (the "Property") to be conditionally rezoned from Conditional Office and R-4, Low Density Residential, to Conditional General Commercial.

11. In their Application, the Applicants described a "mixed use town center" with "pedestrian-scaled storefronts, [and] small-scale shopping". The last proffers submitted described the development as "an exciting 'main street' retail destination" with "casual elegance and a pedestrian-friendly, tree-lined boulevard" designed to enhance "the current Blacksburg Charm." The development was proffered to be "atypical of ... conventional shopping centers" and instead was described as a "varied and rich experience not found elsewhere in the New River Valley." Request for a Change of Zoning Classification (Jan. 17, 2006) ("Application") at 3; University Towne Centre Environment and Proffer Statement (May 3, 2006) ("Proffer Statement") at 1.

12. In the Application, the Applicants stated as part of the "need and justification for the change in classification" that "[t]he proposed change in both classifications allows greater flexibility and creativity in preparing a plan for *mixed-use and residential development* that fully embody the Town's Comprehensive Plan."

Application at 2 (emphasis added). The Applicants recognized and noted in their Application that the Town's Comprehensive Plan states that "Commercial centers should be integrated with residential uses..." *Id.*

13. The Application and related proposed proffered conditions were revised, amended and considered several times through May 9, 2006, when the last Proffer Statement dated May 3, 2006, was submitted.

14. Following the April 11, 2006 first reading, on May 9, 2006, the Town Council held a second reading and adopted Ordinance 1412 approving the conditional rezoning.

15. Ordinance 1412 expressly requires that the terms and provisions of the Proffer Statement, its incorporated proffer plan, and the Application "shall govern the development and use of" the Property.

C. The Applicants' Post-Approval Proposal for Development

16. Following the conditional rezoning, the Applicants' proposed development underwent a dramatic transformation with the inclusion of a retail structure of over 176,000 square feet with an associated vast parking lot.

17. The Applicants' post-approval proposal does not include mixed-uses or residential development, such as the "attractive townhomes" or condominium units represented in the Application, but instead is entirely commercial.

18. The Applicants' post-approval proposal is the antithesis of the "main street retail" proposal presented to the Town Council in connection with the rezoning request and instead is a typical, conventional big box shopping center that contributes nothing to Blacksburg's charm.

19. The Applicants' post-approval proposal for development and use of the Property conflicts with the Application and Proffer Statement in violation of the express terms, conditions and other provisions of Ordinance 1412.

D. The Applicants' Proposal Evolves But No Preliminary Site Plan is Formally Submitted and All Pre-Submittal Site Plans Have Deficiencies That are Fatal to Any Governmental Approval

20. In the months that followed, the Applicants requested that the Town's Planning and Zoning Department conduct interpretations and preliminary reviews of several pre-submittal "line drawings" and portions of the draft site plans prior to the submission of a site plan for review pursuant to Town Code Art. V, Division 1, § 5100 *et seq.*

21. On or about January 11, 2007, the Applicants requested the Zoning Administrator's interpretation based on "several line drawings" of two proffered designs that affected a portion of the Property, and asked several questions regarding a preliminary site plan drawing, as the Applicants stated they worked to finalize a site plan for submission. Letter from Cowan to Hundley of Jan. 11, 2007, at 1-2.

22. On or about January 22, 2007, Steve M. Hundley, the Zoning Administrator, provided the Applicants with several answers, but stated that "the submitted plan does not comply with several of the other proffers." Letter from Hundley to Cowan of Jan. 22, 2007, at 2.

23. On or about January 26, 2007, the Applicants requested a preliminary review of a proposed proffer plan.

24. In response, on or about February 9, 2007, the Zoning Administrator informed the Applicants that the "buffer yard adjacent to Beeks School does not appear to comply with the proffer condition" and informed the Applicants of several other

problems related to vehicle entrance alignment, use and design standards, and parking lot tree islands. Letter from Hundley to Howard of Feb. 9, 2007, at 1-2.

25. On or about February 23, 2007, the Applicants again sought the input of the Zoning Administrator with respect to a proposed layout noting their understanding “that a full site plan review is required.” Letter from Howard to Hundley of Feb. 23, 2007, at 1.

26. On or about March 6, 2007, as before, in his third review of the revised pre-submittal site plan, the Zoning Administrator pointed out no less than six aspects of the draft site plan that were not in compliance with the proffers. Letter from Hundley to Howard of Mar. 6, 2007, at 1-2.

27. During this time, the Applicants commissioned a traffic impact study based on the proposed site plan of March 20, 2007, that was not yet submitted to the Town, much less approved.

28. Following the Zoning Administrator’s courtesy reviews and comments, the Applicants submitted site plans for First & Main Phases 1 and 2 on May 4, 2007.

29. Following the passage of Ordinance 1450, the Applicants did not apply for a special use permit as the new ordinance required, but instead filed Civil Action CL07001697-00 in the Circuit Court for Montgomery County on May 10, 2007.

30. On May 25, 2007, the Applicants submitted a Traffic Impact Study and Transportation Improvement plan to the Zoning Administrator who responded that they were “not approved” and explained that their completion and submission was premature unless and until the site plan was approved. The Zoning Administrator also noted thirty deficiencies in the Applicants’ submissions. Letter from Hundley to Kimzey of May 25, 2007, at 1-4.

31. On June 18, 2007, the Zoning Administrator made a Determination of Vested Rights (“Determination”) that the Applicants did not have vested rights under Va. Code Ann. § 15.2-2298(B), Va. Code Ann. § 15.2-2307 or otherwise and that, pursuant to Ordinance 1450, a special use permit was required for the proposed retail establishment with gross floor area in excess of 176,000 square feet.

32. On or about June 27, 2007, the Zoning Administrator denied site plan approval of Phase 1 for first review, detailing over one hundred reasons for the denial, including non-compliance with the Proffer Statement. Letter from Hundley to Kimzey of June 27, 2007.

33. On or about August 14, 2007, the Zoning Administrator denied site plan approval of Phase 1 for second review, providing various reasons including continued non-compliance with certain proffers. Letter from Hundley to Kimzey of Aug. 14, 2007.

34. The Applicants have resubmitted another site plan for review on August 27, 2007, that is now being reviewed.

35. The Applicants appealed to the BZA pursuant to Va. Code Ann. § 15.2-2311. The Petitioners participated in the BZA proceedings as interested members of the public entitled to notice of BZA hearings pursuant to Va. Code Ann. § 15.2-2312 as authorized by BZA By-Laws Arts. 3-7, 4-3, 4-6 (Dec. 9, 1998), and offered certain filings in support of the Zoning Administrator’s Determination that have become part of the record in this matter.

36. On July 31, 2007, the BZA reversed the Zoning Administrator’s Determination (“BZA Decision”), finding that the Applicants established vested rights.

37. Being aggrieved by the BZA Decision, the Petitioners now file this Petition for Writ of Certiorari and pray that this Court review the record and enter a decree

reversing the BZA Decision, and affirming the Determination of the Zoning Administrator, for the reasons that follow.

COUNT I – The Zoning Administrator Correctly Determined that Virginia Code § 15.2-2307 Affords the Applicant No Vested Rights

38. Paragraphs 1 through 37 are realleged and replead as if set forth fully herein.

39. The Applicants would only be entitled to vesting under Va. Code Ann. § 15.2-2307 if (i) the Applicants obtained or were the beneficiary of “a significant affirmative governmental act which remains in effect allowing development of a specific project,” (ii) the Applicants relied in good faith on the significant affirmative governmental act, and (iii) the Applicant incurred “extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.”

There Has Been No Significant Governmental Act which remains in effect allowing development of a specific project

40. The courtesies and assistance provided to the Applicants as detailed above in ¶¶ 20 to 26, taken separately or together, do not constitute significant affirmative governmental acts.

41. Without more, a zoning reclassification such as Ordinance 1412 creates no vested right in a property owner. Snow v. Amherst County Board of Zoning Appeals, 248 Va. 404, 408, 448 S.E.2d at 606, 608-09 (1994). See Bd. of Supervisors v. Greengael, L.L.C., 271 Va. 266, 282 (2006); Town of Rocky Mount v. Southside Inv., Inc., 254 Va. 130, 487 S.E.2d 855 (1997); Board of Supervisors of Chesterfield County v. Trollingwood Partnership, 248 Va. 112, 445 S.E.2d 151 (1994).

42. Said assistance received by the Applicants from the Zoning Administrator, before the Applicants ever submitted a preliminary site plan for review, falls short of the significance requirement of § 15.2-2307, which requires at the very least the approval of a preliminary site plan. Opinion of Robert F. McDonnell, Attorney General, 2006 Va. AG LEXIS 38 (Oct. 19, 2006) (“*approval* of the preliminary site plan ‘as the earliest point in the overall process when vesting may occur.’”) citing In re Zoning Ordinance Amendments Enacted by the Loudoun County Bd. of Supervisors, 66 Va. Cir. 375 (Loudoun Cir. Ct. 2005).

43. To date, the Applicants have not obtained approval of a preliminary site plan since the passage of Ordinance 1450, and therefore § 15.2-2307 is inapplicable to the case.

44. However, even assuming, *arguendo*, that said assistance from the Zoning Administrator was “significant,” it was not “affirmative,” but instead noted numerous deficiencies with the Applicants’ submittals, and therefore conferred no vested rights.

45. Even assuming further that said assistance from the Zoning Administrator was “significant” and “affirmative,” it did not “remain[] in effect allowing development of a specific project,” and therefore conferred no vested rights.

46. The absence of a significant affirmative act in this case is illustrated by the City of Suffolk ex rel. Herbert v. Bd. of Zoning Appeals for Suffolk, 266 Va. 137 (2003), where the landowner obtained a rezoning to Planned Development Housing (“PD-H”); received approval of the Master Land Use Plan; obtained a rezoning of a portion of the property and an amendment to the Master Land Use Plan that fixed the density for the property; obtained approval for a preliminary recreation plan and a traffic impact analysis; obtained approval of the preliminary plat with an extension of time to file the

final plat; deeded 1.1 acres to Virginia Department of Transportation for road improvements adjacent to the property; and had submitted a final plat for review at the time the city enacted the ordinance changing the zoning classification of the property. By contrast, in the instant case, the Applicants have not obtained approval for a preliminary site plan reviewed pursuant to Town Code Art. V, Division 1, § 5100 *et seq.* by the time Ordinance 1450 was enacted, much less deeded property, specified the density for the property, or obtained any other significant affirmative governmental approval before Ordinance 1450 became law.

There Has Been No Good Faith Reliance On Nor Extensive Obligations or Substantial Expenses in Diligent Pursuit of the Specific Project in Reliance On the Significant Affirmative Governmental Act

47. Even setting aside the fact that the Applicants have not received a “significant affirmative governmental act,” the Applicants have not relied on the Zoning Administrator’s assistance in good faith, but instead seek to transform his professional courtesy and assistance in what both parties characterized as review of a “pre-submittal site plan” into a significant affirmative governmental act of the magnitude of a formal preliminary site plan approval.

48. Prior to the submission of the site plan on May 4, 2007, the Applicants were not committed to any specific project because the conditional rezoning set forth in Ordinance 1412 allowed 55 possible uses and contained no proffers that “specify use or density.”

49. The conditional rezoning and development of the Property is governed by the terms and provisions of the Application and Proffer Statement for a mixed-use and residential development, but until the site plan was submitted for review, the Applicants sought to manufacture flexibility in how to enact the mixed-use and residential

development on the Property by stating their concept plan represents “one example of a possible concept.” Application at 2.

50. Moreover, having never received any approval that would allow development of any specific project containing the 176,000 square foot retail establishment, any obligations or expenditures made by the Applicants prior to the approval of a preliminary site plan by the Town were presumptuous and imprudent (or for the purpose of supporting a to-be-contrived argument for vested rights) and are irrelevant to an inquiry into vested rights under § 15.2-2307 because such obligations and expenditures were made, if at all, prior to, and therefore not in reliance on, any significant affirmative governmental act. See 2006 Va. AG LEXIS 38 (filing of a site plan of development does not create a vested property interest in a land use classification).

51. In making its Decision reversing the Zoning Administrator’s Determination, the BZA applied erroneous principles of law, was plainly wrong and contrary to the law. The Petitioners will suffer irreparable harm if this ruling is permitted to stand.

COUNT II – The Zoning Administrator Correctly Determined that Virginia Code § 15.2-2298(B) Does Not Limit The Application of Ordinance 1450 to the Applicants’ Property

52. Paragraphs 1 through 51 are realleged and replead as if set forth fully herein.

53. Virginia Code § 15.2-2298(B) makes subsequent zoning changes ineffective if a landowner has made certain proffers. Section 15.2-2298(B) provides:

In the event proffered conditions include a requirement for the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the zoning ordinance with

respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to the property, shall be effective with respect to the property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

54. The need for the conditions listed in the Applicants Proffer Statement is generated solely by the rezoning, and therefore § 15.2-2298(B) is inapplicable to Applicants' proposed development on the Property.

55. Significant differences between the Applicants' development plan for the Property presented as part of the conditional rezoning Application and the site plan first submitted to the Town on May 4, 2007, that includes a new approximately 176,000 square foot retail establishment, constitute material changes in circumstances substantially affecting the public health, safety and welfare and remove the Applicants' conditions from the scope of § 15.2-2298(B).

56. The need for the conditional payment of \$25,000 for improvements to the subject intersection, if such payment has been made, is generated solely by the rezoning and therefore excluded from § 15.2-2298(B) as indicated by the proffer itself that states the traffic study is to be commissioned for the purpose of "determin[ing] any necessary improvements *resulting from the rezoning of the subject property.*" Proffer Statement at 7 (emphasis added).

57. The multi-use path proposed in the Proffer Statement is also outside of the scope of § 15.2-2298(B), because it is not a "dedication of real property of substantial value" especially given the Town's mandate that a dedication requires "[t]he transfer of private property to public ownership upon written acceptance." Town Code Art. II, § 2103. Moreover, the Applicants never characterized the multi-use path as a dedication to the Town as part of the Application.

58. The remaining conditions offered by the Applicants, including but not limited to fences, buffers, traffic restrictions, building setbacks and height limitations, do not meet the requirements in § 15.2-2298(B) for substantial public improvements and therefore § 15.2-2298(B) provides the Applicants with no protection from the requirements of Ordinance 1450.

59. The Applicants' current proposed site plan represents a mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare that prevents application of § 15.2-2298(B) to their latest proposed development.

COUNT III – The BZA's Reversal of the Zoning Administrator's Determination is Procedurally and Substantively Inadequate

60. Paragraphs 1 through 59 are realleged and replead as if set forth fully herein.

61. Moreover, on information and belief, the BZA failed to make requisite findings of fact and conclusions of law to support its reversal of the Zoning Administrator's Determination.

62. The BZA Decision is, therefore, not entitled to any presumption of correctness, is wholly inadequate as a matter of law, and must be reversed. Alternatively, the BZA Decision should be remanded with instructions to the BZA to make proper findings of fact and conclusions of law to support its decision with respect to whether to affirm or reverse the Zoning Administrator's Determination.

WHEREFORE, the Petitioners, Edward Hale, *et al.*, by counsel, pray that this Court enter a Decree as follows:

1. That a Writ of Certiorari be issued to the Town of Blacksburg Board of Zoning Appeals pursuant to Va. Code Ann. § 15.2-2314, requiring it to make a full and complete return of the official record of its proceedings in Appeal Application No. CL07-1697 to this Court within a reasonable time, and which shall include, but not be limited to, a copy of the Appeal Application; all staff reports and documents submitted to the BZA; full and complete transcripts of all public hearings and votes taken; all documents evidencing any communications between the BZA and the Zoning Administrator or Town staff; the BZA Secretary's notes, draft and final minutes of the appeal hearing; all original and/or copies of all exhibits, plats, letters, affidavits, archival records, official Town documents, aerial photographs; and any and all documents, emails or other memorandum contained in the official certiorari record of Appeal Application BZA070307;
2. That upon said Writ, the Court review and reverse the BZA Decision of July 31, 2007, and enter an order that the Applicants possess no vested rights in the subject development that includes a retail sales establishment containing approximately 176,000 square feet under Va. Code Ann. § 15.2-2307, § 15.2-2298(B) or any other statute or ordinance, and reinstate the Zoning Administrator's Determination of June 18, 2007 that, *inter alia*, the Applicants' proposal is subject to the requirements of Ordinance 1450;
3. That upon said Writ, the Court review and rule that the BZA failed to make requisite findings of fact and conclusions of law supporting its reversal of the Zoning Administrator's Determination, and therefore, the BZA Decision is not entitled to any presumption of correctness, is wholly inadequate as a matter of

law, and is reversed for the foregoing reasons, or alternatively, remanded with instructions to the BZA to make proper findings of fact and conclusions of law to support its decision;

4. That the Court grant Petitioners a restraining order during the pendency of this appeal to stay any further proceedings that the Applicants would otherwise take in furtherance of the proposed development on the Property; and
5. That this Court grant such other and further relief as the case may require.

Respectfully submitted,

EDWARD HALE, ET AL.

By Counsel

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WRIT OF CERTIORARI

TO THE BOARD OF ZONING APPEALS OF THE COUNTY OF MONTGOMERY, VIRGINIA:

WHEREAS a Petition for Writ of Certiorari to the Board of Zoning Appeals was filed, pursuant to the provisions of Va. Code Ann. § 15.2-2314, requesting a review of the July 31, 2007 decision of the Town of Blacksburg Board of Zoning Appeals (“BZA”) in regards to appeal application number CL07-1697; and

IT APPEARING TO THE COURT that upon reviewing the Petition filed herein that it is in proper form, and in compliance with the requirements of Va. Code Ann. § 15.2-2314; it is hereby:

ORDERED that Petitioners' request for the issuance of the Writ is granted, and that said Writ does hereby issue to the BZA as provided by law. The BZA shall duly return any and all pages acted upon by it within thirty (30) days of entry hereof, and return shall be made to this Court and to the following counsel:

Philip Carter Strother, LL.M.
Robert Jackson Allen
STROTHER LAW OFFICES, PLC
The Hillyard-Maury House
15 East Franklin Street
Richmond, Virginia 23219

The BZA is not required to return the original papers acted upon by it, but may return certified or sworn copies thereof. The return shall consist of copies of the papers constituting the full record of the BZA's proceedings in the aforementioned case, including, but not limited to:

1. The application for appeal;
2. All supporting documents, letters, information and exhibits filed by Applicants;
3. The BZA Secretary's notes as well as the draft and final minutes of the appeal hearing;
4. The staff report(s);
5. All photographs, resolution papers, reports, plats, correspondence, exhibits and other documents or things filed before, during or after the proceedings in the appeal;
6. All documents evidencing any communications between the BZA and the Zoning Administrator;
7. A verbatim transcript of the proceeding before the BZA; and

8. A verified statement, motion and decision concisely setting forth the grounds and such other facts as may be pertinent and material to support the decision appealed from.

The return shall be verified as required by law.

ENTERED THIS ____ DAY OF _____, 2007

THIS CAUSE IS CONTINUED.

Montgomery County Circuit Court Judge

WE ASK FOR THIS:

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