

IN THE MATTER OF WILLIAM H.) IN THE CIRCUIT COURT OF
DOBBINS and BARBARA DOBBINS.) BALDWIN COUNTY, ALABAMA
) AT LAW. NO. 9621.

PLEA IN ABATEMENT:

Now comes WILLIAM H. DOBBINS and BARBARA DOBBINS in the above styled cause and appearing specially and only for the purpose of filing this plea, says that the appeal filed in this cause should not be maintained and in support thereof, assigns the following, separately and severally:

1. That it affirmatively appears from the appeal filed in this matter that no Appellants are named and that there are no parties before this Court who have legitimately effected their appeal in the manner and in the style permitted by law.

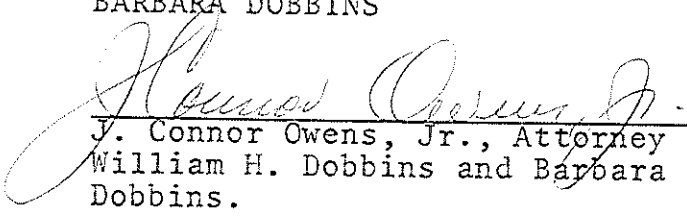
2. That the designation of the Appellants as being "property owners within the Green Acres Subdivision" is vague, indefinite and does not bring interested parties before this Court.

3. That the allegation of the appeal that interested parties are acting by and through their Attorney, Taylor Wilkins, Jr., is insufficient to substitute the said Taylor Wilkins, Jr., as a representative of the class involved for it does not affirmatively appear that Taylor Wilkins, Jr., owns property or has any interest within the said Green Acres Subdivision.

4. That the allegation that the "property owners within Green Acres Subdivision" are those bringing said appeal is indefinite in that it would include William H. Dobbins and Barbara Dobbins as both Appellants and Appellees.

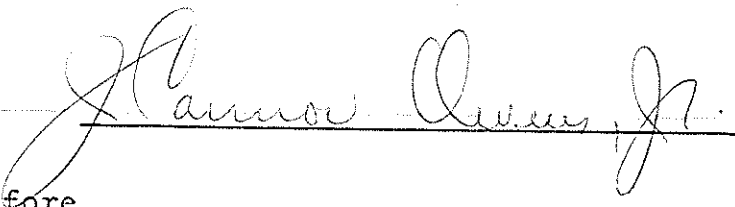
WHEREFORE, the said William H. Dobbins and Barbara Dobbins pray that this Court enter an order abating and/or dismissing in this appeal.

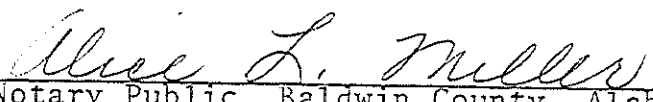
WILLIAM H. DOBBINS
and
BARBARA DOBBINS


J. Connor Owens, Jr., Attorney for
William H. Dobbins and Barbara
Dobbins.

STATE OF ALABAMA)
 (
BALDWIN COUNTY)

Before me, the undersigned authority within and for said State and County, personally appeared J. Connor Owens, Jr., who, first being duly sworn, says on oath that he is the Attorney of Record for the said William H. Dobbins and Barbara Dobbins in the foregoing cause and that the matters and things stated in the foregoing Plea in Abatement are, in all respects, true and correct to the best of his knowledge, information and belief.


Sworn to and subscribed before
me this 23rd day of July, 1971.


Notary Public, Baldwin County, Alabama.

I, the undersigned Attorney of Record for William H. Dobbins and Barbara Dobbins, in the foregoing cause, do hereby certify that I have caused a copy of the foregoing Plea in Abatement to be served on Taylor Wilkins, Jr., by placing the same in the United States Mail, properly addressed, with postage prepaid, this 23rd day of July, 1971.


FILED

JUL 26 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

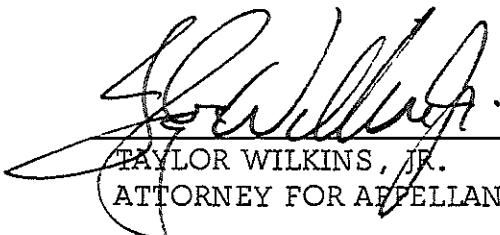
IN THE MATTER OF WILLIAM H. : HEARING BEFORE THE BOARD OF
DOBBINS AND BARBARA DOBBINS, : ADJUSTMENTS OF THE CITY OF
PETITIONERS. : BAY MINETTE, ALABAMA

9621

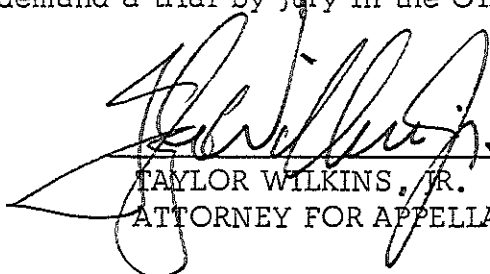
TO: BOARD OF ADJUSTMENTS

Comes now the property owners within the Green Acres Subdivision, a subdivision within the municipal limits of the City of Bay Minette, Alabama, interested parties in this proceeding, and by and through their attorney, Taylor Wilkins, Jr., files this written notice of appeal with the Board of Adjustments of the City of Bay Minette, Alabama, specifying the following judgment from which this appeal is taken;

The property owners within the Green Acres Subdivision, do hereby appeal from that certain judgment heretofore rendered on December 21, 1970, wherein a variance of the zoning laws of the City of Bay Minette, Alabama, was granted to the Petitioners in this matter. The judgment appealed from provided for the rezoning from District R2 to District R3 of the East 147 feet of Lot 6, Unit 3 of Green Acres Subdivision according to the official map or plat thereof which is recorded in the Office of the Judge of Probate, Baldwin County, Alabama.


TAYLOR WILKINS, JR.
ATTORNEY FOR APPELLANTS

The appellants hereby demand a trial by jury in the Circuit Court of Baldwin County, Alabama.

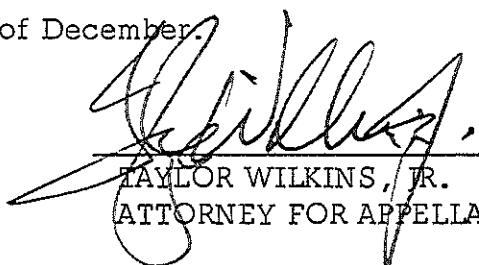

TAYLOR WILKINS, JR.
ATTORNEY FOR APPELLANTS

I, the undersigned Taylor Wilkins, Jr., do hereby certify that I have on this the 23rd day of December, 1970, forwarded a true and exact copy of the foregoing petition to Mr. J. Connor Owens, Jr., attorney of record for William H. Dobbins and Barbara Dobbins, by mailing the same in the United States Post Office, properly addressed, with the postage paid thereon.

Done this the 23rd day of December.

FILED

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TAYLOR WILKINS, JR.
ATTORNEY FOR APPELLANTS

ALICE J. DUCK CLERK
REGISTER

IN THE MATTER OF WILLIAM H.
DOBBINS and BARBARA DOBBINS.

) IN THE CIRCUIT COURT OF
)
) BALDWIN COUNTY, ALABAMA
)
) AT LAW. NO. 9621.

ORDER:

This cause coming on to be heard is submitted to the Court by agreement of the Attorneys and it appearing to the Court that briefs having been submitted by the parties and arguments made in connection therewith; that this Court, on January 17, 1972, entered an order abating the same as appears of record in this cause; and

It further appearing to the Court that on the same day that the order of this Court was entered, the Honorable Taylor Wilkins, Jr., sought to amend the appeal filed by him in this cause by adding parties thereto; and

It appearing to the Court that the said William H. Dobbins and Barbara Dobbins, acting through their attorney, filed a motion to strike, and the same by agreement of counsel, has been submitted to this Court; and

The Court having considered the said motion to strike filed by the said William H. Dobbins and Barbara Dobbins in this cause, the same is hereby granted.

It is further ORDERED, ADJUDGED AND DECREED by the Court that the order entered by this Court on the 17th day of January, 1972, be, and is hereby affirmed and the said William H. Dobbins and Barbara Dobbins are hereby discharged in this matter and permitted to go hence with costs in their behalf expended.

DATED at Bay Minette, Alabama, this 15th day of March, 1972.

Jeffrey J. Mashburn
Circuit Judge.

FILED

MAR 15 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

IN THE MATTER OF WILLIAM H.
DOBBINS AND BARBARA DOBBINS.

) IN THE CIRCUIT COURT OF
) BALDWIN COUNTY, ALABAMA
) AT LAW. NO. 9621.

ORDER:

This cause coming on to be heard upon the Notice of Appeal, the Plea in Abatement thereto filed by William H. Dobbins and Barbara Dobbins, and the Motion to Strike, and the same having been submitted to the Court and arguments heard thereon, it is, therefore,

CONSIDERED, ORDERED AND ADJUDGED by the Court that the Motion to Strike be, and the same is hereby denied;

It is further CONSIDERED, ORDERED AND ADJUDGED by the Court that the Plea in Abatement is due to be granted, and the same is hereby granted, and that the said William H. Dobbins and Barbara Dobbins are hereby discharged in this matter and permitted to go hence with the costs in their behalf expended.

DATED at Bay Minette, Alabama, this 17th day of January, 1972.

J. J. Maslowski
Circuit Judge.

FILED

JAN 19 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

IN THE MATTER OF WILLIAM H.)
DOBBINS AND BARBARA DOBBINS,)
) AT LAW. NO. 9621.

MOTION TO STRIKE:

Now come WILLIAM H. DOBBINS and BARBARA DOBBINS in the above styled matter, and reserving all rights of appearance set forth in the Plea of Abatement, and file this their Motion to Strike the Notice of Appeal filed by Lyle Underwood and Green Acres Property Owners Association, and assign as grounds therefor, the following, both separately and severally:

1. That it does not appear that either Green Acres Property Owners Association, or Lyle Underwood, an individual property owner in Green Acres Subdivision, perfected an appeal within the time required by law.

2. For that it affirmatively appears that Green Acres Property Owners Association, or Lyle Underwood, an individual property owner in Green Acres Subdivision, did not appeal the decision of the Board of Adjustments of the City of Bay Minette, Alabama, within the time required by law.

3. That it does not appear that Green Acres Property Owners Association perfected an appeal within the time required by law.

4. That it does not appear that Lyle Underwood, an individual property owner in Green Acres Subdivision, perfected an appeal within the time required by law.

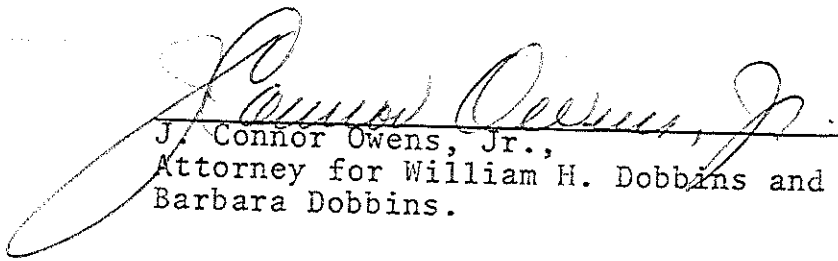
5. For that it affirmatively appears that Green Acres Property Owners Association did not appeal the decision of the Board of Adjustments of the City of Bay Minette, Alabama, within the time required by law.

6. For it affirmatively appears that Lyle Underwood, an individual property owner in Green Acres Subdivision, did not appeal the decision of the Board of Adjustments of the City of Bay Minette, Alabama, within the time required by law.

7. For that it affirmatively appears that no parties existed in this cause, who have properly taken an appeal to this Court

within the time required by law.

8. For that it affirmatively appears that no party or parties have filed a Notice of Appeal from the decision of the Board of Adjustments of the City of Bay Minette, Alabama, and there is no proceeding before this Court to amend by adding parties thereto.


J. Connor Owens, Jr.,
Attorney for William H. Dobbins and
Barbara Dobbins.

I, the undersigned Attorney of Record for William H. Dobbins and Barbara Dobbins in the foregoing cause, do hereby certify that I have caused a copy of the foregoing Motion to Strike to be served on Taylor Wilkins, Jr., by placing the same in the United States Mail, properly addressed, with postage prepaid, this 26th day of January, 1972.


FILED

JAN 26 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

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IN THE MATTER OF WILLIAM H.
DOBBINS and BARBARA DOBBINS

X
X
X

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW. NO. 9621.

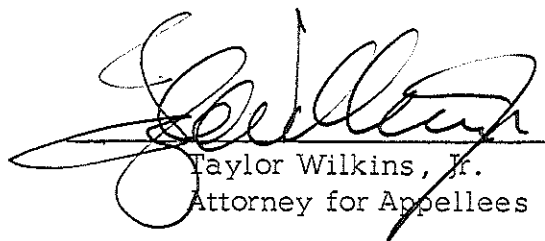
MOTION TO STRIKE

Comes now the Appellees and certain property owners within the Green Acres Subdivision, Bay Minette, Alabama, the Petitioners, William H. Dobbins and Barbara Dobbins, having filed a verified Plea in Abatement herein, by and through their attorney, J. Connor Owens, Jr., and moves the Court to set the plea down for a hearing and argument to test the sufficiency thereof.

And without waiving said motion, further moves to strike said plea and for grounds of said motion, assigns the following:

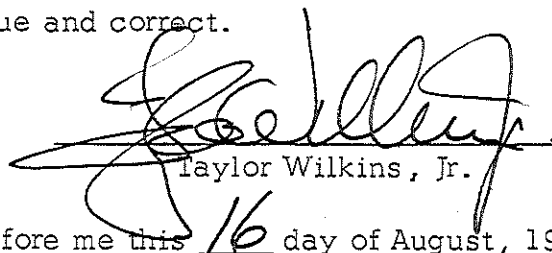
1. That it affirmatively appears from the proceedings had before the Board of Adjustments of the City of Bay Minette, Alabama, and the notice of appeal filed by the property owners of the Green Acres Subdivision, that the action is properly brought before the Baldwin County Circuit Court on appeal.

2. That it affirmatively appears from the proceedings had in this cause before the Board of Adjustments of the City of Bay Minette, Alabama, and the appeal perfected in this cause that a trial de novo is due to be had in the Baldwin County Circuit Court.

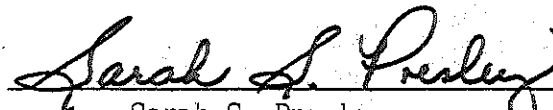

Taylor Wilkins, Jr.
Attorney for Appellees

STATE OF ALABAMA
BALDWIN COUNTY

Before me, the undersigned authority, personally appeared Taylor Wilkins, Jr., who first being duly and legally sworn, deposes and says: That he is the attorney for Appellees in the foregoing cause; that he is informed and believes and on such information and belief states that the facts stated in the foregoing Motion to Strike are true and correct.


Taylor Wilkins, Jr.

Sworn to and subscribed before me this 16 day of August, 1971.


Sarah S. Presley
Notary Public

FILED

AUG 16 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

ORDER OF COURT

The above motion has been set for hearing at 9:30 o'clock on the 27th day of August, 1971, by order of this Court.

DONE this the 21st day of August, 1971.

Telfair J. Mashburn
Honorable Telfair J. Mashburn
Judge of the Circuit Court
Baldwin County, Alabama

I, the undersigned, Taylor Wilkins, Jr., do hereby certify that I have on this the 16th day of August, 1971, forwarded a true and exact copy of the foregoing Motion to Strike to Mr. J. Connor Owens, Jr., attorney of record for the Appellants, by mailing the same in the United States Post Office, properly addressed, with the postage paid thereon.

DONE this the 16th day of August, 1971.

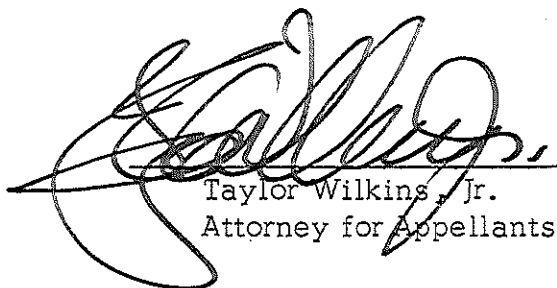
Taylor Wilkins, Jr.
Attorney for Appellees

IN THE MATTER OF WILLIAM H. X HEARING BEFORE THE BOARD OF
DOBBINS AND BARBARA DOBBINS, X ADJUSTMENTS OF THE CITY OF
 X BAY MINETTE, ALABAMA
 X PETITIONERS

TO: BOARD OF ADJUSTMENTS

Comes now the Green Acres Property Owners Association and Lyle Underwood, an individual property owner within the Green Acres Subdivision, a subdivision within the municipal city limits of the City of Bay Minette, Alabama, interested parties in this proceeding, and amends their appeal heretofore filed in this cause by adding the above parties as parties to this cause, represented by the undersigned attorney.

Appellants hereby adopt and confirm all other allegations contained in their Notice of Appeal heretofore filed in this Court.


Taylor Wilkins, Jr.
Attorney for Appellants

FILED

JAN 14 1972

EUNICE B. BLACKMON CIRCUIT
CLERK