

STATEMENT FOR RELEASE – MAY 1, 2025

Intervenor Walter Buchanan and the CAGI group take the position that Silfab Solar, Inc. and York County government have circumvented and are evading due process, statutory law, and the zoning code in York County under Silfab “interpretation” of what the code permits. Their interpretation ignores the black and white letter of the law established by zoning code; the Silfab site is light industrial. Not heavy industrial. Silfab did not petition the legislative body – the York County Council for change or use, nor variance. Plaintiffs assert Silfab seeks to back-door due process of law via interpretation having bypassed the legislative branch of government for variance or change of use. In haste, they continue to construct a plant that will be heavy industrial in the heart of the Fort Mill community. The plant site is at 7149 Logistics Lane. No change in use was approved. No variance was approved.

The Board of Zoning Appeals (BZA) in York County is a quasi-judicial body of the administrative arm of York County government. The BZA reversed Silfab’s “interpretation” on May 9, 2024, by unanimous 5-0 vote. The BZA factual findings and conclusions legally carry the same weight as the findings of a jury. In so ruling upon the issues, the BZA reversed an inherently reckless zoning interpretation by its zoning administrator, and the planning & development department. However, construction permits continued to issue from planning and development department to Silfab after the May 9, 2024, reversal evidencing *recalcitrance* of the planning and zoning department and *defiance* of the BZA decision where a quasi-judicial body made of five (5) members issued and adverse decision as to the Silfab project. The vote was unanimous. County management issued an *un-signed management statement* that the decision **did not apply** to Silfab. Yet, Silfab directly appealed the BZA determination to the circuit court, which evidences that the decision directly implicated Silfab Solar, Inc. A party cannot normally appeal a decision that would be favorable to the party. Thus, the CAGI litigants are confident the circuit court will find the record evidences the BZA decision did – at law – apply to Silfab Solar Inc.

My clients firmly believe the record from the BZA that will go before the court will evidence this, and the circuit court review will be limited to the record that was before the BZA. To date, nobody knows exactly why the zoning administrator, or the York County attorneys did not suspend or revoke permits. The county took no action after the BZA reversal on May 9, 2023. What we do know is the zoning code only permits “Light Industrial” use at 7149 Logistics Lane and not “*heavy industrial*”. Silfab with the aid of York County planning and zoning proceeds to full construction of a heavy industrial use under *guise of electronics manufacturing*, which the BZA strictly reversed. Silfab is recklessly proceeding to complete construction under theory and interpretation, not the black and white letter of law, and without regulatory compliance and oversight of county planning and development.

Silfab relies upon a zoning letter **NOT** signed by the zoning administrator. Silfab claims this zoning letter from the county gives Silfab vested rights. The zoning letter was not signed by the zoning

administrator, rather a *zoning technician*. While Silfab contends this gave them some form of vested right, the law would disagree with Silfab. S.C. Code Ann. 6-29-950(A) and 6-29-950(B). Months later, the erection of buildings and chemical storage tanks by Silfab at 7149 Logistics Lane evidences what has taken form : *a heavy industrial operation*. The storage of combustible and toxic chemicals on site will involve chemicals like *silane* and *hydrofluoric acid*. The Silfab plant exhaust stacks have twice changed height as the plant has evolved. They were originally presented by SCDHEC (now abolished July 1, 2024) at 19.7 AGL (above ground level). Silfab then sought to raise stack height to 70 feet. Silfab then sought to lower stack height to 50 feet, its stacks becoming shorter and wider in width and diameter. None of this was presented to the public in sufficient or accurate detail. The public discovers this information by FOIA requests. At not time did SCDHEC successor South Carolina Department of Environmental Services “SCDES” provide accurate or sufficient detail of the actual plans evolving at the site to the public at large. What has ultimately taken form at the site in Fort Mill is a heavy industrial chemical plant, now almost fully constructed under the guise of electronics manufacturing. Silfab plans to store and use chemical processes to manufacture solar panels and solar cells.

Silfab received state and county grants of financial incentives. Silfab affirmatively represented by “check the box” form that no further buildings or additions to existing buildings would be constructed at the site. This has turned out to not be the case, and the construction in progress evidences otherwise. The public is demanding an audit of the monies granted under the above incentives and whether Silfab has violated any associated requirements, or if any incentives were the catalyst behind York County zoning and planning staunch refusal to enforce the zoning code and the BZA 5-0 reversal by stay or revoking permits. Under the law, each day after the May 9, 2024 BZA reversal is a separate distinct violation of law.

BACKGROUND ON INTERVENOR

1. **Exhibit-A. Walter Buchanan.** In representing Walter Buchanan, engineer Andrew R. Lytle appeared before the zoning board of appeals on May 9. As Silfab appealed the BZA reversal (*yet claims the decision did not apply to Silfab*), Mr. Buchanan (a neighboring property owner adjacent to the plant site) filed to **INTERVENE**. Judge Marvin Dukes granted Buchanan the right to Intervene on October 4, 2024, as affected person and neighboring property owner. Exhibit-A. We believe newsworthy side note to be failure of the regulatory branches of government on both the state and local level.¹ On the state level, the abolishment of SCDHEC carried with it the elimination of a citizens review board body. On the local level, there is no similar law or statute abolishing the board of zoning appeals body within the York County government.

¹ Of particular interest is the impact to due process. With the abolishing of SCDHEC July 1, 2024, the newly created SCDES has no citizens review board. By contrast, the local administrative branch in York County does have the Board of Zoning Appeals, which at no time has been abrogated by government restricting.

2. State Level - SCDHEC / SCDES March 1, 2024, GRANT of air pollution and construction permits to Silfab – Permit No. CP5000090.v.1. **(Exhibit-C)**

It is necessary to understand what has transpired in the restructuring of state government by statute July 1, 2025. The citizens board formerly available to the aggrieved public no longer exists on the state level. Conversely, on the local county level there is still a quasi-judicial body (BZA) which reviews interpretations by the zoning and planning department. Here the BZA reverses Silfab delaying their desired opening and operations originally scheduled for January 2025. On October 30, 2023, note that the predecessor SCDHEC held a public forum at Fort Mill School District facilities. At this public form, Silfab and SCDHEC issue inaccurate statements to the public about what the construction of the Silfab plan (which involves upfit of an existing 500,000 sq. feet building at site) would entail, including possible exhaust via smoke stakes of volatile organic compounds into the air after chemical treatment of hydrofluoric acid and discharge via stacks – stacks which have changed in height and diameter twice. Yet, not accurately conveyed to the public at any time. Plaintiffs believe this to be the result of government restructuring, and that SCDES should have properly required a new permit and due process to the public but did not in the wake of SCDHEC being abolished by statute. The successor regulatory entity drops the ball as it assumes the regulatory functions of SCDHEC.

3. CAGI formation after May 9, 2024. (Citizens Group for Government Integrity). The group forms as a non-profit entity *after* Walter Buchanan intervened. The group is now over 6,000 members in Fort Mill, who are outraged that Silfab's construction is adjacent to an elementary school and residential homes. The public outcry has reached a boiling point and became a firestorm of objections to Silfab's construction. The construction now evidences several buildings for storage of chemicals, and tanks to hold liquid chemicals like hydrofluoric acid. The process to be utilized by Silfab evidences – *in reality* - a heavy industrial process complete with adjacent buildings and water treatment plant on the light industrial site. At this light industrial site, Silfab proposes to store chemicals and treat toxic and hazardous waste. The "*race*" for full plant construction is now in full press by Silfab where Silfab will seek *forgiveness in lieu of not properly having sought permission*, under proper due process for variance or change of use. There was no petition to the legislative body (again, York County Council) for any change in use. There was no petition for variance. The CAGI group takes the position that under no circumstances should an administrative zoning technician who was NOT the zoning administrator, and who is not elected by popular vote, should not have issued any form of "vesting" letter to Silfab, and that the zoning and planning department should lawfully have deferred to the five member BZA; *e.g., this was properly the province of the legislative (not administrative zoning department) body in York County*. The zoning technician (note: not zoning administrator)

did not have authority under state or local law to issue the letter nor openly defy the county BZA after May 9. Per the citizens group, this is particularly the case where the person or entity signing the zoning interpretation was not an elected official by popular vote. CAGI takes the position the planning and development department has acted in a grotesquely reckless manner in permitting the Canadian corporation Silfab to bypass the zoning process and law, improperly usurping the authority of the legislative council in York County. It remains unknown why Silfab did not petition the legislative body (rather the administrative department of zoning) where it had the resources to do so.

4. SUMMARY OF WHAT CAGI / BUCHANAN NOW SEEK.

Do it somewhere else. The Silfab plant should move. The government should prohibit Silfab's heavy industrial use at 7149 Logistics Lane. Silfab contends it will engage in exhaustive litigation to protect its interpretation. The citizens have vowed to engage in exhaustive litigation to protect the zoning code, where the county has failed to do so.

- a. Update – **Exhibit-B**. Mediation Occurs April 21, 2025. The case was mediated on April 21, 2025, pursuant to court order of Hon. Martha Rivers. The mediation met with impasse. The mediator filed the ADR (alternative dispute resolution) citing impasse on May 1, 2025. (attached). The parties (CAGI and Buchanan) want Silfab to move. They cite the business has sufficient funding and at all times has had the ability to mitigate damages to the tax payer. They take the position that Silfab had actual and constructive knowledge of the surrounding properties and zoning classifications adjacent to the Silfab site. The plant is adjacent to Flint Hill elementary school and hundreds of residential homes. The citizens group takes the position that Silfab's continued construction after the May 9, 2024, BZA reversal decision were steps taken at Silfab's own risk and peril under Silfab's "interpretation" of the zoning code and zoning letter issued by officials who were not the zoning administrator. The case impassed as plaintiffs and intervenor Buchanan insisted that Silfab move. If Silfab were to stay, the citizens believe Silfab should go back to the drawing board and start over. The company and the county need to comply properly with due process. The citizens believe Silfab has bullied York zoning, when due process dictates they should have first stopped at the legislative body (the county council). The zoning department is not comprised of officials elected by public vote.

- i. Silfab Position. Silfab intends to stand fast upon its zoning interpretation and the technician-signed zoning letter.

5. PENDING LEGISLATIVE EFFORTS.

- a. The general assembly has now seen introduction of two (2) bills inspired by the Fort Mill dispute. SC House Bill 4293 (sponsored by Rep. David Martin of York County) and Senate bill 0540 (sponsored by Senator Michael Johnson of Fort Mill) have been introduced in the legislature, seeking to close the “loophole” where a county zoning administrative department can apparently ignore the county board of zoning appeals determination (BZA) at the behest of a developer like Silfab. In the case the county zoning administrator ignores the county BZA, and issues more permits in defiance of the BZA decision. It appears to be internal conflict of some type within the regulatory body of York County government, which has now escalated by continued permit issuance to Silfab in the wake of the BZA May 9, 2024, reversal. The zoning administration department continues to grant permits after May 9, 2024, reversal by the BZA. The BZA is the authority, and its determinations carry the weight of law. Yet, neither the zoning department or the office of the York County attorney sought to stay or revoke permits. Each day, subsequent to the May 9, 2024, BZA reversal is a separate violation (in the view of the citizens). **[357 days have elapsed]**.
- b. Attorney Halford View: The pending legislative efforts should be commended and are noble efforts but will not likely make it to committee in time to stop Silfab completion of its construction at the site. By contrast, the zoning code and statute are absolute authority, not subject to interpretation. S.C. Code 6-29-950(A) and 6-29-950(B) are clear, nor are they ambiguous. *“In the case of a building, structure, or land is proposed to be used (*emphasis) in violation of any ordinance the Zoning Administrator (currently a vacated position in York County) or other appropriate administrative officer, municipality or county attorney, or other appropriate authority of the municipality or county – or adjacent or neighboring property owner (here Walter Buchanan) who would be specially damaged by the violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, re-construction (as here), alteration, conversion, maintenance, use, or to correct or abate the violation, or to prevent occupancy of the building, structure or land.* Silfab has recklessly failed to mitigate damage to the tax payers and county and has in haste proceeded to completed construction flying under the radar. In so doing, Silfab has proceeded unlawfully and at its own peril and risk predicated on “theory” and its own “interpretation”. Each day that passes after May 9, 2024 (357 effective with the date of this statement) is a continued (daily) violation of the state and local laws, considered separate offenses daily.

6. BACKGROUND INFORMATION ON LEGAL COUNSEL FOR CAGI / BUCHANAN.

J. Cameron “Cam” Halford formerly practiced law in the Fort Mill community from 2001-2024 with offices at 238 Rockmont Drive, approximately five miles from what is now the Silfab site. Halford was primarily engaged in real estate law and civil litigation formerly operating offices in the Rock Hill, Fort Mill and Lake Wylie communities. Halford relocated his practice to Barnwell, South Carolina in year 2022. He was first approached by Andrew Lytle and initially declined the case due to the relocation from York County to Barnwell but felt compelled to try and assist Buchanan and Lytle. Halford engaged after the May 9, 2024, BZA reversal and the Silfab appeal to the circuit court. Halford petitioned on behalf of Buchanan to intervene in the appeal, and the order of Judge Marvin Dukes filed 10/22/2024 (attached Exhibit-A) was successful before the court. It became clear that the intervenor did not have the financial ability or resources to combat the county and the Canadian corporation Silfab, and the CAGI group of citizens formed shortly thereafter with Buchanan becoming a board member of CAGI. The case rapidly progressed into what is now three (3) contested cases:

1. Silfab Solar, Inc. and Exeter 7149 Logistics, LP (landlord) vs. York County planning and development appeal. Case No. 2024-CP-46-02641 *Silfab Solar, Inc. v. York County Board of Zoning Appeals*. Buchanan filed motions to intervene. The court granted Buchanan permission to intervene on October 22, 2024. Exhibit-A. Mediation impasse occurred April 21, 2025. The ADR impasse order filed May 1, 2025. It is anticipated the appeal will be heard before the circuit court in the coming months. An exact schedule or time frame has not been established at this time.

2. *Citizens Alliance for Government Integrity (CAGI) vs. Silfab Solar, Inc., Exeter 7149 Logistics, LP and York County by and through its planning and zoning department*. After formation and after the Buchanan individual intervention was granted, CAGI filed with the circuit court to restrain and enjoin construction that the group declares to be in violation of the zoning code and BZA determination. CAGI sought class action certification for affected persons. Both the Buchanan and CAGI cases were stayed by Judge Martha Rivers. Discovery was stayed pending resolution of the appeal by Silfab of the BZA decision. Silfab directly sought mediation under its appeal to circuit court under appropriate statutory authority. The mediation occurred April 21, 2025, and resulted in impasse. Exhibit-C.

3. (Appeal) *Walter Buchanan vs. Silfab Solar Inc. and the South Carolina Department of Environmental Services*. Buchanan was also at the forefront of confronting the state regulatory departments, along with other citizens like Andrew Lytle. An appeal of the air permits and construction permits was filed with the SCDES, and later appealed to the administrative law court. The Hon. Ralph King Anderson III dismissed the Buchanan petition, and appeal to the South Carolina Court of Appeals by Buchanan followed.

Buchanan has challenged the accuracy and insufficient detail given to the public by the regulatory government SCDHEC March 30, 2023, by and through the continued regulatory oversight of the newly created SCDES department. Buchanan on his behalf and others have alleged violations of due process in the wake of government restructuring July 1, 2024, when DHEC was abolished, and SCDES as successor regulatory body that allegedly failed to communicate material changes in pollutant discharge date and ever-changing Silfab stack height to the public subsequent to the March 30, 2023, public forum. The citizens allege both SCDHEC and now SCDES have engaged in deliberate omissions and irregularities in procedure. The transcription of the March 30, 2023 begins strictly at 7:18 pm recording *only* the public outcry and questions to SCHDEC and Silfab. Nothing was transcribed as to the information presented by the state SCHEC and Silfab *prior to* the 7:10 pm hour. After this March 30, 2023, public forum Buchanan and the citizens allege there was no accurate follow up, nor any communication regarding pollutants or stack height changes accurately conveyed to the public, where SCDES (successor) procedures differed from that of the abolished SCDHEC. By way of example, elimination of any citizens review board as SCDES has no citizens review board where SCDHEC did have a citizens review panel.

The appeal is expected to be heard by the court of appeals in future months, while the zoning battle and Silfab appeal of York County's BZA continuing without any end in sight. Silfab must now continue with the appeal of findings and conclusions of the BZA which carry the weight of the findings of a jury. The citizens group understands that York County attorneys stand firmly behind the BZA decision as correct as matter of law. Silfab will carry the burden of demonstrating error at law by the BZA before the circuit court.

- J. Cameron Halford
803-619-4177

STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEAS

SILFAB SOLAR INC, et al

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2024-CP-46-02641

YORK COUNTY BOARD OF ZONING
APPEALS

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Hon. Marvin Dukes, III

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This matter came before me on October 7, 2024, on Petitioner's Motion to Intervene in a zoning appeal. Petitioner is an adjacent landowner to an industrial parcel. The matter in question involves whether or not a solar panel manufacturing facility is a permitted use in York County's Light Industrial district. SC Code SECTION 6-29-825(A) directs: "... A person who is not the owner of the property may petition to intervene as a party, and this motion *must* be granted if the person has a substantial interest in the decision of the board of appeals." (emphasis added)

I find that as an adjacent landowner to a possible manufacturing facility, Petitioner has a substantial interest and should be permitted to intervene. The Petitioner's motion is GRANTED. This ruling is specific to Petitioner and not granted for those "similarly situated."

AND IT IS SO ORDERED

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

A

2024

STATE OF SOUTH CAROLINA

COUNTY OF YORK

) IN THE COURT OF COMMON PLEAS
) FOR THE SIXTEENTH JUDICIAL CIRCUIT
)

SILFAB SOLAR, INC. and
EXETER 7149 LOGISTICS, L.P.,

Appellants.

vs.

YORK COUNTY BOARD OF ZONING
APPEALS,

Respondent.

WALTER BUCHANAN,

Intervenor.

PROOF OF ADR

Case No. 2024-CP-46-02641

PURSUANT to the South Carolina Alternative Dispute Resolutions Rules (SCADR):

1. Alternative Dispute Resolution (ADR) was conducted on the 21st day of April, 2025 in the form of
 - a. ☒ mediation
 - b. ☐ non-binding arbitration
 - c. ☐ binding arbitration (attached appropriate order of dismissal)
2. The neutral(s) was/were (Name(s) of arbitrator(s)/mediator(s)): Costa M. Pleicones
3. Present at the ADR conference were:
 - a. ☒ Appellant
 - b. ☒ Respondent
 - c. ☒ Lawyer(s) for Appellant _____
 - d. ☒ Lawyer(s) for Respondent _____
 - e. ☐ Representative for Insurance Carrier _____
 - f. ☐ Guardian *ad litem* _____
 - g. ☐ Expert(s) _____
 - h. ☒ Others Walter Buchanan, Intervenor
4. As a result of ADR, this case should be considered (check one)
 - a. ☐ fully settled by Consent Judgment to be filed by _____
 - b. ☐ fully settled Voluntary Dismissal to be filed by _____
 - c. ☐ Partially settled
 - d. ☒ at an impasse

Submitted this 1st day of May, 2025.



Neutral's Signature/Electronic Signature



S.C. Department of Health and
Environmental Control

Bureau of Air Quality Synthetic Minor Construction Permit

Silfab Solar
7149 Logistics Lane
Fort Mill, South Carolina 29715
York County

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5), 48-1-100(A), and 48-1-110(a), the 1976 Code of Laws of South Carolina, as amended, and South Carolina Regulation 61-62, Air Pollution Control Regulations and Standards, the Bureau of Air Quality authorizes the construction of this facility and the equipment specified herein in accordance with the plans, specifications, and other information submitted in the construction permit application received on June 05, 2023, as amended. All official correspondence, plans, permit applications, and written statements are an integral part of the permit. Any false information or misrepresentation in the application for a construction permit may be grounds for permit revocation.

The construction and subsequent operation of this facility is subject to and conditioned upon the terms, limitations, standards, and schedules contained herein or as specified by this permit and its accompanying attachments.

Permit Number: CP-50000090 v1.0

Agency Air Number: 2440-0293

Issue Date: March 1, 2024

Steve McCaslin, P. E., Director
Air Permitting Division
Bureau of Air Quality



2024