

NORTH CAROLINA
CUMBERLAND COUNTY

BEFORE THE CITY OF FAYETTEVILLE
ZONING COMMISSION
A/P NO.: NOA26-02

4311 BRAGG, LLC,)
)
Applicant-Appellant,)
vs.)
CITY OF FAYETTEVILLE,)
)
Appellee.)

**OWNER-APPELLANT'S FORMAL
OBJECTION TO PARTICIPATION OF
THE CITY ATTORNEY'S OFFICE AND
MOTION FOR DISQUALIFICATION**

NOW COMES 4311 Bragg, LLC (hereinafter, the "Owner-Appellant"), by and through undersigned counsel, pursuant to N.C.G.S. § 160D-109(d), N.C.G.S. § 160D-406, and N.C.G.S. § 160D-1402, and respectfully submits this formal pre-hearing Objection and Motion to Disqualify the Attorney's Office of the City of Fayetteville from representing, advising, and/or communicating with the City of Fayetteville Zoning Commission regarding the above-captioned matter. In support of this Motion, Owner-Appellant shows the Court the following:

1. Owner-Appellant is the owner of certain real property, physically located at 4431 Bragg Blvd., Fayetteville, NC 28303, more particularly identified by PIN: 0418553607000 (hereinafter, the "Property").

2. Identified as Project No. 1887777 in the City of Fayetteville's developmental portal, Owner-Appellant submitted requisite permitting applications for repair work at the Property.

3. As of Wednesday, April 8, 2026, all trade permits for Project No. 1887777 had been issued, namely BLDG-2026-00350, ELEC-2026-00552, MECH-2026-07334, and PLMB-2026-00378.

4. The following day, April 9, 2026, the City of Fayetteville provided electronic notices to the relevant permit holders that it was revoking all permits issued in connection with

Project No. 1887777. For illustrative purposes, a copy of the notification provided to the electrical permit holder, permit ELEC-20206-00552, is attached hereto as ***Exhibit A***.

5. On April 16, 2026, Owner-Appellant filed its appeal of the City of Fayetteville's revocations of the trade permits for Project 1887777, staying enforcement of the revocations pursuant to N.C.G.S. 160D-405(f).

6. Currently, the hearing related to Owner-Appellant's appeal is scheduled for June 9, 2026, before the Fayetteville Zoning Commission (hereinafter, the "Zoning Commission").

7. When hearing a permit revocation appeal, pursuant to N.C.G.S. § 160D-406 and N.C.G.S. § 160D-1402, the Zoning Commission sits as a quasi-judicial body, requiring it to strictly adhere to the constitutional principles of procedural due process, which command an impartial tribunal.

8. To this end, under N.C.G.S. § 160D-109(d), members of a local board exercising quasi-judicial functions shall not participate in or vote on any matter where their impartiality might reasonably be questioned. Inherently, this statutory prohibition extends to the board's designated legal advisor.

9. On May 20, 2026, by electronic communication, Owner-Appellant was informed that the City of Fayetteville was obtaining outside counsel for purposes of its appeal, with the City Attorney's Office remaining involved to "represent and advise the Zoning Commission."

10. As early as March 11, 2026, the City Attorney's Office has been intimately involved in discussions with Owner-Appellant's counsel concerning the subject matter of the appeal, including the issuance/revocation of the trade permits at Project No. 1887777 and conveying the Property's zoning concerns of City staff.

11. On March 11, 2026, Appellant-Owner's counsel was informed by the City

Attorney's Office that "[f]or future questions or requests concerning [Project No. 1887777], I kindly request that you direct them to the City Attorney's Office, as I am the assigned attorney representing the Fire Department and Development Services Department." A copy of the March 11, 2026 electronic communication is attached hereto as ***Exhibit B***.

12. Likewise, to facilitate Owner-Appellant's submission of its most recent plans for Project No. 1887777 through the developmental portal, Owner-Appellant's counsel contacted the City Attorney's office, stating "we need Joseph Cunningham to re-open the job on the portal, before the plans can be officially submitted. If you could, please relay this to Mr. Cunningham, or the appropriate personnel, so that the amended plans can be submitted before the weekend." A copy of the March 13, 2026 electronic communications are attached hereto as ***Exhibit C***.

13. Given its awareness and active involvement in the present matter, including the generation and/or authorization of the actions that are subject to this appeal (i.e., the revocations of trade permits), the Fayetteville City Attorney's Office is functionally the prosecutor, an advocate for the enforcement staff, and potentially a key witness.

14. While the City of Fayetteville has recently retained independent outside counsel to handle advocacy at the June 9, 2026 hearing, the City Attorney's Office remains conflicted out and unable to further participate.

15. The Zoning Commission, acting as a quasi-judicial body, "can dispense with no essential element of a fair trial." *Humble Oil & Refining Co. v. Board of Aldermen*, 284 N.C. 458, 470, 202 S.E.2d 129, 137 (1974). Allowing the Fayetteville City Attorney's Office, a department that approved and participated in the underlying permit revocations, to remain involved as a legal advisor to the Zoning Commission strips away Owner-Appellant's most basic element of procedural due process, an independent, completely impartial tribunal. *See Crump v. Bd. of Educ.*,

326 N.C. 603, 615, 392 S.E.2d 579, 585 (1990) (stating that “[a]n unbiased, impartial decision-maker is essential to due process”, further defining bias as “preconceptions about facts, policy or law; a person, group or object; or a personal interest in the outcome of some determination.”).

WHEREFORE, for the reasons set forth above, Owner-Appellant respectfully requests that:

1. The Fayetteville City Attorney’s Office immediately recuse itself and be formally disqualified from advising, communicating with, or sitting with the Zoning Commission for this proceeding;

2. The Zoning Commission retain a completely independent, conflict-free outside legal counsel, wholly unaffiliated with the City Attorney’s Office or the outside firm representing city staff, to advise it on procedural matters and draft the final order; and

3. This objection be entered into the official administrative record for the purposes of any subsequent judicial review, pursuant to N.C.G.S. § 160D-1402.

This the 21st day of May, 2026.

ANDERSON, JOHNSON, LAWRENCE
& BUTLER, L.L.P.

By: /s/ Charles R. Smith
Charles R. Smith
N.C. State Bar No. 52402
109 Broadfoot Avenue
P. O. Box 53945
Fayetteville, NC 28305
Telephone: (910) 483-1171
Attorney for Owner-Appellant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *OWNER-APPELLANT'S FORMAL OBJECTION TO PARTICIPATION OF THE CITY ATTORNEY'S OFFICE AND MOTION FOR DISQUALIFICATION* was this day served upon the below-named parties by e-mailing and/or mailing a copy of such instrument, postage prepaid, first-class mail, to the address of:

La-Deidre D. Matthews
Fox Rothschild LLP
101 S. Tryon St., Ste. 1700
Charlotte, NC 28246
LMatthews@foxrothschild.com
Attorney for City of Fayetteville

Lachelle H. Pulliam
Victoria C. Curtis
City of Fayetteville Attorney's Office
433 Hay St.
Fayetteville, NC 28301
LachellePulliam@FayettevilleNC.gov
VictoriaCurtis@FayettevilleNC.Gov
City of Fayetteville Attorney's Office/Advisors to Zoning Commission

This the 21st day of May, 2026.

ANDERSON, JOHNSON, LAWRENCE
& BUTLER, L.L.P.

By: /s/ Charles R. Smith
Charles R. Smith
N.C. State Bar No. 52402
109 Broadfoot Avenue
P. O. Box 53945
Fayetteville, NC 28305
Telephone: (910) 483-1171
Attorney for Owner-Appellant



From: City of Fayetteville <noreply@geocivix.com>
Date: April 9, 2026 at 7:02:59 PM EDT
To: transformelectric.nc@gmail.com
Subject: Permit ELEC-2026-00552 (Electrical Permit) revoked
Reply-To: leverage@ci.fay.nc.us



"Project: [4431 BRAGG BLVD](#)
Address: 4431 BRAGG BLVD
Permit No.: ELEC-2026-00552

TO:

Ronald Jeffrey Smith Project Applicant and Building Permit Holder (NCGCL # 33651)
Jack Elder Stanfill Electrical Permit Holder (NCECL # I.36283)
Kenneth Ray Packer Mechanical Permit Holder (NCMCL # 18408)
Phillip Martin Woods Jr. Plumbing Permit Holder (NCPCL # L.33076)

RE: Revocation of All Permits **Property:** 4431 Bragg Boulevard, Fayetteville, North Carolina **PIN:** 0418-55-3607 / 0418553607000 (**Formerly known as 4423 Bragg Boulevard**) **E-Development Project No.:** 1887777

Dear Permit Holders and Stakeholders:

Pursuant to the authority granted to me under **North Carolina General Statute § 160D-1104**, and in accordance with **North Carolina General Statute § 160D-1115**, I hereby **revoke** all permits issued in connection with the above-referenced property and project.

This revocation includes, but is not limited to, the Building Permit, Electrical Permit, Mechanical Permit, and Plumbing Permit held by the individuals named above.

Further Action Required:

For any legal questions regarding this revocation, please contact the City of Fayetteville Attorney's Office at:

- Email: FayAttorney@FayettevilleNC.gov
- Telephone: (910) 433-1985

For any code-related questions or technical inquiries, please submit your inquiry through the City's E-Development project email system located in the left-hand corner

of your project page (Project No. 1887777). All inquiries must include specific code references relevant to your question.

This revocation is effective immediately upon issuance of this notice.

PLEASE TAKE NOTICE that City of Fayetteville has REVOKED permit no. ELEC-2026-00552 and considers it no longer valid. Any further work completed in conjunction with this permit may be subject to violation and further action.

Please contact our offices regarding next steps.

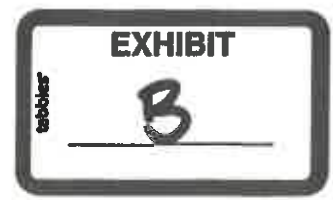
§ 160D-1115. Revocation of building permits.

The appropriate inspector may revoke and require the return of any building permit by notifying the permit holder in writing stating the reason for the revocation. Building permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable State or local laws; or for false statements or misrepresentations made in securing the permit. Any building permit mistakenly issued in violation of an applicable State or local law may also be revoked.

"

You are being sent this email because you have an active account. To unsubscribe, you can request account deactivation [here](#).

City of Fayetteville, NC
433 Hay Street Fayetteville, NC 28301
www.FayettevilleNC.gov



Good afternoon, Mr. Smith,

The City's Fire Department is not able to review the March 10 plans outside of the formal review process. The plans will need to be resubmitted through the portal for review, and any comments or approvals will be provided through the portal.

For clarity, the absence of a response should not be interpreted as approval. For future questions or requests concerning this matter, I kindly request that you direct them to the City Attorney's Office, as I am the assigned attorney representing the Fire Department and Development Services Department.

Please let me know if you would like to discuss.

Kind regards,



Victoria C. Curtis

Assistant City Attorney

City Attorney's Office

433 Hay Street | Fayetteville, NC 28301-5537

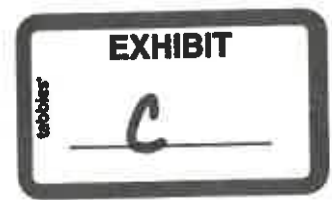
Office: 910.433.1985

Email: VictoriaCurtis@FayettevilleNC.gov

Web: www.FayettevilleNC.gov

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Thanks, Victoria.

Hope you have a great weekend too.

Best,
Charles

From: Victoria C. Curtis <VictoriaCurtis@FayettevilleNC.Gov>
Sent: Friday, March 13, 2026 4:15 PM
To: Charles Smith <Charles@andersonjohnson.com>
Subject: Re: [EXTERNAL]RE: [EXTERNAL]FW: 4431 Bragg Blvd. (Project No. 1887777)

Hey, Charles,

Per your request, the review has been closed so resubmittal is now available.

Have a great weekend,



Victoria C. Curtis
Assistant City Attorney
City Attorney's Office
433 Hay Street | Fayetteville, NC 28301-5537
Office: 910.433.1985
Email: VictoriaCurtis@FayettevilleNC.gov
Web: www.FayettevilleNC.gov

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All communication not specifically exempted by North Carolina law is a public record and subject to release upon request.

From: Charles Smith <Charles@andersonjohnson.com>
Sent: Friday, March 13, 2026 10:18 AM
To: Victoria C. Curtis <VictoriaCurtis@FayettevilleNC.Gov>
Subject: [EXTERNAL]RE: [EXTERNAL]FW: 4431 Bragg Blvd. (Project No. 1887777)

Hey, Victoria.

I thought we'd resubmitted the amended plans, but we need Joseph Cunningham to re-open the job on the portal, before the plans can be officially submitted. If you could, please relay this to Mr. Cunningham, or the appropriate personnel, so that the amended plans can be submitted before the weekend.

Thanks,
Charles