

Opinion issued October 15, 2009



In The
Court of Appeals
For The
First District of Texas

NO. 01-09-00167-CV

MARY BETH CLAWSON AND ROBERT TAYLOR, INDIVIDUALLY AND AS TRUSTEES FOR THE MARY BETH CLAWSON 1986 TRUST, THE MEREDITH MCCARTHY RIDDLE TRUST, THE ELIZABETH KATHLEEN RIDDLE 1986 TRUST, THE ELIZABETH MARENFIELD 1986 TRUST, ARBOR HOLDING COMPANY, INC., ARBOR CAPITAL INVESTMENT COMPANY, INC., JOHN C. RIDDLE, AND STARWOOD HOLDING COMPANY, INC., Appellants

V.

BELTWAY GREEN PARTNERSHIP, LTD., BELTWAY GREEN, INC. DAVID HAMILTON, AND JAB DEVELOPMENT CORPORATION, Appellees

**On Appeal from the 164th District Court
Harris County, Texas
Trial Court Cause No. 2003-51526**

MEMORANDUM OPINION

Appellees, Beltway Green Partnership, Ltd., Beltway Green, Inc. David Hamilton, and JAB Development Corporation, filed a motion to dismiss this appeal for want of prosecution. We grant the motion and dismiss the appeal.

Background

Appellants, Mary Beth Clawson and Robert Taylor, Individually and as Trustees for the Mary Beth Clawson 1986 Trust, the Meredith McCarthy Riddle Trust, the Elizabeth Kathleen Riddle 1986 Trust, the Elizabeth Marenfield 1986 Trust, Arbor Holding Company, Inc., Arbor Capital Investment Company, Inc., John C. Riddle, and Starwood Holding Company, Inc., filed this appeal. The record was due April 1, 2009. No reporter's record was filed.

On May 22, this Court ordered this case to mediation. On June 19, appellants filed a motion to extend the mediation deadline to July 24, 2009, which this Court granted. On July 24, the appellants filed a second motion to extend the mediation deadline. On July 28, appellees filed a motion to dismiss. On July 28, this Court denied appellees' motion to dismiss and ordered the appellants' brief to be filed by August 24, 2009. To date, appellants have not filed a brief and have never paid for the reporter's record to have it prepared and filed with this Court.

Appellees filed a second motion to dismiss this appeal for want of prosecution.

We conclude dismissal is appropriate. Appellants have not filed a brief as ordered. *See* TEX. R. APP. P. 38.8(a) (court may dismiss for want of prosecution for failure of appellant to file brief); *see also* TEX. R. APP. P. 42.3(b) (allowing dismissal of case for want of prosecution on motion of any party).

The appeal is dismissed for want of prosecution for failure to timely file a brief.

All pending motions are denied.

PER CURIAM

Panel consists of Justices Keyes, Alcalá, and Hanks.