

STATE OF SOUTH CAROLINA )  
 ) IN THE COURT OF COMMON PLEAS  
COUNTY OF LEXINGTON ) ELEVENTH JUDICIAL CIRCUIT

Town of Lexington, South Carolina, ) Civil Action No. 2021CP3201321  
 )  
 )

Plaintiff, )  
 )  
 )

vs. )

ORDER REGARDING THE TOWN OF  
LEXINGTON'S MOTION TO ALTER  
OR AMEND

City of West Columbia, South Carolina, )  
and The Central Midlands Council of )  
Governments, )  
 )  
 )

Defendants. )  
 )  
 )

**RECEIVED**

**Jan 27 2023**

**SC Court of Appeals**

The Town of Lexington, South Carolina (the Town) filed a motion under Rule 59(e), SCRCF, to reconsider, alter or amend the prior order of August 17, 2022, which granted the defendants' motion to dismiss under Rule 12(b)(6) SCRCF. The order rejected West Columbia's arguments under Rule 12(b)(1) concerning jurisdiction. Having reconsidered the matter, the motion is respectfully denied.

A motion to dismiss on the pleadings is one which requires the court to look to the four corners of the Complaint, unless matters outside the pleading are considered, in which case the court may consider the motion as one for summary judgment. If the motion is to be converted, the parties should be given a fair opportunity to address the motion in that fashion. Dismissal on the pleadings is a drastic remedy. The court's understanding is that the oral arguments were presented on matters within the Complaint and both sides argued material facts that are not in dispute. The court does not recall any argument related to additional discovery being needed to address the motion. Even if it were, the gist of the ruling is that once West Columbia annexed the area in

question, it had the right to provide wastewater treatment services within all areas of its corporate limits.

The Town also asserts that the order failed to rule on the Town's argument that there is no procedure to challenge the Central Midlands Council of Governments' decision, thus depriving the Town of appropriate review required by Article I, Section 22 of the South Carolina Constitution. Electronic mail communications were relied upon by West Columbia in its waiver argument, and the Town maintains that there were other communications. The Town claims that it was not in a position to present evidence in that regard because the motion was one filed under Rule 12(b).

Again, those issues do not appear to override the court's determination that the Complaint asserts that West Columbia annexed the area in question. The court found that once that occurred, West Columbia had a clear right to provide wastewater treatment services within its corporate limits. The court rejected the argument regarding procedural deficiencies sufficient to change that conclusion. The court also feels that it addressed the alleged lack of a procedural path to object to West Columbia's application in the section of the order rejecting the administrative remedies argument.

Having carefully reconsidered the well-reasoned arguments and issues raised by learned counsel, the motion under Rule 59 is denied.

AND IT IS SO ORDERED.

[Judge's electronic signature follows on separate page]



Lexington Common Pleas

**Case Caption:** Town Of Lexington, South Carolina VS City Of West Columbia,  
South Carolina , defendant, et al

**Case Number:** 2021CP3201321

**Type:** Order/Amend

Circuit Judge (Code #2050)

s/ William P. Keesley