

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Bentley D. Price, Circuit Court Judge  
Case No. 2019-CP-10-04387  
Appellate Case No. 2021-000051

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**RECEIVED**

**May 15 2023**

**SC Court of Appeals**

Applied Building Sciences, Inc.,

Appellant,

v.

South Carolina Department of Commerce,  
Division of Public Railways,

Respondent.

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RESPONDENT'S BRIEF IN RESPONSE TO THE JOINT AMICI CURIAE  
BRIEF OF MUNICIPAL ASSOCIATION OF SOUTH CAROLINA AND  
SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

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Attorneys for Respondent

## RESPONSE

Appellant contends that personal property not taken in a condemnation case nonetheless merits payment of constitutional just compensation. Appellant further attempts to expand the legal definition of personal property to include time expended during relocation. Time is not personal property, and Appellant is not entitled to relief under clearly established South Carolina law.

Accordingly, the South Carolina Department of Transportation and the Municipal Association of South Carolina have filed a Joint Amici Curiae brief in this matter to protect their interests. In summary, the Amici Curiae argue that:

1. The Appellant's renovation expenditures do not constitute property taken by Railways and thus are not subject to compensation;
2. Constitutional just compensation is not unlimited and does not include reestablishment expenses;
3. The statutory limitation on reestablishment expenses in S.C. Code Ann. §28-11-30(4) is constitutional;
4. Other states' recognition of moving and/or reestablishment expenses as part of just compensation as a matter of their state law is irrelevant; and
5. The similarity in South Carolina's and Michigan's constitutions does not provide a basis for requiring our state to adopt Michigan case law.

Respondent does not oppose any of the arguments or conclusions of the Amici Curiae and submits that their Brief reflects the strength of Respondent's legal positions. In South Carolina, relocation expenses are not constitutionally compensable; instead, a statutory framework guides assistance to affected persons and businesses. This framework provides uncapped reimbursement for actual moving expenses and any direct losses of tangible personal property as well as up to

\$50,000 for reestablishment expenses, which is twice the amount the federal government offers. Appellant maximized its reestablishment benefits, and it is not constitutionally entitled to more compensation. Thus, Respondent incorporates the arguments set forth in its Brief and respectfully requests that this Court affirm the judgment of the lower court.

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CERTIFICATE OF COUNSEL

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The undersigned certifies that this Brief complies with Rule 211(b), SCACR and the Supreme Court's April 15, 2014 Order on Personal Identifying Information.

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