

**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

Appeal from Charleston County
Court of Common Pleas
Eugene C. Griffith, Jr., Circuit Court Judge

Case No. 2018-CP-10-00851

Court of Appeals Case No. 2019-000728
Opinion No. 5965 (S.C. Ct. App. filed February 1, 2023)

Supreme Court Case No. 2023-000930

National Trust for Historic Preservation in the United States and
the City of Charleston,

Petitioners,

v.

City of North Charleston,

Respondent.

REPLY BRIEF OF PETITIONER CITY OF CHARLESTON

Wilbur E. Johnson (SC Bar No. 3062)
Russell G. Hines (SC Bar No. 72100)
CLEMENT RIVERS, LLP
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
P.O. Box 993 (29402)
wjohnson@yrcrlaw.com
rhines@yrcrlaw.com
(843) 720-5488

and

Frances I. Cantwell (SC Bar No. 1121)
Julia P. Copeland (SC Bar No. 77199)
CITY OF CHARLESTON
Legal Department
50 Broad Street
Charleston, South Carolina 29401
fcantwell054@gmail.com
copelandj@charleston-sc.gov
(843)-724-3730

Attorneys for Petitioner City of Charleston

RECEIVED

Dec 16 2024

S.C. SUPREME COURT

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....ii

INTRODUCTION 1

ARGUMENT..... 1

 1. Supplement to Argument I in the National Trust’s reply brief. 1

 2. Supplement to Argument II in the National Trust’s reply brief. 2

CONCLUSION 3

TABLE OF AUTHORITIES

Statutes

S.C. Code Ann. § 5-3-1002

Rules

Rule 208(b)(6), SCACR 1

Charleston¹ submits this brief in reply to North Charleston’s combined respondent’s brief.

INTRODUCTION

North Charleston’s primary arguments are already addressed in Petitioners’ principal briefs, which are reaffirmed and incorporated herein by reference. North Charleston’s arguments are further rebutted by the National Trust’s reply brief, which Charleston both joins in and adopts pursuant to Rule 208(b)(6), SCACR, and supplements to include the points set forth below.

ARGUMENT

1. Supplement to Argument I in the National Trust’s reply brief.²

Argument I in the National Trust’s reply brief meticulously addresses North Charleston’s claims that the National Trust does not have proprietary interests in the Acre. Charleston supplements this argument simply to state the obvious: Because the National Trust owns a portion of the Acre (i.e., the Overlapped Area) and all of the National Trust Property is in Charleston, the annexation of the Acre infringed on Charleston’s statutory rights in, to, and over property in its exclusive jurisdiction. This infringement imbued Charleston with statutory standing to contest the attempted annexation of the Acre.

¹ Shorthand references already defined in Charleston’s principal brief (e.g., “Charleston” refers to Petitioner City of Charleston; the “National Trust” refers to Petitioner National Trust for Historic Preservation in the United States; “Petitioners” refers to Charleston and the National Trust, collectively; “North Charleston” refers to Respondent, City of North Charleston) are continued in this reply brief.

² For ease of reference, Argument I in the National Trust’s reply brief reads as follows:

The National Trust has standing to challenge the annexation by North Charleston because the annexation ordinance described the area annexed to include a portion of its property. The many arguments made by North Charleston in its Brief are unavailing in surmounting this fundamental fact that is the basis for the National Trust’s proprietary standing.

(Reply Br. of National Trust p. 2 (emphasis omitted).)

2. Supplement to Argument II in the National Trust’s reply brief.³

North Charleston misapprehends the basis of Charleston’s public importance standing. The effect of North Charleston’s purported annexation destroys the integrity of Charleston’s borders. North Charleston blatantly ignored two properties intervening between its borders and the Acre. Those intervening properties are in Charleston. Those intervening properties establish and constitute a barrier not penetrable by another municipality. As set forth in Charleston’s principal brief, municipal boundaries establish a line that not only delineates areas of exclusive jurisdiction but also preserves contiguous properties as areas for future growth. Allowing municipal borders to be ignored by way of annexation, regardless of the method used, renders municipal boundaries meaningless.

North Charleston’s arguments against the need for future guidance regarding the use of S.C. Code Ann. § 5-3-100 fall short. That “[t]here is no runaway train of leapfrog annexations of increasing distance”⁴ or that the circuit court’s decision in this case “has been widely publicized and will no doubt be instructive to North Charleston and every other city in South Carolina going forward”⁵ is not relevant to the legality of the leapfrog issue and is purely speculative. As an initial matter, unless this Court addresses the issue on the merits, the circuit court’s opinion remains that of one judge and amounts to nothing more than non-binding dicta. Secondly, North Charleston’s urging this Court to kick the can down the road for the time being, would effectively serve as condonation of North Charleston’s use and interpretation of § 5-3-100. Finally, the fact that a “misapplication of an

³ For ease of reference, Argument II in the National Trust’s reply brief reads as follows:

North Charleston does not directly argue against the basis for statutory standing or public importance standing asserted by Charleston based on the violation of its statutory interests.

(Reply Br. of National Trust p. 10 (emphasis omitted).)

⁴ (Br. of Respondent p. 23.)

⁵ (Br. of Respondent p. 24 n.14.)

annexation statute or improper municipal boundary changes”⁶ is within the province of the State, through the Attorney General, neither removes the issue from the province of this Court nor has any bearing on this Court’s fundamental charge and responsibility to interpret the law.

The propriety of leapfrog annexations is an issue of statewide public importance, affecting every municipality in this State. This issue having been fully briefed, there is, respectfully, no reason to delay its adjudication. Most respectfully, this Court should address the issue now.

CONCLUSION

For all the reasons set forth in Charleston’s principal and reply briefs, together with any other or further reason(s) set forth in the National Trust’s principal and reply briefs, the entirety of which Charleston adopts to the extent not inconsistent with its position in this matter, Charleston asks this Honorable Court to reverse the Court of Appeals’ finding that Petitioners do not have standing (and, in turn, reverse the circuit court’s finding that Petitioners do not have standing) and to affirm the circuit court’s determination that the purported annexation at issue is unlawful.

<SIGNED ON THE FOLLOWING PAGE>

⁶ (Br. of Respondent p. 23.)

Respectfully submitted,

By: s/Russell G. Hines
Wilbur E. Johnson (SC Bar No. 3062)
Russell G. Hines (SC Bar No. 72100)
CLEMENT RIVERS, LLP
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
P.O. Box 993 (29402)
wjohnson@ycrlaw.com
rhines@ycrlaw.com
(843) 720-5488

and

Frances I. Cantwell (SC Bar No. 1121)
Julia P. Copeland (SC Bar No. 77199)
CITY OF CHARLESTON
Legal Department
50 Broad Street
Charleston, South Carolina 29401
fcantwell054@gmail.com
copelandj@charleston-sc.gov
(843)-724-3730

Attorneys for Petitioner City of Charleston

Charleston, South Carolina

December 16, 2024