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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Robert L. Reibold, Administrative Law Judge

Case No. 24-ALJ-30-0067-CC
Appellate Case No. 2025-000735

DoorDash, Inc., ... Appellant,

v.

City of Anderson, ... Respondent.

FINAL BRIEF OF RESPONDENT

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Columbia, South Carolina

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INTRODUCTION

This is an appeal from the Order on Motions for Summary Judgment (the "Final Order"), entered February 2, 2025, in the State of South Carolina Administrative Law Court (the "ALC") granting summary judgment in favor of Respondent, City of Anderson, South Carolina (the "City"), and denying summary judgment to Appellant, DoorDash, Inc. ("DoorDash").

The dispute leading to the underlying contested case proceeding arises as the result of a final assessment of business license taxes on DoorDash by the City for tax years 2022 and 2023, imposed under City Ordinance Number 21-20 (the "Business License Ordinance"),[1] enacted by the City Council of the City of Anderson (the "City Council") per the Business License Standardization Act (the "Standardization Act"), Sections 6-1-400 to -420 of the Code of Laws of South Carolina 1976, as amended, in the amount of $18,421.50, including penalties. (R. pp. 261-262; 263-278). This tax is calculated using the gross income earned by DoorDash the prior year through business conducted inside the municipal boundaries of the City. (R. pp. 263-278). It is undisputed that the business license tax imposed on DoorDash for tax year 2022 was based on a gross income of $1,940,388.00, and the business license tax imposed for 2023 was based on a gross income of $2,504,028.90, meaning DoorDash earned $4,444,416.90 in two short years through business transactions in the relatively small municipality. (R. pp. 261-62).

DoorDash is a company headquartered in San Franciso, California with a mission "to empower and grow local economies by opening the doorways that connect us to each other. When consumers get their goods, local merchants get business, and Dashers get paid." (R. pp. 79-80; 237). Using a business model that is now well-known throughout the country, likely the world, DoorDash fulfills this mission through the operation of an online platform that is directly

[1] Codified as Sections 26-36 through 26-50 of the Anderson City Code.

accessible to customers via app and webpage. (R. pp. 261-62; 79-80). Through this platform, those customers directly contract with DoorDash and place orders with restaurants and merchants for pick-up and delivery. (R. pp. 79-80). Independent contractors of DoorDash, called Dashers, pick these orders up from the restaurants and merchants and deliver them to the customers. (R. pp. 79-80).

DoorDash uses this business model inside the municipal boundaries of the City by directly contracting with local restaurants and merchants that then advertise through its virtual platform. (R. pp. 79-80). Once customers place orders for delivery directly with DoorDash by using its platform via app or webpage, Dashers working inside the City limits, also pursuant to direct contracts with DoorDash, pick up these orders and deliver them to the customers. (R. pp. 79-80). Again, this means of doing business has proven to be so lucrative for DoorDash that based on business conducted in the City only, DoorDash earned a total gross income of $4,444,416.90 over the course of just two years. (R. pp. 261-62).

Based on the plain language of the Business License Ordinance, DoorDash's engagement in essential business functions, as opposed to mere isolated and incidental acts, within municipal limits subject it to the City's business license tax. This interpretation of the Business License Ordinance is consistent with the plain language of the Standardization Act, the legislative intent of the Standardization Act, the legislative intent of the Business License Ordinance, and the related common law of the State of South Carolina.

DoorDash argues that despite the fact it directly contracted with ninety-four restaurants within the City during tax years 2022 and 2023 for the purpose of facilitating meal sales and deliveries, directly paid independent contractors to shuttle food from restaurants to customers, directly contracted with a sufficient number of customers to earn an astonishing $4,444,416.90 in

gross income during that time period, and facilitated this vast business enterprise using a virtual platform that allows customers to place orders, through direct contracts with DoorDash, 24-hours a day directly from their mobile phones or computers, all of which is undisputed, it does not engage in sufficient business within the municipal boundaries of the City to be subject to the municipality's business license tax because it lacks a physical presence. This argument is absurd, contrary to almost 100 years of South Carolina common law, contrary to the findings of the ALC, and contrary to the local and state legislation pursuant to which the business license tax assessed against DoorDash was lawfully imposed.

On appeal, DoorDash seeks an affirmative response to these three questions:

(1) Did the ALC err when concluding the Business License Ordinance does not include a physical presence requirement?

(2) Did the ALC err in its application of the *Travelscape* decision?

(3) Did the ALC's decision result in absurd results by authorizing South Carolina to impose a business license tax on businesses that profit "indirectly" from third-party transactions?

For the reasons set forth herein, the City respectfully asks this Court to answer each question with "no," thereby affirming the underlying order concluding the Business License Ordinance does not contain a physical presence requirement, affirming the ALC's entrance of summary judgment in favor of the City, and affirming the ALC's denial of summary judgment to DoorDash.

STATEMENT OF THE CASE

This matter stems from the City's assessment of business license taxes on DoorDash for tax years 2022 and 2023 in the amount of $18,421.50, including penalties. (R. pp. 261-262). The City calculated the taxes using DoorDash's estimated gross income from business done inside the

municipal boundaries of the City in the amount of $1,940,388.00 for 2022 and $2,504,028.90 for 2023, a fact that is uncontested. (R. pp. 261-262). DoorDash challenged this assessment, arguing it does not do business within the City, so it is not subject to its business license tax. (R. pp. 261-262).

After DoorDash requested an adjustment and exhausted the informal conference requirement, the City issued a Notice of Final Assessment on May 17, 2023, imposing $14,290.80 in business license taxes for 2022 and 2023 and $4,130.70 in penalties. (R. pp. 76-77). DoorDash appealed by requesting a hearing before David McCuen, City Manager, the appeals officer designated by the City per the Standardization Act. (R. pp. 261-262). This hearing went forward September 7, 2023, and both parties were represented by counsel. (R. pp. 261-262). Mr. McCuen issued a written decision on February 21, 2024, in which he affirmed the underlying Notice of Final Tax Assessment and denied the appeal. (R. pp. 261-262).

DoorDash appealed Mr. McCuen's decision by filing a Request for Contested Case Hearing with the ALC on March 21, 2024. (R. pp. 456-467). Agreeing there were no contested facts for determination by the ALC, the parties filed cross-motions for summary judgment on September 20, 2024, and responded to the other party's motion for summary judgment on November 4, 2024. (R. pp. 54-322). The ALC heard the cross-motions for summary judgment on December 11, 2024, and issued its Final Order on February 7, 2025, in which it granted summary judgment in favor of the City, denied DoorDash's motion for summary judgment, and affirmed the underlying decision of Mr. McCuen. (Final Order, R. pp. 12-42).

DoorDash filed a motion to reconsider the Final Order on February 14, 2025, and the City filed a response in opposition on February 25, 2025. (R. pp. 323-343). The ALC quickly denied

the reconsideration request on March 17, 2025. (Order on Motion to Reconsider, R. pp. 1-11). DoorDash's Notice of Appeal to this Court followed on April 14, 2025.

STANDARD OF REVIEW

Section 1-23-610 of the Code of Laws of South Carolina 1976, as amended, of the Administrative Procedures Act sets forth the standard of review for appeals from the ALC. This Court may affirm the decision, remand for further proceedings, or reverse or modify the decision when the substantive rights of the petitioner have been prejudiced because the decision is (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) the result of unlawful procedure; (d) the result of an error of law; (e) clearly erroneous; or (f) arbitrary, capricious, an abuse of discretion, or a clearly unwarranted exercise of discretion. S.C. Code Ann. § 1-23-610. Questions of law, including questions of statutory interpretation, are reviewed *de novo* without deference to the trial court. *CFRE, LLC v. Greenville Cty. Assessor*, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011).

STATEMENT OF FACTS

In its Final Order, the ALC noted that the following facts are undisputed, and the City agrees:

> DoorDash operates an online platform that facilitates the purchase and delivery of goods from participating restaurants and other merchants. DoorDash manages its platform from outside of the City of Anderson and has no place of business or employees within the City. DoorDash has agreements with restaurants and other merchants in the City of Anderson and the food and goods available from these restaurants and merchants are advertised through the platform. Customers can order and pay for goods from participating merchants through the platform.
>
> DoorDash also has agreements with local businesses or individuals, referred to as "Dashers," that provide delivery services between the merchant and customer based on communications received through DoorDash's "Dasher App." Dashers are designated as independent contractors by the parties to the Dasher contract. If a customer requests delivery, the platform identifies a Dasher to make the delivery. Dashers may accept or decline a specific delivery. When a customer orders through

the platform, DoorDash collects payment from the Customer that is transmitted to the participating business, minus a commission for DoorDash, the Dasher, and retains certain fees for use of the platform.

DoorDash provided information to the City showing that it had agreements with 94 restaurants within the City and that DoorDash received gross income of $1,940,388.10 in 2022 and $2,504,028.90 in 2023 from restaurant transactions within the City. The City served a notice of assessment on DoorDash on April 7, 2023 assessing $14,290.80 in business license tax and $4,130.70 in penalties for, collectively, 2022 and 2023. DoorDash submitted a letter on May 4, 2023 requesting an adjustment to the assessment. The parties held an informal conference on May 16, 2023 with the City being represented by its business license official. The City denied the request for adjustment. DoorDash then appealed the final assessment, again on the basis that DoorDash does not conduct business within the City, and the hearing was conducted on September 7, 2023 before the City Manager, serving as Hearing Officer. The City's Decision on Appeal was issued on February 21, 2024 and it denied the relief sought by DoorDash and upheld the assessment decision below.

(Final Order, R. pp. 14-15).

ARGUMENT

I. THE ALC PROPERLY CONCLUDED THE BUSINESS LICENSE ORDINANCE DOES NOT REQUIRE PHYSICAL PRESENCE, BUT EVEN IF IT DOES, DOORDASH HAS A PHYSICAL PRESENCE INSIDE THE CITY.

DoorDash first asks this Court to consider whether the ALC erred when concluding the Business License Ordinance does not require the physical presence of a business for it to become subject to the business license tax. In support of this argument, DoorDash asserts the ALC's conclusion conflicts with the plain language of the Business License Ordinance. Alternatively, DoorDash argues that *if* the language of the Business License Ordinance is ambiguous, then the ALC erred when failing to construe that ambiguity in favor of the taxpayer by relieving it of the obligation to pay the business license tax.

Not only does DoorDash misrepresent the conclusion reached by the ALC in its Final Order, but it inserts a physical presence requirement into the Standardization Act and Business License Ordinance that does not exist, misconstrues decades of common law to include a physical

presence requirement that has never been articulated and is conspicuously absent from the holding of any of the cases cited, and fails to include a complete statutory construction analysis when addressing the potential ambiguity of the Business License Ordinance.

As pertinent here, in its Final Order, the ALC concluded:

> For the reasons discussed below, the Court agrees with the City. The Court concludes both that the City's ordinance does not require a physical presence and that, even if a physical presence is required, that requirement is satisfied. It is the opinion of the Court that DoorDash is doing business in the City for the purposes of a business license tax.

(Final Order, R. p. 21). This ruling is supported by the plain language of the Business License Ordinance, the plain language of the Standardization Act, and the manner in which courts in South Carolina have always treated the assessment of taxes on the privilege of conducting business within its municipalities.

A. The Final Order is consistent with almost 100 years of South Carolina law authorizing business license taxation.

A general overview of the history and development of business license taxation in South Carolina is not only necessary to understanding the issues before this Court, but it reveals the inherent flaw in DoorDash's argument – physical presence has never been the standard used by South Carolina's taxing jurisdictions and courts when deciding whether the activities of a business inside a municipality are sufficient to subject it to a business license tax. Instead, for almost a century, the primary inquiry has been the intensity or continuity of commercial activity in the taxing jurisdiction. *Pee Dee Chair Co. v. City of Camden*, 165 S.C. 86, 162 S.E. 771, 773 (1932) ("the carrying on of a business necessarily involves the idea of successive acts, continuity of habit") (internal citations omitted). Indeed, there is not a single case, statute, or ordinance establishing such a requirement on the assessment of privilege taxes in South Carolina. *See, e.g.*, *Quill Corp. v. North Dakota*, 504 U.S. 298, 314, 112 S.Ct. 1904, 119 L.Ed.2d 91 (1992), *overruled*

by South Dakota v. Wayfair, 585 U.S. 162, 188, 138 S.Ct. 2080, 201 E.Ed.2d 403 (2018) (noting, the United States Supreme Court has never articulated a physical-presence requirement for the imposition of a tax on the privilege of conducting interstate business); *Tyler Pipe v. Wash. State Dep't of Revenue*, 483 U.S. 232, 250, 107 S.Ct. 2810, 2821, 97 L.Ed. 2d 199 (1987) (due to its utilization of independent contractors, the Supreme Court found the company conducted business in the state, thus could be subject to its business and occupation tax, even though it manufactured its products out-of-state, did not have an office in the state, owned no property within the state, and had no employees in the state).

South Carolina law authorizes local governments to "levy a business license tax on gross income." S.C. Code Ann. § 5-7-30. The business license tax is an excise tax. *See Olds v. City of Goose Creek*, 424 S.C. 240, 246, 818 S.E.2d 5, 9 (2018); *Town of Hilton Head Island v. Kigre, Inc.*, 408 S.C. 647, 649, 760 S.E.2d 103, 103 (2014). The tax is imposed "on the privilege of doing business, and no prohibition against the utilization of excise taxes exists." *Carter v. Linder*, 303 S.C. 119, 122, 399 S.E.2d 423, 424 (1990); *see also* S.C. Code Ann. § 6-1-400 (defining "business license" as "a license issued to a taxpayer by a county or municipality for the privilege of doing business in that county or municipality") (emphasis added).

Until very recently, the South Carolina Code was virtually silent on business licensing, so the laws applicable to business licensing arose from court decisions and local ordinances. Then, in 2020, the South Carolina General Assembly passed the Standardization Act, which aimed to simplify the business license process across the State by mandating a uniform method of calculating business license taxes based on gross income and setting a standard renewal date for all businesses. S.C. Code Ann. § 6-1-400. It also established a central online portal for businesses

to use when applying for and renewing licenses across different municipalities, reducing administrative burdens. S.C. Code Ann. § 6-1-400(J)(1).

Before a municipality may require a person or entity to have a business license, the person or entity must be "doing business" within the territorial jurisdiction of the municipality. S.C. Code Ann. § 6-1-400(A)(2)(a). The Anderson City Code expounds on what it means to do business within its municipal boundaries by requiring a business license for "[e]very person engaged or intending to engage in any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, in whole or in part within the limits of the City of Anderson, South Carolina." (Anderson City Code § 26-36, R. p. 269). The associated business license tax is then calculated based on the gross income derived by such business for the calendar year preceding the May 1 statutory due date. S.C. Code Ann. § 6-1-400(B)(2).

By design and consistent with the purpose of each, the Standardization Act and Anderson City Code define "gross income" similarly. S.C. Code Ann. § 6-1-400(E)(1)(a); Anderson City Code § 26-37. (R. pp. 269-270). Both definitions differentiate the gross income of businesses domiciled in the taxing jurisdiction from the gross income of businesses domiciled elsewhere that simply receive or accrue gross receipts or revenue within the jurisdiction. *Id.* Thus, the plain and unambiguous language of the Standardization Act makes it clear that physical presence within the taxing jurisdiction is not required for a business to become subject to the tax. *Id.*

Moreover, although the distinction between independent contractors and employees is important in some contexts (for example, tort liability, workers' compensation, and payroll tax treatment), neither the Standardization Act nor the Anderson City Code make this distinction for business licensing purposes. *See, e.g.*, S.C. Code Ann. §§ 6-1-400, *et seq.*; Anderson City Code §§ 26-36 to 26-50. (R. pp. 263-278). Both independent contractors and employees acting on behalf

of a business are its agents, and their activities on behalf of the principal are equally sufficient to establish that the business is doing business within the jurisdiction. *See Travelscape, LLC v. South Carolina Dept. of Revenue*, 391 S.C. 89, 106, 705 S.E.2d 28, 37 (2011) (holding that an online platform operated out-of-state conducts business inside the state by contracting with hotels with whom it does not have an agency relationship); citing *Tyler Pipe*, 483 U.S. at 250, 107 S.Ct. at 2821, 97 L.Ed. 2d 199 (1987) (through its utilization of independent contractors, the company conducted business in the state even though it did not have an office or employees in the state); *Scripto Inc. v. Carson*, 362 U.S. 207, 213, 80 S.Ct. 619, 622, 4 L.Ed.2d 660 (1960) (the use of independent contractor sales representatives, rather than true employees, is sufficient for a company to establish that it is doing business for tax purposes).

Using the clear parameters of the Standardization Act and applicable local ordinance, the determination of whether a party is "doing business" in a certain jurisdiction is fact dependent. *See Wrenn Bail Bond Serv., Inc. v. City of Hanahan*, 335 S.C. 26, 29, 515 S.E.2d 521, 523 (1999) (internal citation omitted). The primary inquiry is the intensity or continuity of commercial activity in the municipality. *Pee Dee Chair Co.*, 162 S.E. at 773 ("the carrying on of a business necessarily involves the idea of successive acts, continuity of habit") (internal citations omitted). Relying on *Pee Dee Chair Company*, South Carolina courts have consistently held that a single or isolated activity that is merely incidental to the essential business of a company within the taxing jurisdiction is not "doing business" for business license tax purposes. *See, e.g.*, *Wrenn Bail Bond*, 335 S.C. at 27, 515 S.E.2d at 522 (the single act of obtaining a bail bond from a court located inside the taxing jurisdiction for the purpose of providing bail bondsman services to a resident incarcerated outside of the taxing jurisdiction did not constitute "doing business"). South Carolina courts, however, have consistently held that businesses are not required to conduct all essential

business within the taxing municipality before being subject to that jurisdiction's business license tax. *See, e.g.*, *Triplett v. City of Chester*, 209 S.C. 455, 461-63, 40 S.E. 2d 684, 686-87 (1946) (requiring a general contractor with a business office in the taxing jurisdiction to pay a business license tax even though all general contracting work physically occurred outside the jurisdiction). For these reasons, the regular delivery of goods or provision of services within a municipality, regardless of physical presence inside the taxing jurisdiction or elsewhere, constitutes "doing business" within that municipality for business license tax purposes. *See, e.g.*, *Crosswell & Co. v. Town of Bishopville*, 172 S.C. 26, 172 S.E. 698, 699 (1934) (finding one-to-two trips from its principal place of business into the taxing municipality once a week for two years for the purpose of delivering goods constitutes "doing business" for business license tax purposes).

DoorDash unconvincingly attempts to twist the holdings of *Pee Dee Chair Company* and its progeny to imply that a company must have some sort of physical presence through a brick-and mortar office, employees, or other in-person physical activity in order to subject itself to local business license taxation. Not only is this untrue, but it is contrary to the "successive acts" and "continuity of habit" required by *Pee Dee Chair Company*. Indeed, using physical presence as the benchmark that DoorDash insists applies would have resulted in the assessment of a business license tax against Pee Dee Chair Company as the result of its single, isolated delivery within the municipal limits of the taxing jurisdiction. *Pee Dee Chair Co.*, 162 S.E. at 773. Likewise, the bail bondsman in *Wrenn Bail Bond* who conducted only one business transaction inside the municipal boundaries of the taxing jurisdiction would have instead been subject to that jurisdiction's business license tax. *Wrenn Bail Bond*, 335 S.C. at 27, 515 S.E.2d at 522. Such a result would usurp a century of common law and contradict the plain language and intent of the Business License Ordinance and Standardization Act.

In Section III of DoorDash's brief, it pulls the word "indirect" from the Business License Ordinance and Final Order and applies it, wholly out of context, to a long string of strained hypotheticals in which it alleges that affirming the Final Order will allow municipalities statewide to assess a business license tax against every business earning an indirect profit from third-party transactions, no matter how small and remote, sparked by consumer activity within the taxing jurisdiction, causing the absurd result of an endless chain of business license tax assessments across the globe against companies that have never had a physical presence in the community. Then, going back to the fictional physical presence requirement that is the basis for every argument asserted by DoorDash, the company again implores this Court to apply that physical presence standard here, despite the absence of supporting binding authority, all the while ignoring the ALC's ruling that, even though it is not necessary per the plain language of the Business License Ordinance, DoorDash has a physical presence inside the City – a conclusion that was not raised by DoorDash in any of its issues on appeal and is now final.

The Final Order is consistent with the well-established common law principles that form the framework by which the Standardization Act and business license ordinances adopted pursuant to it, including the Business License Ordinance at issue, and the plain language used in those local and statutory authorities is interpreted. The Final Order is grounded on sound legal principles and has a solid and accurate legal basis. Accordingly, this Court must affirm the ALC's conclusion that the Business License Ordinance does not contain a physical presence requirement and affirm the lower court's entrance of summary judgment in favor of the City.

B. The Final Order is consistent with the plain language of the Business License Ordinance.

In its Final Order, the ALC found the language of the Business License Ordinance to be unambiguous and then properly interpreted the plain language of that ordinance, concluding it does not require a business to have a physical presence inside the City. (Final Order, R. pp. 27-29).

It is well-established that when the language of a statute is plain, unambiguous, and conveys a clear and definite meaning, the application of the standard rules of statutory interpretation is unwarranted. *Paschal v. State Election Comm'n*, 317 S.C. 434, 454 S.E.2d 890 (1995); *Miller v. Doe*, 312 S.C. 444, 441 S.E.2d 319 (1994). The statutory terms, therefore, must be applied according to their literal meaning. *Paschal*, 317 S.C. at 436, 454 S.E.2d at 892; *Holley v. Mount Vernon Mills, Inc.*, 312 S.C. 320, 440 S.E.2d 373 (1994). In such circumstances, the court simply lacks the authority to look for or impose another meaning and may not resort to subtle or forced construction in an attempt to limit or expand a statute's scope. *Paschal,* 317 S.C. at 437, 454 S.E.2d at 892; *Berkebile v. Outen,* 311 S.C. 50, 426 S.E.2d 760 (1993).

The plain and unambiguous language of the Business License Ordinance is consistent with the plain and unambiguous language of the Standardization Act and gives the City the authority to assess and collect a business license tax from DoorDash. As explained *supra*, the General Assembly enacted the Standardization Act for the purpose of establishing a uniform system of calculating and collecting taxes levied on businesses for the privilege of doing business in the taxing jurisdiction. *See* S.C. Code Ann. §§ 6-1-400, *et seq*. When doing so, through its definition of "gross income," the General Assembly purposefully distinguished businesses domiciled in the taxing jurisdiction from business domiciled elsewhere that profit from activities conducted within the taxing jurisdiction. S.C. Code Ann. § 6-1-400(E)(1). The Standardization Act defines "gross income" as:

> [T]he gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within a taxing jurisdiction. For taxing jurisdictions in which the person or business has a domicile, business done within that taxing jurisdiction shall include all gross receipts or revenue received or accrued by such person or business, excepting income earned outside of the taxing jurisdiction on which a license tax is paid by the person or business to some other taxing jurisdiction and fully reported to the taxing jurisdiction. For taxing jurisdictions in which the person or business does not have a domicile, business done within that taxing jurisdiction shall include only gross receipts or revenue received or accrued within such taxing jurisdiction. In all cases, if the taxpayer pays a business license tax to another county or municipality, then the taxpayer's gross income for the purpose of computing the tax within the taxing jurisdiction must be reduced by the amount of gross income taxed in the other county or municipality.

S.C. Code Ann. § 6-1-400(E)(1)(a) (Emphasis added).

The Standardization Act required municipalities and counties wishing to continue their business license programs after January 1, 2022, to repeal and replace existing business license ordinances with one containing all mandatory requirements of the Act. S.C. Code Ann. § 6-1-400. In compliance with this mandate, on November 8, 2021, the Anderson City Council passed the Business License Ordinance, effective January 1, 2022, in which it enacted the requisite standardized business license calculation and collection model. (Business License Ordinance, R. pp. 263-278; 279-287). When doing so, the City Council stressed the critical nature of business license tax revenue to the operation and well-being of the City. (R. pp. 282-283).

The Business License Ordinance is consistent with the Standardization Act and contains all requisite provisions. It sets forth the very clear purpose of "providing such regulation as may be required for the businesses subject thereto and for the purpose of raising revenue for the general fund through a privilege tax." (Anderson City Code § 26-38, R. pp. 270-271). The City then defines "gross income" in a manner that, like the Standardization Act, differentiates businesses domiciled

in the City from those domiciled elsewhere yet earn income based on business done inside City limits. (Anderson City Code § 26-37, R. pp. 269-270).[2]

As applicable here, the City provides additional clarity into the scope and intent of its Business License Ordinance by including the following definitions:

> *Business* means any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, either directly or indirectly.
>
> *Domicile* means a principal place from which the trade or business of a licensee is conducted, directed, or managed. For the purpose of this article, a licensee may be deemed to have more than one domicile.
>
> *Person* means any individual, firm, partnership, limited liability partnership, limited liability company, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principal.

(Anderson City Code § 26-37, R. pp. 269-270). Finally, when addressing tax deductions and exemptions, the Business License Ordinance stresses that "[n]o person shall be exempt from the requirements of the ordinance by reason of the lack of an established place of business within the municipality." (Anderson City Code § 26-41(b), R. p. 272).

The language of the Standardization Act and the Business License Ordinance is plain, unambiguous, and conveys a clear and definite meaning of "gross income" for the purpose of calculating the annual business license tax. By providing different means of calculating "gross revenue" for businesses domiciled in the taxing jurisdiction than those who, though domiciled elsewhere, earn income through business conducted within the boundaries of the municipality, it is evident the Standardization Act and Business License Ordinance do not require DoorDash to

[2] "If the licensee does not have a domicile within the municipality, business done within the municipality shall include only gross receipts or revenue received or accrued within the municipality." (Anderson City Code § 26-37, R. pp. 269-270).

have a physical presence inside the City for its business transactions to subject it to the City's business license tax. *See* S.C. Code Ann. § 6-1-400(E)(1)(a); Anderson City Code § 26-37. (R. pp. 269-270). Through its plain and unambiguous language, the Business License Ordinance further emphasizes the fact physical presence is not required by including the above-quoted definition of domicile, which includes a reference to the ability of a business to have two domiciles. (Anderson City Code § 26-37, R. pp. 269-270). Thus, a physical presence in multiple jurisdictions, but not the City itself, does not automatically exclude a business from the scope of the Business License Ordinance.[3]

The plain and unambiguous language of the Business License Ordinance further instructs that "business" for the purpose of being subject to the business license tax generally means the engagement in an activity for the purpose of achieving direct or indirect gain. (Anderson City Code § 26-37, R. pp. 269-270). Quite tellingly, this definition is silent as to physical presence within the municipality and makes it clear that one who indirectly profits from business activities within a municipality can be subject to the City's business license tax. Then, in a final effort to clarify that physical presence in the City is not required for a business to be subject to the business license tax, when addressing tax exemptions, the Business License Ordinance bluntly states that the absence of an established place of business in the municipality does not exempt that business from the tax. (Anderson City Code § 26-41, R. pp. 272-273). This plain and unambiguous language removes any possibility of doubt when it comes to whether DoorDash must be physically present in the City in order to be taxed under the Business License Ordinance.

[3] The use of Dashers gives DoorDash a physical presence in the City. By clarifying that neither the Standardization Act nor the Business License Ordinance require physical presence for a business to be subject to its business license tax, the City in no way agrees that DoorDash did not and does not continue to have a physical presence within its municipal limits.

DoorDash continues to argue it is not subject to the Business License Ordinance because it does not have a physical presence inside the City and instead "operates its business from its headquarters in San Franciso and other locations where it has employees." (R. p. 79). Per DoorDash, it has no place of business, employees, or operations in the City. (R. p. 79). Instead, its business, the operation of an online platform, "is limited to the facilitating of transactions among customers, restaurants, and Dashers," and "[t]hat business is run completely outside of the City from its principal place of business in San Franciso and other offices, none of which are in the City." (R. p. 458). This analysis is inherently flawed because there is no language within either law that plainly and unambiguously conveys a clear and definite physical presence requirement, and the company has not and cannot point to any.

A review of both laws reveals that neither the Standardization Act nor the Business License Ordinance expressly require a business earning revenue as the result of transactions made within municipal limits to have a physical presence in the City, and this Court cannot read a requirement into a statute that is not there. Giving the words in both laws their plain and ordinary meaning, it is abundantly clear a business must only earn revenue as the result of engaging in a business activity inside the taxing jurisdiction for it to be subject to the City's business license tax. Based on the undisputed facts, DoorDash has done just that. Through its operation of an online platform, contracts with local restaurants and merchants, and utilization of Dashers inside the City's municipal limits, DoorDash earned a gross income of $1,940,388.00 for 2022 and $2,504,028.90 for 2023. There is no question that this is the sort of activity that brings a business, even a non-resident business without an office or employees in the taxing jurisdiction, within the scope of the Standardization Act and Business License Ordinance.

When applying the unambiguous definitions provided by the Standardization Act and the Business License Ordinance, giving all undefined terms their literal meaning, and affording the City deference when it comes to its interpretation of its own ordinances, DoorDash did business in the City at all times pertinent to this appeal and is continuing to do business in the City today. The fact DoorDash conducts its virtual platform outside the City from a business office in California is inapposite. The plain terms of both the Standardization Act and the Business License Ordinance require those businesses with a principal place of business inside the City from which business is conducted, directed, or managed and those without such a physical place of business to pay a business license tax if associated activities in the City have generated revenue for the business. As a business earning revenue, either directly or indirectly, through the operation of its virtual platform, DoorDash is "doing business" in the City and subject to the Standardization Act and Business License Ordinance. The arguments of DoorDash aside, neither the absence of a brick-and-mortar place of business inside municipal limits nor the fact that Dashers are independent contractors rather than employees exempt DoorDash from the 2022 and 2023 business license taxes assessed by the City.

Based on the plain and unambiguous language of the Standardization Act and Business License Ordinance, DoorDash undisputedly owes the City $18,421.50 in business license taxes and penalties for tax years 2022 and 2023. Accordingly, this Court must affirm the Final Order denying DoorDash's motion for summary judgment and granting summary judgment in favor of the City.

C. DoorDash's argument that the ALC erred by failing to apply the rules of statutory construction is without merit.

DoorDash agrees that the language of the Business License Ordinance is unambiguous, so the rules of statutory construction do not apply. It simply does not like the way the ALC interpreted

that unambiguous language. Without pointing to the language deemed ambiguous, DoorDash alternatively asserts that if the plain language of the Business License Ordinance is ambiguous as to the existence of a physical presence requirement, then as the taxpayer, the ambiguity must be resolved in its favor by relieving it of the obligation to pay the business license tax. This argument is wholly without merit.

1. Rules of Statutory Construction

The ALC did not apply the rules of statutory construction in the Final Order because it found the language of the Business License Ordinance to be unambiguous. (Final Order, R. p. 26). Moreover, when DoorDash raised a similar argument in its motion to reconsider, relying on *Alltel Communications, Inc. v. South Carolina Department of Revenue*, 399 S.C. 313, 321, 731 S.E.2d 869, 873 (2012), the ALC noted that while "South Carolina has of course long followed the rule that where a tax statute is ambiguous and reasonably susceptible of an interpretation that would exclude taxation, any substantial doubt must be resolved against the government and in favor of the taxpayer [,] this rule does not require, as DoorDash suggests, that if resort to canons of statutory construction is necessary to determine the intent of the legislature, the statute in question must be construed against taxation." (Order on Motion to Reconsider, R. p. 3). Instead, the other pertinent recognized principles of statutory construction may lend controlling weight. *Fuller v. S.C. Tax Comm'n*, 128 S.C. 14, 121, S.E. 478, 481 (1924). (Order on Motion to Reconsider, R. p. 4).

The primary rule of statutory construction in the event of ambiguity is to ascertain and give effect to the intent of the legislative body. *Town of Mt. Pleasant v. Roberts*, 393 S.C. 332, 342, 713 S.E.2d 278, 283 (2011). When doing so, courts shall not construe a statute by concentrating on a single, isolated phrase. *Laurens County Sch. Dists. 55 & 56 v. Cox*, 308 S.C. 171, 174, 417 S.E.2d 560, 561 (1992) ("The true guide to statutory construction is not the phraseology of an isolated

section or provision, but the language of the statute as a whole considered in the light of its manifest purpose. In applying the rule of strict construction the courts may not give to particular words a significance clearly repugnant to the meaning of the statute as a whole, or destructive of its obvious intent."); *see also Sloan v. S.C. Bd. of Physical Therapy Exam'rs,* 370 S.C. 452, 468, 636 S.E.2d 598, 606-07 (2006) ("A statute as a whole must receive practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of lawmakers."). "All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in light of the intended purpose of the statute." *State v. Sweat,* 386 S.C. 339, 350, 688 S.E.2d 569, 575 (2010). Therefore, the analyzing court "cannot read into the statute something not within the manifest intention of the legislature as gathered from the statute itself." *State v. Zulfer*, 345 S.C. 258, 261-62, 547 S.E.2d 885, 886 (Ct. App. 2001).

"[I]t is well settled that statutes dealing with the same subject matter are *in pari materia* and must be construed together, if possible, to produce a single, harmonious result. *Beaufort Cnty. v. S.C. State Election Comm'n*, 395 S.C. 366, 371, 718 S.E.2d 432, 435 (2011) (internal citations omitted).

When considering the language of the Standardization Act and the Business License Ordinance together, along with the legislative intent of both, it is clear that physical presence is not required for the imposition of a business license tax. Again, "business" is defined as "any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, either directly or indirectly." (Anderson City Code § 26-37, R. pp. 269-270). Consistent with the findings of the ALC in its Order on Motion to Reconsider, the phrase "directly or indirectly" refers to the engagement of business within the municipality, indicating this may occur

"directly or indirectly," and is not a reference to profit. (Order on Motion to Reconsider, R. p. 8). Business profits are necessarily direct but can be earned through direct or indirect transactions. (Order on Motion to Reconsider, R. p. 8). For example, business can be conducted indirectly within a taxing jurisdiction by a company without a physical presence in the traditional sense through intermediaries, contracts, and virtual platforms, resulting in a direct profit to that business. (Order on Motion to Reconsider, R. p. 5). This reading of the Business License Ordinance is not only logical, but it is consistent with the legislative intent of both the Standardization Act and Business License Ordinance.

When enacting the Standardization Act, the General Assembly intended to create uniformity in the calculation and collection of business license taxes statewide. Such uniformity gives those doing business in South Carolina consistency across taxing jurisdictions and gives the taxing jurisdictions a clear means of calculating and recouping business license taxes. When enacting its Business License Ordinance, the Anderson City Council intended to comply with the mandatory terms of the Standardization Act while raising revenue for the general fund through a privilege tax. The language used in both pieces of legislation shows an intent to subject businesses generating revenue as a result of business activities conducted within the taxing jurisdiction to a business license tax, regardless of whether that business has a physical presence in the City through an office, employees, or agents.

When considering the language of the Standardization Act and Business License Ordinance, including the intentional differentiation made between businesses domiciled within the taxing jurisdiction and those domiciled elsewhere, and phrases like "directly and indirectly," "business done within the municipality," and "in whole or in part within the limits of the City of Anderson," in a manner consistent with the legislative intent of both, inserting a physical presence

requirement is repugnant to the practical, reasonable, and fair interpretation that must be afforded by this Court. Conducting business, directly or indirectly, "within the taxing jurisdiction" simply does not require a physical presence – it solely requires the business to engage in an activity inside municipal limits directly through employees or agents or indirectly through other modalities, like an online platform and contracts with consumers and restaurants, with the intent of profit or gain.

2. Additional Non-binding and Unpersuasive Materials Cited by DoorDash

In an attempt to bolster its argument that any ambiguity of the Business License Ordinance must be construed in its favor, DoorDash additionally relies on its misinterpretation of South Carolina common law governing business license taxation, addressed in Subsection I(A) herein, a non-binding opinion of the South Carolina Attorney General, and cherry-picked provisions of a business license handbook prepared by the Municipal Association of South Carolina ("MASC") for the purpose of guiding business license officials on the business license process that, while a wonderful tool available to municipalities across the state, is not meant to be cited in the same manner as a legal treatise or similar traditional source of persuasive legal authority.

Throughout the course of this litigation, DoorDash has continually placed great weight on an opinion of the South Carolina Attorney General regarding the applicability of the City of Myrtle Beach's business license ordinance to Turo, Inc., a California technology company that offers a car sharing platform with a factually distinct business model, and this appeal is no different. *See* Op. Atty' Gen., 2023 WL 4918024 (S.C.A.G. July 26, 2023). The ALC considered this opinion and correctly found it to be unpersuasive. (Final Order, R. p. 35). In the opinion, the Attorney General opined that a court *may* find the corporation is not doing business within the taxing jurisdiction because it lacks physical presence, without reaching a definitive answer. Op. Atty' Gen., 2023 WL 4918024 (S.C.A.G. July 26, 2023) (emphasis added). Moreover, the Attorney

General noted the decision as to whether business is being conducted inside a municipality is a factual determination that it is not authorized to make. *Id.* While DoorDash correctly notes the Attorney General did not address the use of the term "indirectly" within the definition of "business license," that omission is meaningless, as the Attorney General did not conduct the same statutory analysis as the ALC. *Id.* Indeed, the definition of "business" contained in the City of Myrtle Beach's business license ordinance is not included in the opinion, nor is the Standardization Act referenced. *Id.* There is no indication in the opinion that the business license ordinance considered by the Attorney General was substantially the same as the Business License Ordinance at issue here, which was enacted pursuant to the Standardization Act using a form ordinance proposed by MASC following the General Assembly's enactment of the Standardization Act. *Id.*

Not only are Attorney General opinions non-binding, but the Turo, Inc. opinion relied on by DoorDash is wholly inapplicable because it does not interpret the same ordinance, involve the same facts, or include the same statutory analysis used by the ALC. *See Charleston Cnty Sch. Dist. v. Harrell*, 393 S.C. 552, 560-61, 713 S.E.2d 604, 609 (2011).

As addressed in Subsection I(A) *supra*, the cases relied on by DoorDash in support of its argument that physical presence has always been required by South Carolina courts when upholding the assessment of a business license tax do not support this position. Rather, they uniformly hold that a taxing jurisdiction may impose a business license tax on businesses domiciled within its boundaries, on businesses with a business office or similar place of business within its boundaries, or on businesses with domiciles or brick-and-mortar offices outside the municipal boundaries that engage in regular business activities within the taxing jurisdiction with enough frequency and intentionality to make them subject to the tax. DoorDash has not referenced a single case that expressly states a business must be physically present through employees or an

office within the taxing jurisdiction in order to be subject to that taxing jurisdiction's business license tax.

Moreover, the non-binding Turo, Inc. opinion and unpersuasive instructions pulled from the MASC handbook out of context do nothing to aid the Court in its interpretation of any ambiguous language in the Business License Ordinance. Instead, even if the Business License Ordinance contains ambiguous language regarding physical presence, which the City denies, the rules of statutory construction require this Court to find the Business License Ordinance is applicable to those engaging in business within the municipality directly or indirectly, and the fact DoorDash is a taxpayer challenging the applicability of a local tax law does not change this sound analysis.

II. THE ALC PROPERLY REFERENCED AND DISCUSSED *TRAVELSCAPE* IN THE FINAL ORDER.

DoorDash next challenges the ALC's referral to the *Travelscape* decision as "instructive" in the Final Order because: 1) *Travelscape* concerned a sales tax, not an excise tax; and 2) the facts of *Travelscape* are distinguishable from those before the underlying court. Both assertions lack merit. Regardless, even if this Court finds otherwise, *Travelscape* is just one piece of a larger analysis and not dispositive of the issues before it. There is sufficient statutory and common law authority to support the ALC's conclusion that the Business License Ordinance does not contain a physical presence requirement without the *Travelscape* comparison.

Relying on the doctrine of *in pari materia*, DoorDash asserts *Travelscape* is not instructive to the issues before the Court because it involves a sales tax, not a local business tax. By making this argument, DoorDash misinterprets the reason for and significance of the discussion of *Travelscape* in the Final Order. (R. pp. 29-30). The legal doctrine of *in pari materia* is one of many rules of statutory construction available to aid in the interpretation of ambiguous statutory

language. *Beaufort Cnty. v. S.C. State Election Comm'n*, 395 S.C. at 371, 718 S.E.2d at 435. *Travelscape*, however, was not applied by the ALC in an effort to construe statutory ambiguities in a manner that, if possible, allows statutes dealing with the same subject matter to produce a harmonious result. *Id.* Indeed, at least twice prior to addressing *Travelscape*, the ALC concluded the Business License Ordinance is unambiguous, so the application of the rules of statutory construction was not warranted. (R. pp. 26-29). Instead, the ALC references *Travelscape* for the purpose of explaining how that court's interpretation of the plain language of a similarly structured statute, not a statute dealing with the same subject matter, is similar to the proper construction of the plain language of the similarly structured Business License Ordinance. (R. pp. 29-30).

To fully understand the ALC's analysis, it is necessary to begin with the definition of "business" as used in the Business License Ordinance and the manner in which that term is analyzed in the Final Order. The Business License Ordinance defines "business" as "any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, either *directly or indirectly*." Anderson City Code § 26-37 (emphasis added); (R. pp. 269-270). DoorDash erroneously uses the term "indirectly" to modify the phrase "with the object of gain, benefit, or advantage" instead of "business, calling, occupation, profession, or activity," which yields the logical result, and by doing so ignores the comprehensive plain language analysis conducted by the Court prior to concluding the unambiguous language of the Business License Ordinance rejects a physical presence requirement. (R. pp. 26-30).

As pertinent here, the ALC first considered the interplay of the definitions of "gross income," business," and "person" contained in the Business License Ordinance. (*See* Final Order, R. p. 26). When doing so, the ALC noted the significance of the term "indirectly" and concluded, "the Ordinance requires those who *indirectly engage in for-profit activities* in whole or in part

within the City of Anderson to obtain a business license and pay the appropriate tax." (Final Order, R. p. 27) (emphasis added). When reaching this conclusion, the ALC necessarily applied the term "indirectly" to the definition of "business" as a whole, including its phrase "with the object of gain, benefit, or advantage." (Final Order, R. p. 26).

Moreover, after reaching this conclusion, the ALC continued its statutory analysis by looking to the usual and customary meanings of the terms "directly" and "indirectly" because both terms are undefined in the Business License Ordinance. (Final Order, R. p. 27). It then cited to case law relying on the New Oxford Dictionary, Merriam-Webster Dictionary, and Black's Law Dictionary when defining "directly" and "indirectly," aptly concluding:

> In the Court's view, a business with a physical presence in a particular jurisdiction, either through the existence of an office or facility or the presence of employees or agents, does business "directly" in that jurisdiction. Conversely, a business without a physical presence in a particular jurisdiction *but which generates revenue from that jurisdiction through the use of intermediaries* does business indirectly in that jurisdiction. What other purpose could the term "indirectly" have if not to include within the City's taxing authority businesses who do not themselves physically engage in commerce in the City but instead arrange for others to do so on their behalf?

(Final Order, R. pp. 27-28) (emphasis added). Again, when reaching this conclusion, the ALC necessarily applied the term "indirectly" to the definition of "business" as a whole, including its phrase "with the object of gain, benefit, or advantage." *Id.*

The ALC next addressed the individual arguments raised by DoorDash, including its reliance on *Travelscape*, and explained why those arguments do not support the conclusion sought by DoorDash – that physical presence is a statutory prerequisite to taxation under the Business License Ordinance. (Final Order, R. pp. 29-31). When doing so, the ALC pointed out that the similar statutory analysis applied by our Supreme Court in *Travelscape* to the state sales tax statute results in a consistent outcome. (Final Order, R. pp. 29-31). The analogies drawn in the Court's

comparison of the underlying facts and applicable legal framework before it here and considered by the Supreme Court in *Travelscape* strengthen the Court's ultimate legal conclusion that the imposition of a business license tax under the Business License Ordinance does not require a physical presence within the City. The examination of *Travelscape* included in the Final Order in no way undermines or changes the statutory analysis previously conducted and applied by the Court earlier in that decision.

Moreover, while not addressed in the Final Order, *Travelscape* and the authorities relied on therein make this important and relevant point – should physical presence be required, the use of independent contractors or other agents in a jurisdiction for the purpose of conducting business is sufficient to give that a business a physical presence for taxation purposes. *Travelscape*, 391 S.C. at 106, 705 S.E.2d at 37; citing *Tyler Pipe*, 483 U.S. at 250, 107 S.Ct. at 2821, 97 L.Ed. 2d 199; *Scripto Inc.*, 362 U.S. at 213, 80 S.Ct. at 622, 4 L.Ed.2d 660.

DoorDash is wrong about the misapplication of *Travelscape* by the ALC. The rationale of *Travelscape* is not only helpful when interpreting the plain language of the definition of "business" in the Business License Ordinance, but it is controlling with respect to the use of independent contractors by DoorDash inside the municipal boundaries of the City for the purpose of performing duties that are essential to its business model. Those Dashers absolutely give DoorDash a physical presence inside the City for the purpose of doing business, regardless of whether that physical presence is a requirement of the Business License Ordinance.

For these reasons, too, this Court must affirm the decision of the ALC.

III. THE THIRD ISSUE RAISED BY DOORDASH IS ILLOGICAL AND CONTRARY TO ANY REASONABLE INTERPRETATION OF THE BUSINESS LICENSE ORDINANCE.

Finally, relying on its own flawed interpretation of the term "indirectly" as used in the definition of "business" discussed *supra*, DoorDash argues the Final Order yields the absurd result of permitting South Carolina municipalities to impose a business license tax on businesses that profit "indirectly" from a third-party transaction and then spends the final five pages hypothesizing without factual or legal support about the widespread ripple effect the Final Order could have on unknowing participants in the global marketplace.

The ALC did not interpret the definition of business in a manner that would lead to an untoward or confusing result. Instead, it applied the same business license standards used throughout applicable common law, grounded its decision on the unambiguous facts of the Business License Ordinance, and carefully explained the implications of the Final Order.

It is DoorDash's argument that would yield an absurd result. Through its tortured analysis of the unintended impact the Final Order could have on the string of third parties peripherally involved in modern day commercial transactions, DoorDash demands the imposition of a physical presence requirement. Even if this Court had not already concluded that DoorDash is physically present, it is illogical to think that a business that sends a single employee into the City for the purpose of delivering a chair or other isolated good would, by DoorDash's analysis, be physically present and subject to the City's business license tax, but DoorDash, a company that contracted with ninety-four restaurants inside the City in 2022 and 2023, sent independent contractor Dashers to those restaurants to pick up food and deliver it to customers, with whom DoorDash also had a contract, and facilitated this activity with enough frequency to earn a gross income of $1,940,388.00 for 2022 and $2,504,028.90 for 2023 is not conducting business inside the

municipality such that it is subject to the City's business license tax. South Carolina courts have always found this sort of high volume, intentional, and reoccurring business activity sufficient for business license tax purposes. Thus, the Final Order is based on and supported by sound South Carolina law and must be affirmed by this Court.

CONCLUSION

There is no doubt that DoorDash, through its online platform, contracts with local restaurants and consumers, and through the use of independent contractors as drivers in lieu of traditional employees, has engaged and continues to engage in business activities that are essential to the fulfillment of its business model and mission inside the City. This is done through the facilitation of meal purchases by customers from local restaurants and merchants, with whom DoorDash has a contract, for pick-up and delivery by drivers paid by DoorDash also via contract. Again, the concept that DoorDash, a company with an undisputed gross income of $1,940,388.00 for 2022 and $2,504,028.90 for 2023 generated as a result of orders placed through DoorDash's digital platform could avoid paying the City a business license tax simply because it operates its online platform from an out-of-state office and pays its drivers as independent contractors rather than employees is abhorrent to, and in direct contravention of, the purpose of the Standardization Act and Business License Ordinance.

In light of the sound legal principles set forth in the Final Order, the above analysis, and all applicable local, statutory, and common law, this Honorable Court must answer all three questions posed by DoorDash in the negative and affirm the ALC decision granting summary judgment in favor of the City and denying the motion for summary judgment filed on behalf of DoorDash.

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Robert L. Reibold, Administrative Law Judge

Case No. 24-ALJ-30-0067-CC
Appellate Case No. 2025-000735

DoorDash, Inc., ... Appellant,

v.

City of Anderson, ... Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Final Brief of Respondent complies with Rule 211(b), SCACR.

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