

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

70363

J. Michael Baxley, Circuit Court Judge

Case No. 2012-CP-26-9291

RECEIVED  
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SC Court of Appeals

Fayrell Furr and Karole Jensen ..... Respondents

v.

Horry County Zoning Board of Appeals ..... Appellant.

**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF OF  
MERCY CARE**

Pursuant to South Carolina Appellate Court Rule (SCACR) 213, *Amicus Curiae* ("Mercy Care") moves for leave of the Court to file an *amicus* brief. As permitted by Rule 213, SCACR, Mercy Care files its *amicus* brief conditionally herein.

*Amicus Curiae* ("Mercy Care") was founded in 1980 to bring a special program of caring and outpatient services to the chronically ill and dying patients and their families in Horry County and surrounding areas. Organized by the Franciscan Sisters of Mary and initially funded by both the Sisters and the Catholic Diocese of Charleston, Mercy Care was welcomed into the Horry County community. Through the guidance and active support of local persons serving on

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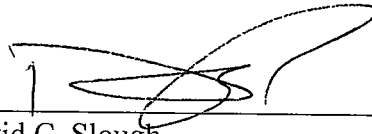
its community board, Mercy Care has gained wide acceptance among medical professionals and within the broader communities it serves. The mission of Mercy Care is to comfort the body and heal the heart through competent care that focuses on supporting and nurturing the human spirit and preventing and relieving suffering — one person, one family and one community at a time.

Mercy Care is the applicant for a permit to construct a fourteen (14) bed hospice house located on twenty-two (22) acres of riverfront property adjacent to Respondents' property. The central issue in this appeal is whether the proposed hospice house is a permitted use under the Horry County Zoning Ordinance. As such, Mercy Care has a vested interest in the legal issues addressed herein. Despite its limited financial resources as a non-profit corporation, Mercy Care has incurred substantial fees in the planning, design and approval for the proposed hospice facility. Given its limited resources, Mercy Care would like to assert its position to this Court by way of *amicus* brief on the matters addressed by the parties in this appeal.

Mercy Care also files this brief as an advocate for the citizens of Horry County and surrounding areas. The proposed hospice house would be the only such facility within Horry County. While most people prefer to live their final days in the comfort of their own homes, for many reasons, this may not always be possible or practical. A hospice house provides a place for patients and their families to receive physical, emotional, social and spiritual end-of-life care. Given the fact that Horry County has a higher percentage of elderly residents compared to most other counties within South Carolina, a hospice house is desperately needed in Horry County. However, the Circuit Court's ruling effectively prevents construction of a hospice house anywhere within Horry County as the zoning administrator has no discretion to approve such a facility when the local zoning ordinances do not include the terms "hospice house" or "hospice facility."

Accordingly, Mercy Care requests leave to file this *amicus* brief to assist the Court with

understanding and considering the interests of Mercy Care and those residents of Horry and surrounding areas who would benefit from the proposed hospice house.



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(843) 213-5411  
Attorneys for *Amicus Curiae*  
Mercy Care

Myrtle Beach, South Carolina  
November 11, 2013

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In The Court of Appeals

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

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Case No. 2012-CP-26-9291

Fayrell Furr and Karole Jensen ..... Respondents,

vs.

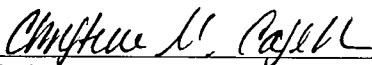
Horry County Zoning Board of Appeals ..... Appellant.

PROOF OF SERVICE

I certify that I have served the MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF MERCY CARE by depositing a copy of it in the United States mail, postage prepaid, on November 11, 2013, addressed to:

Gene M. Connell, Jr., Esquire,  
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**NEXSEN | PRUET**

November 11, 2013

**David C. Slough**  
Special Counsel  
Admitted in SC

**BY U.S. MAIL**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

Re: **Fayrell Furr and Karole Jensen v. Horry County Zoning Board of Appeals - Case No. 2012-CP-26-9291**

Dear Ms. Kitchings:

Enclosed for filing with the Court please find the following:

- Original and 7 copies of the *Motion for Leave to File Amicus Curiae Brief of Mercy Care* ("Mercy Care") with Proof of Service;
- Original and 15 copies of the *Brief as Amicus Curiae in Support of Appellant, Horry County Zoning Board of Appeals Submitted by Mercy Care* with Proof of Service to be filed conditionally pursuant to SCACR Rule 213;
- Certificate of Compliance pursuant to SCACR 211(b); and
- \$25 check for the filing fee.

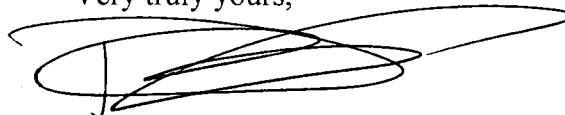
Charleston  
Charlotte  
Columbia  
Greensboro  
Greenville  
Hilton Head

**Myrtle Beach**

Raleigh

Please return the extra copy of the Motion and Brief to me in the enclosed stamped self-addressed envelope.

Very truly yours,



David C. Slough

DCS/dsc

Enclosures

CC: Emma Ruth Brittain, Esquire  
Gene M. Connell, Jr., Esquire

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