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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM OCONEE COUNTY

Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2025-000790
Case No. 2024-CP-37-00202

South Carolina Public Interest Foundation, Jim Mann, David Dial, Rachel Moore, Terri Meyerring, Carl Meyerring, Doug Muzik, Bruce Burrell, India Lancaster, John Wagner, Gwen McPhail, Lillian Lusk, and Linda Love,
on behalf of all others similarly situated, Appellants-Respondents,

v.

Oconee County, Respondent-Appellant,

FINAL REPLY BRIEF OF APPELLANTS-RESPONDENTS

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INTRODUCTION

The Oconee County taxpayers appeal the Circuit Court's 12(b)(6) dismissal with prejudice of their constitutional challenge of Oconee County's enactment of Ordinance No. 2023-13, which taxes the entire county for sewer services provided to only a particular geographic section violating Article 10, Section 2 of the South Carolina Constitution (Order of August 9 2023, p. 2; R. p. 35; Ordinance, R. p. 385; Answer and Exhibits, R. pp. 63-64, pars. 15 and 22, (possible "general benefit"); Exhibits to Respondent-Appellant's New Motion for Alternation and Amendment, R. p. 447, par. (3)(A), R. p. 450 (B), R. p. 456, par. 12, R. p. 459, par. 22 (possibly "reaps benefits for all County citizens, not just those in close proximity"), R. p. 462, par. 7, R. p. 465, par. 13.) Appellants-Respondents' Brief, pp. 6-7). In contrast, the Circuit Court correctly ruled the County's action unconstitutional in its initial Form 4 order granting a temporary injunction to the Oconee County taxpayers.

> […] the County may not use bond revenues for sewer project(s) that will only benefit the Southern part of the County while taxing the entire county. To meet our Constitution's mandate, the County must create a special tax district specific to the area that stands to benefit."

(Form 4 Order, p. 1; R. p. 1).

Furthermore, although it dismissed the Oconee County taxpayers' challenge with prejudice, in its final order, the Circuit Court again correctly ruled that the taxpayers possess public importance standing to enforce Article 10, Section 12 of the South Carolina Constitution (Order of March 11, 2025, p. 6-7, R. pp. 39-40).

In addition, the Circuit Court also correctly ruled that the taxpayers' challenge to this taxation and spending (which in no way challenges the validity of the bonds themselves) is not time-barred by the bond validity statute of limitations in S.C. Code Ann. Section 11-15-30, titled

"Bonds Incontestable from Twenty Days After Filing and Indexing," Article 1, "General Provisions," Title 11, "Bonds of Political Subdivisions," Chapter 15, "Public Finance" (Order of March 11, 2025, p. 7-9, R. pp. 40-42).

ARGUMENT

I. The Circuit Court Erred in Dismissing Oconee County Taxpayers' Challenge with Prejudice Because Article 10, Section 12 of the South Carolina Constitution Prohibits Counties from Taxing County Taxpayers for Sewer Services They Do Not Receive.

The South Carolina Constitution, Article 10, Section 12 limits county governments from taxing all county residents to repay bonds when they do not receive the service themselves:

> No law shall be enacted permitting the incurring of bonded indebtedness by any county for
> - sewage disposal or treatment,
> - fire protection,
> - street lighting,
> - garbage collection and disposal,
> - water service
> - or any other service or facility
>
> benefitting only a particular geographical section of the county ***unless*** a
> - special assessment,
> - tax or
> - service charge
>
> in an amount designed to provide debt service on
> - bonded indebtedness or
> - revenue bonds
>
> incurred for ***such purposes*** shall be imposed upon the
> - area or
> - persons
>
> receiving ***the benefit therefrom***.

S.C. Constitution art. X, § 12 (emphasis and format added).

The Oconee County taxpayers who have come together to challenge Oconee County's actions ask the Court to rule on one issue: what is the meaning of "***the benefit,***" and does it govern and limit the County from taxing those who do not receive the service?

A. The framers of the Article 10, Section 12 intended "benefit" to mean the direct benefit of the service itself which renders the County's taxation of all Oconee County taxpayers unconstitutional because only a particular geographical location within the county will receive the service.

1. To tax for a facility or service, Article 10 Section 12 requires the County to provide <u>the</u> benefit of the service to the taxpayer.

The Court interprets constitutional provisions by giving terms their plain meaning and presuming that every word serves an intended purpose of the framers.

> In construing a statutory or constitutional provision, the Court must give clear and unambiguous terms their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the provision's operation. *See Gilstrap v. South Carolina Budget and Control Bd*., 310 S.C. 210, 423 S.E.2d 101 (1992). "This Court is bound to presume that the framers of the constitution had some purpose in inserting every clause and every word contained in the document. It is never to be supposed that a single word was inserted in the law of this state without the intention of thereby conveying some meaning." *Davenport v. City of Rock Hill*, 315 S.C. 114, 117, 432 S.E.2d 451, 453 (1993).

J.K. Const., Inc. v. Western Carolina Regional Sewer Authority, 336 S.C. 162, 170-71, 519 S.E.2d 561, 565-66 (1999) (emphasis added) (ruling Article X, Section 12 of the South Carolina Constitution governs counties and not a special purpose district that was imposing a "sewer service charge" on new customers).

Although *J.K. Const., Inc*. does not substantively interpret Article 10 Section 12, it provides valuable guidance for constitutional construction. Accordingly, with these principles of statutory construction in mind, the limiting "the" at the end of Article 10, Section 12, modifying "the benefit therefrom" demonstrates that the framers were requiring a singular, direct benefit. (In contrast, if the framers had omitted the limiting "the," the provision would allow for various benefits: "shall be imposed upon the area or persons receiving benefit therefrom" or "a benefit therefrom," or "benefitting therefrom.")

Instead, the framers of Article 10, Section 12 chose to include "the" before "benefit therefrom," signifying that they were addressing "the" particular, direct benefit of receiving the services themselves for the purposes of: "fire protection," "street lighting," "garbage collection and disposal," "water service," and "sewage disposal" "or any other service or facility." Therefore, construed plainly and giving each word its "particular meaning," Article 10, Section 12 of the South Carolina Constitution prohibits counties from taxing all county taxpayers for a service they do not receive. Accordingly, Oconee County violates Article 10, Section 12 by taxing the entire County for this geographically limited service.

As for common law guidance, the Court has interpreted and applied Article 10, Section 12 to a county ordinance once, in *Robinson v. Richland County Council,* 293 S.C. 27, 358 S.E.2d 392, (1987). In *Robinson,* the Court ruled out increased property values as a "benefit" but did not rule comprehensively on the meaning of "benefit."

> Article X, § 12 of the Constitution prohibits counties from incurring bonded indebtedness for sewage disposal or treatment **which benefits only a particular area** unless a special assessment, tax or service charge, adequate to provide debt service on the bonds, is imposed on those persons **who will benefit** from the service.
>
> * * *
>
> In addition, Article X, § 12 of the Constitution *requires* the charge be assessed only on **those who will benefit** from the new facilities. **An increase in property values in the adjoining area** because of the new sewer lines **is not sufficient** to bring adjacent landowners within the class of **those who "benefit"** from the project.

Id., 293 S.C. 27, 31-33, 358 S.E.2d 392, 395-396 (1987) (emphasis added). As such, in *Robinson,* the Court limited its ruling to what "benefit" did not mean (increased property values) rendering this Court's comprehensive guidance necessary on what "benefit" does mean. *Id.*

2. The County did not provide the benefit of the service to the taxpayers paying for it.

The municipalities of Seneca, Walhalla, and Westminster possess the exclusive rights to provide sewer services within their municipal limits (Verified Complaint, par. 22; R. p. 58). The citizens of those towns will not use the new sewer services (Verified Complaint, par. 22; R. p. 58).

In addition, the rural, mountainous, Northern part of the County is served primarily by private septic tanks, septic fields, and septic systems and will not use the new sewer services in the Southern part of the County (Verified Complaint, par. 23; R. p. 58). Furthermore, the neighborhoods around Lake Keowee and Lake Jocassee are served primarily by privately owned sewer systems (Verified Complaint, par. 24; R. p. 58. None of those neighborhoods will use the new sewer services in the Southern part of the County (Verified Complaint, par. 25, R. p. 58). Accordingly, the proposed sewer services will only benefit a "particular geographical section" of the county. S.C. Constitution art. X, § 12. Consequently, the County violates Article 10, Section 12 by taxing the entire County to pay for sewer service for a small, particular, geographic area in the Southern part of the County.

Despite multiple opportunities , the County has not contradicted or disputed the basic factual allegations of the Verified Complaint: that the County taxed taxpayers of the entire County for a service they will not all receive (Answer and Exhibits, R. pp. 63-64, pars. 15 and 22 (possible "general benefit"); Transcripts, R. pp. 218-272; 327-378; 503-554; 558-596; Amended Motion to Alter or Amend, Memorandum and Exhibits, R. pp. 274-500; Motion to Dismiss, R. pp. 107-120).

Accordingly, on July 29, 2024, the Court issued a Form 4 Order:

> THE COUNTY MAY NOT USE BOND REVENUES FOR SEWER PROJECT(S) THAT WILL ONLY BENEFIT THE SOUTHERN PART OF THE COUNTY WHILE TAXING THE ENTIRE COUNTY. TO MEET OUR CONSTITUTION'S MANDATE, THE COUNTY MUST CREATE A SPECIAL TAX DISTRICT SPECIFIC TO THE AREA THAT STANDS TO BENEFIT.

(Form 4 order, R. pp. 49-51).

The Circuit Court properly ruled at the outset that the County violated the clear, plain language of the South Carolina Constitution, Article X, Section 12 (Order of August 9, 2024, R. pp. 1-33). However, in its later rulings, the Circuit Court erred in finding that the whole County will "receive the benefit" if the project provides sewer services to only the Southern part of the County (Order issued March 11, 2025, R. pp. 34-48); Order issued March 25, 2025, R. pp. 49-51; Email from the Circuit Court to counsel dated February 3, 2025, R. pp. 600-601). The whole county might receive **a** benefit, but not **the** benefit. Accordingly, because a plain reading of each word of Article 10, Section 12 clarifies the framers intended the meaning of "the benefit" to be the service itself, the County violated Article 10, Section 12, and the Circuit Court erred in dismissing with prejudice the Oconee County taxpayer's constitutional challenge.

B. The Circuit Court erred in relying on Oconee County's *ex post facto* resolution declaring a general benefit, along with the authorities they cite interpreting other non-governing statutes, which demonstrates that the County violated the plain language of Article 10, Section 12 itself: that taxpayers who pay for the service or facility must receive the service.

1. The County's resolution of general benefit failed to remedy its violation of Article 10, Section 12 of taxing county citizens without providing them the benefit of the service.

Oconee County taxpayers in Appellant-Respondent's Brief detail the County's efforts to remedy their constitutional violation (Appellant-Respondent's Brief, pp. 15-24). However, these efforts, including the County's Resolution of November 4, 2024, fail because they cannot change what the County does not deny: that it is taxing county taxpayers for a sewer system that does not serve the taxpayers' property (Form 4 Order of July 29, 2024, R. pp. 1-4; Order August 9, 2024, R. pp. 5-33; (Answer and Exhibits, R. pp. 63-64, pars. 15 and 22 (possible "general benefit");

Transcripts, R. pp. 218-272; 327-378; 503-554; 558-596; Amended Motion to Alter or Amend, Memorandum and Exhibits, R. pp. 274-500; Motion to Dismiss, R. pp. 107-120)

Accordingly, the Circuit Court erred on the law and the facts in ruling that the County's resolution remedied the constitutional violation that the Court had enjoined in its prior ruling (Order issued March 11, 2025, R. pp. 34-48); Order issued March 25, 2025, R. pp. 49-51; Email from the Circuit Court to counsel dated February 3, 2025, R. pp. 600-601; Appellant-Respondent's Brief, pp. 18-20).

However, under the plain meaning of Article 10, Section 12 of the South Carolina Constitution, the Circuit Court's summary of the resolution, in effect, spotlights the County's violation:

> [T]he project **generally benefits** all the citizens of Oconee County be creating more environmentally favorable conditions, better sanitary conditions, increase in property values, an increase in the economies of scale resulting in lower prices and more favorable conditions for new industry to move into the county, inter alia.

(Circuit Court email to counsel of February 3, 2025, announcing the reversal of the grant of temporary restraining order (emphasis added), R. pp. 600-601). In effect, the County Resolution of November 4, 2024 (R. pp. 445-468), led the Circuit Court to err in ruling that the County's declaration of a general benefit to all county taxpayers, which excludes the benefit of service itself, remedied its violation of Article 10, Section 12.

2. The authorities Oconee County relies upon do not interpret or contravene the plain language of Article 10, Section 12 of the South Carolina Constitution.

The County relies on *South Carolina Public Interest Foundation v. Calhoun County Council*, 432 S.C. 492, 854 S.E.2d 836 (2021). However, *Calhoun County* does not interpret Article 10, Section 12 of the South Carolina Constitution, which governs the constitutional challenge before this

Court. Instead, it interpreted the Capital Projects Sales Tax Act, which does not govern the challenge at bar.

Consequently, *Calhoun County* does not interpret Article 10, Section 12 of the South Carolina Constitution. In fact, the word "Constitution" is not mentioned in *Calhoun County*. Accordingly, *Calhoun County* does not apply to the case at bar, and the County's reliance upon it is misplaced.

Finally, the County relies on *Casey v. Richland County Council* for the proposition that funding a sewer system for only part of the county benefits the whole county. *Id.,* 282 S.C. 387, 320 S.E.2d 443 (1984). *Casey* likewise, as the opinion above, does not interpret Article 10, Section 12 of the South Carolina Constitution. In fact, the County cites these non-governing authorities, but it avoids extensive discussion of the governing constitutional provision itself, Article 10, Section 12 of the South Carolina Constitution.

II. The Circuit Court Correctly Ruled Inapplicable S.C. Code Ann. § 11-15-30, "Bonds Incontestable from Twenty Days After Filing and Indexing," Because It Does Not Bar the Taxpayers' Claim for Unconstitutional Taxation and Spending.

The County contends, at some length, that S.C. Code Ann. § 11-15-30 bars the Oconee County taxpayers' claim (Reply Brief of Respondent Appellant, pp 1-5). However, the Circuit Court properly and repeatedly ruled that S.C. Code Ann. § 11-15-30 did **not** bar the taxpayers' claim (Form 4 Order entered July 29, 2024; R. pp. 49-51).

> THIS CASE IS NOT ABOUT THE" ISSUANCE' OF BONDS WHICH WOULD BE BARRED BY § 11-15-30, BUT RATHER CONCERNS THE ISSUE OF THE "USE" OF BOND MONEY FOR UNCONSTITUTIONAL PURPOSES AFTER THE ISSUANCE OF THE BOND. THEREFORE PLAINTIFFS' REQUEST FOR A TEMPORARY INJUNCTION IS GRANTED PENDING FURTHER ORDER OF THE COURT.

Id. (Emphasis added).

S.C. Code Ann. § 11-15-30 governs the **incontestability** of bonds more than 20 days after their issuance. The title of the statute reads: "**Bonds incontestable from twenty days after filing and indexing"** (emphasis added). In the constitutional challenge at bar, the Oconee County taxpayers are not "contesting" the bonds. Accordingly, S.C. Code Ann. § 11-15-30 simply fails to apply.

> No action shall be commenced **on account of the issuance of any such bonds** after the expiration of twenty days from the date of the filing and indexing of such records as prescribed by §§ 11-15-10 and 11-15-20, and such bonds so issued, when in the hands of **a bona fide purchaser for value**, shall be **incontestable**, but the period within which such actions may be commenced shall not begin to run until such records have been filed as herein prescribed.

S.C. Code Ann. § 11-15-30 (emphasis added). As the Circuit Court properly ruled, "This case is not about the 'issuance' of bonds," nor is this case about "contesting" the bonds (Form 4 Order entered July 29, 2024; R. pp. 49-51). Again, the Circuit Court properly ruled that it does not apply in the formal Order filed August 12, 2024, granting the preliminary injunction:

> **This case is not about the "issuance" of bonds**, which would be barred by § 11-15-30, but rather it concerns the "use" of bond money for unconstitutional purposes **after** the issuance of the bond. **Plaintiffs do not contest the issuance of the bonds**, nor the power or authority of the Defendant County to issue such bonds. **Plaintiffs are not challenging the bonds**, which are already sold in the public marketplace, and they are in the stream of commerce. Plaintiffs' claims do not imperil the rights of "a bona fide purchaser for value." **Nothing this Court does can affect the bonds themselves**, or the accumulation of interest. That is already established. **Plaintiffs challenge the proper uses of the bond proceeds**, which, under the Constitution, cannot be used for creating facilities for the treatment of sewer or wastewater disposal that benefits only a portion of the County, without a special tax district and special assessment in that district to pay for the sewer services that benefit that special tax district. This case does not address the issuance of the bonds.
>
> The Constitution prohibits the **expenditure [of] the proceeds** of the bonds for sewer and wastewater treatment, when the whole County is obligated to pay for the bonds, but only a small portion of the County will benefit from the sewer and wastewater treatment. Section 11-15-30 does not impact this court's power and jurisdiction to address the Constitutional violation.

Order filed August 12, 2024, p. 22; R. p. 26 (emphasis added).

Similarly, when the Circuit Court reconsidered and revoked the preliminary injunction, it nevertheless ruled that Section 11-15-30 did not bar the Oconee County taxpayers' claim.

> Plaintiffs assert that SC Code Ann. Section 11-15-30 only applies to the "issuance" of the subject bonds in question but that this section does not apply to the County's "use" of the bond revenues. Plaintiffs' further assert that the county's intended use of the bond revenues violates Article 10, Section 12 of the South Carolina Constitution which prohibits a counties enactment of laws permitting the incurring of bond indebtedness for any sewer project…which benefits only a particular geographical area of the county unless a special assessment to provide for debt serviced is imposed.
>
> Considering the "issuance" versus "use" argument, **I find that a plain reading of section 11-15-30 would seem to indicate that this section only applies to the issuance and not the use of the bond revenues**. The terms are not defined in the statute.
>
> Oxford dictionary defines "issuance" as " the action of supplying or distributing something available or giving something to people to be used'. "Issue" is defined as "the action of supplying or distributing an item for use, sale or official purposes". **The remaining language in section 11-15-30** that "bonds, so issued, when in the hands of a bona fide purchaser for value, shall be incontestable …" **seems [to] validate this construction**. *Morgan -v- Feagin*, 230 SC 315, 95 SE2d 621 (1956)

referring to the short limitations period of section 11-15-30 (then 1952, Sec. 1-645) also seems to do so by providing:

> The practical necessity of them (short limitations periods) is obvious. Purchasers of bonds could hardly be found if the bonds in their hands were s**ubject to attack for alleged illegality in the proceedings upon the issuance of them**. Further it is within common knowledge that sales of bonds are frequently timed to take advantage of a favorable market, which might well be hindered by delay.

(Email from the Circuit Court to counsel dated February 3, 2025, R. pp. 600-601 (emphasis added)).

Accordingly, both the Circuit Court in the case at bar and this Court in *Morgan v. Feagin* properly recognized that the statute and the short statute of limitations limit "attack[s] for **alleged illegality in the proceedings upon the issuance** of [the bonds]," *Id*., at 230 S.C. 315, 317, 95 S.E.2d 621, 622, a circumstance **not involved** in the case at bar. The Oconee County taxpayers are **not attacking the proceedings** upon the issuance of the bonds.

Finally, in the Circuit Court's formal order filed March 11, 2025 (R. p. 42), the Circuit Court again ruled that section 11-15-30 did not prevent the taxpayers' claim.

> **The Court finds Plaintiffs' construction of Section 11-15-30 more persuasive than that of Defendant**. While the statute itself does not define the terms, a plain reading of Section 11-15-30 indicates the provision only applies to actions brought "on account of the issuance" of bonds and not the "use" of bond proceeds. **The remaining language in Section 11-15-30** states, "such bonds so issued, when in the hands of a *bona fide* purchaser for value, shall be incontestable…" and **validates such a construction**, as does the holding of *Morgan v. Feagin*, 230 S.C. 315, 317, 95 S.E.2d 621, 622 (1956) (finding "[p]urchasers of bonds could hardly be found if the bonds in their hands were subject to attack for alleged illegality in the proceedings" and "that sales of bonds are frequently timed to take advantage of a favorable market, which might well be hindered by long delay"). **As a result, the Court adopts Plaintiffs' construction of Section 11-15-30 over that urged by Defendant**.

(Order filed March 11, 2025. R. p. 42 (emphasis added)). Accordingly, because the taxpayers are not contesting the bonds, S.C. Code Ann. § 11-15-30 does not apply to this constitutional challenge, and consequently it does not bar the taxpayers' claim.

III. The Oconee County Taxpayers Were Denied Any Discovery in Error.

Shortly after serving the Complaint, the taxpayers served the County with interrogatories, requests for production of documents, and requests for admission (Appellants-Respondents' Discovery requests, Supp. R. pp. 613 ff.; Respondent-Appellant's Discovery responses, R. pp. 147-167). The County objected to the interrogatories, requests for production, and requests for admission, contending that because of its pending motion to dismiss, the Oconee County taxpayers' discovery requests were improper (County objections to discovery requests; R. pp. 169-177). Accordingly, the Oconee County taxpayers filed a motion to compel discovery responses (Motion to Compel, R. pp. 144-168). In response, the County opposed the Motion to Compel from the Oconee County taxpayers (County Opposition to Motion to Compel, R. pp. 169-177).

Following the hearing, on August 12, 2024, the Circuit Court issued its formal Order properly granting the Oconee County taxpayers a Temporary Injunction (Order of August 9, 2024, R. pp. 5-33). As part of the formal Order, the Circuit Court also properly granted the Oconee County taxpayers' Motion to Compel and allowed the County 30 days from the entry of the Order to respond to the taxpayers' interrogatories, requests for production, and requests for admission (Order of August 9, 2024, R. pp. 5-33). In response, the County filed two Motions to Alter or Amend, and yet did not respond to the Taxpayers' discovery requests (Motions to Alter or Amend, R. pp. 204-468).

The County prevented taxpayers from obtaining even the most basic discovery: answers to interrogatories, responses to requests for production of documents, and requests for admission, to say nothing of depositions of the potential witnesses (Appellants-Respndents' Discovery requests, Supp. R. pp. 613 ff.; Respondent-Appellant's Discovery responses, R. pp. 147-167).

Nevertheless, the County submitted multiple documents and exhibits, and the Circuit Court accepted them (the three declarations from County agents and the after-the-fact County Council Resolution) and considered them as a basis for its ruling (Motions to Alter or Amend, R. pp. 204-468); Order issued March 11, 2025, R. pp. 34-48 ; Form 4 Order issued March 25, 2025, R. pp. 49-51)

On January 30, 2025, the Circuit Court heard argument on the County's Motion to Alter or Amend and took the Motion under advisement (Motions to Alter or Amend, R. pp. 204-468). On February 3, 2025, the Circuit Court issued an email to counsel announcing that the Circuit Court had "erred in granting Plaintiffs a TRO and reverse the same granting Defendant's motion for reconsideration" (Email from the Circuit Court to counsel of February 3, 2025, R. pp. 600-601).

On March 11, 2025, the Circuit Court issued a formal Order granting Oconee County's Motion to Alter or Amend, vacating its prior Order in its entirety, denying Plaintiffs' Motion for Preliminary Injunction, and granting the County's Motion to Dismiss **with prejudice** (Order issued March 11, 2025, R. pp. 34-48).

The Circuit Court allowed evidence from only one side, the County, while prohibiting Oconee County Taxpayers from obtaining any discovery, and then the Circuit Court **dismissed** the case **with prejudice** (Order issued March 11, 2025, R. pp. 34-48). The Circuit Court erred in denying Oconee County taxpayers a fair chance at discovery, particularly in this case with constitutional implications, and furthermore, in dismissing the case with prejudice.

IV. The Circuit Court Properly Ruled That the Oconee County Taxpayers Possess Both Taxpayer and Public Importance Standing.

As part of its initial order properly granting the Oconee County taxpayers a preliminary injunction, and in the formal Order granting the County's Motion to Alter or Amend, the Circuit Court again properly ruled that the taxpayers possess public importance standing and taxpayer standing and stated a valid cause of action, recognizing the public value of the taxpayers' extraordinary personal effort (Order issued, R. pp. 10-25; Order issued March 11, 2025, R. p. 39).

The Circuit Court properly ruled repeatedly on these matters of jurisdiction. Oconee County taxpayers allege unconstitutional conduct and the unlawful expenditure of taxpayer funds, an inherent matter of public importance (Order issued, R. pp. 10-25; Order issued March 11, 2025, R. p. 39). This Court ruled in *Adams v. McMaster*, "A resolution for future guidance is needed here because this case involves the conduct of government entities and the expenditure of public funds, a prompt decision is necessary, and it is likely the situation will occur in the future." *Id.,* 432 S.C. 225, 236, 851 S.E.2d 703, 708 (2020).

The Oconee County taxpayers addressed a comprehensive legal analysis of standing at length in their Initial Responsive Brief of the Appellants Respondents (Appellants-Respondents' Responsive Brief, pp. 1-14). Taxpayers invite the Court's attention to that brief.

CONCLUSION

In conclusion, the Circuit Court erred in dismissing Oconee County taxpayers' challenge with prejudice under SCRCP12(b)(6) because Article 10, Section 12 of the South Carolina Constitution prohibits counties from taxing county taxpayers for sewer services they do not receive. Accordingly, the County violated this provision as the Ordinance, Resolution and exhibits to the County's memoranda demonstrate by taxing Oconee County taxpayers in much of the county for a sewer facility that will not provide service to them (Order of August 9 2023, p. 2; R.

p. 35; Ordinance, R. p. 385; Answer and Exhibits, R. pp. 63-64, pars. 15 and 22, Exhibits to Respondent-Appellant's New Motion for Alternation and Amendment, R. p. 447, par. (3)(A), R. p. 450 (B), R. p. 456, par. 12, R. p. 459, par. 22, R. p. 462, par. 7, R. p. 465, par. 13.) Appellants-Respondents' Brief, pp. 6-7). Of highest concern, Oconee County taxpayers seek comprehensive guidance and interpretation of Article 10, Section 12 of the South Carolina Constitution for themselves and for all counties and taxpayers of the state. To serve that need, a plain reading of Article 10, Section 12, giving meaning to every word, demonstrates that the framers intended "benefit" to mean the direct benefit of the service itself. Consequently, Article 10, Section 12 renders the County's taxation of all Oconee County taxpayers unconstitutional because only a particular geographical location within the county will receive the service.

In addition, the Circuit Court erred in dismissing (without allowing discovery) Oconee County taxpayers' constitutional challenge by relying improperly on Oconee County's *ex post facto* resolution declaring a general benefit. Furthermore, the Circuit Court erred in relying on the authorities the County cites that interpret other non-governing statutes accordingly, the County fails to remedy its violation of the plain language of Article 10, Section 12 itself prohibiting the County from taxing citizens who will not receive the service. In fact, Oconee County taxpayers state a valid claim under SCRCP 12(b)(6) challenging this constitutional violation.

In contrast, the Circuit Court correctly ruled S.C. Code Ann. § 11-15-30, "Bonds Incontestable from Twenty Days After Filing and Indexing," does not apply to constitutional challenges of unlawful taxation and spending. Finally, the Circuit Court also properly and repeatedly ruled that the taxpayers possess both taxpayer and public importance standing.

Accordingly, and to provide needed guidance, this Court should reverse the Circuit Court's dismissal with prejudice, reverse the reversal of its earlier opinion, re-issue the preliminary

injunction against the County's violation of Article 10, Section 12 of the South Carolina Constitution, and remand for further action in the Circuit Court.

Respectfully submitted,

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