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Jun 05 2026

SC Court of Appeals

EXHIBIT “1”

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
)
ZILLOW, INC.,)
)
)
Plaintiff,)
)
vs.)
)
)
RICHLAND COUNTY,)
SOUTH CAROLINA,)
)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2024-CP-40-03600

ORDER

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This case, under the South Carolina Freedom of Information Act (the “Act”), S.C. Code 30-4-10 et seq., came for hearing before the Court without a jury on March 31, 2026. The Plaintiff is Zillow, Inc., a corporation that posts online for free detailed information about homes for sale or rent. It is registered to do business with the South Carolina Secretary of State, and is a broker in all 50 states with licensed registered agents. This includes South Carolina.

Zillow is a person under the Act. “‘Person’ includes any individual, corporation, partnership, firm, organization or association.” S. C. Code 30-4-20(b). As a “person,” it has rights under the Act. “A person has a right to inspect, copy or receive an electronic transmission of any public record of a public body, except as otherwise provided by Section 30-4-40, or other state and federal laws...” S.C. Code 30-4-30(A)(1).

The Defendant is Richland County, South Carolina, a “public body” under the Act. S.C. Code 30-4-20(a). It denied Zillow’s request for certain “public records,” which “includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials

regardless of physical form or characteristics, prepared, owned or used, in the possession of, or retained by a public body.” S.C. Code 30-4-20(c).

The Act is remedial and should be liberally construed. *Quality Towing, Inc. v. City of Myrtle Beach*, 345 S.C. 156, 547 S.E.2d 862 (2001). Underlying each case “is the principle that the exemptions in Section 30-4-40 are to be narrowly construed so as to fulfill the purpose of FOIA... ‘to guarantee the public reasonable access to certain activities of the government.’ *Fowler v. Beasley*, 322 S.C. 463, 468, 472 S.E.2d 630, 633 (1996); S.C. Code Ann. 30-4-15 (1991); *Quality Towing, Inc. v. City of Myrtle Beach*, 345 S.C. 156, 161, 547 S.E.2d 862, 864-65 (2001). To further advance this purpose, the government has the burden of proving that an exemption applies.” *Evening Post Publishing Co. v. City of North Charleston*, 363 S.C. 452, 457, 611 S.E.2d 496, 499 (2005). Further, the government cannot rely on broad statements or presumptions to prove its case. It is required to be specific. “The City was required to prove that it would suffer particular harm, and the City did not meet its burden. The City’s non-disclosure therefore violated FOIA.” *Id.*, 460.

The case centers on Zillow’s May 16 and 17, 2024 requests to the County for public information concerning individual parcels of real estate within its borders. Specifically, Zillow requested “an electronic copy (i.e., Excel, Text, CSV, etc.) of the 2023 Assessment Files, including property appraisal information sometimes referred to as “CAMA Data” for all parcels in Richland County. The requested information includes but is not limited to any and all of the following fields for each parcel *to the extent that such fields exist*.” (Italics Supplied). This was followed by several dozen categories of information. The request is similar to requests from Zillow to the County in previous years. The requested information is a “public record” subject to disclosure under the Act. S.C. Code 30-4-20(c).

The County denied the request. On May 22, 2024, it wrote “Richland County has determined there are no responsive public records regarding this matter.” Later that day the County wrote that the requested records could be found on two websites, which it identified, and also wrote “pursuant to the South Carolina Freedom of Information Act, a public body is not required to compile and create public records, in any form, to produce the type of data requested.”

On June 4, 2024, Susan Noto, an information specialist for Zillow, convincingly pointed out that the websites were deficient and offered two examples: (1) showing “Opted Out” instead of the required information, and (2) showing “\$0” for taxable values.

A week later, on June 10, 2024, the County repeated its assertion that it was “not required to compile and create” the requested information and stated “Richland County, therefore, has no additional responsive records.”

It turns out, however, that the requested information does exist. Zillow’s request was a garden variety request which is routinely fulfilled by public bodies in South Carolina and elsewhere. In the past, Richland County itself has made such records available to Zillow. The request did not ask Richland County to create any records. Rather, it limited the request to information already in existence. The requested information exists within the County and is transmitted by the County every night in batch electronic form to one of its outside vendors, a company by the name of Spatialist, for processing and placement on the internet. Both the Richland County Assessor and the Richland County Deputy Chief Information Officer confirmed this in their depositions, which were read at trial, and in their testimony at trial from the witness stand.

The County sends Spatialist complete information, together with a list of parcels that are to be “opted out.” Spatialist then purges the public records before placing them on the County’s

main website. The County argues that the “opt out” choice only excludes “Information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy” under Subsection 30-4-40(a)(2) of the Act or “Matters specifically exempted from disclosure by statute or law under Subsection 30-4-40(a)(4) of the Act. That argument fails for a multitude of reasons.

The information is not of a personal nature; it is about property. It does not constitute invasion of personal privacy. Information of this type is publicly available across the United States. The excluded “opt out” information is even made available on the computer terminals in the Richland County Assessor’s Office, open and available to the public. Of the almost 200,000 real estate parcels in Richland County, the owners of only 10,000 or so have “opted out.” Obviously, an overwhelming number of people do not regard this information as private.

In its Amended Answer, Counterclaim and Request for Declaratory Judgment, Richland County attempts to rely on Subsection 30-4-40(a)(2), but leaves off the last part of that subsection in its quote. The omitted language utterly undermines the County’s argument. “Name, address and telephone number or such other information of an individual” are private under the Act only concerning “individuals who are handicapped or disabled when the information is requested for person-to-person commercial solicitation of handicapped persons solely by virtue of their handicap.” The omitted language also refers to 911 calls of dying victims. There is no evidence that Zillow engages in such solicitation, and it has not asked for 911 calls of dying victims. Moreover, the final sentence of Subsection 30-4-40(a)(2) reads, “This provision must not be interpreted to restrict access by the public and press to information contained in public records.”

The County has not identified any specific information for any specific parcel that can be properly excluded under the Act. If it had done so, the County is required by the Act to redact the

exempt information and produce the record. “If any public record contains material which is not exempt under subsection (a) of this section, the public body shall separate the exempt and non-exempt material and make the non-exempt material available in accordance with the requirements of this chapter.” S.C. Code 30-4-40(b).

Richland County asserts that it can withhold the requested information under Subsection 30-4-40(a)(4) because Zillow allegedly would use it in violation of Section 30-2-50(A). There is no evidence in support of this assertion. In its request, Zillow stated, “The information received in response to this request will be used in compliance with the South Carolina Freedom of Information Act, specifically S.C. Code 30-2-50(A).” That subsection concerns solicitation. Zillow does not solicit anyone in South Carolina; customer contact with Zillow must originate from the customer.

Facing the monumental difficulty of relying on its unlawful and factually unsupportable “opt out” exclusion, the County argues that it is not required to compile and create public records, in any form, to produce the type of data requested. That apparently is a reference to Subsection 30-4-30(A)(2) of the Act. That is not, however, what the subsection says. Subsection 30-4-30(A)(2) provides, “A public body is not required to create an electronic version of a public record when one does not exist to fulfill a records request.” The electronic record exists and the County could send it to Zillow in the same manner that it sends the information to Spatialist. This section addresses the creation of an electronic record when the record is only in paper form. It is inapplicable to Zillow’s request.

Referring Zillow to two websites is not a sufficient response, either. In addition to Susan Noto’s correct observation about deficiencies in the websites, the Act provides to Zillow the “right to inspect, copy or receive an electronic transmission” of the requested records. S.C. Code 30-4-

30(A)(1). Nor does Subsection 30-4-30(E) concerning website access alter that right. Subsection (E) applies only to Subsection (D), which allows for immediate in-person inspection of certain public records at a public body during its hours of operation; and Subsection (E) requires that the records still be produced. “A public body that places the records in a form that is both convenient and practical for use on a publicly available website is deemed to be in compliance with subsection (D), provided that the public body also shall produce documents pursuant to this section upon request.” S.C. Code 30-4-30(E). Far from supporting the County, Subsection (E) reinforces the mandate of Subsection (A), which provides for the right to public records. Subsection (E) states that the requirement to “produce” extends to the “section” namely all of Section 30-4-30, including Subsection (A)(1).

Grasping for a reason to support its denial, the County deliberately misreads Zillow’s request by arguing that Zillow wanted the County to create a document with the specific fields shown in the request. It ignores the fact that these were examples, and only “to the extent that such fields exist.” The request was for the “2023 Assessment Files.” The County knows very well what Zillow requested and its arguments to the contrary are not credible. The County even provided the records previously.

Another makeweight argument by Richland County is that it switched computer systems for assessment data in 2022, moving from Unisys to Harris, and that this would have required it to “write script” to comply with Zillow’s request. It argues that Section 30-4-30(A)(2) protects it in this respect. As noted previously, this section does not apply. Also, as noted previously, the County can send the information to Zillow in bulk electronic form, the same way it sends the information to Spatialist. It does not need to “write script.” Susan Noto offered credible testimony that Harris has provided similar information directly to Zillow in the past. Christopher Dunn, Zillow’s expert

with decades of experience and expertise in maintaining and copying this very type of public information, testified convincingly that providing the requested information would be quick and easy. Obviously, complying with the Act requires some effort, whether retrieving paper documents from a file cabinet and xeroxing them or “writing script” to provide a copy of electronic documents. The County’s Harris argument is a red herring and not credible.

In its Amended Answer, Counterclaim and Request for Declaratory Judgment, Richland County asserts that the requested documents are “sought for an improper purpose.” It asserts that the Act cannot be used in connection with one’s legitimate business interests. The Act is not so limited. In *Quality Towing, Inc. v. City of Myrtle Beach*, 345 S.C. 156, 547 S.E.2d 862 (2001), the South Carolina Supreme Court held that the Act applied to a vehicle towing company for its business operations.

It is frequently used by media companies in their businesses, as evidenced by the many published opinions of the South Carolina Supreme Court and Court of Appeals concerning the Act. Like media companies, Zillow is in the business of providing information to the public. It even provides the information for free. The public records that the press and Zillow obtain from public bodies help assure that public business is properly conducted by public bodies, exactly as the Preamble to the Act suggests. Section 30-4-15. “FOIA is remedial in nature and should be liberally construed to carry out the purpose mandated by the legislature.” *Id.*, 161.

In its Amended Answer, Counterclaim and Request for Declaratory Judgment, the County did not plead statute of limitations as an affirmative defense. Rule 8(c) SCRCF requires affirmative pleading of this defense. Rule 12(b), SCRCF mandates, “Every defense, in law or fact, to a cause of action in any pleading, whether a claim, counterclaim, cross-claim or third party claim, shall be asserted in the responsive pleading thereto ... The failure to plead an affirmative defense is deemed

a waiver of the right to assert it.” *Kingstree v. Chapman*, 405 S.C. 282, 313, 747 S.E.2d 494, 510 (Ct. App. 2013), citing *Wright v. Craft*, 372 S.C. 1, 21, 640, S.E.2d 486, 497 (Ct. App. 2006). Therefore, statute of limitations is not available to the County as a defense. Even if it were, it would fail as a factual matter. The County’s real estate records in 2023 are different from those in 2022 and prior years, as Susan Noto correctly testified. For example, boundary lines change as parcels are combined or subdivided, structures are built or demolished, tax status changes as properties are bought or sold by charitable organizations or governments, and values often change as properties change ownership. Zillow’s Complaint was timely.

The Act defines “person” to include “any individual, corporation, partnership, firm, organization or association.” S.C. Code 30-4-20(b). The language is plain, unambiguous, clear and definite. “If a statute’s language is plain and unambiguous, and conveys a clear and definite meaning, there is no occasion for employing rules of statutory interpretation and the Court has no right to look for or impose another meaning.” *Grant v. City of Folly Beach*, 346 S.C. 74, 79, 551 S.E. 2d. 229, 231 (2001) (citations omitted). Zillow is a corporation. It is a “person” under the Act.

As a “person,” it has rights to “public records” under the Act. “A person has a right to inspect, copy or receive an electronic transmission of any public record of a public body, except as otherwise provided by Section 30-4-40, or other state and federal laws, in accordance with reasonable rules concerning time and place of access.” S.C. Code 30-4-30(A)(1). Richland County is a “public body” and its 2023 Assessment Files are “public records” under the Act. S.C. Code 30-4-20(a) & (c).

Richland County would make this grant of rights to Zillow by the General Assembly of South Carolina meaningless. It takes the position that Zillow is powerless to enforce these rights. It says that Zillow lacks standing. In this, it is wrong.

Richland County claims that Zillow cannot enforce rights under the Act because it allegedly is not a citizen of South Carolina. That argument cannot stand against the clear mandate of the South Carolina Constitution, which provides all persons access to the Courts. “All courts shall be public and every person shall have speedy remedy therein for wrongs sustained.” Article 1, Section 9. The South Carolina Constitution means what it says. “The provisions of the Constitution shall be taken, deemed and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissive by its own terms.” Article 1, Section 23.

There is nothing in the Act that prohibits suit by Zillow. The Act affirms that the right of enforcement extends to citizens, but it does not deny that right to other persons. S.C. Code 30-4-100. The right to information under the Act extends to “persons.” Zillow is a “person” under the Act. The right to information includes the right to enforcement.

Were the Act to be applied to exclude Zillow from the courts of South Carolina for enforcement, that would also be a violation of the privileges and immunities, due process, equal protection and right of petition clauses in both the United States and South Carolina Constitutions.

“Under §2 of Article IV of the United States Constitution, the citizens of each state are entitled to all privileges and immunities of citizens in the several states. This secures citizens of one state the right to the courts of another equally with the citizens of the latter state...” *Missouri Pacific R. Co. v. Clarendon Boat Oar Co., Inc.*, 257 U.S. 533, 535 (1922). Privileges and immunities are also protected under the Fourteenth Amendment. “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.”

In 1972, the United States Supreme Court ruled that the right to bring a civil lawsuit in court is also part and parcel of the First Amendment right to petition. “The right of access to the courts is indeed but one aspect of the right of petition. That right, as indicated, is part of the right of petition protected by the First Amendment.” *California Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508, 510, 513 (1972).

In *Boddie v. Connecticut*, 401 U.S. 371, 91 S. Ct. 780 (1971) the United States Supreme Court held that due process requires that persons be granted access to court for divorce proceedings and that the state must even waive the filing fee if the parties cannot afford it. “It is to courts or other quasi-judicial official bodies, that we ultimately look for implementation of a regularized, orderly process of dispute settlement. Within this framework, those who wrote our original Constitution, in the Fifth Amendment, and later those who drafted the Fourteenth Amendment, recognized the centrality of the concept of due process in the operation of this system.” *Id.* at 375.

All of these decisions by the United States Supreme Court are rooted in the concept, articulated by Chief Justice John Marshall in the seminal decision *Marbury v. Madison*, 5 U.S. (Cranch) 137 (1803) that access to the courts for the redress of wrongs is the “very essence of civil liberty.” *Id.* at 163.

Beyond the federal imperatives for these rights are those of South Carolina. Due process is protected in the South Carolina Constitution in Article 1, Section 3, which in this respect mirrors the Fifth Amendment to the United States Constitution. Both protect the rights of “persons.”

Equal protection is a part of both constitutions, as well. “No state shall ... deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. Amend XIV §1. “[N]or shall any person be denied the equal protection of the laws.” S.C. Const Art. 1 §3. Equal protection “requires that all persons be treated alike under like circumstances and conditions, both in

privileges conferred and liabilities imposed.” *Doe v. State*, 421 S.C. 490, 504, 808 S.E.2d, 807, 814 (2017) (quoting *GTE Spring Commc’ns. Corp. v. Pub. Serv. Comm’n of S.C.*, 288, S.C. 174, 181, 341, S.E.2d 126, 129 (1986).

Independently, standing exists under the “public interest doctrine” that the South Carolina Supreme Court articulated in *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999) and that has become established South Carolina law. In this case, there are two public interests at stake. The first is the interpretation of what information is required to be produced under the Act. The second is the question of access to the courts under the South Carolina and United States constitutions. Both are fundamental.

Finally, the concept of “citizen” is broad. If the concept is to be narrow for a specific reason, it is specifically made narrow. For example, 28 U.S. Code 1332(c), the statute providing for federal diversity jurisdiction states, “For purposes of this section and section 1441 of this title – (1) a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business”... [followed by certain exceptions for insurers and a provision for estate representatives]. Notably, that section is explicitly limited to the determination of federal court jurisdiction. It is not a general statement about the citizenship of corporations. In fact, the statute explicitly avoids making such a general statement, using the verb “deemed” rather than “is.” The Act does not have a similar provision. It does not define “citizen.” The broad concept applies.

Zillow is entitled not only to the public records that it has requested, but also to attorney’s fees and costs, which the Act allows. “If a person or entity seeking relief under this section prevails, he may be awarded reasonable attorney’s fees and other costs of litigation specific to the request.” S.C. Code 30-4-100(B). The award of fees and costs is discretionary with the Court,

which can and does retain jurisdiction to determine the proper amount. Based on all of the findings in this Order, this Court does not find that the County was acting in good faith.

NOW, THEREFORE, the Defendant Richland County, South Carolina, is hereby ordered: (1) to produce forthwith the public records requested by the Plaintiff Zillow, Inc., without contrived misreading of the request or delay (Zillow stated that it does not need or intend to publish the names associated with the parcels – this Court will hold them to that), and (2) to pay Zillow its attorney’s fees and costs in such amount as shall be ordered by this Court in further proceedings, including the submission by Zillow’s counsel of an affidavit of such fees and costs,

AND

this Court hereby retains jurisdiction of this matter as aforesaid and for other proceedings if and to the extent necessary to enforce this Order.

IT IS SO ORDERED.

The Honorable Daniel M. Coble, Circuit Judge
Fifth Judicial Circuit



Richland Common Pleas

Case Caption: Zillow Inc vs Richland County South Carolina

Case Number: 2024CP4003600

Type: Order/Other

So Ordered

s/ Daniel Coble, 2774