

RECEIVED
Aug 05 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Daniel M. Coble

Appellate Case No. 2026-001276

Zillow, Inc.....Respondent,

v.

Richland County, South CarolinaAppellant.

Initial Brief of Appellant

M. Elizabeth Crum (S.C. Bar No. 1486)
Michael R. Burchstead (S.C. Bar No. 73770)
Samantha J. Dorward (S.C. Bar No. 106310)
Burr & Forman LLP
1221 Main Street, Suite 1800
Columbia, South Carolina 29201
(803) 799-9800
lcrum@burr.com
mburchstead@burr.com
sdorward@burr.com

*Attorneys for Appellant Richland County, South
Carolina*

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
INTRODUCTION	1
STATEMENT OF ISSUES ON APPEAL	3
STATEMENT OF CASE	4
STATEMENT OF FACTS	5
I. The County’s Storage and Retrieval of Assessment Data	5
II. Zillow’s FOIA Request.....	8
STANDARD OF REVIEW	11
ARGUMENT	11
I. ZILLOW LACKS STANDING TO ENFORCE THE FOIA.....	12
A. Zillow does not have statutory standing to enforce the FOIA.....	13
i. Zillow is not a “citizen of the State” within the meaning of section 30-4-100(A) of the FOIA.	13
ii. The circuit court erred in interpreting section 30-4-100(A) to find Zillow may sue under the FOIA.	15
1. The circuit court ignored and rendered superfluous the statutory language “of the State.”	15
2. The circuit court erroneously inferred a private right of action to Zillow.	16
3. The circuit court incorrectly found section 30-4-100(A) would be unconstitutional were enforcement confined to only a “citizen of the State.”	17
B. Zillow cannot resort to the public importance exception to maintain this action.	23
II. THE COUNTY PROPERLY DENIED ZILLOW’S FOIA REQUEST AS IT WOULD REQUIRE THE COUNTY TO CREATE AN ELECTRONIC VERSION OF PUBLIC RECORDS, WHICH THE FOIA DOES NOT REQUIRE PUBLIC BODIES TO DO.	25
A. The circuit court incorrectly interpreted section 30-4-30(A)(2), finding it inapplicable to Zillow’s request.	25
B. The circuit court erred in determining the County has an existing electronic version of the public records Zillow requested.	28
III. THE COUNTY ACTED IN GOOD FAITH IN DENYING ZILLOW’S FOIA REQUEST.	34
CONCLUSION.....	37

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Arizonans for Off. Eng. v. Arizona</i> , 520 U.S. 43 (1997).....	36
<i>ATC South, Inc. v. Charleston Cnty.</i> , 380 S.C. 191, 669 S.E.2d 337 (2008)	13
<i>Auto-Owners Ins. Co. v. Rhodes</i> , 405 S.C. 584, 748 S.E.2d 781 (2013)	30, 35
<i>Brawley v. Richland Cnty.</i> , 445 S.C. 80, 911 S.E.2d 156 (Ct. App. 2025).....	25, 27, 31
<i>Butts v. Mace</i> , No. 2025-000207, 2026 WL 1325050 (S.C. May 13, 2026)	18
<i>Campbell v. Marion Cnty. Hosp. Dist.</i> , 354 S.C. 274, 580 S.E.2d 163 (2003)	19
<i>Charleston Cnty. Parks & Recreation Comm’n v. Somers</i> , 319 S.C. 65, 459 S.E.2d 841 (1995)	11
<i>Charleston Cnty. Sch. Dist. v. State Budget and Control Bd.</i> , 313 S.C. 1, 437 S.E.2d 6 (1993)	13
<i>Creswick v. Univ. of S.C.</i> , 434 S.C. 77, 862 S.E.2d 706 (2021)	14, 26
<i>De Treville v. McMahan</i> , 137 S.C. 388, 135 S.E. 356 (1926)	15
<i>Disabato v. S.C. Ass’n of Sch. Adm’rs</i> , 404 S.C. 433, 746 S.E.2d 329 (2013)	19
<i>DomainsNewMedia.com, LLC v. Hilton Head Island-Bluffton Chamber of Commerce</i> , 423 S.C. 295, 814 S.E.2d 513 (2018)	11, 19
<i>Fowler v. Beasley</i> , 322 S.C. 463, 472 S.E.2d 630 (1996)	19, 23
<i>Freemantle v. Preston</i> , 398 S.C. 186, 728 S.E.2d 40 (2012)	13, 14, 23

<i>Glassmeyer v. City of Columbia</i> , 414 S.C. 213, 777 S.E.2d 835 (Ct. App. 2015).....	19
<i>Hampton v. Haley</i> , 403 S.C. 395, 743 S.E.2d 258 (2013)	24
<i>Harbit v. City of Charleston</i> , 382 S.C. 383, 675 S.E.2d 776 (2009)	21, 22
<i>Henderson v. Evans</i> , 268 S.C. 127, 232 S.E.2d 331 (1977)	17
<i>Hiott v. Guar. Nat’l Ins. Co.</i> , 329 S.C. 522, 496 S.E.2d 417 (Ct. App. 1997).....	11, 28, 34, 35
<i>Hodges v. Rainey</i> , 341 S.C. 79, 533 S.E.2d 578 (2000)	16, 18
<i>In re Vincent J.</i> , 333 S.C. 233, 509 S.E.2d 261 (1998)	13
<i>Isaac v. Onions</i> , 445 S.C. 525, 915 S.E.2d 492 (2025)	16, 17, 24
<i>Jernigan v. Kershaw Cnty. S.C.</i> , No. 2023-CP-28-00538 (S.C. Ct. Comm. Pleas Oct. 17, 2024)	14
<i>Kubic v. MERSCORP Holdings, Inc.</i> , 416 S.C. 161, 785 S.E.2d 595 (2016)	17
<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976).....	22
<i>McBurney v. Young</i> , 569 U.S. 221 (2013).....	19, 20, 22
<i>Nat’l Archives & Recs. Admin. v. Favish</i> , 541 U.S. 157 (2004).....	34
<i>Perry v. Bullock</i> , 409 S.C. at 141, 761 S.E.2d at 253	19
<i>Planned Parenthood S. Atl. v. State</i> , 440 S.C. 465, 892 S.E.2d 121 (2023)	22, 24
<i>Pope v. Wilson</i> , 427 S.C. 377, 831 S.E.2d 442 (Ct. App. 2019).....	19, 34

<i>Quality Towing, Inc. v. City of Myrtle Beach</i> , 345 S.C. 156, 547 S.E.2d 862 (2001)	19
<i>S.C. Lottery Comm’n v. Glassmeyer</i> , 433 S.C. 244, 857 S.E.2d 889 (2021)	20
<i>S.C. Nat. Bank v. Florence Sporting Goods, Inc.</i> , 241 S.C. 110, 127 S.E.2d 199 (1962)	34
<i>S.C. Pub. Int. Found. v. S.C. Dep’t of Transp.</i> , 421 S.C. 110, 804 S.E.2d 854 (2017)	23
<i>S.C. Pub. Int. Found. v. S.C. Transp. Infrastructure Bank</i> , 403 S.C. 640, 744 S.E.2d 521 (2013)	13
<i>S.C. State Ports Auth. v. Jasper Cnty.</i> , 368 S.C. 388, 629 S.E.2d 624 (2006)	15
<i>S.C. Tax Comm’n v. United Oil Marketers, Inc.</i> , 306 S.C. 384, 412 S.E.2d 402 (1991)	18
<i>Samson v. Greenville Hosp. Sys.</i> , 295 S.C. 359, 368 S.E.2d 665 (1988) (per curiam)	24
<i>Seago v. Horry Cnty.</i> , 378 S.C. 414, 663 S.E.2d 38 (2008)	29
<i>Slaughter-House Cases</i> , 83 U.S. 36, 79-80 (1873).....	21
<i>Smith v. Barr</i> , 375 S.C. 157, 650 S.E.2d 486 (Ct. App. 2007).....	33
<i>State ex. rel. McLeod. v. Montgomery</i> , 244 S.C. 308, 136 S.E.2d 778 (1964)	15
<i>State Media Co. et al. v. S.C. House Republican Caucus</i> , No. 2017-CP-40-02523 (S.C. Ct. Comm. Pleas Mar. 1, 2019)	14
<i>State v. Galloway</i> , 443 S.C. 229, 904 S.E.2d 866 (2024)	10
<i>State v. McSwain</i> , 445 S.C. 276, 914 S.E.2d 124 (2025)	22, 23
<i>State v. Taylor</i> , 411 S.C. 294, 768 S.E.2d 71 (Ct. App. 2014).....	11
<i>Sunset Cay, LLC v. City of Folly Beach</i> , 357 S.C. 414, 593 S.E.2d 462 (2004)	22

<i>Tennessee Wine & Spirits Retailers Ass’n v. Thomas</i> , 588 U.S. 504 (2019).....	21
<i>Thompson v. Killian</i> , 447 S.C. 177, 924 S.E.2d 606 (2025)	15
<i>Western & S. Life Ins. Co. v. State Bd. of Equalization of Cal.</i> , 451 U.S. 648 (1981).....	21
<i>WesternGeco LLC v. ION Geophysical Corp.</i> , 585 U.S. 407 (2018).....	18
<i>Wilson v. Dallas</i> , 403 S.C. 411, 743 S.E.2d 746 (2013)	35
<i>Wilson v. S. Ry. Co.</i> , 64 S.C. 162, 36 S.E. 701 (1900)	14
<i>Youngblood v. S.C. Dep’t of Soc. Servs.</i> , 402 S.C. 311, 741 S.E.2d 515 (2013)	13, 24

Statutes

Freedom of Information Act (FOIA), S.C. Code Ann. §§ 30-4-10 to -165.....	<i>passim</i>
Residential Property Condition Disclosure Act, S.C. Code Ann. §§ 27-50-10 to - 110.....	16
S.C. Code Ann. § 30-4-15.....	1, 19
S.C. Code Ann. § 30-4-20(c)	<i>passim</i>
S.C. Code Ann. § 30-4-30(A)(1)	18, 25, 37
S.C. Code Ann. § 30-4-30(A)(2)	<i>passim</i>
S.C. Code Ann. § 30-4-100(A)	<i>passim</i>
S.C. Code Ann. § 30-4-100(B)	34
S.C. Code Ann. § 30-4-110.....	34
S.C. Code Ann. § 30-4-110(C)(3).....	3, 34
S.C. Code Ann. § 30-4-20(b)	18
S.C. Code Ann. § 33-1-400(12)	14
Uniform Declaratory Judgments Act, S.C. Code Ann. §§ 15-53-10 to -140.....	20

Constitutional Provisions

S.C. Const. art. I, § 8.....	2
------------------------------	---

Other Authorities

<i>Merriam-Webster.com Dictionary</i> , https://www.merriam-webster.com/dictionary	26
S.C. Op. Att’y Gen. 1996 WL 109741 (1996).....	3, 28
S.C. Op. Att’y Gen. No. 81-20 (1981).....	3, 27

INTRODUCTION

The South Carolina General Assembly enacted the Freedom of Information Act (FOIA), S.C. Code Ann. §§ 30-4-10 to -165, to benefit South Carolina citizens. Specifically, the FOIA promotes governmental transparency, which protects the South Carolina citizenry from secret government activity and is necessary to maintain an informed electorate. See S.C. Code Ann. § 30-4-15. As the intended beneficiaries of its promises, the General Assembly conferred the right to enforce the FOIA to any “citizen of the State”—that is, to any citizen of South Carolina. As evidenced by the statutory text, the General Assembly did not intend for an out-of-state corporation to use South Carolinians’ tax dollars to underwrite its business.

Yet Zillow, Inc.—a Washington corporation—hopes to wield the FOIA for its own commercial use in the real estate industry. On its website, among other things, Zillow hosts listings for real estate properties, available for rent or purchase, across the United States. Consumers browse Zillow.com to review everything about a particular parcel: sale or rental price, Zillow’s estimated market value (Zestimate), number of bedrooms and bathrooms, parking and garage availability, tax assessed value, annual tax amount, tax history, and so on. Zillow uses various channels to aggregate that information. One such channel includes the respective states’ freedom of information laws. As here, Zillow submitted to Richland County, South Carolina (County) a FOIA request for a host of specific assessment data, in electronic form, related to the County’s approximately 185,800 parcels. See S.C. Code Ann. § 30-4-20(c) (defining a “public record” to include “all books, papers, maps, photographs, cards, *tapes, recordings, or other documentary materials regardless of physical form or characteristics . . .*” (emphasis added)).

After the County denied that request, Zillow filed the underlying lawsuit pursuant to the FOIA. However, deriving its citizenship from another state, Zillow is not a citizen of South Carolina as required by the FOIA’s enforcement provision. See S.C. Code Ann. § 30-4-100(A)

(“A *citizen of the State* may apply to the circuit court for a declaratory judgment, injunctive relief, or both, to enforce the provisions of this chapter in appropriate cases” (emphasis added)). By the statute’s plain terms, Zillow lacks standing to maintain this action. And the public importance exception to the *constitutional* requirements for standing cannot save Zillow from the governing *statutory* requirements for standing. Applying that exception where the General Assembly has spoken would allow Zillow to circumvent legislative intent to afford standing only to South Carolinians and require the Court to invade the province of the legislature. *But see* S.C. Const. art. I, § 8.

Beyond that, the County properly denied Zillow’s FOIA request, for it does not possess an electronic version of *all* the requested data.¹ Such a record is not one that the County creates or maintains in the ordinary course of its business. The County would have to compile, or create, an electronic version of that data, solely to fulfill Zillow’s preference to receive those records in its preferred format. But the FOIA does not require the County to create an electronic version of public records to fulfill a request. S.C. Code Ann. § 30-4-30(A)(2) (stating “[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”). In siding with Zillow, the circuit court improperly injected language into section 30-4-30(A)(2) to find it inapplicable to the request, reading the statute as applicable only to the creation of an electronic version when the public record is in paper form. Despite that, without evidentiary support and notwithstanding evidence to the contrary, the circuit court concluded the

¹ To be clear, the County does not possess a single electronic version or record—or a set of electronic versions or records—that collectively contains all the data Zillow requested. This brief refers to “record” and “version” in the singular solely for ease of reference. To be sure, when the County indicates it does not have such a “record” or “version,” it likewise means it does not have any *collection* of records or versions responsive to Zillow’s request. The County does not contend that the requested public records, i.e., the individual data points, must exist in one consolidated version or record.

County possessed an electronic record containing the requested data. Grounded in a misreading of the statute, lacking evidentiary support, and contradicted by the record, the circuit court's ruling cannot stand.

Finally, even were the County mistaken in its interpretation of section 30-4-30(A)(2), the County acted in good faith in its handling of Zillow's FOIA request, barring attorneys' fees and costs. *See id.* § 30-4-110(C)(3) (providing that "[i]f a person or entity seeking relief under this section prevails, the court may order: . . . (3) reasonable attorney's fees and other costs of litigation specific to the request, *unless there is a finding of good faith*" and that the "*finding of good faith is a bar to the award of attorney's fees and costs*" (emphasis added)). In denying the request, in addition to determining no responsive record existed, the County in good faith believed section 30-4-30(A)(2) did not require it to extract and compile the requested data to fulfill Zillow's FOIA request. That belief, even if mistaken, was reasonable given the County's reliance on the only authority bearing on the statute's substance to discern its meaning.² Equally important, the County did not deny the request because it sought to conceal public records. In fact, the County makes the requested information available for public inspection via the public terminals at the Assessor's Office.

For these reasons, the Court should reverse the circuit court's decision.

STATEMENT OF ISSUES ON APPEAL

I. WHETHER ZILLOW HAS STANDING TO ENFORCE THE FREEDOM OF INFORMATION ACT.

² *See* S.C. Op. Att'y Gen. No. 81-20 (1981) ("The [FOIA] does not require a public body to prepare and furnish a list that reflects information extracted from public records."); S.C. Op. Att'y Gen. 1996 WL 190741 (1996) ("The public body is not required to create a record where the record does not otherwise exist by extracting information from other documents which are in the possession of the public body.").

- II. WHETHER THE COUNTY PROPERLY DENIED ZILLOW’S FREEDOM OF INFORMATION ACT REQUEST WHERE FULFILLING THE REQUEST WOULD REQUIRE THE COUNTY TO CREATE AN ELECTRONIC VERSION OF A PUBLIC RECORD WHEN ONE DOES NOT EXIST.**
- III. WHETHER THE COUNTY ACTED IN GOOD FAITH IN DENYING ZILLOW’S FREEDOM OF INFORMATION ACT REQUEST.**

STATEMENT OF CASE

On June 12, 2024, Zillow initiated the underlying lawsuit, claiming that the County violated the FOIA when it denied Zillow’s request for an “electronic copy” of certain data related to all County parcels. Zillow sought injunctive relief to obtain the requested information, as well as attorneys’ fees and costs.

The County answered and counterclaimed on July 22, 2024, and subsequently filed an amendment pursuant to Rule 15(a) of the South Carolina Rules of Civil Procedure (SCRCPP). Specifically, relevant to this appeal, the County asserts: (1) Zillow does not have standing to bring this action because it is not a citizen of South Carolina, as required by section 30-4-100(A); (2) fulfillment of Zillow’s FOIA request would impermissibly require the County to create an electronic version of a public record that does not exist, contrary to 30-4-30(A)(2); and (3) at all times, the County acted in good faith in reviewing and responding to Zillow’s FOIA request. Zillow replied on September 18, 2024, in pertinent part, claiming it had statutory and public importance standing and raising a number of constitutional defenses.

After the parties engaged in discovery, the County filed a motion for summary judgment on September 15, 2025, which was heard on January 6, 2026. That motion was summarily denied. Later, the case proceeded to a non-jury trial before the Honorable Daniel M. Coble from March 31, 2026, to April 2, 2026. In lieu of closing arguments, the circuit court requested proposed orders from the parties, which were due on May 1, 2026. The circuit court found in favor of Zillow, entering its order on May 8, 2026 (Order). Relevant to this appeal, the court found: (1) Zillow has

statutory standing to enforce the FOIA because it is a “citizen” and, independently, via the public importance exception; (2) the County possesses an existing responsive record, despite its finding section 30-4-30(A)(2) is inapplicable to Zillow’s FOIA request; and (3) the County did not act in good faith, entitling Zillow to attorney’s fees and costs.

On May 28, 2026, pursuant to Rules 52 and 59, SCRCp, the County timely moved the circuit court to reconsider, alter, and amend the Order.³ However, that motion was denied on June 2, 2026, via a Form 4 order. The County timely noticed and served its appeal on June 5, 2026. This initial brief of the County follows.

STATEMENT OF FACTS⁴

I. The County’s Storage and Retrieval of Assessment Data

To support its tax assessment functions, the County Assessor’s Office maintains years’ worth of parcel information, including Computer-Assisted Mass Appraisal (CAMA) data encompassing attributes such as bedroom quantity, sales history, square footage, and so on. **(R. p.)**, Tr. vol. 3 at 46. Historically, the County maintained that data in a database using a CAMA software hosted on a Unisys computer system. **(R. p.)**, Def.’s Ex. 7; Tr. vol. 2 at 59, 110. The County does not maintain any of its assessment information in paper form. **(R. p.)**, Tr. vol. 3 at 15–16.

In simple terms, a script, or computer code, is required to locate and extract specific data from the database. **(R. p.)**, Tr. vol. 2 at 167, 170. Therefore, when Zillow first requested certain

³ On April 30, 2026, the Supreme Court issued an order, in pertinent part, amending Rules 52 and 59, SCRCp, extending the time to file motions pursuant to those rules to twenty days, effective immediately.

⁴ For clarity’s sake, with respect to the citations to the transcript used herein, (1) volume 1 refers to the transcript from March 31, 2026; (2) volume 2 refers to the transcript from April 1, 2026; and (3) volume 3 refers to the transcript from April 2, 2026.

of the County's CAMA data in electronic form in 2016, the County's Information Technology (IT) Department wrote a script enabling it to extract the specific CAMA data Zillow requested from the Unisys-housed database and to create a set of electronic records containing that data for transfer to Zillow.⁵ **(R. p.)**, Def.'s Trial Ex. 5 at 0008, 0010, 0015–16; *id.* Ex. 7 at 0003; *id.* Ex. 24 at 0144, 0149–150, 0157–158. As that request preceded the 2017 amendments to the FOIA, section 30-4-30(A)(2) was not yet in play.

Effective September 29, 2022, the County replaced its outdated Unisys computer system (dating back to at least 1994) with a Microsoft Harris Govern-related computer system. **(R. p.)**, Pl.'s Ex. 5 at 0045; Def.'s Ex. 7 at 0001–0004; Tr. vol. 2 at 12, 14; *id.* vol. 3 at 12. As part of that transition, the County also moved to maintaining its database via Harris Govern's proprietary CAMA software, which was customized to meet the County's particular needs. **(R. p.)**, Tr. vol. 2 at 147, 157–58. The County's new database contains approximately 19,000 data fields across hundreds of tables. **(R. p.)**, Tr. vol. 2 at 157; *id.* vol. 3 at 17–18. The Assessor's Office and the IT Department underwent training to use the software—specifically to understand how the database works and how to extract data therefrom. **(R. p.)**, Tr. vol. 2 at 159, 194–95; *id.* vol. 3 at 18–19. Without that understanding or training, according to the County's Deputy Chief Information Officer, one would not understand the database or its structure. **(R. p.)**, Tr. vol. 2 at 159.

Given the incompatibility of the Unisys and Harris Govern computer systems and their respective software, the County could no longer use the Unisys-database script it had developed and used to extract CAMA data Zillow requested in the past. **(R. p.)** Def.'s Ex. 5 at 0016 (stating,

⁵ At that time, the County treated Zillow's request as a data—not a FOIA—request that would be handled by the County's IT Department. **(R. p.)**, Tr. vol. 2 at 50; Def.'s Ex. 24 at 0144–45.

in response to a 2022 request for CAMA data, “[The County] has a new server and the County is no longer able to ‘pull an extract of the dataset that already exists’ like it may have done in the past with the old server”). And with the adoption of section 30-4-30(A)(2), the County declined to write—and has not written—a new computer script that would allow it to pull the CAMA data Zillow requested from the database and ultimately to create an electronic record thereof. **(R. p.)**, Def.’s Ex. 5 at 0016. In other words, the County does not have an existing capability to extract and compile the requested data. **(R. p.)**, Tr. vol. 2 at 162–63, 167; *id.* vol. 3 at 45. Although, the County Assessor’s Office has four public computers that people may use to inspect any property record—including all of the CAMA data related to that property—in the Harris Govern database and, if desired, print a property record report. **(R. p.)**, Tr. vol. 3 at 39–40.

In conjunction with the upgrade to Harris Govern, the County contracted with Spatialest, Inc. to host and manage the County Assessor’s website.⁶ **(R. p.)**, Pl.’s. Ex. 7; Tr. vol. 2, 14, 84–85. Because the County’s database of assessment information changes day-to-day, the County updates the Assessor’s website nightly by sending a batch of six electronic files (Spatialest Files) to Spatialest each evening. **(R. p.)**, Tr. vol. 2 at 152–54; Def.’s Trial Ex. 8 and 15. The Spatialest Files contain information from 127 CAMA and non-CAMA data fields in the County’s database pulled, by virtue of a computer code, from the approximately 19,000 data fields in the Harris Govern database. **(R. p.)**, Tr. vol. 3 at 15, 33. Those CAMA data fields reflect only 1%–5% of the total CAMA data fields maintained and housed in the Assessor’s database. **(R. p.)**, Tr. vol. 3 at 33–34.

⁶ Although not legally required to do so, as of 2002, the County voluntarily displays select parcel information on its public website as a resource to its property owners/taxpayers. **(R. p.)**, Tr. vol. 2 at 14, 38–39, 151; *id.* vol. 3 at 24–25.

II. Zillow’s FOIA Request

In 2024, Zillow submitted to the County a FOIA request for

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

(**R. p.**), Def.’s Ex. 1(a); Pl.’s Ex. 3 at 8–9 (emphasis added).⁷ Zillow’s request then identified the 38 CAMA data fields it wanted related to each parcel by individually listing them.⁸ (**R. p.**), Def.’s Ex. 1(a); Pl.’s Ex. 3 at 8–9. It “tend[ed] to list out [its] knowledge or [its] understanding of the field name[s]” to be sure the County knew the exact information for which it asked. (**R. p.**), Tr. vol. 2 at 128. And “Zillow was requesting [] the same CAMA data fields that [it] had previously requested[.]” (**R. p.**), Tr. vol. 1 at 182. Therefore, the County endeavored to determine whether it had a responsive public record (or records) containing CAMA data contained in all 35 existing fields Zillow requested for each of the County’s approximately 185,800 parcels, totaling over 6.5 million data points.

While the County had previously treated Zillow’s requests for CAMA data as data requests routed through the IT Department, *see supra* note 5, its policy changed in 2022. (**R. p.**), Def.’s Ex. 5 at 0001. Then, all information requests proceeded through the Ombudsman’s Office to be processed as FOIA requests. (**R. p.**), Def.’s Ex. 5 at 0001. In processing a FOIA request for specific CAMA data Zillow submitted that year, the Ombudsman’s Office consulted the IT

⁷ “Assessment Files” is not a term the County uses, and to be precise, nor is there a “file” containing such assessment data. (**R. p.**), Tr. vol. 3 at 21–22. Again, the requested information is contained in a database.

⁸ Two of the 38 CAMA data fields Zillow specifically requested, attic and basement, do not exist in the assessment database. (**R. p.**), Tr. vol. 3 at 31. Basement was also listed twice. (**R. p.**), Def.’s Ex. 1(a). Thus, Zillow specifically sought, at least, 35 existing fields.

Department. **(R. p.)**, Def.’s Ex. 5 at 0007. IT explained that since the change to Harris Govern, the County had “*not* created a report method for retrieving [the CAMA] data.” **(R. p.)**, Def.’s Ex. 7 at 0003 (“They[, Zillow,] don’t know we changed systems.”). Consequently, in 2022, the County explained:

Although a previous version of the information you now request may have been provided to you in the past . . . [the] County no longer has the ability to provide the information as you request and pursuant to S.C. Code of Laws §§ 30-4-30(A)(2) and *Op. S.C. Att’y Gen.*, 1981 WL 96546 (*March 13, 1981*) declines to create documents or otherwise extract information from public records to fulfill the request; hence, [the] County has no responsive documents to your request.

(R. p.), Def.’s Ex. 5 at 0016.⁹ Therefore, in 2024, after again determining it lacked any existing responsive records and it had not written a script to retrieve the specific data Zillow requested, the County denied the FOIA request, again explaining “a public body is not required to compile and create public records, in any form, to produce the type of data requested.” **(R. p.)**, Pl.’s Ex. 3 at 13.

At trial, Zillow offered Christopher Dunn as an expert witness for the limited purpose of assisting the court in understanding the County’s Geographic Information System (GIS), which is maintained by the County’s IT Department, and explaining how CAMA data is displayed on the GIS website. **(R. p.)**, Tr. vol. 1 at 28 (“We would like to move him in as an expert in the field of assisting the Court to understand the interplay between the GIS system that Richland County uses, the CAMA data that we have requested from Richland County in this situation, and how those are displayed on the Richland County website.”). Following voir dire pursuant to *State v. Galloway*, 443 S.C. 229, 904 S.E.2d 866 (2024), the court qualified Mr. Dunn in Geographic Information

⁹ At trial, Zillow explained it did not sue following the denial of its 2022 request because “[b]y waiting a year, [it] thought maybe the County might have created an extract that they would then be able to provide.” **(R. p.)**, Tr. vol. 1 at 184–85.

Systems and geospatial technologies.¹⁰ **(R. p.)**, Tr. vol. 1 at 52. Mr. Dunn testified as to the existence of CAMA data displayed on the County’s GIS website. **(R. p.)**, Tr. vol. 1 at 15–17, 22, 74–75. He also testified that the County sends data, in general, to Spatialest. **(R. p.)**, Tr. vol. 1 at 98–99. However, Mr. Dunn conceded he did not compare the specific data fields listed in Zillow’s FOIA request to the particular CAMA data displayed on the County’s GIS website or the Spatialest website. **(R. p.)**, Tr. vol. 1 at 116, 131. And Mr. Dunn admitted he lacked expertise or training in and personal knowledge of (1) Harris Govern, (2) CAMA software, generally; and (3) Harris Govern’s CAMA software that the County uses to maintain its CAMA data. **(R. p.)**, Tr. vol. 1 at 15, 30, 35, 37, 39–40, 44. Nevertheless, Mr. Dunn testified the County would not have to create an electronic record to fulfill Zillow’s request. **(R. p.)**, Tr. vol. 1 at 9–14.

To contextualize that testimony, the County Assessor testified that the Spatialest Files (1) do not include data pulled from all the 35 CAMA existing data fields that Zillow specifically requested, missing roughly 15% of those fields, and (2) include other data Zillow did not request. **(R. p.)**, Tr. vol. 2 at 86, 93, 191–92; *id.* vol. 3 at 15–16; Def’s Ex. 9. Because the Spatialest Files do not contain all the existing data Zillow requested, of course, the County Assessor’s website does not display all the CAMA data Zillow requested. And according to the County’s Deputy Chief Information Officer, the GIS website also does not display all the CAMA data Zillow requested. **(R. p.)**, Def.’s Trial Ex. 20; Tr. vol. 2 at 168–169; *id.* vol. 3 at 24–25, 33–38. Therefore, the computer codes written, in the ordinary course of the County’s business, to pull the data posted on those websites do not extract all of the particular data Zillow requested.

¹⁰ Mr. Dunn described “geospatial” as describing “anything with a place” and GIS as “mapping, the data accumulation.” **(R. p.)**, Tr. vol. 1 at 49–50.

STANDARD OF REVIEW

This appeal presents both questions of law and fact. With respect to the factual issues, in a non-jury action at law, the circuit court’s “findings of fact have the same force and effect as a jury verdict unless [the court] committed some error of law leading to an erroneous conclusion or unless the evidence is reasonably susceptible of the opposite conclusion only.” *Hiott v. Guar. Nat’l Ins. Co.*, 329 S.C. 522, 528–29, 496 S.E.2d 417, 421 (Ct. App. 1997).

However, the interpretation of a statute is a question of law for the Court to review *de novo* and without any deference to the circuit court. See *DomainsNewMedia.com, LLC v. Hilton Head Island-Bluffton Chamber of Commerce*, 423 S.C. 295, 300, 814 S.E.2d 513, 516 (2018); *State v. Taylor*, 411 S.C. 294, 300, 768 S.E.2d 71, 74 (Ct. App. 2014) (“Moreover, [q]uestions of statutory interpretation are questions of law, which are subject to *de novo* review and which we are free to decide without any deference to the court below.”); *Charleston Cnty. Parks & Recreation Comm’n v. Somers*, 319 S.C. 65, 67, 459 S.E.2d 841, 843 (1995) (stating the determination of legislative intent is a matter of law).

ARGUMENT

Dispositive of this appeal, Zillow lacks standing to enforce the FOIA. Specifically, section 30-4-100(A) confers standing to any “citizen of the State.” As a citizen of *another* state, the General Assembly has excluded it from enforcing the FOIA. And Zillow cannot bypass that legislative intent through resort to the public importance exception. Therefore, the Court should reverse the circuit court’s decision on that basis.

Beyond that, because the County does not have a public record—neither a hardcopy nor an electronic version—containing or compiling all the existing information Zillow asked for, it properly denied the FOIA request. See S.C. Code Ann. § 30-4-30(A)(2). Finding it inapplicable to Zillow’s request, the circuit court erred as a matter of law by reading into section 30-4-30(A)(2)

a limitation on its applicability: to scenarios involving the creation of an electronic record when the requested public record is “only in paper form.” (**R. p.**), Order at 5. The statute’s plain language contains no such constraint, instead explaining that “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.” And the court’s conclusion as to the existence of an electronic record responsive to Zillow’s request is without evidentiary support. *See* (**R. p.**), Order at 5 (“The electronic record exists and the County could send it to Zillow in the same manner that it sends the information to Spatialist [sic].”). That being the case, the Court should reverse the circuit court’s decision and find (1) section 30-4-30(A)(2) is applicable to the creation of an electronic version of a public record, “regardless of [its] physical form or characteristics,” *see* section 30-4-20(c); and (2) requiring a public body to extract and compile public records into an electronic version to fulfill a FOIA request runs afoul of section 30-4-30(A)(2).

Even if the County is mistaken with respect to its understanding of the statute and its application to Zillow’s FOIA request, it acted in good faith in denying Zillow’s FOIA request. In doing so, it relied upon the only available authority relating to the substance of section 30-4-30(A)(2), stating a public body need not extract and compile data to fulfill a FOIA request. *See supra* note 2. As well, the County makes the requested data available for inspection by any person via the public terminals in the Assessor’s Office. Therefore, at a minimum, the Court should reverse the circuit court’s determination that the County did not act in good faith.

I. ZILLOW LACKS STANDING TO ENFORCE THE FOIA.

Standing, a fundamental prerequisite to instituting an action, may be acquired through (1) constitutional standing, (2) statutory standing, or (3) under the “public importance” exception. *ATC South, Inc. v. Charleston Cnty.*, 380 S.C. 191, 195, 669 S.E.2d 337, 339 (2008). Where, as here, statutory standing governs, the General Assembly has determined, as a matter of policy, when

and to whom an enforcement right is conferred. Indeed, the Supreme Court has found the “FOIA contains a specific standing provision allowing *any citizen of South Carolina* to seek a declaratory judgment or injunctive relief to enforce the Act’s requirements.” *Freemantle v. Preston*, 398 S.C. 186, 194, 728 S.E.2d 40, 44 (2012) (emphasis added). Because Zillow is not a “citizen of South Carolina,” *see id.*, it lacks statutory standing. And Zillow cannot get around statutorily determined standing through resort to the public importance exception. Therefore, Zillow cannot meet its burden to establish it has standing to maintain this action. *S.C. Pub. Int. Found. v. S.C. Transp. Infrastructure Bank*, 403 S.C. 640, 645, 744 S.E.2d 521, 524 (2013) (“A party seeking to establish standing bears the burden of proving it.”).

A. Zillow does not have statutory standing to enforce the FOIA.

- i. Zillow is not a “citizen of the State” within the meaning of section 30-4-100(A) of the FOIA.

Statutory standing exists, as the name implies, when a statute confers a right to sue on a party, and determining whether a statute does so is an exercise in statutory interpretation. *Youngblood v. S.C. Dep’t of Soc. Servs.*, 402 S.C. 311, 317, 741 S.E.2d 515, 518 (2013). Specifically, “[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” *Charleston Cnty. Sch. Dist. v. State Budget and Control Bd.*, 313 S.C. 1, 437 S.E.2d 6 (1993). Where “a statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed[,] and the court has no right to impose another meaning.”¹¹ *In re Vincent J.*, 333 S.C. 233, 235, 509 S.E.2d 261, 262 (1998) (citing *Paschal v. State Election Comm’n*, 317 S.C. 434, 454 S.E.2d 890 (1995)); *see also Creswick v. Univ. of S.C.*, 434 S.C. 77, 82, 862 S.E.2d 706, 708 (2021) (“Only where the language of an act

¹¹ Neither party contends any of the relevant statutory language is ambiguous.

gives rise to doubt or uncertainty as to legislative intent may [the] Court search for that intent beyond the borders of the act itself.”).

Here, the FOIA confers standing as follows: “A *citizen of the State* may apply to the circuit court for a declaratory judgment, injunctive relief, or both, to enforce the provisions of this chapter in appropriate cases” S.C. Code Ann. § 30-4-100(A) (emphasis added). As the Supreme Court has explained, “[t]he legislature has specifically conferred standing upon *any citizen of South Carolina* to bring a FOIA claim against a public body for declaratory or injunctive relief, or both.” *Freemantle*, 398 S.C. at 195, 728 S.E.2d at 45 (emphasis added). In *Freemantle*, on review of a dismissal order, the Court found the South Carolina plaintiff had standing to pursue his FOIA claims because he alleged himself to be a citizen of the State (i.e., South Carolina) and that FOIA had been violated.¹² *Id.*

Zillow did not allege, much less argue or prove at trial, that it is a citizen of South Carolina. Instead, as it alleged, Zillow is incorporated in—and is therefore a citizen of—Washington. *See Wilson v. S. Ry. Co.*, 64 S.C. 162, 36 S.E. 701, 703 (1900) (“The legal existence, the home, the domicile, the habitat, the residence, *the citizenship, of a corporation, can only be in the state by which it was created, although it may do business in other states whose laws permit it.*” (emphasis added)). In fact, under South Carolina law, Zillow is considered a “foreign corporation.” *See* S.C. Code Ann. § 33-1-400(12) (defining “foreign corporation” as “a corporation for profit incorporated pursuant to a law other than the law of this State.”); *cf. De Treville v. McMahan*, 137 S.C. 388, 388, 135 S.E. 356, 357 (1926) (holding that “neither the express or implied consent of *the foreign*

¹² Although not precedential, two orders of the circuit court find in accordance with *Freemantle*. *See State Media Co. et al. v. S.C. House Republican Caucus*, No. 2017-CP-40-02523 (S.C. Ct. Comm. Pleas Mar. 1, 2019); *Jernigan v. Kershaw Cnty. S.C.*, No. 2023-CP-28-00538 (S.C. Ct. Comm. Pleas Oct. 17, 2024).

corporation nor any statute of the state is effectual to deprive *the corporation, as a citizen of another state*, from exercising its constitutional right of removal.” (emphasis added)). Because it is not a “citizen of the State,” Zillow lacks statutory standing to enforce the FOIA, requiring reversal of the circuit court’s decision to the contrary and dismissal of this action.

- ii. The circuit court erred in interpreting section 30-4-100(A) to find Zillow may sue under the FOIA.

While the Court reviews questions of law de novo and therefore need not defer to the circuit court’s interpretation of a statute, it is worth noting the myriad errors associated with the circuit court’s reading and application of section 30-4-100(A).

1. *The circuit court ignored and rendered superfluous the statutory language “of the State.”*

In finding Zillow had statutory standing, the court held that section 30-4-100(A) affords enforcement rights to “citizens” generally—those of South Carolina and beyond. To get there, the court began with the premise that “citizen” is a broad concept. (**R. p.**), Order at 9. From there, it reasoned that because the FOIA does not narrow that concept, its broad meaning applies, sweeping Zillow within its reach. *See id.* However broad “citizen” may appear in isolation, it is narrowed by the modifying language “of the State.” That constraining language cannot be ignored. *See S.C. State Ports Auth. v. Jasper Cnty.*, 368 S.C. 388, 398, 629 S.E.2d 624, 629 (2006) (“A statute should not be construed by concentrating on an isolated phrase.”). And, in giving meaning only to “citizen,” the court rendered the statute’s limiting language “of the State” superfluous. *See Thompson v. Killian*, 447 S.C. 177, 191–92, 924 S.E.2d 606, 614 (2025) (“[W]e must read the statute so that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous”); *State ex. rel. McLeod v. Montgomery*, 244 S.C. 308, 314, 136 S.E.2d 778, 782 (1964) (“In seeking the intention of the legislature, we must presume that it intended by its action to accomplish something and not to do a futile thing.” (citation omitted)).

2. *The circuit court erroneously inferred a private right of action to Zillow.*

Equally concerning, in determining Zillow had standing under section 30-4-100(A), the circuit court inferred a private right of action to enforce the FOIA because, in its view, the statute does not state Zillow *cannot* sue. **(R. p.)**, Order at 9 (“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.” (citing S.C. Code Ann. § 30-4-100)). For one thing, there is something in the FOIA that prohibits suit by Zillow: the limiting language “of the State” immediately following “citizen” whereby the General Assembly withheld from non-citizens of the State a private right of action for an alleged FOIA violation. *See Isaac v. Onions*, 445 S.C. 525, 536, 915 S.E.2d 492, 498 (2025) (“The legislative intent to grant or withhold a private right of action for violation of a statute or the failure to perform a statutory duty, is *determined primarily from the language of the statute*.” (emphasis added) (citation omitted)).

For another, when a statute grants a private right of action to one class of people—such as to South Carolina citizens—that implies the exclusion of anyone else having the right to sue. *See Isaac*, 445 S.C. at 536–37, 915 S.E.2d at 498; *Hodges v. Rainey*, 341 S.C. 79, 86, 533 S.E.2d 578, 582 (2000) (“The canon of construction ‘*expressio unius est exclusio alterius*’ or ‘*inclusio unius est exclusio alterius*’ holds that ‘to express or include one thing implies the exclusion of another, or of the alternative.’”). For instance, the *Isaac* Court applied the *expressio unius est exclusio alterius* canon to conclude the General Assembly did not intend to create a cause of action for violation of the Residential Property Condition Disclosure Act, S.C. Code Ann. §§ 27-50-10 to -110, against real estate licensees because the Act only created an action against an owner who knowingly violates or fails to perform any duty the Act prescribes. 445 S.C. at 537, 915 S.E.2d at 498. In other words, because the Act expressly provides a private right of action against a homeowner but is silent as to such an action against real estate licensees, the Act does

not afford such an action against licensees. *Id.* Similarly, this Court should decline to engraft language into, and thereby rewrite, section 30-4-100(A) that deliberately confines enforcement to South Carolina citizens, lest the Court intrude upon the legislature’s prerogative. *See Kubic v. MERSCORP Holdings, Inc.*, 416 S.C. 161, 170, 785 S.E.2d 595, 600 (2016) (“When the legislature delineated who would be able to bring a suit pursuant to section 30-9-30(B), it chose not to afford that right to government officials. We decline to imply language into a deliberate silence because to do so would be to rewrite the statute.”).

3. *The circuit court incorrectly found section 30-4-100(A) would be unconstitutional were enforcement confined to only a “citizen of the State.”*

Finally, the circuit court accepted Zillow’s claim that, were section 30-4-100(A) to confer an enforcement right solely on citizens of South Carolina, it would offend the South Carolina Constitution’s Privileges and/or Immunities, Due Process, Equal Protection, and Right of Petition clauses, along with their federal counterparts.¹³ **(R. p.)**, Order at 9. In this way, Zillow, in effect, asked the circuit court to invoke the canon of constitutional avoidance, which instructs that when a statute is susceptible to both constitutional and unconstitutional interpretations, courts must adopt the construction that preserves the statute’s validity. *Henderson v. Evans*, 268 S.C. 127, 132, 232 S.E.2d 331, 333–34 (1977). As discussed below, reading section 30-4-100(A) in accordance with its plain language, limiting enforcement rights to South Carolinians, is constitutional. However, even if it were not, the “constitutional avoidance [canon] does not allow [the Court] to rewrite statutes or avoid obvious constitutional violations.” *See Hodges*, 341 S.C. at 85, 533 S.E.2d at 578; *Butts v. Mace*, No. 2025-000207, 2026 WL 1325050, at *8 (S.C. May 13, 2026) (citing

¹³ Zillow did not raise the Right of Petition or the Privileges or Immunities clauses as defenses in this matter. **(R. p.)**, Pl’s Reply. Thus, these issues are not before the Court.

Boumediene v. Bush, 553 U.S. 723, 787 (2008) (holding the courts have an obligation to construe a statute to avoid constitutional problems only “if it is fairly possible to do so”). Thus, even if the Court were to agree with Zillow, and the circuit court, the remedy would not be to redline the words “of the State” out of the statute, thereby broadening the citizens to which the General Assembly has conferred the right to enforce the FOIA.¹⁴

Much of the circuit court’s constitutional analysis, for starters, is premised on its incorrect view that Zillow is a “person” entitled to public records under the FOIA. See S.C. Code Ann. § 30-4-30(A)(1) (conferring to a “person” the “right to inspect, copy, or receive an electronic transmission of any public record of a public body . . . ”); *id.* § 30-4-20(b) (defining “person” to include “any individual, corporation, partnership, firm, organization or association”). While “any” in the definition of “person” on its face appears as broad and inclusive language, construing the word “any” with literality to extend to citizens outside of South Carolina would defeat and contradict the General Assembly’s manifest intention and reach an absurd result. *Cf. WesternGeco LLC v. ION Geophysical Corp.*, 585 U.S. 407, 412–13 (2018) (citing *United States v. Palmer*, 16 U.S. 610, 631 (1818) (“The words ‘any person or persons,’ are broad enough to comprehend every human being. *But general words must not only be limited to cases within the jurisdiction of the state, but also to those objects to which the legislature intended to apply them.*” (emphasis added))). In enacting the FOIA, the General Assembly specified its purpose:

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that *citizens* shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end,

¹⁴ *Cf. S.C. Tax Comm’n v. United Oil Marketers, Inc.*, 306 S.C. 384, 389, 412 S.E.2d 402, 405 (1991) (“Further, there is no savings clause provision contained in § 12-27-430. *In the absence of a legislative declaration that invalidity of a portion of the statute shall not affect the remainder, the presumption is that the legislature intended the act to be effected as an entirety or not at all.*” (emphasis added) (citations omitted)).

provisions of this chapter must be construed so as to make it possible for *citizens*, or their representatives, *to learn and report fully the activities of their public officials* at a minimum cost or delay to the persons seeking access to public documents or meetings.

S.C. Code Ann. § 30-4-15 (emphasis added). Moreover, the FOIA embodies “the principle of an open, transparent system of government, vital to maintaining an *informed electorate* and preventing the secret exercise of governmental power with its potential corruption.” *Disabato v. S.C. Ass’n of Sch. Adm’rs*, 404 S.C. 433, 439, 746 S.E.2d 329, 332 (2013) (emphasis added).¹⁵

Thus, looking at the purpose of the FOIA, the General Assembly intended for the FOIA to benefit the State’s citizens—i.e., to those that are citizens of the state or incorporated herein.¹⁶ Cf. *Glassmeyer v. City of Columbia*, 414 S.C. 213, 219, 777 S.E.2d 835, 839 (Ct. App. 2015) (“The FOIA . . . should be liberally construed to carry out the purpose mandated by the General Assembly.”). Giving particular weight to the word “any” to include out-of-state corporations would flout the FOIA’s stated purpose as the General Assembly did not intend to afford out-of-staters the right to inspect, copy, or receive any electronic copy of *South Carolina* public records

¹⁵ See also *Perry v. Bullock*, 409 S.C. at 141, 761 S.E.2d at 253 (“[T]he FOIA’s essential purpose is to protect the public from secret government activity.”); *Campbell v. Marion Cnty. Hosp. Dist.*, 354 S.C. 274, 208, 580 S.E.2d 163, 166 (2003) (stating the essential purpose of FOIA is to protect the public from secret government activity); *Quality Towing, Inc. v. City of Myrtle Beach*, 345 S.C. 156, 547 S.E.2d 862 (2001) (affirming the FOIA was enacted to prevent government from acting in secret); *Fowler v. Beasley*, 322 S.C. 463, 468, 472 S.E.2d 630, 633 (1996) (“FOIA was designed to guarantee the public reasonable access to certain activities of the government.”); *DomainsNewMedia.com, LLC*, 423 S.C. at 297–98, 814 S.E.2d at 514 (“FOIA was enacted to promote transparency in government.”); *Pope v. Wilson*, 427 S.C. 377, 386–87, 831 S.E.2d 442, 447 (Ct. App. 2019) (“The basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.”).

¹⁶ And to be sure, limiting the right to access information from South Carolina public bodies to “persons” of South Carolina is constitutional. See *McBurney v. Young*, 569 U.S. 221, 224 (2013) (upholding the constitutionality of “[t]he Virginia Freedom of Information Act (FOIA), [which] provides that ‘all public records shall be open to inspection and copying by any citizens of the Commonwealth,’ but it grants no such right to non-Virginians”).

of *South Carolina* public bodies. Affording such a right to foreign corporations does nothing to advance the aim of the FOIA: to ensure an informed citizenry as to the “activities of *their* public officials.” Zillow—as a Washington resident and citizen—is not a part of the South Carolina electorate the General Assembly intended to protect from government secrecy. Because Zillow’s constitutional arguments rest on the faulty premise that it is a “person” within the FOIA’s meaning, they may be dismissed on that basis alone.

However, even if Zillow were a person entitled to FOIA’s promises, limiting the right of enforcement via the FOIA to citizens of the State does not close the courthouse doors to Zillow. Specifically, Zillow has a right to access South Carolina courts to get a declaration of any rights it may have under the FOIA, just not pursuant to section 30-4-100(A). See Uniform Declaratory Judgments Act, S.C. Code Ann. §§ 15-53-10 to -140; *cf. S.C. Lottery Comm’n v. Glassmeyer*, 433 S.C. 244, 250, 857 S.E.2d 889, 892 (2021) (“The declaratory judgment entered by the circuit court . . . is an adequate remedy to protect the Lottery Commission’s interests [under the FOIA.]”). Although it may not have its preferred method of access (via the FOIA), Zillow nevertheless has constitutionally sufficient access to our courts to enforce any purported rights it has under the FOIA. *Cf. McBurney*, 569 U.S. at 231 (“[T]he constitutional requirement is satisfied if the non-resident is given access to the courts of the State upon terms which in themselves are reasonable and adequate for the enforcing of any rights he may have, even though they may not be technically and precisely the same in extent as those accorded to resident citizens.” (quoting *Canadian N. R. Co. v. Eggen*, 252 U.S. 553, 562 (1920))).

In any event, several of the constitutional provisions relied upon by the circuit court are not implicated here. First, the Privileges and Immunities clauses apply only to natural citizens,

not to corporations such as Zillow.¹⁷ See *Western & S. Life Ins. Co. v. State Bd. of Equalization of Cal.*, 451 U.S. 648, 656 (1981) (stating the Privileges and Immunities Clause does not protect corporations); *Tennessee Wine & Spirits Retailers Ass’n v. Thomas*, 588 U.S. 504, 516 (2019) (“[T]he Privileges and Immunities Clause has been interpreted not to protect corporations . . .”). Second, the Equal Protection clauses mandate “the states apply each law, within its scope, *equally to persons similarly situated*, and that any differences of application must be justified by the law’s purpose *[They do] not prohibit different treatment of people in different circumstances under the law.*” *Harbit v. City of Charleston*, 382 S.C. 383, 396, 675 S.E.2d 776, 783–84 (2009) (emphasis added). Out-of-state corporations are not similarly situated to the in-state corporations or individuals to whom the FOIA grants enforcement rights; they occupy materially different legal circumstances. Entities that would be similarly situated are those likewise incorporated outside South Carolina. Thus, given Zillow is not similarly situated to the class of persons with which it argues the FOIA treats differently, the Equal Protection clauses are not implicated.

As for its due process arguments, neither Zillow nor the circuit court specified whether it believes the enforcement provision would offend substantive or procedural due process components of the Due Process clauses of our state and federal constitutions.¹⁸ Regardless, first,

¹⁷ Even if it were before the Court, *see supra* note 13, the Fourteenth Amendment to the U.S. Constitution’s Privileges or Immunities Clause does not have any relevance here. *Slaughter–House Cases*, 83 U.S. 36, 79–80 (1873) (narrowly interpreting the Privileges or Immunities Clause to protect only those rights “which owe their existence to the Federal government, its National character, its Constitution, or its laws[,]” such as the right “to come to the seat of government to assert any claim [a citizen] may have upon that government, to transact any business he may have with it, to seek its protection, to share its offices, to engage in administering its functions . . . [and to] become a citizen of any State of the Union by a *bonafide* residence therein, with the same rights as other citizens of that State”).

¹⁸ See *State v. McSwain*, 445 S.C. 276, 283, 914 S.E.2d 124, 127 (2025) (noting the due process clauses provides both substantive and procedural protections). The procedural component requires adequate and fair procedures be employed when governmental action infringes upon a protected

to prevail on its claim that section 30-4-100(A) denies Zillow procedural due process, it must establish that it has a cognizable property interest, or a statutory right, to receive public documents under FOIA. *See Harbit*, 382 S.C. at 384, 675 S.E.2d at 781 (“Procedural due process imposes constraints on governmental decisions that deprive individuals of liberty or property interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment of the United States Constitution. U.S. Const. amends. V and XIV.”). Because Zillow is not a “person” under the FOIA, it has no such right. Importantly, even assuming it were a “person,” it has the right to judicial review through the Declaratory Judgments Act. *Cf. McBurney*, 569 U.S. at 231.

Second, “[i]n order to prove a denial of substantive due process, a party must show that he was arbitrarily and capriciously deprived of a cognizable property interest rooted in state law.” *Sunset Cay, LLC v. City of Folly Beach*, 357 S.C. 414, 430, 593 S.E.2d 462, 470 (2004) (citation omitted); *McSwain*, 445 S.C. at 283, 914 S.E.2d at 127 (explaining substantive due process “[e]nsures that, regardless of the fairness of the procedures used, the government’s reasons for depriving a person of a protected life, liberty, or property interest are not arbitrary and have, at a minimum, a rational relationship to a legitimate governmental purpose”). Where, as here, “[a] legislative act is challenged under the Due Process Clause, and a fundamental right or suspect class is not involved, [the court] require[s] only that the act be reasonably designed to accomplish the legislative purpose.” *Id.* at 283, 914 S.E.2d at 127. Even assuming Zillow is a “person” with rights under the FOIA, no fundamental right or suspect class is at issue here, and the FOIA’s limitation of enforcement only to South Carolina citizens is rationally related to its goal of ensuring

life, liberty, or property interest. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). The substantive component ensures that, regardless of the fairness of the procedures used, the government’s reasons for depriving a person of a protected life, liberty, or property interest are not arbitrary and have, at a minimum, a rational relationship to a legitimate governmental purpose. *Planned Parenthood S. Atl.*, 438 S.C. at 250, 882 S.E.2d at 803.

an informed electorate.

In sum, none of the constitutional arguments Zillow throws at the wall stick, and the circuit court erred in giving them any traction.

B. Zillow cannot resort to the public importance exception to maintain this action.

Where, as here, standing is conferred by statute, the public importance exception to standing is unavailable. The circuit court improperly applied the public importance exception to find Zillow “independently” had standing on that basis, **(R. p.)**, Order at 11, for the exception is one to the *traditional* standing requirements, excusing the usual requirement of a concrete or particularized injury. *See S.C. Pub. Int. Found. v. S.C. Dep’t of Transp.*, 421 S.C. 110, 118, 804 S.E.2d 854, 858 (2017) (“Unlike with constitutional standing, a party is not required to show he has suffered a concrete or particularized injury in order to obtain public importance standing.”). And “traditional standing principles do not apply under FOIA because the legislature has conferred standing on any citizen to enforce the Act’s provisions.”¹⁹ *Freemantle*, 398 S.C. at 190, 728 S.E.2d at 42; *id.* at 194, 728 S.E.2d at 44 (“The traditional concepts of constitutional standing are inapplicable when standing is conferred by statute.”); *see Fowler*, 322 S.C. at 466, 472 S.E.2d at 632 (holding that “standing under FOIA does not require the information seeker to have a ‘personal stake in the outcome’”). Therefore, it follows that the public importance exception to the traditional concepts of constitutional standing is likewise inapplicable where standing is conferred by statute. *See Youngblood*, 402 S.C. at 317, 741 S.E.2d at 518 n.5 (“*While the public importance exception may provide standing where the elements of constitutional standing are not met, the exception was not raised in this action.*” (emphasis added)).

¹⁹ And certainly, Zillow did not argue—nor did the circuit court find—it has a particularized injury or otherwise satisfied the requirements to secure constitutional standing.

Indeed, in the context of statutory standing, the General Assembly specifically grants or withholds a private right of action for violation of that statute. See *Isaac*, 445 S.C. at 536, 915 S.E.2d at 498. When it grants or withholds such a right of action, in general or to only one class of people, it is not within the province of the Court to expand—by virtue of the public importance exception—the class of people to which the General Assembly, as a matter of policy, has conferred standing. Cf. *Planned Parenthood S. Atl. v. State*, 440 S.C. 465, 483, 892 S.E.2d 121, 131 (2023) (“[The] Court . . . does not make policy determinations. The legislature makes policy decisions. This is a central feature of separation of powers.”); *Hampton v. Haley*, 403 S.C. 395, 403, 743 S.E.2d 258, 262 (2013) (“[T]he General Assembly has plenary power over all legislative matters unless limited by some constitutional provision.”); *Samson v. Greenville Hosp. Sys.*, 295 S.C. 359, 367, 368 S.E.2d 665, 669 (1988) (per curiam) (“[T]his Court will not sit as a super-legislature to judge the wisdom or desirability of legislative policy determinations.” (citation modified)).

Here, the General Assembly granted a right of action to redress alleged FOIA violations to one class of people: citizens of South Carolina. Zillow cannot deploy the public importance exception to override the legislature’s deliberate choice—reflected in the statute’s plain language—regarding who may enforce the law. Such a result would flout the intent of the General Assembly, as evidenced by the plain text of the statute limiting the ability to enforce FOIA’s promises to the class of people for which the General Assembly enacted the FOIA: South Carolinians. And in doing so, the Court would thereby unconstitutionally substitute its policy preference for that of the General Assembly. For those reasons, the public importance exception to the ordinary strictures of standing cannot rescue Zillow from the General Assembly’s deliberate choice to exclude foreigners to our state.

II. THE COUNTY PROPERLY DENIED ZILLOW’S FOIA REQUEST AS IT WOULD REQUIRE THE COUNTY TO CREATE AN ELECTRONIC VERSION OF PUBLIC RECORDS, WHICH THE FOIA DOES NOT REQUIRE PUBLIC BODIES TO DO.

The FOIA allows for the “right to inspect, copy, or receive an electronic transmission of any public record of a public body” S.C. Code Ann. § 30-4-30(A)(1). A “public record” includes “all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body.” *Id.* § 30-4-20(c). If a public body does not have an electronic version of a public record, it need not create one to fulfill a FOIA request. *See id.* § 30-4-30(A)(2) (“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.”).²⁰ Because the County does not have an electronic version of all the public records—all the existing data—Zillow asked for, it properly denied the FOIA request.

A. The circuit court incorrectly interpreted section 30-4-30(A)(2), finding it inapplicable to Zillow’s request.

As an initial matter, the circuit court erroneously determined section 30-4-30(A)(2) does not apply to Zillow’s FOIA request. **(R. p.)**, Order at 5. To get there, the circuit court limited the scope of the statute as follows: “This section addresses the creation of an electronic record when the record is only in paper form.” **(R. p.)**, Order at 5. Had the General Assembly intended the statute to apply only to the creation of an electronic version when the record is only in paper form, it would have written so. *See Creswick*, 434 S.C. at 82, 862 S.E.2d at 708 (“The best evidence of

²⁰ Nor are public bodies required to seek documents from third parties or recreate documents to satisfy a FOIA request. *See Brawley v. Richland Cnty.*, 445 S.C. 80, 91, 911 S.E.2d 156, 162 (Ct. App. 2025) (stating, in interpreting an older version of the FOIA, “[w]e agree with the County that FOIA *does not require public bodies to seek documents from third parties* or recreate documents in order to respond to FOIA requests” (emphasis added) (citation omitted)).

legislative intent is the text of the statute.”). That reading is further undermined by the definition of a public record, which includes information existing in forms beyond just paper. See S.C. Code Ann. § 30-4-20(c) (defining a “public record” to include “all books, papers, maps, photographs, cards, *tapes, recordings, or other documentary materials regardless of physical form or characteristics . . .*” (emphasis added)). The definition of a public record encompasses individual data points, even if they only live electronically. Had the General Assembly intended the statute to apply only when a public body must create an electronic version of a paper-only public record to fulfill a FOIA request, it would have said so.

Faithful to its text, the statute contemplates a scenario in which, to satisfy a FOIA request, a public body would have to write a script to extract data from multiple locations within a database, to then compile that data into one or more records for electronic transmission. Once again, section 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.” “Create” means “to bring into existence.”²¹ Because no compilation, or public record, of the requested data presently exists, in any form, the County would have to bring such a compilation into existence, i.e., create it, and would also have to write a computer code to locate and extract the relevant data from the database. And “version” means “a form or variant of a type or original.”²² A compilation is necessarily a variant: an aggregated form of the underlying, individual public records—i.e., each data point. In short, compiling those data points, those public records, necessarily produces a *new* form, or version, of the underlying information. By its plain terms, therefore, section 30-4-30(A)(2) applies

²¹ Create, *Merriam-Webster.com Dictionary*, <https://www.merriam-webster.com/dictionary/create> (last visited July 22, 2026).

²² Version, *Merriam-Webster.com Dictionary*, <https://www.merriam-webster.com/dictionary/version> (last visited July 20, 2026).

to Zillow’s FOIA request.

This conclusion naturally follows as the FOIA obligates disclosure of public records already “*prepared, owned, used, in the possession of, or retained* by a public body.” *Id.* § 30-4-20(c) (emphasis added). Of course, then, a public body would not have to prepare—or create—an electronic record compiling public records, solely for the purpose of fulfilling a FOIA request. *See also Brawley*, 445 S.C. at 91, 911 S.E.2d at 162 (citing *Kissinger v. Reps. Comm. for Freedom of the Press*, 445 U.S. 136, 152 (1980) (stating the federal FOIA “does not obligate agencies to create or retain documents; *it only obligates them to provide access to those which it in fact has created and retained*” (emphasis added))).

What is more, two precursors to the 2017 amendment ushering in section 30-4-30(A)(2) confirm its application here. First, a 1981 Attorney General opinion concluded, “The [FOIA] does not require a public body to prepare and furnish a list that reflects information extracted from public records.” S.C. Op. Att’y Gen. No. 81-20 (1981).²³ There, Aiken County had been requested under the FOIA to extract and furnish a list of the names of delinquent taxpayers. However, the tax collector’s office did not maintain the information in the form requested. And the opinion determined the FOIA did not require such efforts: “the records . . . [were] available for inspection and copying. . . . [However,] [t]he request [was] that Aiken County extract and furnish certain information in listed form from such records. *The extraction and listing of such information is not required of the county by the [FOIA].*” *Id.* (emphasis added). Second, in an informal opinion, the Attorney General’s office reached the same conclusion in addressing “whether a county assessor is required by the [FOIA] to compile a report (either manually *or computer-generated*) of all properties meeting certain criteria selected by the requestor and to provide that report on the media

²³As noted, the County cited to this opinion in denying Zillow’s 2022 FOIA request.

of the requestor's choosing" S.C. Op. Att'y Gen. 1996 WL 190741 (1996) (emphasis added) ("The public body is not required to create a record where the record does not otherwise exist by extracting information from other documents which are in the possession of the public body.").

For these reasons, section 30-4-30(A)(2) applies to Zillow's FOIA request. Because the circuit court's decision is based, at least in part, on its misinterpretation of the applicable statute, its factual findings in that regard are not entitled to deference. *See Hiott*, 329 S.C. at 528–29, 496 S.E.2d at 421 ("[T]he circuit court's 'findings of fact have the same force and effect as a jury verdict *unless [the court] committed some error of law leading to an erroneous conclusion*'" (emphasis added)).

B. The circuit court erred in determining the County has an existing electronic version of the public records Zillow requested.

No evidentiary support backs the circuit court's finding with respect to the County's possession of an electronic record containing all the data Zillow requested. To the contrary, the County presented evidence that an electronic version of all the public records Zillow requested does not exist, for that it is not such a record ordinarily "prepared, owned, used, in the possession of, or retained" by the County. *See* S.C. Code Ann. § 30-4-20(c). That evidence showed the County would likewise be required to develop a script, or computer code, to extract from the database and ultimately compile the requested public records for transmission to Zillow. And, as discussed below, Zillow presented no credible evidence to meet its burden to establish the contrary. Therefore, the trial evidence is reasonably susceptible to only the opposite conclusion than the one the circuit court reached. *See Hiott*, 329 S.C. at 528–29, 496 S.E.2d at 421 (stating "findings of fact have the same force and effect as a jury verdict . . . unless the evidence is reasonably susceptible of the opposite conclusion only").

Specifically, Zillow requested CAMA data contained in, including but not limited to, 35

enumerated fields. *See supra* note 8. And Zillow requested that data relating to every one of the County’s nearly 185,800 parcels. The County does not have a record—in electronic form or otherwise—containing all of those individual public records. To create such an electronic record, the County would have to extract the requested data from the database in which it resides.²⁴ To do so, the County—through its IT Department—must have a computer script, or code, to locate each field related to each parcel throughout the database’s hundreds of tables and 19,000 fields and to extract all of that information, totaling over 6.5 million data points. However, the County does not have a script to extract from the Assessor database the existing 35 specified data fields Zillow requested for every parcel.²⁵ And the FOIA does not require it to create one.

Notwithstanding its relegation of section 30-4-30(A)(2) to only public records in paper form, the circuit court nevertheless determined as follows: “It turns out, however, that the requested information does exist. . . . The requested information exists within the County and is transmitted by the County every night in batch electronic form to . . . Spatialist [sic], for processing and placement on the internet.” (**R. p.**), Order at 3. It went on, finding “the County [could] send the information to Zillow in bulk electronic form, the same way it sends the information to Spatialist [sic].” (**R. p.**), Order at 6. But the circuit court points to no relevant evidence to support

²⁴ *Cf. Seago v. Horry Cnty.*, 378 S.C. 414, 419, 663 S.E.2d 38, 40–41 (2008) (noting that Horry County’s GIS department maintains a digital database that is not a single document, but rather a collection of data used to generate maps).

²⁵ Despite the uncontested evidence regarding the necessary steps involved in removing select data from a database, the circuit court found “[the County] does not need to ‘write script.’” (**R. p.**), Order at 6. That finding is without evidentiary support and is later contradicted in the Order, where the circuit court acknowledges “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.” (**R. p.**), Order at 7 (emphasis added). Of course, complying with the FOIA requires effort, and the County routinely undertakes that work in responding to requests. However, it need not expend such efforts that the General Assembly determined are a step too far: creating an electronic version of a public record where one does not exist.

those findings. And the testimony at trial was that the Spatialest Files (1) do not include data pulled from all the 35 CAMA existing data fields that Zillow specifically requested and (2) include other data Zillow did not request. **(R. p.)**, Tr. vol. 2 at 86, 93, 191–92; *id.* vol. 3 at 15–16; Def’s Ex. 9. Similarly, therefore, the script written, in the ordinary course of the County’s operation, to extract the data for display on the County’s Assessor website (by Spatialest) does not extract all of the data Zillow sought and pulls data Zillow did not request. **(R. p.)**, Tr. vol. 2 at 191–92; *id.* vol. 3 at 15–16; Def’s Ex. 9. In sum, the Spatialest Files, while existing, are not public records responsive to Zillow’s request. Therefore, the circuit court’s finding in this respect is without reasonable evidentiary support. *See Auto-Owners Ins. Co. v. Rhodes*, 405 S.C. 584, 593, 748 S.E.2d 781, 785 (2013) (“In an action at law tried without a jury, the appellate court will not disturb the trial court’s findings of fact *unless there is no evidence to reasonably support them.*” (citation modified)).

In fact, Zillow did not present any evidence to meet its burden of proof to establish the County has an existing electronic version, or compilation, of the public records it requested—at least, the 35 existing fields of data relating to each of the County’s nearly 185,800 parcels.²⁶ First, the Rule 30(b)(6), SCRCF, deposition testimony of the County confirmed it possesses no electronic version of the requested public records. **(R. p.)**, Tr. vol. 2 at 68, 71, 86, 93. Rather, for one thing, that testimony demonstrated (1) the County would have to write a script to extract that data and (2) compile it into an electronic version of the individual records for transmission to Zillow. For another, the testimony corroborated the non-responsiveness of the Spatialest Files, explaining those files do not contain all, and contain more than, the data Zillow requested. **(R. p.)**,

²⁶ Zillow presented two live witnesses, Susan Noto and Christopher Dunn, and the County’s Rule 30(b)(6), SCRCF, deposition testimony.

Tr. vol. 2 at 86, 93.

Second, the Zillow employee, Susan Noto, who submitted the FOIA request did not testify as to the existence of an electronic version of the requested public records, instead testifying generally about her work for Zillow, the submission of the FOIA request, and the County's past provision of the same CAMA data. **(R. p.)**, Tr. vol. 1 at 140–95. On this issue, the circuit court found Noto “offered credible testimony that Harris [Govern] has provided similar information directly to Zillow in the past.”²⁷ **(R. p.)**, Order at 6. Even if true, a third party's ability to provide, or its past provision of, information is irrelevant here; public bodies are not *required* to obtain information from, or redirect requestors to, third parties to satisfy the FOIA. See *Brawley*, 445 S.C. at 91, 911 S.E.2d at 162 (Ct. App. 2025) (“We agree with the County that FOIA *does not require public bodies to seek documents from third parties* or recreate documents in order to respond to FOIA requests.” (emphasis added) (citation omitted)). Thus, that evidence does not support the Order's finding as to this issue.

The remaining option is Mr. Dunn. The crux of his testimony was that the County maintains CAMA data *generally*, that the County sends select assessment data to the GIS division and to Spatalest, and that such data is displayed on its GIS website and Spatalest. Those undisputed propositions do nothing to establish the County has an electronic version, or compilation, of the *specific* CAMA data Zillow requested. In fact, Mr. Dunn conceded he did not compare the specific data fields listed in Zillow's FOIA request to the particular CAMA data displayed on the County's GIS website or the Spatalest website. **(R. p.)**, Tr. vol. 1 at 116, 131. Further, the circuit court made no finding with respect to the data sent to the GIS division for

²⁷ For context, Noto testified a county in Georgia (unnamed) referred Zillow to Harris Govern to obtain requested information.

display on the website, much less a finding that the data contains all the information Zillow requested. Therefore, even if the circuit court had pointed to it, Mr. Dunn's testimony as to the general existence of CAMA data in the files sent to the GIS division and Spatialtest or on the GIS and Spatialtest websites does not support any finding that a responsive electronic record exists.

The circuit court's sole reference to Mr. Dunn is its finding that he "testified convincingly that providing the requested information would be quick and easy." (**R. p.**), Order at 7. To begin with, the question before the Court is whether the request would require creating an electronic version of a public record that does not exist; nothing in section 30-4-30(A)(2) suggests that its application depends on the effort involved in creating a record. Beyond that, even if effort involved were relevant, Mr. Dunn lacked the requisite qualifications and experience to opine as to the work required to fulfill Zillow's FOIA request. The circuit court qualified Mr. Dunn in GIS and geospatial technologies, and his testimony was offered for the limited purpose of assisting the court in understanding the County's GIS website, explaining how CAMA data is displayed thereon. (**R. p.**), Tr. vol. 1 at 52. Mr. Dunn admitted he lacked expertise or training in and personal knowledge of (1) Harris Govern, (2) CAMA software, generally; and (3) Harris Govern's CAMA software that the County uses to house its data. (**R. p.**), Tr. vol. 1 at 15, 30, 35, 37, 39-40, 44. In short, Mr. Dunn was not offered or qualified, and lacks the experience, to opine as to the effort required to fulfill Zillow's FOIA request.

The circuit court also found influencing the fact that "[the] County itself has made such records available to Zillow" in the past. (**R. p.**), Order at 3. However, that conclusion disregards the substantial evidence demonstrating that, absent writing a script and creating an electronic version of public records, the provision of the requested data is no longer possible. While the County had previously developed a script enabling extraction from the Unisys system of the

specific CAMA data Zillow requested in 2016, and had generated an electronic record of that data, the County could not use that Unisys-specific script once it transitioned to Harris Govern. **(R. p.)**, Def.’s Ex. 7 at 0003; *id.* Ex. 5 at 0008, 0010, 0015–16; *id.* Ex. 24 at 0144, 0149–150, 0157–158. And by the time of that transition in September 2022, the General Assembly had amended the FOIA to add 30-4-30(A)(2), leaving the decision to create an electronic version of a public record to the public bodies. Therefore, given the intervening factual and legal changes, the County’s past provision of the data is of no moment here.

Zillow’s lack of evidence to support its contention of a FOIA violation should have been fatal to its case because it bore the burden of proving a FOIA violation by a preponderance of the evidence. *See Smith v. Barr*, 375 S.C. 157, 161, 650 S.E.2d 486, 489 (Ct. App. 2007) (“In civil cases, the burden of persuasion rests with the plaintiff to prove his or her case, usually, by a preponderance of the evidence.”). This failing is made worse by the uncontroverted testimony presented by the County that neither the Spatial File, nor anything else, in the County’s possession contained all of the data Zillow sought.

In summary, the circuit court erroneously determined section 30-4-30(A)(2) applied to only the creation of an electronic version of a public record in paper form and therefore inapplicable to Zillow’s FOIA request. The statute’s plain terms encompass a scenario where, as here, a public body must extract and compile requested information, that constitute public records, necessarily creating an electronic version of those records. The circuit court compounded that error when it concluded the County had an electronic version of all the public records, the data points, Zillow requested when the “evidence [in the record was] reasonably susceptible of the opposite conclusion only.” *See Hiott*, 329 S.C. at 528–29, 496 S.E.2d at 421. Because the County does not have such an electronic version of the public records—the roughly 6.5 million data points—Zillow requested,

the County properly denied the request pursuant to section 30-4-30(A)(2).

III. THE COUNTY ACTED IN GOOD FAITH IN DENYING ZILLOW’S FOIA REQUEST.

The General Assembly amended section 30-4-110 in 2017 to provide, in part, rights and remedies to public bodies responding to FOIA requests. Relevant here, section 30-4-110(C)(3) was added to provide that

[i]f a person or entity seeking relief under this section prevails, the court may order: . . . (3) reasonable attorney’s fees and other costs of litigation specific to the request, *unless there is a finding of good faith. The finding of good faith is a bar to the award of attorney’s fees and costs.*

(Emphasis added). Relatedly, our supreme court has interpreted section 30-4-100(B) to mean that even if a person seeking FOIA relief prevails in full, the circuit court has discretion as to whether to award attorney’s fees and costs.²⁸ *Pope*, 427 S.C. at 391, 831 S.E.2d at 449.

As an initial matter, public officials are, absent evidence to the contrary, presumed to act in good faith and follow the laws. *See S.C. Nat. Bank v. Florence Sporting Goods, Inc.*, 241 S.C. 110, 115–16, 127 S.E.2d 199, 202 (1962) (“In the absence of any proof to the contrary, public officers are presumed to have properly discharged the duties of their offices and to have faithfully performed the duties with which they are charged.”). Despite the County raising it, the circuit court did not apply, or mention, this well-settled presumption. Nor did it point to any evidence to refute that presumption. *Cf. Nat’l Archives & Recs. Admin. v. Favish*, 541 U.S. 157, 174 (2004) (holding, in a federal FOIA case, that “courts must insist on a meaningful evidentiary showing” to overcome “the presumption of regularity [that] supports the official acts of public officers”) (citation modified); *Wilson v. Dallas*, 403 S.C. 411, 425, 743 S.E.2d 746, 754 (2013) (“An abuse

²⁸ Additionally, as Zillow is neither a “person” under the FOIA entitled to the rights provided thereunder, nor is it a “citizen” of South Carolina with any right to enforcement, it likewise cannot assert any right to attorneys’ fees.

of discretion occurs when a court’s order is controlled by an error of law or there is no evidentiary support for the court’s factual conclusions.”).

Instead, in conclusory fashion, the circuit court did “not find that the County was acting in good faith.” **(R. p.)**, Order at 12 (“Based on all of the findings in this Order, this Court does not find that the County was acting in good faith.”). This factual finding, devoid of any specific evidentiary support, cannot stand. See *Hiott*, 329 S.C. at 528–29, 496 S.E.2d at 421; *Auto-Owners Ins. Co.*, 405 S.C. at 593, 748 S.E.2d at 785 (“In an action at law tried without a jury, the appellate court will not disturb the trial court’s findings of fact unless there is no evidence to reasonably support them.” (citation modified)).

Elsewhere in the Order, the circuit court found the County “deliberately misread[] Zillow’s request by arguing that Zillow wanted the County to create a document with the specific fields shown in the request [and] ignores the fact that these were examples, and only ‘to the extent that such fields exist.’” **(R. p.)**, Order at 6. Even generously reading that finding as backing for the circuit court’s determination that the County did not act in good faith, it is without evidentiary support. Assuming for argument’s sake the County “misread” Zillow’s request, nothing in the record suggests it did so deliberately. The County’s reading of the request was reasonable. First, Zillow’s FOIA request stated, “[t]he requested information *includes* . . . any and *all* of the following fields for each parcel, to the extent that such fields exist” **(R. p.)**, Def.’s Ex. 1(a); Pl.’s Ex. 3 at 8–9. From that language, the County reasonably believed Zillow specifically wanted data contained in each of the 35 existing fields related to all the parcels. Moreover, Zillow explained it “tend[ed] to list out [their] knowledge or [their] understanding of the field name[s]” to be sure the County knew the exact information for which it asked. **(R. p.)**, Tr. vol. 2 at 128:6–22. And as the circuit court recognized, Zillow had requested this information in years past, so the

County knew, or reasonably believed it knew, exactly what Zillow sought. **(R. p.)** Def.’s Ex. 5 at 8, Def.’s Ex. 24 at 162. Indeed, Zillow’s own expert, Mr. Dunn, characterized the request as “loosey-goosey.” **(R. p.)**, Tr. vol. 1 at 107. When the requesting party itself describes its ask as imprecise, a reasonable interpretation by the responding public body, even if ultimately mistaken, falls well within the bounds of a good faith response.

Beyond that, even if the Court finds the County is mistaken in its interpretation of section 30-4-30(A)(2), the evidence in the record demonstrates that the County acted in good faith in its handling of Zillow’s FOIA request. The County determined that the IT Department, since the change to Harris Govern, had “*not* created a report method for retrieving [the CAMA] data.” **(R. p.)**, Def.’s Ex. 7 at 0003. And in determining the import of the statute, the County relied upon the Attorney General opinions addressing scenarios analogous to the one presented here—that is, the extraction and compilation of data for transmission. Indeed, it cited the 1981 opinion in response to Zillow’s 2022 request for that CAMA data. *See (R. p.)*, Def.’s Trial Ex. 5 at 0016 (“[The] County no longer has the ability to provide the information as you request and pursuant to S.C. Code of Laws §§ 30-4-30(A)(2) and *Op. S.C. Att’y Gen., 1981 WL 96546 (March 13, 1981)* declines to create documents or otherwise extract information from public records to fulfill the request; hence, Richland county has no responsive documents to your request.”); *Arizonans for Off. Eng. v. Arizona*, 520 U.S. 43, 67 (1997) (citation modified) (“Attorney General opinions are advisory only and are not binding on the court. This does not mean, however, that citizens may not rely in good faith on Attorney General opinions until the courts have spoken.”).

It is also worth noting that the County makes the requested information available, in full, on its public terminals. **(R. p.)**, Tr. vol. 3 at 39–40; S.C. Code Ann. § 30-4-30(A)(1) (“*A person has a right to inspect, copy, or receive an electronic transmission of any public record of a public*

body” (emphasis added)). The County’s denial of Zillow’s FOIA request was in no manner an attempt to conceal public records. That information is available for inspection and printing, parcel-by-parcel. Zillow’s complaint is that it did not receive the information it sought in its preferred format, as it viewed going parcel-by-parcel to get the information as “a lot of work.” (**R. p.**), Tr. vol. 1 at 154. The County believed, reasonably and in good faith, that the FOIA did not require it create an electronic version of the requested public records to fulfill Zillow’s request.

For these reasons, the circuit court erred in finding the County did not act in good faith.

CONCLUSION

Because section 30-4-100(A) confers statutory standing to only citizens of South Carolina, Zillow, as a Washington citizen, lacks such standing to enforce the FOIA. And applying the public importance exception to the strictures of constitutional standing where the General Assembly has spoken would allow Zillow to circumvent legislative intent to afford standing only to South Carolinians and require the Court to invade the legislature’s domain. Therefore, the County requests the Court reverse the circuit court’s decision, hold that Zillow does not have standing to enforce the FOIA, and dismiss this action.

With respect to the merits, section 30-4-30(A)(2) does not require public bodies to create an electronic version of a public record when one does not exist to fulfill a FOIA request. The circuit court erred in reading limiting language into that statute, concluding it is only applicable to requests for an electronic copy of a public record that is only in paper form. The court’s decision, premised on that error of law, cannot stand. To fulfill Zillow’s request, the County would have to write a script to extract and compile the requested data into an electronic record. Because the FOIA does not require it to go to such lengths, the County properly denied the request. Therefore, the County requests the Court reverse the circuit court’s decision, hold that section 30-4-30(A)(2) applies to the creation of electronic versions of any public record, find that the County has no

existing electronic version of the public records Zillow requested, and conclude that the County need not create one.

Finally, even if mistaken as to its interpretation of section 30-4-30(A)(2), the County demonstrated it acted in good faith in denying Zillow's FOIA request. No evidence supports the circuit court's conclusory finding to the contrary. For those reasons, the County respectfully requests the Court reverse the circuit court's order contrary finding and order attorney's fees and costs to be paid to the County.

Respectfully submitted,

s/ M. Elizabeth Crum

M. Elizabeth Crum (S.C. Bar No. 1486)

Michael R. Burchstead (S.C. Bar No. 73770)

Samantha J. Dorward (S.C. Bar No. 106310)

Burr & Forman LLP

1221 Main Street, Suite 1800

Columbia, SC 29201

(803) 799-9800

lcrum@burr.com

mburchstead@burr.com

sdorward@burr.com

*Attorneys for Appellant Richland County, South
Carolina*

August 5, 2026
Columbia, South Carolina