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S.C. Supreme Court

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable John Hamilton Smith, Special Referee

Case No. 2010-CP-40-8943R

Columbia Venture, LLC, Appellant,

v.

Richland County, Respondent.

**MOTION BY THE ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.
FOR LEAVE TO FILE BRIEF OF *AMICUS CURIAE* IN SUPPORT OF RESPONDENT**

Pursuant to Rule 213, SCACR, the Association of State Floodplain Managers, Inc., (ASFPM) requests leave to file a brief of *amicus curiae* in this matter. Rule 213 provides that “[a] brief of *amicus curiae* may be filed only by leave of the appellate court granted on motion, or at the request of the appellate court” and “[a] motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an *amicus curiae* is desirable.”

STATEMENT OF INTEREST OF THE APPLICANT

In the United States, flood risks are identified and managed through the National Flood Insurance Program (“NFIP”). 42 U.S.C. § 4001 *et seq.* The NFIP was enacted in response to the nation’s escalating flood peril and the mounting costs of taxpayer-funded

disaster relief for flood victims. The three basic parts to the NFIP - mapping, insurance, and regulations – are “interconnected and mutually supportive.”

The technical basis for the administration of the NFIP is flood risk information prepared by the Federal Emergency Management Agency (“FEMA”) in the form of Flood Insurance Studies and Flood Insurance Rate Maps (“FIRM”). A FIRM, more commonly known as a Flood Map, identifies property within a Special Flood Hazard Area, which is land within the floodplain of a community subject to a one percent or greater chance of flooding in any given year (a 100-year flood or base flood), and within this Special Flood Hazard Area, Flood Maps may delineate a floodway, the most hazardous portion of a riverine floodplain that carries the deepest and fastest flow during a flood.

Communities who participate in the NFIP must adopt floodplain management regulations that, at a minimum, comply with the NFIP’s standards, and adopt FEMA’s flood maps as the basis for regulating floodplain development. 44 C.F.R. § 60.1. The NFIP underwrites flood insurance coverage only in those communities that adopt and enforce floodplain regulations that meet or exceed NFIP criteria. *Id.* Floodplain management regulations are intended to discourage floodplain development and reduce flood damage. Two hundred and twenty-nine (229) communities in South Carolina currently participate in the National Flood Insurance Program.

Amicus Association of State Floodplain Managers (“ASFPM”) is a Wisconsin-based nonprofit corporation founded in 1976. ASFPM’s mission is to mitigate the losses, costs, and human suffering caused by flooding and to promote wise use of the natural and beneficial functions of floodplains. With more than 15,000 national and

chapter members representing local, state, and federal government agencies, private consulting firms, academia, the insurance industry, and lenders, the ASFPM is the supporting organization of professionals involved in flood hazard identification, floodplain management, flood hazard mitigation, flood preparedness, and flood warning and recovery.

ASFPM provides a variety of services and benefits to its members including professional development, industry news gathering, and commercial, governmental relations and advocacy services. ASFPM also administers the Certified Floodplain Manager Program, which has, since the year 2000, certified more than 8,000 floodplain management professionals throughout the United States as demonstrating advanced floodplain management expertise through passing a rigorous exam and meeting continuing education requirements across the disciplines that inform the professional practice of floodplain management, including hydrology, engineering, mapping, planning, and law. ASFPM currently has 153 members and 175 Certified Floodplain Managers in the State of South Carolina, all working to reduce the risk of loss of life and property in future flood disasters.

A BRIEF OF AN AMICUS CURIAE IS DESIRABLE

ASFPM is the premier voice in floodplain management practice and policy throughout the nation. ASFPM leaders are frequently called upon to provide testimony, technical analysis and assistance to inform the public policy process regarding the effects of proposed legislation, regulation and administrative practice regarding the NFIP and other federal policies, programs, and practices in flood damage reduction, hazard


mitigation, disaster recovery, levee safety, and reducing the costs of flood disasters.

ASFPM's *Amicus Brief* will aid this Court by putting the issues the parties raise in proper context in light of the NFIP, public policy-making concerning levees and flood hazards, and the experience of the ASFPM with issues similar to those that Respondent Richland County faced in response to the efforts by Appellant Columbia Ventures, LLC, to construct intensive development on a floodplain. The *Brief*, which is conditionally filed along with this Motion, provides a unique perspective on these issues from a policy organization whose goal is to assist communities and governments in addressing the serious issues surrounding flood hazards in this Country.

For the reasons stated above, the Association State of Floodplain Managers, Inc., respectfully requests that this Court grant the motion and accept the attached conditional brief of *amici curiae* for filing.

September 8, 2014

Respectfully submitted,



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PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below she served counsel of record with a copy of the *Motion by the Association of State Floodplain Managers for Leave to File Brief of Amicus Curiae* and the conditionally filed *Brief of Amicus Curiae* by mailing copies of the same by United States Mail with first class postage prepaid to the following addresses:

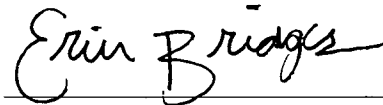
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