

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

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Appellate Case No. 2015-000733

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**RECEIVED**  
SEP 28 2015  
SC Court of Appeals

Kan Enterprises, Inc., d/b/a A 1 Food Stores,..... Appellant,

v.

South Carolina Department of Revenue, Ellen Fishburne Triplett,  
Keith McIver, Samuel L. Munson, Jocelyn Munson, and Michael Hill,..... Respondents.

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**APPELLANT'S RETURN TO CITY OF COLUMBIA'S MOTION FOR LEAVE  
TO FILE AMICUS BRIEF IN SUPPORT OF RESPONDENTS**

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This matter comes before the Court pursuant to the City of Columbia's Motion for Leave to File Amicus Curiae Brief in Support of Respondents. For the reasons set forth below, the Appellant does not consent to the relief requested by the City of Columbia in its Motion and the Motion should be denied.

This appeal arises out of a contested case hearing pursuant to Appellant Kan Enterprises, Inc., d/b/a A1 Food Stores' ("A1 Food Store") application for a renewal of its seven-day off premises beer and wine permit filed with the Respondent South Carolina Department of Revenue ("Department") on or about July 31, 2014. The Respondent Department stipulated throughout this procedure that the Appellant met the statutory requirement for a renewal. However, prior to the hearing in this matter numerous protests were filed by Respondent intervenors, who appeared at the hearing

before the Administrative Court Judge and vigorously opposed the renewal of Appellant's license. The evidence presented by the Respondent interveners factored into the Administrative Court's erroneous Order which forms the basis of the appeal in this case.

The City of Columbia was not a party to the Lower Court proceeding. Neither the City of Columbia nor the Columbia Police Department made any effort to intervene prior to the hearing before the Administrative Court Judge. However, several witnesses from the Columbia City Police Department did appear at the hearing and offered testimony on behalf of the Respondent Intervenors.

Now, during the briefing stage of this matter, the City of Columbia has filed a Motion to be allowed to file an *Amicus Curiae* brief in this matter. A review of its contents indicates that this brief is being filed by the City in opposition to the Appellant's position in this matter. The City's proposed Brief, which is attached to its motion, raises no relevant matter which has not already been raised by the existing parties to this appeal. The City's Brief merely restates the same evidence and arguments that have been raised by both the Department and the individual Intervenors. It raises the same arguments that have previously raised by the parties to this appeal. The only "new" materials contained in the brief concerns the ability of the City of Columbia Police Department to respond to matters in other parts of the City due to the alleged law enforcement issues connected with the Appellant's property. Since there was no evidence presented to the Administrative Court showing that calls to the Appellant's property jeopardized the safety of other areas, this evidence is not properly before the Court for consideration.

The City of Columbia's Brief raised no relevant matter that has not already been brought to the Court's attention by the Respondent Intervenors and their allies. The City's Motion should be denied. In the event that the motion is granted, the Appellant would respectfully request an opportunity to more fully respond to the arguments raised therein.

Respectfully submitted,

By: 

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West Columbia, South Carolina

September 28, 2015

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**PROOF OF SERVICE**

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I, Lynn G. Ivey, an employee of Moore Taylor Law Firm, PA, certify that I have served the Appellant's Response to City of Columbia's Motion for Leave to File Amicus Curiae Brief in Support of Respondents by mail, to the following parties by depositing a copy of same in the United States Mail, postage prepaid, on September 28, 2015, addressed as follows:

Justine M. Tate, Esquire  
Sean Ryan, Esquire  
Counsel for Litigation  
SC Department of Revenue  
P.O. Box 12265  
Columbia, SC 29211

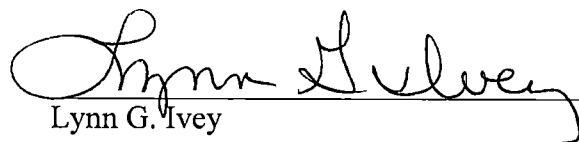
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SC Court of Appeals

  
Lynn G. Ivey

West Columbia, South Carolina

September 28, 2015

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SC Court of Appeals



September 28, 2015

The Honorable Jenny Abbott Kitchings  
Court of Appeals Clerk of Court  
P.O. Box 11629  
Columbia, SC 2921

RE: Kan Enterprises, Inc., d/b/a A1 Food Stores v. SC Department of  
Revenue, et al  
Appellant No. 2015-000733

Dear Ms. Kitchings:

Please find attached to this letter the original and four copies of our Return to City of Columbia's Motion for Leave to File Amicus Brief in Support of Respondents in this matter. Please return the clocked copies via our courier.

By copy of this letter, we are serving opposing counsel of the same.

Thank you for your assistance with this matter.

Respectfully yours,

Lynn G. Ivey  
Assistant to John C. Bradley, Jr.

Enclosures

cc: Justine M. Tate, Esquire  
Sean Ryan, Esquire  
Kathleen McDaniel, Esquire  
Patrick C. Sharpe, Esquire

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SC Court of Appeals

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