

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Tanya A. Gee, Circuit Court Judge

Case No. 2015-CP-40-03357

RECEIVED
SEP 30 2016
SC Court of Appeals

Christ Central Ministries, Respondent

vs.

City of Columbia Board of Zoning Appeals Appellant

**MOTION BY THE LAMAR COMPANIES
TO FILE AN AMICUS CURIAE BRIEF
PURSUANT TO RULE 213 SCACR**

The Lamar Companies ("Lamar") hereby moves this court pursuant to Rule 213 of the South Carolina Appellate Court rules for leave to file and Amicus Curiae Brief in this case. Lamar is conditionally filing the brief along with this motion. Lamar's conditional brief is incorporated herein by reference.

INTEREST OF THE APPLICANT

Lamar is an outdoor advertising company that owns and maintains outdoor advertng signs throughout South Carolina and as it relates to this case, the City of

Columbia. In the context of this case, and shown in the Record on Appeal (R. 75), Lamar leased property from the Respondent Christ Central Ministries ("CCM") for the purpose of erecting and maintaining Lamar's nonconforming outdoor advertising sign. The sign permit was in Lamar's name and the non-conforming rights in the sign belonged to Lamar as the non-conforming sign owner. Lamar applied for and was granted a permit by the City of Columbia ("City") to replace Lamar's existing non-conforming sign with a digital display pursuant to §17-404(e) of the City of Columbia Ordinances (the "Ordinance".)

Respondent chose to terminate Lamar's lease and to "replace" Lamar's nonconforming sign with its own digital display through a competitor. After Lamar removed its sign at the end of the lease, the City, interpreting the Ordinance, denied CCM's application because at the time of the application, the nonconforming sign had been removed. The City of Columbia Board of Zoning Appeals ("BZA") affirmed the City zoning administrator in a 5-0 vote with two members absent. Lamar's counsel was present and spoke at that hearing. CCM appealed and the circuit court reversed the BZA. The City timely appealed and this appeal is pending before this court.

As testimony to Lamar's interest in this case, Lamar is mentioned in parties briefs, the Record on Appeal and the trial court's decision. Furthermore, the primary issue on appeal is the interpretation of the Ordinance which directly impacts the outdoor advertising industry and Lamar's existing sign portfolio in particular.

DESIRABILITY OF AN AMICUS CURIAE BRIEF

In addition to the close factual connections to this case, Lamar provides a perspective for the court not provided by the City or CCM. In the recurring context of the Ordinance, CCM provides the perspective of an owner, the City the perspective of a permit granter and enforcer of its ordinances. Lamar provides the perspective of a sign owner and lessee not presented by the parties in this appeal. Furthermore, Lamar's principal argument and statement of the issue has not been adequately addressed by the parties.

As set forth in Lamar's first argument in Lamar's conditionally filed brief,

The trial court concluded that the City improperly imposed an artificial time limit for CCM to file for a permit to "replace" the sign with a digital display and also improperly misconstrued its own Ordinance as prohibiting the construction of a digital display once the existing sign is removed. The City contends it did not impose an artificial time, but merely interpreted the Ordinance as not permitting the replacement of a sign that no longer exists. Lamar contends that the key point that the trial court missed and that is not addressed in court's order is that CCM did not own, maintain or have any rights in the non-conforming sign it subsequently applied to replace.

This perspective is not adequately addressed in the existing briefs, but is fully addressed in the conditionally filed brief of Lamar.

CONSULTATION


Counsel for Lamar sent a copy of this motion and conditional Amicus Brief to counsel for the Appellant City and the Respondent, CCM. The City has no objection to the motion or the brief. Lamar has not yet received a response from Respondent CCM.

CONCLUSION

Lamar has both factual and legal interests in this case. The decision of this court interpreting the Ordinance could affect other signs owned and maintained by Lamar. Lamar offers a perspective on the issues not offered by the other parties (ownership rights in the permitted nonconforming sign) and Lamar's conditional brief fully addresses this issue. For all these reasons, Lamar should be afforded an opportunity to submit an Amicus Curiae Brief for the benefit of this court.

Respectfully Submitted,

TOBIAS G. WARD, JR., PA



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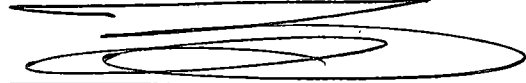
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CERTIFICATE OF COUNSEL

I certify that the Amicus Curiae Brief of The Lamar Companies complies with Rule 211(b), SCACR.

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ATTORNEYS FOR AMICUS FILER

The Lamar Companies

Date: Sept. 30, 2016

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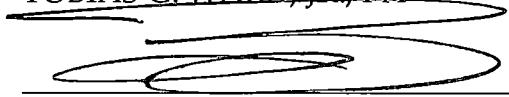
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PROOF OF SERVICE

I certify that I have served a copy of the Motion by The Lamar Companies to File an Amicus Curiae Brief Pursuant to Rule 213 SCACR by depositing a copy of it in the United States Mail, postage prepaid, on September 30, 2016, on the Appellant addressed to it's attorney of record, Natalie Armstrong Ham, Post Office Box 667, Columbia, South Carolina 29202 and on the Respondent addressed to it's attorney of record Jay Bender, Post Office Box 8057, Columbia, South Carolina 29202.

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Date: Sept. 30, 2016

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J. DERRICK JACKSON
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September 30, 2016

HAND DELIVERED

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina

RE: Christ Central Ministries, Respondent, v. City of Columbia Board of
Zoning Appeals, Appellant, Case No. 2015-CP-40-03357

Dear Ms. Kitchings:

Enclosed are the original and seven (7) copies of a Motion by The
Lamar Companies to File an Amicus Curiae Brief Pursuant to Rule 213
SCACR and Proof of Service along with our check for \$25.00 for the filing fee.

Also, enclosed for a conditional filing is an unbound original and 17
copies of the Amicus Curiae Brief of The Lamar Companies and Proof of
Service in the above case. Please return a file stamped copy of each via our
courier.

Respectfully submitted

TOBIAS G. WARD, JR., PA


J. Derrick Jackson

Enclosures

JDJ/wrc

cc: Natalie Armstrong Ham, Esquire (w/ enclosures)
Jay Bender, Esquire (w/ enclosures)