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**SC Court of Appeals**

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**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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APPEAL FROM GEORGETOWN COUNTY  
Court of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

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Case No. 2013-CP-22-01062

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Georgetown County,

Appellant,

v.

Davis & Floyd, Inc., Republic  
Contracting Corporation,  
S&ME, Inc., The South  
Carolina Department of  
Transportation and The City  
of Georgetown,

Defendants,

Of Whom

The South Carolina  
Department of Transportation  
and The City of Georgetown  
are

Respondents.

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**MOTION FOR CERTIFICATION TO THE SUPREME COURT  
PURSUANT TO RULE 204(b), SCACR**

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Georgetown County moves this Honorable Court, pursuant to Rule 204(b), SCACR, to  
certify this appeal for review by this Court before this appeal is determined by the South Carolina

Court of Appeals.

Appellant Georgetown County has appealed the Order in which the Circuit Court held as a matter of law that Georgetown County cannot maintain an inverse condemnation action against Respondents the South Carolina Department of Transportation and the City of Georgetown. Georgetown County's Notice of Appeal is attached hereto as **EXHIBIT A**.

The issues in this appeal involve matters of significant public interest relating to, among other buildings, the Georgetown County Judicial Center, as well as legal principles of major importance regarding the application of Article I, Section 13 of the South Carolina Constitution (the "Takings Clause"). In the appealed from order, the Circuit Court held that where a State or political subdivision takes property belonging to another political subdivision, the victim of the taking cannot maintain an inverse condemnation action. The Circuit Court noted, however, that this issue is "... a novel question of law in South Carolina." (Order, 6).

In the court below, Georgetown County argued numerous issues, including (i) that it is protected against takings under the Takings Clause, as numerous other jurisdictions have concluded; (ii) that the South Carolina Eminent Domain Procedure Act provides that Georgetown County is entitled to just compensation when its property is taken; and (iii) that public policy requires the payment of just compensation. As more fully set forth in Georgetown County's trial court memoranda, jurisdictions across the United States have concluded that under their corollary state constitutional provisions to the Takings Clause, where a state or a political subdivision takes property belonging to another political subdivision, just compensation must be paid. See e.g. Marin Mun. Water Dist. v. City of Mill Valley, 202 Cal. App. 3d 1161, 249 Cal. Rptr. 469 (Ct. App. 1988) (holding a public water district suffered no less of a taking than if the property were

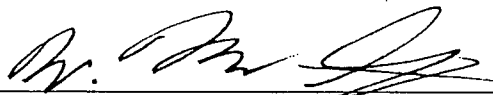
owned by an individual and that the district stated a cause of action in inverse condemnation for unintentional physical damage to its property); State ex. rel. State Highway Comm'r v. Cooper, 24 N.J. 261, 131 A.2d 756 (1957) (impliedly overruling New Jersey precedent on the governmental-proprietary distinction and stating if the breadth of previous case doctrine were followed it would lead to the startling result that “the State [could] appropriate, for wholly unrelated public purposes and without just compensation, various municipal properties such as town halls and schoolhouses...”); City of Three Forks v. State Highway Comm'n, 156 Mont. 392, 480 P.2d 826 (Mont. 1971) (holding the property was owned by the city, not the State of Montana, and that compensation must be paid for property of the City taken by the State); Highline Sch. Dist. No. 401, King Cty. v. Port of Seattle, 87 Wash. 2d 6, 548 P.2d 1085 (Wash. 1976) (en banc) (reversing grant of summary judgment on inverse condemnation against condemnee school district and stating that where a condemnee governmental unit must furnish services which require use of the property taken, just compensation must be paid); City of Chester v. Com., Dept. of Transp., 495 Pa. 382, 434 A.2d 695 (1981) (holding the Pennsylvania Constitution does not allow the Commonwealth to escape its financial obligation owed to a public condemnee for property taken); State ex. rel. Ala. State Docks Dept. v. Atkins, 439 So.2d 128 (Ala. 1983) (holding Mobile County was entitled to compensation for the taking of its roadway by the State of Alabama); Donnaher v. State, 1 Morr.St.Cas. 374 (Miss. 1847) (holding railroad company must pay just compensation to the City of Jackson to have a right to construct a railroad through the public streets).

Because of the importance of the precedent which will be set by this case and the novel issues involved, a writ of certiorari to this Court will likely follow any decision of the Court of Appeals, regardless of outcome. Therefore, judicial economy would be best served if this Court,

as the highest Court in this State, certifies this case for review.

WHEREFORE, for the reasons set forth above, Georgetown County respectfully requests this Court grant the motion to certify this case for review.

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GEORGETOWN COUNTY  
Court of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

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Case No. 2013-CP-22-01062

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Georgetown County,

Appellant,

FEB 09 2017

v.

SC Court of Appeals

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Contracting Corporation,  
S&ME, Inc., The South  
Carolina Department of  
Transportation and The City  
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Of Whom

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**NOTICE OF APPEAL**

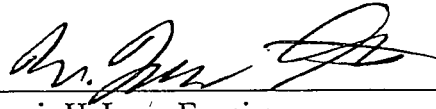
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Georgetown County appeals the Order dated November 4, 2015 and the Order Denying Georgetown County's SCRCP 59(e) Motion to Reconsider dated January 3, 2017, entered by the Clerk of Court for Georgetown County on January 17, 2017 (the "59(e) Order"): Undersigned

**EXHIBIT A**

counsel received written notice of the entry of the 59(e) Order on January 20, 2017.

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February 9, 2017

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GEORGETOWN COUNTY  
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Larry B. Hyman, Jr., Circuit Court Judge

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**PROOF OF SERVICE**

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I certify that I have served a copy of the following as indicated hereinbelow, via email, and by mailing a copy of same on the date below by First Class United States Mail, postage prepaid, addressed to the following:

**DOCUMENT SERVED: NOTICE OF APPEAL**

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[SIGNATURE PAGE TO FOLLOW]

CALLISON TIGHE & ROBINSON, LLC

Katie A. Minton  
Katie A. Minton, Paralegal

February 9, 2017  
Columbia, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GEORGETOWN )

IN THE COURT OF COMMON PLEAS

Georgetown County, )  
 )  
Plaintiff, )

C/A #: 13-CP-22-01062

v. )

Davis & Floyd, Inc., Republic )  
Contracting Corporation, S&ME, Inc., )  
the South Carolina Department of )  
Transportation and the City of )  
Georgetown, )

Defendants. )

ORDER

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FEB 09 2017

SC Court of Appeals

ALMA Y. WHITE  
CLERK OF COURT

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FILED  
GEORGETOWN COUNTY, S.C.

This matter came before the Court upon the motion of the Plaintiff, Georgetown County, for summary judgment as to its inverse condemnation cause of action against Defendants South Carolina Department of Transportation (hereinafter "SCDOT") and the City of Georgetown (hereinafter "City"). The Court does not reach the merits of the County's summary judgment motion because the Court rules as a matter of law that Georgetown County cannot maintain an inverse condemnation cause of action because the Takings Clause of the South Carolina Constitution applies only to the taking of private property. The Court only rules that as a matter of law the County cannot maintain an inverse condemnation cause of action against the SCDOT and City. Therefore, the Court hereby strikes Plaintiff Georgetown County's Inverse Condemnation cause of action.

Georgetown County (the "County") brought this action seeking recovery for property damage allegedly caused by a public works project allegedly constructed by SCDOT and/or the City. The County asserted various claims against SCDOT and City including an inverse condemnation cause of action. The County moved for summary judgment on its inverse condemnation claim. The County's summary judgment motion was initially heard on August 7, 2014, at which time both SCDOT and City argued the County could not maintain its inverse condemnation claim because the subject property was public property, not private property. The SCDOT raised its Rule 12(b)(6) defense in response to the County's Summary Judgment

Motion. The Court requested additional briefs as to whether a public entity can assert a cause of action for inverse condemnation. After the submission of supplemental briefs by all parties, the matter was argued again on April 30, 2015. For the reasons set forth below, I conclude the County cannot maintain its inverse condemnation claim and therefore strike that cause of action from County's complaint.

The South Carolina Constitution, Art. I, § 13 provides:

(A) Except as otherwise provided in this Constitution, *private* property shall not be taken for private use without the consent of the owner, nor for public use without just compensation being first made for the property. Private property must not be condemned by eminent domain for any purpose or benefit including, but not limited to, the purpose or benefit of economic development, unless the condemnation is for public use.

*Emphasis added.*

South Carolina has long recognized a cause of action for inverse condemnation grounded upon this Takings Clause. The elements of an action for an inverse condemnation are: (1) affirmative conduct of a government entity; (2) the conduct effects a taking; and (3) the taking is for a public use. *Carolina Chloride v. South Carolina Dept. of Transportation*, 391 S.C. 429, 706 S.E.2d 501, (2011); *Byrd v. City of Hartsville*, 365 S.C. 650, 620 S.E.2d 76 (2005). "Inverse condemnation is based on the constitutional prohibition against taking of private property for public use without the payment of just compensation." *Mowrer v Charleston County Party and Recreation Com'n*, 361 S.C. 476, 480, 605 S.E.2d 563 (Ct. App. 2004). "The term 'inverse condemnation' describes an action grounded, not on the statutory condemnation power, but on the constitutional proscription against the taking or damaging of property for public use without just compensation." *Vick v. South Carolina Dept. of Transp.*, 347 S.C. 470, 480, 556 S.E.2d 693, 698 (Ct. App. 2001); *Horry County v. Insurance Reserve Fund*, 344 S.C. 493, 44 S.E.2d 637 (Ct. App. 2001). Inverse condemnation may result from the government's physical appropriation of private property, or it may result from the government-imposed limitations on the use of private property. *Carolina Convenience Stores, Inc. v. City of Spartanburg*, 398 S.C. 27, 30, 727 S.E.2d 28 (Ct. App. 2012).

The power to take private property for public use without an owner's consent is one of the powers inherent in the concept of sovereignty. The Takings Clause, like the corresponding clause of the Fifth Amendment of the U.S Constitution which provides for just compensation for private property taken, is merely a limitation on the use of the power. It is not part of the power

itself, but a condition upon which the power may be exercised. *United States v. Jones*, 109 U.S. 513, 3 S.Ct. 346 (1883).

The Takings Clause applies only to "private" property by its terms. When the language of a statutory or constitutional provision is clear and unambiguous, that clear meaning must be applied.

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. *Charleston County Sch. Dist. v. State Budget and Control Bd.*, 313 S.C. 1, 437 S.E.2d 6 (1993). Under the plain meaning rule, it is not the court's place to change the meaning of a clear and unambiguous statute. *In re Vincent J.*, 333 S.C. 233, 509 S.E.2d 261 (1998) (citations omitted). Where the 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. *Id.* at 233, 509 S.E.2d at 262 (citing *Paschal v. State Election Comm'n*, 317 S.C. 434, 454 S.E.2d 890 (1995)). "What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature." Norman J. Singer, *Sutherland Statutory Construction* § 46.03 at 94 (5<sup>th</sup> ed. 1992).

*Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000).

The term "private property" is clear and unambiguous. The inclusion of the word "private" is a limiting term which specifically excludes "public" property. As such, the takings clause of the constitution can only be interpreted to prohibit the taking of private, not public, property.

Our court considered a similar issue many years earlier. *Edgefield Cnty. v. Georgia-Carolina Power Co.*, 104 S.C. 311, 88 S.E. 801, 807 (1916). One of the issues presented was whether the constitution required just compensation for the taking by flooding of a public highway. The Court concluded that where public property is flooded by the legislatively authorized erection of a dam, the constitutional protection against the taking of private property does not apply. In dicta and referring to a road, the *Edgefield* Court stated, "[b]ut public property, we think, does not fall within the protection of the Constitution. *Leitzsey v. Power Co.*, 47 S. C. 479, 25 S. E. 744, 34 L. R. A. 215; Elliott on Roads and Streets, 484." 88 S.E. 801, 807 (1916).

Other courts have similarly considered this issue. The United States Fifth Circuit Court of Appeals held that a state agency may not sue the state under the Fifth and Fourteenth Amendments. *Board of Levee Com'rs of the Orleans Levee Bd. v. Huls*, 852 F.2d 140 (5<sup>th</sup> Cir.

1988). The United States District Court for the Western District of Texas held that a political subdivision may not bring a claim pursuant to a statute written to protect individual rights such as freedom of speech. *City of Alpine, et. al. v. Greg Abbot*, 730 F.Supp.2d 630 ( W.D.Tx 2010). The Supreme Court of Mississippi held that the legislature may take or devote public land to an additional public use without paying any compensation. *Board of Supervisors of Covington County v. State Highway Commission*, 194 So. 743 (Miss. 1940).

The New Mexico Supreme Court found that a county hospital and county courthouse were public property and not private property within the constitutional provision against the taking of private property for public use without just compensation. *State ex. rel. State Highway Commission v. Board of County Com'rs of Dona Ana County*, 72 N.M. 86, 380 P.2d 830 (1963). That court determined:

We think it is established that absent statutory authority, property of one public body being used for public purposes cannot be condemned by another public body. *City of Albuquerque v. Garcia*, 17 N.M. 445, 130 P. 118.

....  
We recognize the rule to be as stated in 2 Nichols, Eminent Domain 223, § 5.9, that:

'Over the property which a municipal corporation acquires as an agency of the state for the performance of the strictly public duties devolved upon it by law, the legislature may exercise a control to the extent of requiring the municipal corporation, *without receiving compensation therefor*, to transfer such property to some other agency of the government to be devoted to similar public uses or to other strictly public purposes.

In *The School District of the Speers Borough School District v. Commonwealth*, 383 Pa. 205, 117 A.2d 702, 703, the rule is stated as follows:

'**Constitutional prohibitions against the taking of property without compensation apply only to privately owned property.** Article I, Section 10 of the Constitution of Pennsylvania, P.S. Therefore it has always been held that the Commonwealth may take property of a political subdivision or agency without payment therefor, *Chester County Institution Dist. v. Commonwealth*, 341 Pa. 49, 57, 17 A.2d 212, the right to compensation in such cases being only a matter of grace or allowance by the Legislature.'  
(emphasis added).

*Id.* 72 N.M. at 88-89, 380 P.2d at 832.

The same reasoning applies when property is allegedly taken or damaged by one political subdivision of the state from another political subdivision of the state. In the *City of Evanston v.*

*Regional Transportation Authority*, 559 N.E.2d 899 (Ill. 1990), a city brought an action seeking injunctive relief against the RTA. The RTA counterclaimed alleging a taking and damaging of their property in violation of both the state and federal constitutions. The court phrased the issues as:

- (1) "[I]s a political subdivision of the state such as the RTA and PACE protected under the Illinois and United States constitutions from the taking of its property by another political subdivision; and
  - (2) does such a political subdivision have the rights to due process and equal protection under the Illinois and United States constitutions?
- 559 N.E.2d at 905.

Answering those issues, the court said:

[T]here is no authority that private property within the meaning of the Fifth Amendment includes public property of a political subdivision taken by another political subdivision of the same state. RTA's and PACE's property was public property that was not protected by the United States Constitution just compensation clause ... [and] it was nevertheless public property that was not protected by the Illinois Constitution's just compensation clause.

*Id.*

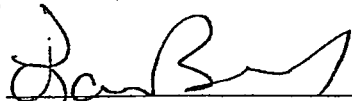
The County correctly argues that some states have reached a different result. However, the Court finds that public property is not within the protection of the Takings Clause. Further, South Carolina jurisprudence on statutory interpretation requires that appropriate meaning be given to the clear and unambiguous term "private property".

Since Georgetown County's property is public property, the takings clause has no application. The Takings Clause is limited to private property by its clear and unambiguous terms. The purposes and intent of the enactment of the Takings Clause do not support an application to public property. South Carolina has previously addressed in dicta this issue, stating that public property does not fall within the protection of the Takings Clause. Other states have similarly addressed this issue and determined that public property is not protected by the Takings Clause of the constitution.

For the reasons stated above, the Court finds that Georgetown County cannot maintain an inverse condemnation action against SCDOT and City because the Takings Clause applies only to private property and not to public property. Therefore, because the Court finds as a matter of law that Georgetown County cannot maintain an inverse condemnation cause of action that claim

is stricken and the Court grants the SCDOT Rule 12(b)(6) motion<sup>1</sup>. In so ruling, the Court notes that this is a novel question of law in South Carolina, and it is this Court's intent by striking the County's inverse condemnation cause of action to affect the County's substantial right to proceed with this cause of action and that this Order be immediately appealable.

AND IT IS SO ORDERED.

  
\_\_\_\_\_  
Larry B. Hyman, Jr.  
Presiding Circuit Judge

Corry, South Carolina  
October 4, 2015  
Nov

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<sup>1</sup> The Court notes that this defense was raised not only in the Answer of the SCDOT, but was also referenced in "Defendant SCDOT's Supplemental Memorandum in Opposition to Plaintiff's Motion for Summary Judgment," dated September 5, 2014.

ORIGINAL

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GEORGETOWN )

IN THE COURT OF COMMON PLEAS

Georgetown County, )

C/A #: 13-CP-22-01062

Plaintiff, )

v. )

ORDER DENYING GEORGETOWN  
COUNTY'S SCRPC 59(e) MOTION TO  
RECONSIDER

Davis & Floyd, Inc., Republic )  
Contracting Corporation, S&ME, Inc., )  
the South Carolina Department of )  
Transportation and the City of )  
Georgetown, )

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Defendants. )

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SC Court of Appeals

FILED  
GEORGETOWN COUNTY, SC  
2017 JAN 17 PM 2:10  
ANNA Y. WHITE  
CLERK OF COURT

This matter is before the Court upon the Plaintiff's SCRPC 59(e) motion to reconsider the Court's Order of November 4, 2015. In that Order, the Court struck Plaintiff's inverse condemnation cause of action against the City of Georgetown and the South Carolina Department of Transportation. The Court has carefully reviewed the Plaintiff's motion and arguments in support and heard oral arguments on August 5, 2016. After due consideration, Georgetown County's motion to reconsider is DENIED.

The County sets out three separate grounds for reconsideration in its motion. First, the County simply requests the Court to reconsider its ruling on the merits and find that the Takings Clause of the South Carolina Constitution protects the County's public property from inverse condemnation. The Takings Clause specifically protects "private" property only. The Court declines to reconsider its ruling for the reasons set out in the original Order.

Second, the County claims that the Court failed to specifically address certain arguments it asserted. The Court considered all arguments presented by the County and determined that those arguments were unfounded even if they were not specifically addressed in the Court's written order. ~~The County asserts that the Eminent Domain Procedure Act demonstrates a~~ legislative intent to allow the County to be a condemnee for purposes of eminent domain.

However, the Court finds that the Act is a procedural act that does not change the substantive law. S.C. Code Ann. § 28-2-20 is entitled "Legislative Intent" and specifically states:

This act amends the law of this State relating to procedures for acquisitions of property and to the exercise of the power of eminent domain. It is the intention of the General Assembly that this act is designed to create a uniform procedure for all exercise of eminent domain power in this State. It is not intended by the creation of this act to alter the substantive law of condemnation....

S.C. Code Ann. § 28-2-20.

As that Act is procedural only and does not change the substantive law, it does not change the Court's analysis of the Takings Clause of the S.C. Constitution.

The County also claims that the State Authorities Eminent Domain Act also requires the conclusion that the County can bring an inverse condemnation action. "The term 'inverse condemnation' describes an action grounded, not on the statutory condemnation power, but on the constitutional proscription against the taking or damaging of property for public use without just compensation." *Vick v. South Carolina Dept. of Transp.*, 347 S.C. 470, 480, 556 S.E.2d 693, 698 (Ct. App. 2001); *Horry County v. Insurance Reserve Fund*, 344 S.C. 493, 44 S.E.2d 637 (Ct.App. 2001). The Act does not govern inverse condemnation claims.

Moreover, the State Authorities Eminent Domain Act codifies the grant of eminent domain authority to certain state authorities. The Act does not change the clear limitations of the Constitution. It does not re-define "private" property to include "public" property. The law presumes that the legislature did not intend to change the common law by a statutory enactment unless the language employed clearly indicates such an intention. The rules of the common law are not to be changed by doubtful implication or overturned except by clear and unambiguous language. *See, Nuckolls v. Great Atlantic & Pacific Tea Co.*, 192, S.C. 156, 5 S.E.2d 862 (1939); *Coakley v. Tidewater Const. Corp.*, 194 S.C. 284, 9 S.E.2d 724 (1940); *Branchville Motor Co. V. Adden*, 158 S.C. 90, 155 S.E. 277 (1930). There is no such clear indication in the language of State Authorities Eminent Domain Act.

Further, the Plaintiff is not arguing for a change to the common law. Instead, the Plaintiff is arguing for a change to the Constitution. ~~The Constitution cannot be amended by statute. See,~~ S.C. Constitution, Art. XVI. Clearly, the State Authorities Eminent Domain Act did not change the Constitution by implication and has no application here. The Act does not change the

constitutional limitation applying to "private" property only. The Act does not change the constitutional analysis.

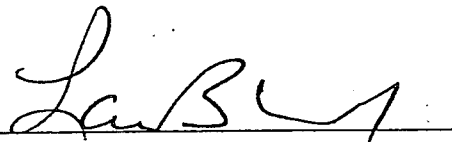
The County circularly argues that public policy requires that the Court read the Constitution and the Eminent Domain Procedures Act together to require payment for the taking of public property. The Court finds no merit in the public policy argument and declines to read the word "private" out of the constitution on the basis of public policy.

Last, the County contends that the Court failed to consider that its ruling would work an absurdity. In support of that position, the County recites that the purpose of the Takings Clause is to prevent the government from forcing some people alone to bear public burdens which in all fairness should be borne by the public as a whole. Plaintiff relies upon *Sea Cabins on Ocean IV Homeowners Ass'n v. City of N. Myrtle Beach*, 345 S.C. 418, 429, 548 S.E.2d 595, 601 (2001) for authority. However, in *Sea Cabins*, the reference to "some people" is in fact referring to the *private* property owner Plaintiffs. *Sea Cabins* demonstrates only that one purpose of inverse condemnation is to prevent private property owners from bearing public burdens. *Id.* That does not support the County's position. *Sea Cabins* merely involved the taking of "private" property. There was no issue before the Court in *Sea Cabins* dealing with the taking of public property. There was no ruling by the Court that the taking of public property is proscribed by the Takings Clause. The Court does not believe that the clumsy use of the word "some" was intended to rule on an issue of this magnitude, especially when that issue was not before the Court.

The County claims that the Court's ruling results in the citizens of Georgetown County bearing a burden which should be borne by the State of South Carolina, and alleges that is an absurd result. The Court disagrees. However, the County also argues that the burden should be shifted from the citizens of Georgetown County to the citizens of a subset of Georgetown County, those County residents who happen to reside within the City limits of the City of Georgetown. That result is completely inconsistent with the County's absurdity argument. The County recognizes that the Framers' intention should control if an absurdity would result. The Court has previously found that the Framers' intent included the word "private" which necessarily excludes application of the Takings Clause to public property. The Court finds no merit in the County's argument regarding absurdity.

For the reasons stated above, the Court **DENIES** Georgetown County's motion to reconsider.

**AND IT IS SO ORDERED.**



Judge Larry B. Hyman, Jr.  
Presiding Judge, Fifteenth Circuit

Georgetown, South Carolina

1-3, 2018 *any*

**RECEIVED**

**FEB 10 2017**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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APPEAL FROM GEORGETOWN COUNTY  
Court of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

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Case No. 2013-CP-22-01062

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Georgetown County,

Appellant,

v.

Davis & Floyd, Inc., Republic  
Contracting Corporation,  
S&ME, Inc., The South  
Carolina Department of  
Transportation and The City  
of Georgetown,

Defendants,

Of Whom

The South Carolina  
Department of Transportation  
and The City of Georgetown  
are

Respondents.

---

**PROOF OF SERVICE**

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I certify that I have served a copy of the following as indicated hereinbelow, via email, and by mailing a copy of same on the date below by First Class United States Mail, postage prepaid, addressed to the following:

**DOCUMENT SERVED: MOTION FOR CERTIFICATION TO THE SUPREME COURT PURSUANT TO RULE 204(b), SCACR**

**PARTIES SERVED:** Kent T. Stair, Esquire  
J. Patrick Norris, Esquire  
Paul E. Sperry, Esquire  
Carlock Copeland & Stair, LLP  
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*ATTORNEYS FOR THE CITY OF GEORGETOWN*

CALLISON TIGHE & ROBINSON, LLC

Katie A. Minton  
Katie A. Minton, Paralegal

February 10, 2017  
Columbia, South Carolina

W. TAYLOR STANLEY  
803.404.6900  
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Admitted in SC and NC

CALLISON  TIGHE

February 10, 2017

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S.C. SUPREME COURT

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FEB 10 2017

SC Court of Appeals

**VIA HAND-DELIVERY**

The Honorable Daniel E. Shearouse  
Clerk of Court  
South Carolina Supreme Court  
1231 Gervais Street  
Columbia, SC 29201

Re: **Georgetown County v. Davis & Floyd, Inc., et al.**  
**Georgetown County Case No: 2013-CP-22-01062**  
**Our File No. 5626.003**

Dear Mr. Shearouse:

Enclosed for filing please find the original and six (6) photocopies of the Motion for Certification to The Supreme Court Pursuant to Rule 204(b), SCACR and Proof of Service, in connection with the above-referenced matter. Also enclosed is my firm's check in the amount of \$25.00 as the filing fee.

Please file the original with your office and return the clocked-in copy to me via my courier.

By copy of this letter, I am serving same on opposing counsel.

With kind regards, I am

Sincerely yours,

**CALLISON TIGHE & ROBINSON, LLC**



W. Taylor Stanley

WTS/kam  
Enclosures  
cc: (w/ encl.)

The Honorable Larry B. Hyman, Jr. (via first class mail)  
The Honorable Jenny Abbott Kitchings, Clerk of the Court of Appeals (via first class mail)  
The Honorable Alma Y. White, Georgetown County Clerk of Court (via first class mail)

Kent T. Stair, Esquire (via email and first class mail)  
J. Patrick Norris, Esquire (via email and first class mail)  
Paul E. Sperry, Esquire (via email and first class mail)  
Brent M. Boyd, Esquire (via email and first class mail)  
R. Davis Howser, Esquire (via email and first class mail)  
Lisa A. Reynolds, Esquire (via email and first class mail)  
David Morrison, Esquire (via email and first class mail)  
Wesley P. Bryant, Esquire (via email and first class mail)  
Louis H. Lang, Esquire  
George A. Taylor, Esquire

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Admitted in SC and NC

CALLISON  TIGHE

February 10, 2017

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FEB 10 2017

SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: **Georgetown County v. Davis & Floyd, Inc., et al.**  
**Georgetown County Case No: 2013-CP-22-01062**  
**Our File No. 5626.003**

Dear Ms. Kitchings:

Your office received and filed Georgetown County's Notice of Appeal on February 9, 2017, in connection with the above-referenced matter. There is no appeal tracking number yet available.

This correspondence is to advise your office that I am already in possession of the hearing transcripts from the hearings held on August 7, 2014, April 30, 2015, and August 5, 2016. As such, there will be no ordering of the transcript as set forth in Rule 207(a)(1), SCACR.

By copy of this letter, I am furnishing copies of the three (3) hearing transcripts to Lisa A. Reynolds, Esquire and David Morrison, Esquire, as counsel for the Respondents.

If you should have any questions, please do not hesitate to contact me.

With kind regards, I am

Sincerely yours,

CALLISON TIGHE & ROBINSON, LLC



W. Taylor Stanley

WTS/kam

The Honorable Jenny Abbott Kitchings  
February 10, 2017  
Page 2

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cc: Kent T. Stair, Esquire  
J. Patrick Norris, Esquire  
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R. Davis Howser, Esquire  
Lisa A. Reynolds, Esquire  
David Morrison, Esquire  
Wesley P. Bryant, Esquire  
Louis H. Lang, Esquire  
George A. Taylor, Esquire  
Clerk.Court of Appeals.002