STATE OF SOUTH CAROLINA COUNTY OF RICHLAND South Carolina Public Interest Foundation, and William B. DePass, Jr., individually, and on behalf of all others similarly situated, Plaintiffs, vs. The City of Columbia, Richland County, and Fairfield County. Defendants.	)	IN THE COURT OF COMMON PLEAS CASE NO.: 2016-CP-40-00946 **FINAL ORDER GRANTING SUMMARY JUDGMENT TO RICHLAND COUNTY, FAIRFIELD COUNTY, AND CITY OF COLUMBIA**

I. BACKGROUND

The South Carolina Public Interest Foundation, and William B. DePass, Jr., ("Plaintiffs") on February 26, 2016 requested a Declaratory Judgment. The suit raises the issue of whether properties used as private student dormitories ("Student Housing Apartments" or "Private Dormitories") are properties not permitted in a Multicounty Business and Industrial Park ("Park") and not eligible to receive special source revenue credits. Richland County and Fairfield County ("Richland" or "Fairfield" individually and "Counties" collectively) and the City of Columbia ("City") timely responded to the Declaratory Judgment suit by asserting Art. VIII, § 13(D), S.C. Constitution and S.C. Code Ann. §4-1-170 grant the Counties and City authority to place such property in a Park and to provide special source revenue credits.

The parties filed cross-motions for Summary Judgment with Plaintiffs and Counties filing Summary Judgment motions on September 20, 2016 and City filing its Summary Judgment motion on May 11, 2016. All parties filed memoranda and affidavits in response to the cross-motions and on January 17, 2017, the Court heard oral arguments. Having now considered the

matter, the Court grants Summary Judgment to the Counties and the City and denies Summary Judgment to the Plaintiffs.

II. STIPULATED AND UNDISPUTED FACTS

Summary judgment is appropriate when no issues exist on any material fact and the moving party is entitled to a judgment as a matter of law. *Quality Towing, Inc. v. City of Myrtle Beach*, 340 S.C. 29, 530 S.E.2d 369 (2000); Rule 56(c), SCRCP. Here, no material facts are disputed because the parties not only stipulated the facts but also established undisputed facts by affidavit.

A. Joint Stipulations

The joint stipulations establish:

1. On or about April 15, 2003, Richland County entered into a Master Agreement governing the 1-77 Corridor Regional Industrial Park with Fairfield County, which consolidated all multi-county parks, and any prior agreement governing those multi-county parks, between Richland County and Fairfield County into the 1-77 Corridor Regional Industrial Park ("the Park").

2. Richland County and Fairfield County have added numerous new projects to the Park pursuant to the terms of the Master Agreement and have amended the Master Agreement three times to alter the internal distribution of Richland County's Park Revenues.

3. On March 4, 2014, The City of Columbia passed Resolution No. R-2014-024.

4. Richland County passed several ordinances which, together with Fairfield County ordinances, included certain student housing projects in the Park. The Ordinances are as follows:

Developer	*Project*	*City Ordinance*	*Richland County Ordinance*	*Fairfield County Ordinances*
Park 7 Group	Park Place Columbia (Park I)	2014-015	004-14HR	624
Edwards Communities	Greene Crossing (University Residences)	2014-019	011-14HR	632
Park 7 Group	University SC Towers (Park II)	2014- 020 2015- 109	005-14HR 051-15HR	624 659
Peak Campus	Station at Five Points (Project Peak)	2014-123	072-14HR	642

5. Richland County, by the ordinances referenced above, further authorized a 50% Special Source Revenue Credit (the "Credit") to [each of] the student housing projects located in the Park pursuant to the terms and conditions of the agreements between Richland County and each of the developers of the student housing projects.

6. The City of Columbia utilized Resolution No. 2015-049 (attached) "to sunset the tax credit on December 31, 2015 for previously approved projects or projects submitted."

7. Following the passage of the City of Columbia's Resolution No, R-2014-024, several developers obtained approval from the City for their projects in subsequent ordinances (Ordinances Nos. 2014-015, 2014-019,2014-020, 2014-123, and 2015-109) which provided the City consent to the inclusion of the properties in the Park.

8. After the City consented to the inclusion of the projects in the Park . . . four student housing projects were built or are in the process of being built in the City.

9. The "Park I" development, located at Blossom and 500 Huger Street, consists of a 482,000 square feet of private dormitory development. The project consists of approximately 237 units with 640 bedrooms. The project also includes 480 structured parking spaces.

10. The "University Residences" development is located [at] . . . 620 Blossom, 708 Pulaski, and 810 Pulaski Streets. At 347,000 square feet, the project consists of 247 units with 726 bedrooms. The project also includes an 85,000 square feet parking garage with approximately 300 spaces.

11. The "Project Peak" development is located at 2015 Gervais . . . , 1225 Harden, and 2000 Lady Street[s]. The project is approximately 367,000 square feet private dormitory development with a 212,000 square feet

parking garage. The development consists of 218 units with 660 bedrooms and 574 structured parking spaces.

12. The "Park II" development is located [at] 1001 and 1011 Assembly Street [and] at 1016 Park Street. It comprises 490,000 square feet of private dormitory development. The development will have 227 units with 684 bedrooms and a 177,000 square feet parking garage with 518 dedicated spaces.

13. All of the projects engage in the continuous activity of letting beds to students through the entering of a lease or other contractual arrangements between the student and the developer or other property manager.

B. Undisputed Facts by Affidavits

When a properly supported motion sets forth facts that remain undisputed, summary judgment is appropriate. *David v. McLeod Reg'l Med. Ctr.*, 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006). The Court finds a number of undisputed facts are supported by unopposed affidavits.

For example, the unopposed affidavit of the Richland County's Assessor, Elizabeth McDonald, states she is familiar with the properties subject to this lawsuit and classifies them as commercial properties operated as "Private Dormitories." She states:

7. The aforementioned Private Dormitories are currently or will be classified as property assessable at a 6% rate.

8. The Private Dormitories are assessed at this rate because my office classified the Private Dormitories as commercial properties.

9. The Private Dormitories were classified as commercial properties by my office because it is my office's understanding that each of the Private Dormitories' activities, which consist of operating and leasing off-campus accommodations for college students, and provision of specific services, including security, property management, and planned recreational activities, comprise business and commercial activities.

Further, the uncontradicted affidavit of Paul Levine, the Executive Vice President of Development for Park 7 Group (one of the developers of the properties under dispute here) states:

10. These student housing properties are classified as commercial for all purposes in Columbia including water and sewer, property taxes, and zoning.

Finally, in an unopposed affidavit of Mark Farris, a Certified Economic Developer, an explanation is given of how properties are placed in a Park from a work experience perspective.

> 14. As a Certified Economic Developer, when considering whether to offer to a business the location of its project in a multicounty business or industrial park as an incentive, I do not consider whether the project meets the definition of "Projects" or "Industry" under S.C. Code Ann. § 4-29-10.
>
> 15. In addition, I am not familiar with a Certified Economic Developer in South Carolina who believes that a project must meet the definition of "Projects" or "Industry" under S.C. Code Ann. § 4-29-10 before it may be located in a multi-county business or industrial park.
>
> 16. Rather, the analysis of whether to include property in a multi-county business or industrial park or extend other economic development incentives to a project is based on an analysis of whether the project will serve a "public purpose," which is a determination to be made by the governing body and is based on whether the benefits of the project will outweigh the costs.

III. ANALYSIS

Plaintiffs' suit contends Counties and City are without authority to place Private Dormitories in a Park and without authority to provide special source revenue credits for such property. The Court disagrees with Plaintiffs. Two questions and their respective answers show the basis for the Court's decision. First, what authority allows the practice carried out by Counties and City? Second, what authority seeks to prohibit such a practice?

A. What Authority Permits Private Dormitories in a Park and Allows Granting Special Source Revenue Credits to such Properties?

1. Authority to Place Private Dormitories in a Park

The authority to place property in a Park is found in two separate authorizations: S.C. Constitution Art. VIII, § 13(D) and S.C. Code Ann. § 4-1-170. The Constitutional provision holds "Counties may jointly develop an industrial or business park with other counties." The statutory provision similarly holds "[b]y written agreement, counties may develop jointly an industrial or

business park with other counties." The issue is whether Private Dormitories are permitted in the Park. The Court finds Private Dormitories may be placed within an industrial or business park.

The language used in both the Constitution and the statute describes the Park by use of the disjunctive "or" with that word used to designate differences. *Brewer v. Brewer*, 242 S.C. 9, 129 S.E.2d 736 (1963) ("The word 'or' used in a statute, is a disjunctive particle that marks an alternative."). Hence, a Park may comprise many activities—some akin to industrial activities and some akin to business activities. However, both are permissible activities.

Here, the Court finds the Private Dormitories are within the Park's requirement of "business." The Court finds the word "business" as used in the Constitution and the statute is "clear and unambiguous."

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the Legislature. *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). That task is best accomplished by giving words their plain and ordinary meaning without limiting or expanding the scope of the statute in such an interpretation. *State v Bull*, 350 S C 58, 60, 564 S E 2d 351, 353 (Ct App 2002). And, when the terms of a statute are clear and unambiguous, "there is no room for construction and courts are required to apply them according to their literal meaning." *Carolina Power & Light Co v City of Bennettsville*, 314 S C 137,139, 442 S E 2d 177, 179 (1994).

Here, the plain and ordinary meaning of the term "business" is "a commercial . . . establishment." WEBSTER'S NEW WORLD DICTIONARY 718 (2nd ed. 1976) at 192. The stipulations and unopposed affidavits show the activities of the Private Dormitories are commercial.

The Joint Stipulations agree the activity conducted at the properties is "the continuous activity of letting beds to students through the entering of a lease or other contractual arrangements

between the student and the developer or other property manager." Such is a commercial activity. The unopposed affidavit of the Richland County Assessor finds such an activity is on commercial property and is "classified as commercial properties by my office because it is my office's understanding that each of the Private Dormitories' activities, which consist of operating and leasing off-campus accommodations for college students, and provision of specific services, including security, property management, and planned recreational activities, comprise business and commercial activities." Finally, the unopposed affidavit of an owner of one of the Private Dormitories finds the properties are commercial when he states "[t]hese student housing properties are classified as commercial for all purposes in Columbia including water and sewer, property taxes, and zoning." Thus, the Court holds the properties here under review are commercial properties and are properly included within an industrial or business park.

The Court notes that while the language is clear and therefore needs no construction, if resort were made to construction, the Constitutional context of Home Rule is important here. The authority granted to Counties to include property in the Park is granted under the Home Rule provisions of the Constitution. The powers granted counties by Home Rule "mandate[] a liberal rule of construction regarding any constitutional provisions or laws concerning local government. S.C. Const, art. VIII, § 17." *Hosp. Ass'n v. Cty. of Charleston*, 320 S.C. 219, 464 S.E.2d 113, 117 (1995). Accordingly, if this Court were to engage in Constitutional or statutory construction, the Court would construe the constitutional provisions liberally in favor of the Counties and would find both the Constitutional provision and statutory provisions allow Counties and City to include Private Dormitories in the Park.

2. Authority to Issue Special Source Revenue Credits to Private Dormitories

Having found the Private Dormitories are properly included in the Park, the Court also finds special source revenue credits are proper for the projects. Under S.C. Code Ann. § 4-1-175, a county or municipality receiving a payment in lieu of taxes under Section 13 of Article VIII of the Constitution (which is the case here) "may use a portion of this revenue for the purposes outlined in Section 4-29-68 . . . by providing a credit against or payment derived from the revenues received and retained under Section 13 of Article VIII of the Constitution of this State." The Court finds the requirements of S.C. Code Ann. §4-1-175 are satisfied and the credits properly allowed.

a. The Revenue Source Is Proper

First, the revenue source (against which the credit under review is applied) is the Private Dormitories fee-in-lieu-of-tax payment from the I-77 Corridor Regional Industrial Park. The Ordinances stipulated to by the parties contain this provision:

> **Section 2. Approval of Credit: Authorization to Execute Credit Agreement.**
>
> There is hereby authorized a Credit against the Company's Fee Payments on the Facility as a reimbursement to the Company for its qualifying Infrastructure Expenditures

In each of the stipulated Ordinances, "Fee Payments" is defined as "fees-in-lieu of ad valorem property taxes in an amount equivalent to the ad valorem taxes that would have been due and payable but for the location of the property in such multicounty industrial parks." And, "Infrastructure" is defined in each of the stipulated Ordinances as "improved or unimproved real estate and personal property used in the operation of a commercial enterprise." Thus, the Court finds Counties and City are receiving payments in lieu of taxes under Section 13 of Article VIII of the Constitution and the Counties and City are using a portion of that revenue to provide special source revenue credits.

b. The Use of the Credit Is Proper

Second, under S.C. Code Ann. § 4-1-175, the proceeds of the credit must be used by the owners of the Student Housing Apartments for the "purposes" outlined in Section 4-29-68. A valid purpose in S.C. Code Ann. §4-29-68(2)(i) is using the credits to pay for "improved or unimproved real estate and personal property . . . used in the operation of a . . . commercial enterprise." Consistent with that requirement, the Student Housing Apartments are commercial enterprises and the Ordinances stipulated to by the parties show authorization for the credit for the Private Dormitories to be utilized to pay for improved or unimproved real estate and personal property used in the operation of the Private Dormitories. Therefore, the Court finds the credit extended to the Private Dormitories meets the requirements of S.C. Code Ann. §4-1-175 and satisfies the purposes outlined in S.C. Code Ann. §4-29-68. Accordingly, the Court holds the credits offered to the Private Dormitories are proper.

The Court finds the above analysis follows the plain and literal reading of S.C. Code Ann. §4-1-175 and S.C. Code Ann. §4-29-68. This Court must apply statutes based on their plain meaning if the language used is clear since words in a statute must be given their plain and ordinary meaning without limiting or expanding the statute. *State v Bull,* 350 S C 58, 60, 564 S E 2d 351, 353 (Ct App 2002). The Court finds the plain meaning of S.C. Code Ann. §4-1-175 and S.C. Code Ann. §4-29-68 shows Counties and City have complied with the required duties imposed by those statutes.

B. What Authority Prohibits Private Dormitories in a Park or Denies Special Source Revenue Credits to such Properties?

The Plaintiffs contend authority exists denying Counties and City the right to place Private Dormitories in a Park and denying the use of special source revenue credits to such properties.

Plaintiffs seek to support their views by raising two primary positions:[1] a Park does not permit residential use properties and the definitions of Chapter 29 of Title 4 control activities permitted in Chapter 1 of Title 4. The Court has examined both of Plaintiffs' positions and finds neither persuasive.

1. Residential Use

The Plaintiffs argue a Park may not contain properties with a residential use. The Court finds Plaintiffs are incorrect for two reasons. First, in all events, Student Housing Apartments are not "residential" in a property tax sense. Second, even if using the property for some element of residential purposes, the authority granted by Article VIII, § 13(D) and the enabling statute of S.C. Code Ann. § 4-1-170 allow any commercial investment (whether "residential" or otherwise) if designed to enhance economic development in the Counties.

a. The Private Dormitories Are Not Residential but Instead Are Commercial Properties for Taxation Purposes

The properties under review are real properties used as Student Housing Apartments. Plaintiffs seek to classify the property as residential to the exclusion of "industrial or business." The Court finds such a conclusion is incorrect. The S.C. Constitution classifies real property for property tax purposes in Article X, § 1 by assigning assessment ratios for properties by classification.

Article X, § 1 classifies real property into 5 categories. Manufacturers are classified and assessed at a 10.5% ratio, transportation at 9.5%, legal residences at 4%, agricultural at 4%, and

[1] Plaintiffs also argue the Private Dormitories are improper because they produce few jobs or investment amounts associated with a large manufacturing facility. The Court finds such an argument irrelevant. Nothing in the provisions of Article VIII, § 13(D) or in the enabling statute of S.C. Code Ann. § 4-1-170 requires Counties and City to invest in or incentivize manufacturing or to evaluate incentives based solely on jobs.

"all other real property" at 6%. The affidavit of the Assessor for Richland County classifies the Student Housing Apartments as "other real property" assessed at a 6% ratio. The Assessor does not assess the real property as a "legal residence."

A legal residence for property tax requires the real property be "owned totally or in part in fee or by life estate and occupied by the owner of the interest." S.C. Code Ann. § 12-43- 220(c)(1). The occupants of the Student Housing Apartments are renters, not owners.

Further, even when the "residence is located on leased or rented property," the 4% ratio is not available unless "the residence is owned and occupied by the owner of a residence on leased property." S.C. Code Ann. § 12-43-220(c)(l). Here, the stipulations and unopposed affidavits show the party occupying the property involves a student renting the property as a lessee, not an "owner of a residence." Hence, the Court finds the Private Dormitories are not residential but are commercial and properly placed within a Park.

b. Regardless of Use, the Private Dormitories Are Authorized by S.C. Code Ann. § 4-1-170 and Art. VIII, § 13(D) Because the Properties Are Within the Meaning of "Business or Industrial Park."

The Plaintiffs assert neither S.C. Code Ann. § 4-1-170 nor Art. VIII, § 13(D) authorizes Counties to develop an "industrial or business park," if the properties within the Park will have a residential use. The Court finds such an assertion is incorrect. On the contrary, the Student Housing Apartments are well within the meaning of the authorized "industrial or business" properties, regardless of whether the property has a residential feature. Nothing in the plain language of the statute or constitution denies the ability to place property in the Park merely because a residential feature exists within a commercial property. Here, the properties are undeniably commercial properties and properly included in the Park.

Further, the authority to develop a Park is granted to Counties under Home Rule within Art. VIII, § 13(D). The Constitutional provisions of Art. VIII, § 13(D) must be liberally construed since the constitution places no limitation on commercial entities or property eligible to include in the Park. Rather, since the Private Dormitories are commercial properties and the "[t]he participating counties . . . reduce the agreement to develop and share expenses and revenues of the park to a written instrument which is binding on all participating counties" the Private Dormitories are proper. Thus, to the extent the Private Dormitories have any element of residential character, the Court finds any such element of residential character does not defeat the properties as being commercial properties properly placed in a Park.

2. The Definitions of Chapter 29 of Title 4 Do Not Apply to Activities of Chapter 1 of Title 4

The Plaintiffs assert the definitions of Chapter 29 of Title 4 apply to Chapter 1 of Title 4 by asserting the definitions of "project" and "industry" in Chapter 29 of Title 4 must be imposed on the activities authorized in Chapter 1 of Title 4. For four reasons, the Court finds the Plaintiffs' assertion does not prohibit placing the Private Dormitories within the Park and providing special source revenue credits.

a. Plain Language Controls

First, the definitions of Chapter 29 of Title 4 cannot apply to Chapter 1 of Title 4 since the Court is bound by the plain and literal language of S.C. Code Ann. §4-29-10 of Chapter 29. The statute says the definitions Chapter 29 apply "[w]henever used in this chapter [Chapter 29]." Thus, the General Assembly's plain language states the definitions of Chapter 29 are limited to Chapter 29. Had the General Assembly meant the definitions of Chapter 29 were to apply to any other Chapter in Title 4, the General Assembly would have so stated. *Horry Cty. Sch. Dist. v. Horry*

Cty., 346 S.C. 621, 631, 552 S.E.2d 737, 742 (2001) ("if [the] legislature had intended [a] certain result in [a] statute[,] it would have said so.").

When a statute's terms are clear and unambiguous, no room exists for statutory construction, and a court must apply the statute according to its literal meaning. *Miller v. Aiken*, 364 S.C. 303, 613 S.E.2d 364 (2005). Stating the same result from the perspective of limitations on the Court's construction powers, if a statute's language is unambiguous and clear, the Court has no right to look for or impose another meaning. *Paschal v. State Election Comm'n*, 317 S.C. 434, 454 S.E.2d 890 (1995).

Here, the literal language states the definitions apply "[w]henever used in this chapter [Chapter 29]." No ambiguity results from such language. The definitions of "project" and "industry" as defined in Chapter 29 apply to those terms when used in Chapter 29. The language being clear, the literal application applies, and the Court finds the definitions of Chapter 29 do not apply to Chapter 1 of Title 4.

b. Logical Impossibility

Second, the Plaintiffs' position presents a logical impossibility. The words "Project" and "Industry" do not exist in Chapter 1. The word "industrial" is used only three times in Chapter 1 and even then the reference to "industrial" always appears as a reference to the multicounty park rather than in a description of activities within the park. To reach Plaintiffs' position that the definitions of "project" and "industry" in Chapter 29 apply to Chapter 1, the Court must write-in new provisions to Chapter 1. Such is obviously not permitted since Courts may not add words to a statute. *Kinard v. Moore*, 220 S.C. 376, 388, 68 S.E.2d 321, 325 (1951) ("The court has no right to add the words [the legislature] omitted, nor to interpolate them on conceits of symmetry and policy.").

c. Existing Practices

Third, while not controlling of the Court's legal analysis, it is instructive from a practical point of view to note the Counties submitted an unopposed affidavit from Mark Farris. Mr. Farris establishes that economic developers uniformly do not require investments in a Park to meet the definition of "Project" or "Industry" as defined in Title 4, Chapter 29. See Affidavit of Mark Farris paragraphs 14 & 15. Hence, the Court's ruling that the definitions of "Project" or "Industry" as defined in Title 4, Chapter 29 do not apply to Title 4, Chapter 1 follows existing practices of economic developers seeking to incentivize South Carolina economic development in a Park.

d. Even If the Definitions of Chapter 29 of Title 4 Applied to Chapter 1 of Title 4, the Private Dormitories Are Still Properly Included in the Park

Finally, while the Court finds the definitions of Chapter 29 do not apply to Chapter 1 of Title 4, even if such were the case, the Private Dormitories here satisfy the definitions of Chapter 29 of Projects within an Industry within the meaning of S.C. Code Ann. § 4-29-10(3) and (6).

i. The Term "Project" From Chapter 29 Is Satisfied

"Project" at S.C. Code Ann. §4-29-10(3)(d) is defined as "any land and any buildings and other improvements on the land . . . considered necessary, suitable, or useful by . . . any enterprise engaged in **commercial business** including, **but not limited to,** wholesale, retail, or other mercantile establishments." (Emphasis added). As established by the Court throughout this Order, the Private Dormitories are commercial businesses.

First, the unopposed affidavit of Elizabeth M. McDonald, Richland County Assessor, at paragraphs 8 and 9 explains the Assessor "classified the Private Dormitories as commercial properties . . . because . . . each of the Private Dormitories' activities . . . consist of operating and leasing off-campus accommodations for college students, and provision of specific services,

including security, property management, and planned recreational activities [all of which] comprise business and commercial activities.

Second, the parties agree in Joint Stipulation of Fact, paragraph 13 "[a]ll of the projects engage in the continuous activity of letting beds to students through the entering of a lease or other contractual arrangements between the student and the developer or other property manager." Case law confirms such activity is the operation of a commercial business. *See City of Beaufort* v. *Holcombe,* 369 S.C. 643, 650, 632 S.E.2d 894, 898 (Ct. App. 2006) ("A property owner renting commercial property to third parties is in the business of renting commercial property.").

The Court notes Plaintiffs have identified the definition of "Project" in S.C. Code Ann. §4-29-10(3) makes reference to "residential and mixed-use development." The Court finds such an identification is irrelevant here and does not prohibit the dormitory businesses conducted by the Student Housing Apartments. Rather, the statutory reference to residential within S.C. Code Ann. §4-29-10(3) means a use that is residential for property tax purposes. Article X, § 1 classifies real property into 5 categories.

Manufacturers are classified and assessed at a 10.5% ratio, transportation at 9.5%, legal residences at 4%, agricultural at 4%, and "all other real property" at 6%. The unopposed affidavit of the Assessor for Richland County classifies the Student Housing Apartment Complexes as "other real property" assessed at a 6% ratio and the Assessor does not assess the real property of the Private Dormitories as a "legal residence."

A legal residence for property tax requires the real property be "owned totally or in part in fee or by life estate and occupied by the owner of the interest." S.C. Code Ann. § 12-43-220(c)(1). The occupants of the Student Housing Apartment Complexes are not owners. Thus, the Student Housing Apartments are not residential—they are commercial business within S.C. Code Ann. §4-

29-10.

ii. The Term "Industry" From Chapter 29 Is Satisfied

The rental activity discussed by the Court for the term "Project" also meets the definition of "Industry" in S.C. Code Ann. §4-29-10(6). That statutes defines "Industry" as "any person, firm or corporation engaged in any one or more of the enterprises identified in item (3) of this section or any person, firm or corporation providing facilities constituting a project to be used by any one or more of the enterprises identified in item (3) of this section." As the above analysis of "Project" explains, the owners of the Student Housing Apartments are "engaged" in the enterprises identified in item (3) since the owners rent real property to students as dormitory space and that activity is the conducting of a commercial business within S.C. Code Ann. § 4-29-10(3)(d). Therefore, the Court finds the requirements of "Industry" are satisfied.

IV. CONCLUSION

WHEREFORE, based on the above reasons and analysis:

A. the Motion for Summary Judgment sought by Plaintiffs is denied;

B. the Motions for Summary Judgment sought by Counties and City are granted.

AND IT IS SO ORDERED, this 15 day of February, 2017.

L. Casey Manning,
Presiding Circuit Court Judge
Richland County
5th Judicial Circuit
Columbia, South Carolina