

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
G. Thomas Cooper, Jr., Circuit Court Judge

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MAR 27 2017

Appellate Case No. *2016-001839*
Case No. 2016-CP-40-3102

S.C. SUPREME COURT

Richland County, South Carolina,Appellant/Respondent,

Central Midlands Regional Transit Authority,Respondent,

v.

The South Carolina Department of Revenue and
Rick Reames, III, in his official capacity as its DirectorRespondents/Appellants,

v.

Richland PDT, a joint venture consisting of
M.B. Kahn Construction, Co., Inc., ICA Engineering, Inc.,
and Brownstone Construction Group, LLC,
as a unit and IndividuallyThird-Party Defendants.

**RESPONDENT CENTRAL MIDLANDS REGIONAL TRANSIT
AUTHORITY'S INITIAL BRIEF TO INITIAL BRIEF OF
RESPONDENTS/APPELLANTS**

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As permitted by this Court's March 22, 2017 Order, Respondent Central Midlands Regional Transit Authority (CMRTA) hereby files its initial brief in response to the initial brief of Respondents/Appellants, the South Carolina Department of Revenue and Rick Reames, III (collectively "DOR"). CMRTA concurs with the brief filed by Appellant/Respondent Richland County, South Carolina (Richland County) dated March 24, 2017 and hereby incorporates the arguments set forth therein.

Additionally, CMRTA argues this Court should reject the arguments raised by DOR. DOR maintains Richland County Ordinance 039-12HR exceeds the scope of Richland County's statutory authority by authorizing penny tax revenues for circumstances other than capital improvements. *See*, Appellants' Brief, p. 17. The circuit court rightly rejected this argument, pointing to the preamble of Act No. 52 as evidence supporting the General Assembly's intent for the Transportation Act to authorize use of penny tax revenues for purposes other than capital improvements. (Order, pp. 11-12.) The Order held, "the legislature found each county is authorized to... finance. . .the cost of acquiring, designing, constructing, equipping and *operating* highways, roads, streets, and bridges, and other transportation-related projects..." (emphasis added). *Id.* Counties must comply with the mandates prescribed by the legislature. Ordinance 039-12HR does comply with the statute by approving revenues to be used in operating transportation-related systems. CMRTA maintains the circuit court Order properly upheld the Ordinance as following the legislature's intent.

Why is the affirmance of the circuit court order as it relates to the issuance of a writ of mandamus important to CMRTA? DOR seeks to reverse the circuit court's writ of mandamus, thereby allowing DOR to withhold approval for the remittance of the

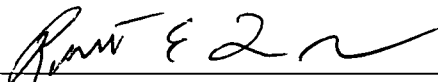
penny tax revenues to Richland County. Of the quarterly amount remitted to Richland County by the South Carolina Treasurer, CMRTA receives 29%. (Complaint, Ex. I). CMRTA depends upon the proceeds of the penny tax for its operations. Without such funding the CMRTA operated bus system would be diminished significantly and Richland County residents potentially would lose transportation services essential to their daily lives. *Id.*

DOR's arguments that the Transportation Act does not give Richland County the authority to use penny tax revenues for purposes other than capital improvements would lead to the conclusion that CMRTA also should not be permitted to use the penny tax revenues for the operations of its system. If DOR's argument prevails, CMRTA's bus system will be out of business because the vast majority of its funding will be eliminated, and other funding sources are insufficient to operate the bus systems at existing levels. The residents of the midlands who utilize the bus system and its other services will incur significant inconvenience and inability to travel to work, to seek medical assistance, and to have access to public transportation for personal needs.

Based on the foregoing and based on the arguments raised by Richland County, Respondent CMRTA requests that this Court affirm the circuit court's issuance of a writ of mandamus directing DOR to comply with its ministerial duties and remit the penny tax revenues to Richland County, and then to CMRTA and affirm Ordinance 039-12HR does not limit the use of penny tax revenues solely to capital improvements.

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Appellate Case No. *2016-601839*
Case No. 2016-CP-40-3102

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PROOF OF SERVICE

I certify that I have caused to be served a copy of Respondent Central Midlands Regional Transit Authority's Initial Brief to Initial Brief of Respondents/Appellants by serving as indicated below, on March 27, 2017, addressed to all counsel of records as follows:

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