

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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APPEAL FROM GEORGETOWN COUNTY
COURT OF COMMON PLEAS
Benjamin H. Culbertson, Circuit Court Judge

S.C. SUPREME COURT

Opinion No. 5374 (S.C. Ct. App. Filed Jan. 6, 2016)

David M. Repko,.....Respondent,

v.

Georgetown County, S.C.....Appellant.

**SOUTH CAROLINA ASSOCIATION OF COUNTIES
NOTICE OF MOTIION AND MOTION FOR LEAVE
TO FILE AN *AMICUS CURIAE* BRIEF**

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Attorneys for *Amicus Curiae*

Pursuant to Rule 213 of the South Carolina Appellate Court Rules, the South Carolina Association of Counties (Association) respectfully submits this Motion for Leave to File a Brief of *Amicus Curiae* on behalf of Georgetown County.

I. INTEREST OF *AMICUS CURIAE*

The Association is an instrumentality of the forty-six (46) counties of the State of South Carolina. Act No. 1383, 1968 Acts at 3193. The case before this Court will greatly impact each of South Carolina's forty-six (46) counties in matters pertaining to the vital need for counties to protect their citizen's health, safety, and welfare. The Association represents the collective interests of South Carolina Counties, so that they may speak with one voice. The Association's interest in this case is to provide this Court with the collective insights of the Counties of the State pertaining to the issues in this matter, and to more fully develop the arguments of the individual parties.

II. DESIRABILITY OF BRIEF OF *AMICUS CURIAE*

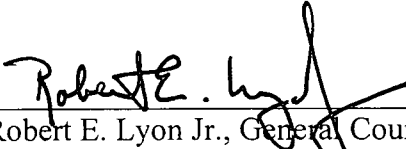
The orderly regulation of land uses within a county is a vital police power authorized pursuant to the South Carolina *Home Rule Act* and the South Carolina *Comprehensive Local Government Planning Enabling Act*. The regulation of land use however does not create a public duty to protect an individual land purchaser from the impacts of actions by private developers. Under South Carolina law there must be evidence of a legislative intent to create a public duty and a private right of action for a statute's breach. See *Edwards v. Lexington County Sheriff's Dept.*, 688 S.E.2d 125, 129 (2010). The Court of Appeals erroneously created a public duty and private right of action against counties as the insurer of private developer's installation of infrastructure and utilities where no such duty was intended by either the S.C. General Assembly, or

County Council. The Court of Appeal's decision will have profound impacts upon the counties of South Carolina. The participation of the Association will provide the Supreme Court with the insight and thoughts of the Association and its members which will be directly impacted by this Court's decision. By allowing the Association to file an *Amicus Curiae* brief, this Court will preclude the need for numerous individual counties to request leave to file individual *Amicus Curiae* briefs.

WHEREFORE, Counsel for the South Carolina Association of Counties prays this Court enter its Order permitting the Association leave to file its *Amicus Curiae* brief.

Respectfully submitted,

SOUTH CAROLINA
ASSOCIATION OF COUNTIES




Robert E. Lyon Jr., General Counsel
John K. DeLoache, Sr. Staff Attorney
Attorneys for Amicus Curiae

February 12, 2018

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above Notice of Motion and Motion for Leave to File an Amicus Curiae Brief was mailed this 12th day of February, 2018 via United States Postal Service, First Class Postage Prepaid, to the following counsel of record:



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