THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

DEC 27 2018

S.C. SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Charles B. Simmons, Jr., Circuit Court Judge

Case No. 2017-CP-23-01914

James Mikell "Mike" Burns,
Garry R. Smith and Dwight A.
Loftis Appellant,

v.

Greenville County Council
and Greenville County Respondent.

NOTICE OF APPEAL

James Mikell "Mike" Burn, Garry R. Smith and Dwight A. Loftis appeal the Order and Judgment of the Honorable Charles B. Simmons, Jr. dated November 28, 2018. A copy of said Order and Judgment are attached hereto and incorporated herewith.

December 21, 2018

s/Robert C. Childs, III
Robert C. Childs, III, #1218
Childs Law Firm LLC
2100 Poinsett Highway, Suite D
Greenville, SC 29609
(864) 242-9997
Fax (864) 242-9914
Attorney for Appellant

J. Falkner Wilkes
114 Whitsett Street
Greenville, SC 29601
(864) 421-4618
Fax (864)271-6035)
Attorney for Appellant

Other Counsel of Record:

Sarah P. Spruill
Haynsworth, Sinkler and Boyd
One North Main, 2nd Floor
Greenville, SC 29601
(864) 240-3200
Attorney for Respondent

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

James Mikell "Mike" Burns, Garry R. Smith and Dwight A. Loftis,
Plaintiffs,

v.

Greenville County Council and Greenville County,
Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2017-CP-23-01914

Order

This matter came before the Court pursuant to a consent order of reference dated February 9, 2018.[1] As an initial matter, the Court finds that all parties to this litigation have acted in good faith and in furtherance of a deeply held belief that their actions were for the benefit of the taxpayers of Greenville County (the "County"). The Court acknowledges and appreciates all parties' convictions and the way they have conducted themselves throughout the course of this litigation.

The matter was tried to the Court on October 17, 2018. The Court has considered the testimony and exhibits together with the arguments presented by the parties. As required by Rule 52(a), SCRCP, the Court enters the following findings of fact and conclusions of law:[2]

FINDINGS OF FACT

Plaintiffs brought this action challenging two fees implemented by the County: (1) an increase of $10.00 per year to the existing Road Maintenance Fee and (2) a new $14.95 fee to be

[1] At the time of the reference and again at trial, the Court disclosed that the Master-in-Equity ("Master"), while being part of the Unified Judicial System, is technically an employee of Greenville County. See, 14-11-10 et seq. Further, that the law firm and the individual attorneys representing the Defendants in this action had previously represented Master's office in unrelated litigation. All parties indicated their request that the undersigned hear and decide this matter.

[2] To the extent that any finding of fact in this Order would be more properly identified as a conclusion of law, it should be considered as such. To the extent that any conclusion of law in this Order would be more properly identified as a finding of fact, it should be considered as such.

paid annually by all owners of parcels in the County to provide a unified telecommunications system for first responders. With respect to the chronology surrounding the passage of these fees, the parties submitted Stipulated Facts and Exhibits. The Court incorporates the Stipulated Facts here.

1. December 13, 2004. Greenville County Council ("Council") passed Ordinance 3867. The ordinance, although primarily a supplemental appropriations measure, includes an additional Section 3, which provides:

> SECTION 3. Taxpayer Protection Provision. A three-fourths vote by the full membership of County Council shall be required to take any action, which would raise taxes or fees or harm the County's AAA credit rating. Such actions include the following: to approve the issuance of General Obligation Bonds (bonds pledging the full faith and credit of Greenville County); to increase Ad Valorem Property Tax Levies for the County General Operating Millage; to increase the amount of any fee assessment established by County Council; to implement any new fee or tax assessment; to increase County expenses if such increase would, during the budget period in which the expenses would be incurred, lower County reserves to a level less than the greater of 30% of operating expenses or three months of operating expenses; and to approve Supplemental Appropriations."

2. January 24, 2017. Council adopted County Council Rules for 2017.

3. February 7, 2017. For the first time since its original enactment in 1993, an ordinance was introduced to increase the County Road Maintenance Fee ("Fee Ordinance"). In addition, the Fee Ordinance included "a uniform charge for the provision of upgraded county-wide public safety telecommunication services to all real property within Greenville County." The title of the Fee Ordinance and a memorandum from the Council Chairman directed that the ordinance would be presented for First Reading by title only and would be referred to the Finance Committee. The Memo further noted that it would serve as compliance with Council Rules for the introduction of an ordinance by title only.

4. February 13, 2017. Council's Finance Committee passed the Fee Ordinance by a vote of three to two.

5. February 21, 2017. The Fee Ordinance was presented for Second Reading. The Second Reading of the Fee Ordinance passed by a margin of seven to five, and it was placed in line for Third Reading.

6. February 17, 2017. Public hearing on the Fee Ordinance was noticed.

7. March 7, 2017. Public hearing was conducted. Third Reading on the Fee Ordinance passed by a vote of seven to four. At that time, the proposed Fee Ordinance became Ordinance 4885.

8. March 14, 2017. The Attorney General's office issued an opinion regarding the Fee Ordinance in response to a request by Representatives Loftis and Burns.

9. March 21, 2017. First Reading on an ordinance to repeal Section 3 ("The Taxpayer Protection Provision") of Ordinance 3867 ("Repeal Ordinance"). The Repeal Ordinance referred to Committee of the Whole.

10. March 23, 2017. This action is filed.

11. March 24, 2017. The Plaintiffs filed a motion for a temporary relief against the enforcement of the Fee Ordinance (4885).

12. April 4, 2017. Committee of the Whole approved the Repeal Ordinance. At the Council meeting the same night, the Repeal Ordinance received Second Reading. In addition, two new ordinances creating a telecommunications fee ("Telecommunications Fee") and increasing the road maintenance fee ("Road Maintenance Fee") and repealing the Fee Ordinance (4885) were presented for referral to the Committee of the Whole.

13. April 12, 2017. The Court issued a consent order continuing the hearing on Plaintiffs' motion for temporary relief pending Defendants' agreement not to collect any fees based on pending ordinances that might affect the Fee Ordinance (4885).

14. April 18, 2017. Third reading of the Repeal Ordinance passes by a vote of seven to four. It provides that "Section 3 adopted as part of Ordinance No. 3867, and appearing as Appendix A to this ordinance, is hereby repealed."

15. May 2, 2017. The Telecommunications Fee and the Road Maintenance Fee received First Reading.

16. May 16, 2017. The Telecommunications Fee and the Road Maintenance Fee received Second Reading.

17. June 6, 2017. The Telecommunications Fee and the Road Maintenance Fee were presented for public hearing and received Third Reading, passing by votes of nine to three (Telecommunications Fee) and seven to five (Road Maintenance Fee). These ordinances repeal the Fee Ordinance (4885).

18. June 22, 2017. Plaintiffs filed their amended Summons and Complaint.

In addition to these Stipulated Facts, the Court finds that no fees were collected under the repealed Fee Ordinance (4885). The Court further finds that the County Administrator is responsible for administering the Telecommunications Fee and the Road Maintenance Fee under the ordinances implementing those fees. Based on the testimony of the County Administrator, the Court finds that the revenues derived from Telecommunications Fee and the Road Maintenance Fee are used to pay costs related to the service or program for which the fees are paid, that the fees collected do not exceed the cost of the program or service for which the fees are paid and do not exceed 5% of the County's prior fiscal year budget, and that the funds

collected are accounted for in a separate fund outside the County's general fund. The Court further finds that the Road Maintenance Fee applies at the same rate to every vehicle registered in the County and that the Telecommunications Fee applies at the same rate to every parcel within the County.

In addition, the Court finds that the service or program for which the funds are paid does not fund a service that was previously funded by property tax revenue. With respect to the Road Maintenance Fee, the ordinance in question is merely an increase to a fee that has been in place since 1993. Thus, the funds are in addition to those funds and are not a replacement for any spending that was previously funded by property taxes. With respect to the Telecommunications Fee, the Court finds that the program or service to be funded is a new system that will link all County first responders for the first time in one system. Therefore, this program or service is not one that was previously funded by property tax revenue.

CONCLUSIONS OF LAW

Plaintiffs filed this action challenging the validity of the Telecommunications Fee and the Road Maintenance Fee because (1) they contend the ordinances were not properly enacted for procedural and substantive reasons, and (2) they contend the ordinances violate equal protection. The Plaintiffs seek declaratory and injunctive relief to prevent the fees from being collected. The Plaintiffs also seek an award of attorneys' fees pursuant to S.C. Code Ann. § 15-77-300.

I. The Telecommunications Fee and the Road Maintenance Fee are valid.

The Court's analysis of the Telecommunications Fee and the Road Maintenance Fee is guided generally by two basic principles: (1) "courts have no legislative powers" (*Laird v. Nationwide Ins. Co.*, 243 S.C. 388, 395, 134 S.E.2d 206, 209 (1964)), and (2) "[t]he party attacking an ordinance bears the burden of proving its unconstitutionality beyond reasonable doubt" (*Skyscraper Corp. v. Cty. of Newberry*, 323 S.C. 412, 417, 475 S.E.2d 764, 766 (1996)).

The Court is not called or allowed to determine whether the County followed the best practices in implementing these fees or whether there were other viable options. Rather, the Court's limited role is to determine whether the challenged actions complied with applicable case law, statutes, and rules.

A. The Telecommunications Fee and the Road Maintenance Fee received enough votes for passage.

As set forth in the Stipulated Facts, the Fee Ordinance (4885) has been repealed. No party contends it is currently a validly enacted ordinance. Moreover, no funds were collected pursuant to that ordinance. For this reason, the validity of the Fee Ordinance does not present an active case or controversy for this Court.[3]

The Court finds there is nothing improper about the Repeal Ordinance, which was introduced prior to the filing of this lawsuit. The repealed provision ("Taxpayer Protection Provision") was passed as part of a supplemental budget appropriation in 2004, and provides that a three-fourths vote of Council is required to "raise taxes or fees." It does not provide that a super-majority is required for its repeal. It is a procedural provision and does not increase any fee or tax. One council cannot bind a later council in the way urged by Plaintiffs. *See City of Beaufort v. Beaufort-Jasper Cnty. Water & Sewer Auth.*, 325 S.C. 174, 480 S.E.2d 728 (1997). As a result, the Taxpayer Protection Provision could be repealed by ordinance in the ordinary course, which would only require a majority vote. Of course, likewise, future Councils may impose different rules within the bounds of applicable law if they so desire.

[3] Although the Court does not reach the merits of the repealed Fee Ordinance (4885), the Court notes, for purposes of the Plaintiffs' attorney's fee request, that there was a genuine dispute between the parties as to the validity of the Fee Ordinance (4885) and that both parties' positions on this issue prior to the repeal had a reasonable basis in law and fact.

At the time the Repeal Ordinance was introduced, Section IV(B)(4) of the Council Rules appeared as follows:

> **(4) Votes Required for Passage** – (Note – Some actions require 3/4 vote per Section 3 of Ordinance No. 3867, *See* Appendix A to these Rules)
>
> (a) A Majority of all Council Members shall be required to pass ordinances, amendments, and resolutions, except as provided herein.
>
> (b) A vote of two-thirds (2/3) of the Members of Council shall be required for passage of:
>
> (i) Any ordinance or amendment authorizing a supplemental appropriation
> (ii) Authorization for the issuance of general obligation bonds,
> (iii) Any increase in the tax levy for Greenville County or any special purpose district or political subdivision which requires Council approval
> (iv) Approval of rezoning a property or text amendment to the zoning ordinance wherein action of council is contrary to the recommendation of the Planning Commission or the Planning and Development Committee.
>
> (c) Any matter receiving a tie vote fails.
>
> (d) Abstentions shall be counted as positive votes unless a written statement of a conflict is given to the Chairman.

As shown there, the Taxpayer Protection Provision is not part of the Rule. Instead, the Note and Appendix A (which was a copy of the Taxpayer Protection Provision) direct Council's attention to the previously enacted ordinance. The Rule itself only provides for a super-majority under the circumstances listed in item (b), none of which are implicated here. The Repeal Ordinance did not increase taxes or fees, and it did not trigger any other super-majority requirement. Therefore, it was properly enacted after three readings by majority vote.

Once the Repeal Ordinance passed, there was not a requirement for anything more than a simple majority for the passage of a uniform service charge. The Road Maintenance Fee received a simple majority for each of three readings. The Telecommunications Fee received nine votes at Third Reading, and thus would be validly enacted even if the Taxpayer Protection Provision had been applicable. The Court finds that each of these ordinances received the requisite number of votes for passage.

B. The Telecommunications Fee and the Road Maintenance Fee are valid uniform service charges.

Plaintiffs have made a strong argument that the Road Maintenance Fee and the Telecommunications Fee are not uniform service charges, but are rather taxes by another name. The Court disagrees.[4]

In assessing whether a fee is a valid uniform service charge, South Carolina courts consider: (1) whether "the revenue generated is used to the benefit of the payers, even if the general public also benefits;" (2) whether "the revenue generated is used only for the specific improvement contemplated;" (3) whether "the revenue generated by the fee does not exceed the cost of the improvement;" and (4) whether "the fee is uniformly imposed on all the payers." *C.R. Campbell Constr. Co. v. City of Charleston*, 325 S.C. 235, 237, 481 S.E.2d 437, 438 (1997) (citing *Brown v. Cty. of Horry*, 308 S.C. 180, 417 S.E.2d 565 (1992)). It does not matter for purposes of this analysis that some payers will benefit more than others or that the projects funded by the fee may benefit the public at large in addition to those paying the fee. *See Brown* at 185, 417 S.E.2d at 568.

In 1997, five years after *Brown*, the General Assembly enacted S.C. Code Ann. § 6-1-330, which provides procedural requirements for local governing bodies "to charge or collect a user or service fee." The Court finds that the Telecommunications Fee and the Road Maintenance Fee satisfy the *Brown* elements and § 6-1-330 as set forth more fully below.

1. The *Brown* Elements

To be a valid service charge, a fee must be uniform. *Brown* at 186, 417 S.E.2d at 568. A flat per vehicle or per parcel fee satisfies this requirement. *Id.* The structure of the Road

[4] Because the Court finds these are valid fees in compliance with *Brown v. Cty. of Horry*, 308 S.C. 180, 417 S.E.2d 565 (1992) and S.C. Code Ann. § 6-1-330 rather than taxes, the Court finds there is no express or implied preemption imposed by Title 12 of the South Carolina Code.

Maintenance Fee is identical to the road maintenance fee upheld in *Brown*. It does not matter for purposes of this analysis that some vehicles are more valuable than others, that some vehicles use county roads more, or that some vehicles put more wear and tear on the roads. As a result, *Brown* is dispositive here as to the Road Maintenance Fee. Similarly, the Court finds that the Telecommunications Fee is assessed uniformly across all County parcels at a rate of $14.95 per parcel per year. In addition, the testimony of the County Administrator confirmed for both fees that the revenue generated is used only for the specific improvement contemplated and the revenue generated by the fee does not exceed the cost of the improvement.

With respect to benefit to the fee payer, *Brown* states that this element is met in the case of road maintenance fees if the funds collected are "specifically allocated for road maintenance." *Brown* at 185, 417 S.E.2d at 568. This is true even though the "general public obtains a benefit." *Id.* The Court finds that the Road Maintenance Fee is "specifically allocated for road maintenance" and benefits the fee payer.

Our appellate courts have not hesitated to affirm other types of uniform service charges in addition to road maintenance fees. *See e.g., Skyscraper Corp.,* 323 S.C. at 418, 475 S.E.2d at 767 (upholding county ordinance governing solid waste disposal fees which charged multitenant properties differently depending on whether leases were recorded or not); *Hospitality Ass'n of South Carolina v. County of Charleston*, 320 S.C. 219, 230, 464 S.E.2d 113, 120 (1995) (upholding a town ordinance imposing a fee on gross proceeds from tourists' short-term rentals); *Robinson v. Richland Cty. Council*, 293 S.C. 27, 34, 358 S.E.2d 392, 396 (1987) (upholding a county ordinance imposing fees on certain properties to fund sewer developments). In discussing a transfer fee "equal to .25% of the purchase price on the conveyance of real property" where "the revenue generated by the transfer fee is used solely for acquiring,

improving, operating, and maintaining parks and public recreational facilities," our Supreme Court found that all of the *Brown* elements were met, including benefit to the fee payer as follows:

> In this case, it is undisputed the transfer fee is used only for parks and recreational facilities, the payers benefit because their real property values are enhanced, the transfer fee does not generate more revenue than that spent on such facilities, and all payers pay a uniform percentage of the sale price of property conveyed.

C.R. Campbell Const. Co. v. City of Charleston, 325 S.C. 235, 481 S.E.2d 437, 438 (1997). Therefore, this element is met if the fee enhances real property values. The Court finds that the Supreme Court's reasoning in *C.R. Campbell Const. Co.* applies at least with equal force to the Telecommunications Fee.

As set forth in the ordinance and confirmed by the County Administrator, the Telecommunications Fee revenues are to be spent on "(1) the lease, purchase, lease-purchase, or maintenance of County-wide public safety telecommunications network infrastructure and network components including radios for County departments, towers, equipment, P-25 compliant communication service or similar services as technology advances, computer hardware, software and non-recurring costs of initially establishing the network platform; and rates associated with the network service provider's service and provider's recurring charges" and the fee is uniformly imposed on all property owners. The Telecommunications Fee is designed to benefit property owners and enhance property values in the form of better-coordinated public safety response. This service will be available to all property owners and all parcels within the county. Property owners have a special interest in prompt response and coordination of public safety to protect both themselves and their property. This is true even for parcels that may not need first responder assistance in any given year.

For these reasons, the Court finds that both fees satisfy the *Brown* elements.

2. S.C. Code Ann. § 6-1-330

S.C. Code Ann. § 6-1-330 empowers local governing bodies to collect service or user fees[5] so long as:

> (1) the governing body enacts an ordinance authorizing the fee by a "positive majority" vote;
>
> (2) the governing body provides public notice of the proposed fee, and if the fee is to fund a service that was previously funded by property tax revenue, the notice must include that fact in the text of the published notice;
>
> (3) the governing body holds a public hearing and receives public comment before the final vote on the ordinance adopting the fee;
>
> (4) the revenue derived from the fee must be used to pay costs related to the provision of the service or program for which the fee was paid; and
>
> (5) if the revenue generated by a fee is five percent or more of the governing body's total budget, the proceeds of the fee must be kept in a separate and segregated fund from the body's general fund.

Both the Road Maintenance Fee and the Telecommunications Fee comply with these requirements. First, as discussed above, a positive majority of Council approved each of the fees in dispute. In addition, as reflected in the Stipulated Facts and the Exhibits, the Defendants provided notice of and held a public hearing to receive public comment on the proposed fees prior to their final reading. The County Administrator testified and the Court finds that neither fee funds a service that was previously funded by property tax revenue; therefore, there were not any additional notice requirements. Finally, the testimony of the County Administrator also established that the revenue from these fees is set aside to pay only for the projects or services for which the fees are paid and that the revenue from each of these fees respectively totals less than five percent of the County's total budget for any given fiscal year. For these reasons, the Court finds that both fees meet the requirements of S.C. Code Ann. § 6-1-330.

---

[5] There are some exceptions for fees for stormwater, sediment, or erosion control that are not applicable here. S.C. Code Ann. § 6-1-330(D).

C. The Telecommunications Fee and the Road Maintenance Fee do not violate Equal Protection.

"The party attacking an ordinance bears the burden of proving its unconstitutionality beyond reasonable doubt." *Skyscraper Corp. v. Cty. of Newberry*, 323 S.C. 412, 417, 475 S.E.2d 764, 766 (1996). "In determining whether a statute violates equal protection, this Court accords great deference to a legislatively created classification; the classification will be upheld if it is not plainly arbitrary and there is any reasonable hypothesis to support it." *Id.* "The fact that the classification may result in some inequity does not render it unconstitutional." *Davis v. County of Greenville,* 313 S.C. 459, 465, 443 S.E.2d 383, 386 (1994).

Brown is again instructive on this point, as follows:

> If a classification is reasonably related to a proper legislative purpose and the members of each class are treated equally, any challenge under the equal protection clause fails. The requirements of equal protection are satisfied if: (1) the classification bears a reasonable relation to the legislative purpose; (2) the members of the class are treated alike under similar circumstances; and (3) the classification rests on some reasonable basis. In addition, the burden is upon those challenging the legislation to prove lack of rational basis.
>
> A legislatively created classification will not be set aside as violative of the equal protection clause unless it is plainly arbitrary and there is no reasonable hypothesis to support the classification. Horry County placed all registered vehicles in a class which reasonably relates to the legislative purpose of generating funds for maintaining and improving county roads. Appellant has presented no evidence to show that this classification is arbitrary.
>
> Appellant merely argues that the members of the class are not treated equally because county residents who reside outside a municipality and those who reside within a municipality are in one class. The members of this class, however, are all treated alike as each owner registering a vehicle in the county must pay $15.00 per vehicle.
>
> The classification rests on a reasonable basis as the vehicle owners are the persons who most often would use the roads. Therefore, the ordinance does not violate the equal protection clause.

308 S.C. at 186–87, 417 S.E.2d 565 at 568–69 (1992) (citations omitted). Here, the Road Maintenance Fee is nearly identical to the one affirmed in *Brown*. For that reason, the Court

finds that the Road Maintenance Fee does not violate equal protection. Similarly, the Telecommunications Fee places all owners of real property in a class, which reasonably relates to the legislative purpose of providing coordinated first responder services to every parcel in the County. All class members will have the same access to first responder services and every parcel could potentially require these services. Thus, the classification treats all class members equally, it bears a reasonable relation to the legislative purpose, and it rests on a reasonable basis. Therefore, the Telecommunications Fee also complies with due process.

The Court is sympathetic to Plaintiffs' arguments on this point, but is constrained to rule in favor of the Defendants given the evidence and the case law set forth above.

II. Plaintiffs are not entitled to an attorney's fee award.

Plaintiffs further seek an attorney's fee award pursuant to S.C. Code Ann. § 15-77-300. To recover attorney's fees under this section, three requirements must be met: (1) the party seeking attorney's fees must be the prevailing party in an action contesting government action; (2) the Court must find the governmental entity acted without substantial justification in pressing its claim; and (3) the Court must find there are no special circumstances rendering an award of attorney's fees unjust. *Jasper County Board of Education v. Jasper County Grand Jury*, 303 S.C. 49, 51, 398 S.E.2d 498, 499 (1990). "[I]n deciding whether a state agency acted with substantial justification, the relevant question is whether the agency's position in litigating the case had a reasonable basis in law and in fact." *Layman v. State*, 376 S.C. 434, 445, 658 S.E.2d 320, 326 (2008). The only conduct considered for purposes of this analysis is that relating to the civil action itself. *Brackenbrook N. Charleston, LP v. Cty. of Charleston*, 366 S.C. 503, 505 n. 3, 623 S.E.2d 91, 92 n.3 (2005).

While presenting well-reasoned and persuasive arguments, the Plaintiffs have not prevailed in this case; the Defendants have acted with "substantial justification" at all times with

respect to this civil action; and there are no special circumstances present that would support an attorney's fee award. Therefore, the Court finds that no factor supports a fee award under S.C. Code Ann. § 15-77-300.[6]

CONCLUSION AND ORDER

Based on the above, the Court finds that the Telecommunications Fee and the Road Maintenance Fee are valid and orders that judgment be entered in favor of the Defendants on all of Plaintiffs' claims, including Plaintiffs' request for attorney's fees.

IT IS SO ORDERED.

[6] Plaintiffs have argued that regardless of the outcome of this case concerning the validity of the Road Maintenance Fee and the Telecommunications Fee, they are still entitled to an award of attorney's fees because the Defendants repealed Fee Ordinance as a result of the Plaintiffs filing this lawsuit. Even if this were the case, and the Court finds that the evidence does not establish this point, such would not warrant an award of attorney's fees to the Plaintiffs as the conduct in question is outside this litigation and therefore does not factor into this analysis. *See Brackenbrook N. Charleston, LP* at 505 n. 3, 623 S.E.2d at 92 n.3.

Greenville Common Pleas

Case Caption: Joseph B Joe Dill , plaintiff, et al vs. Greenville County Council , defendant, et al

Case Number: 2017CP2301914

Type: Master/Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Charles B. Simmons, Jr., Circuit Court Judge

Case No. 2017-CP-23-01914

James Mikell "Mike" Burns, Garry R. Smith and Dwight A. Loftis, Appellant,

v.

Greenville County Council and Greenville County Respondent.

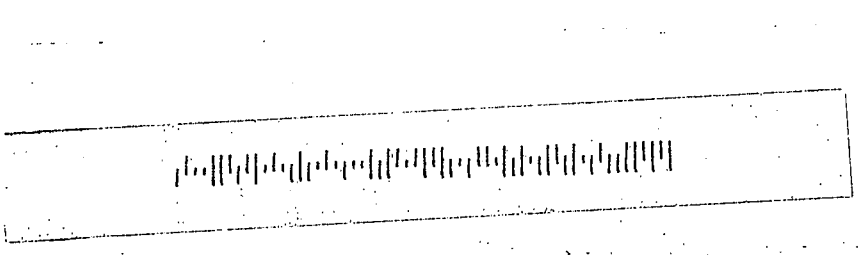
PROOF OF SERVICE

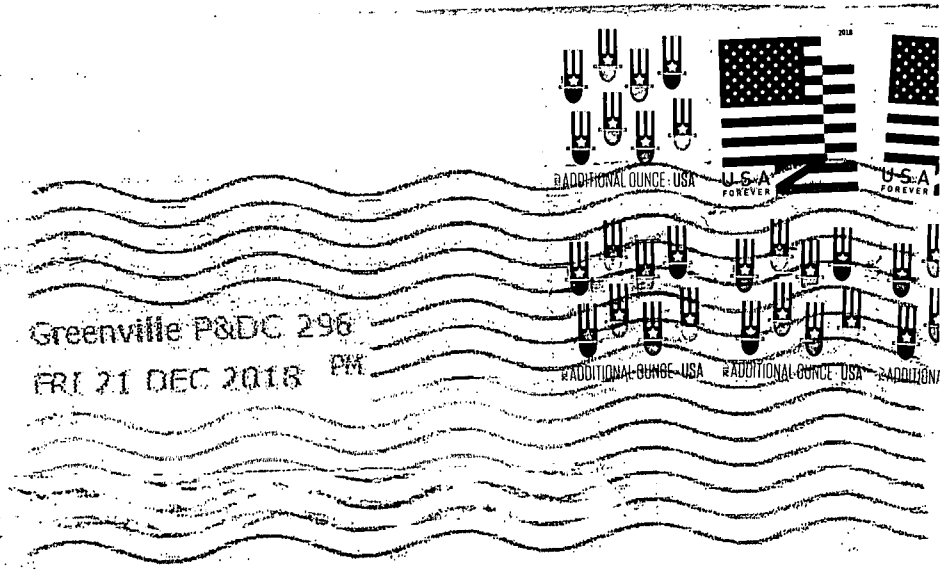
I certify that I have served the Notice of Appeal on Greenville County Council and Greenville County by depositing a copy of it in the United States Mail, postage prepaid, on December 21, 2018, addressed to their attorney of record, Sarah P. Spruill, One North Main, 2nd Floor, Greenville, South Carolina 29601.

December 21, 2018

Robert C. Childs, III, #1218
Childs Law Firm LLC
2100 Poinsett Highway, Suite D
Greenville, SC 29609
(864) 242-9997
Fax (864) 242-9914
Attorney for Appellant

J. Falkner Wilkes
114 Whitsett Street
Greenville, SC 29601
(864) 421-4618
Fax (864)271-6035)
Attorney for Appellant





Childs Law Firm, LLC
2100 Poinsett Highway
Suite D
Greenville, SC 29609

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211