



# The South Carolina Court of Appeals

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April 02, 2019

The Honorable Renee Elvis  
PO Box 677  
Conway SC 29528-0677

## REMITTITUR

Re: Robert DeCiero v. Horry County  
Lower Court Case No. 2015CP2608179  
Appellate Case No. 2016-002175

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: Thomas C. Brittain, Esquire  
Elise Freeman Crosby, Esquire

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Robert DeCiero, Appellant,

v.

Horry County, State of South Carolina, Respondent.

Appellate Case No. 2016-002175

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Appeal From Horry County  
Benjamin H. Culbertson, Circuit Court Judge

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Unpublished Opinion No. 2018-UP-433  
Submitted September 1, 2018 – Filed December 5, 2018

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**REVERSED AND REMANDED**

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Thomas C. Brittain, of The Brittain Law Firm, P.A., of  
Myrtle Beach, for Appellant.

Elise Freeman Crosby, of Crosby Law Firm, LLC, of  
Georgetown, for Respondent.

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**HILL, J.:** Robert DeCiero, a resident of Long Bay Estates Subdivision (Long Bay) in Myrtle Beach, filed a complaint against Horry County (the County) claiming the County was not enforcing zoning ordinances that he contends prevent property owners in the subdivision from renting their homes to multi-family groups. The circuit court dismissed his case under Rule 12(b)(6), SCRCF, finding

standing criteria of section 6-29-950, and sufficiently pled a concrete and particularized injury distinct from the injury to the public at large to establish standing. *Carnival Corp.*, 407 S.C. at 75, 753 S.E.2d at 850 ("For a plaintiff to possess standing[,], three elements must be satisfied. First, the plaintiff must have suffered an injury-in-fact which is a concrete, particularized, and actual or imminent invasion of a legally protected interest. Second, a causal connection must exist between the injury and the challenged conduct. Third, it must be likely that a favorable decision will redress the injury." (citation omitted)).

Finally, we find the circuit court erred in ruling as a matter of law that the zoning ordinances do not prohibit short-term rentals. The circuit court cited no authority in support of its conclusion, and the relevant ordinances do not appear in the record. Further, the issue DeCiero presents appears to be a novel question that would benefit from further development of the facts, which would better portray the legal issue. *See Evans v. State*, 344 S.C. 60, 68, 543 S.E.2d 547, 551 (2001) ("As a general rule, important questions of novel impression should not be decided on a Rule 12(b)(6), SCRPC, motion to dismiss."). Moreover, DeCiero is challenging multi-family occupancy, not short term rentals.

**REVERSED AND REMANDED.**

**MCDONALD, J., concurs. KONDUROS, J. dissenting.**

**KONDUROS, J.:** I would affirm the ruling of the circuit court.