

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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SEP 23 2019

S.C. SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Case No. 2017-CP-40-00988
Appellate Case No. 2019-00920

Don Weaver.....Appellant,

vs.

Recreation District, Recreation Commission of Richland County, Paul Brawley, as Auditor of
Richland County, David A. Adams, as Treasurer of Richland County.....Respondents.

RESPONDENTS' INITIAL BRIEF

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PAUL BRAWLEY, AS AUDITOR
OF RICHLAND COUNTY, AND
DAVID A. ADAMS, AS TREASURER
OF RICHLAND COUNTY

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STATEMENT OF ISSUES ON APPEAL

Whether the Circuit Court erred in finding that S.C.Code Ann. Section 6-11-271 permitting special purpose districts whose governing bodies are not elected to levy millage is 1) constitutional, 2) not special legislation and 3) not a violation of Home Rule.

STATEMENT OF THE CASE,
STATEMENT OF FACTS,
STANDARD OF REVIEW

Respondents Paul Brawley, as Auditor of Richland County, and David A. Adams, as Treasurer of Richland County, believe the Statement of the Case, the Statement of Facts and the Standard of Review are fairly set forth by Appellant in his Initial Brief, and pursuant to Rule 208(b)(2), SCACR, agree to be bound by them.

ARGUMENT

Governmental duties, powers and responsibilities imposed by statute, ordinance, case law or other authority typically are characterized as either discretionary, ministerial or a combination of the two.

In this case, Respondents Paul Brawley, as Auditor of Richland County, and David A. Adams, as Treasurer of Richland County, are named as, and have appeared in, their official capacities as elected officials who have in the context of the issues before the Court in this case solely ministerial duties. Specifically, they did not enact the statute, S.C.Code Ann. Section 6-11-271, take no position on its constitutionality other than to proceed under the belief that, like a county ordinance, a State law is presumed to be constitutional unless challenged through a court of competent jurisdiction, or a court *sua sponte* declares that law to be unconstitutional.

In this posture, Respondents make themselves available to provide any information that may assist the Court in its disposition of this matter, and otherwise await judicial guidance on the issues presented in this appeal, the substantive outcome of which may or may not impact their operations in the activities of tax collection. To the extent their operations are impacted by the outcome of this case, they will adjust accordingly under the state of the law at that time.

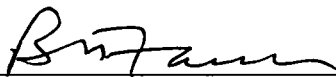
Respondents to believe the facts, circumstances and issues in this case are similar to *Weaver v. Recreation Dist.*, 328 S.C. 83, 492 S.E.2d 79 (1997), such that recourse thereto for historical perspective and guidance is appropriate. Respondents further believe the issues in this case do implicate S.C.Code Ann. § 4-9-30(5)(a), as well as S.C.Const. Art. III, Section 34, S.C.Const. Art. VIII, Section 7, and S.C.Const. Art. X, Section, which, respectively, proscribed special legislation, authorize the General Assembly to set forth a county's power to tax, and

prohibit the fixing or levying of a tax “under any pretext whatsoever, without the consent of the people or their representatives lawfully assembled.”

CONCLUSION

Given Respondents' absence of any role in this case other than to await Court disposition of the issues raised by the Appellant, and potentially to adjust their operations in the execution of their ministerial duties in the activities of tax collection depending on that disposition, Respondents take no position on the merits of this appeal, and stand by for the Court's determination and apportionment the rights of the parties.

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September 19, 2019

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PROOF OF SERVICE

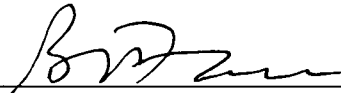
I certify that I served Respondents' Initial Brief in the above-captioned case on
September 23, 2019, by United States mail, postage paid, to counsel for the parties known to
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Columbia, South Carolina
September 23, 2019