

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Home Builders Association of South Carolina, Home Builders Association of York County, Soni Construction, Inc., Shea Investment Fund 2, LLC, and Shea Investment Fund 3, LLC,

Plaintiffs,

v.

State of South Carolina and York County,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No. 2018-CP-46-02684

RECEIVED

APR 09 2020

SC Court of Appeals

**ORDER DENYING PLAINTIFFS' MOTION TO
ALTER OR AMEND**

This matter is before the Court on the Plaintiffs' Motion to Alter or Amend ("Motion") filed with respect to the Decision of the Court ("Order") filed on January 30, 2020. The Court heard the Motion on March 11, 2020.

The Motion seeks a ruling on two issues: (1) whether the provisions of S.C. Code Ann. § 6-1-930(A)(2) render the South Carolina Development Impact Fee Act ("Act") unconstitutionally vague; and (2) the treatment of a 2018 bond referendum. For the reasons set forth below, the Court denies the Motion.

1. S.C. Code Ann. § 6-1-930(A)(2) was discussed extensively at trial. That section provides: "Before imposing a development impact fee on residential units, a governmental entity shall prepare a report which estimates the effect of recovering capital costs through impact fees on the availability of affordable housing within the political jurisdiction of the governmental entity." According to the Act, "Affordable housing" means housing affordable to families whose incomes

do not exceed eighty percent of the median income for the service area or areas within the jurisdiction of the governmental entity.” S.C. Code Ann. § 6-1-920.

As found in the Order, “The Act provides a specific set of criteria that must be considered by the District in setting a fee amount . . .” (Order at 8). As further found in the Order, the County considered the effect of the ordinance on housing affordability as set forth in several drafts of the Study. (Order at 3, 10). Lastly, the Court specifically addressed the Plaintiffs’ arguments with respect to the affordability analysis in the Order as follows: “Plaintiffs’ claims about the effect on the availability of affordable housing are unavailing—the Act does not prohibit impact fees that have a negative effect on housing affordability; it merely requires the Council consider that effect in assessing a new fee. That was done.” (Order at 10). There is nothing vague about S.C. Code Ann. § 6-1-930(A)(2), and the County fulfilled its obligations under that section. Therefore, the Court denies the Motion on this ground.

2. With respect to the role of the 2018 bond referendum, the Record contains ample evidence that the County considered the referendum in passing the impact fee at issue. With respect to Plaintiffs’ concerns about the treatment of principal and interest in the fee calculation, the Study addresses the treatment of principal and interest payments as follows:

Because the Fort Mill School District debt-financed recent school capacity expansions, a credit is included for future principal payments on outstanding debt. A credit is necessary since new residential units that will pay the impact fee will also contribute to future principal payments on this remaining debt through property taxes. A credit is not necessary for interest payments because interest costs are not included in the impact fee.

(Ex. 16 to Stipulated Facts). Given this evidence and the testimony at trial, the Court denies the Motion on this ground.

IT IS SO ORDERED.



York Common Pleas

Case Caption: Home Builders Association Of South Carolina , plaintiff, et al VS
South Carolina State Of , defendant, et al
Case Number: 2018CP4602684
Type: Order/Other

So Ordered

/s William A. McKinnon, #2761, Circuit Judge