

From: Patel, Swati <SwatiPatel@gov.sc.gov>
To: Pisarik, HollyHollyPisarik@gov.sc.gov
Date: 1/25/2016 10:21:26 PM
Subject: Re: Local Bill - S.1000 (Sheheen)
Attachments: image002.png
image004.jpg

I believe we've dealt with a single municipal bill in the past - I think it was Columbia and Lourie's bill. Becca should research. I agree with Becca's research that this bill is likely unconstitutional. There are annexation laws already in the general laws that are applicable.

Sent from my iPhone

On Jan 25, 2016, at 9:34 PM, Pisarik, Holly <HollyPisarik@gov.sc.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: "Schimsa, Rebecca" <RebeccaSchimsa@gov.sc.gov>
Date: January 25, 2016 at 7:50:57 PM EST
To: "Pisarik, Holly" <HollyPisarik@gov.sc.gov>
Subject: Local Bill - S.1000 (Sheheen)

Holly – We need to quickly review S.1000 (Sheheen), a local bill, to give guidance on whether it is unconstitutional local legislation. The bill passed the Senate last Thursday, January 21st and has been sent to the House. This is the first bill I have seen like this, so my analysis could be way off – see below.

Facts:

The bill provides that the Town of Camden may annex commercial property at 1001 Old River Road by ordinance upon a finding that it constitutes a danger to the safety and health of the community by reason of lack of ventilation, light, sanitary facilities, dilapidation, or deleterious land use. Read text of the bill here: http://www.scstatehouse.gov/sess121_2015-2016/prever/1000_20160120.htm

As reported on Kershaw County's GIS map, the total full market value of the property is shown to be \$597,660. The previous owner is reported to be Camden Plaza with a PO Box address in Fountain Inn, SC, the address for Garrett & Garrett Commercial Real Estate.

The property at 1001 Old River Road appears to not be within Camden municipal limits but, in fact, appears to be contiguous to the town, surrounded by it on two sides. Below is a GIS map showing the town limits (pale yellow shows Camden limits; bright yellow outline shows property at 1001 Old River Road). View map:
<image002.png>

Below is a picture found on Google maps that presumably shows the building and property at 1001 Old River Road. View picture:

<image004.jpg>

Law:

The Home Rule provision for municipalities is found in Article VIII, Section 8:

SECTION 8. Incorporation of new municipalities; readjustment of municipal boundaries; merger of municipalities; special laws prohibited.

The General Assembly shall provide by general law the criteria and the procedures for the incorporation of new municipalities and for the readjustment of municipal boundaries and for the merger of incorporated municipalities provided that any city or town shall be organized with the consent of a majority of the electors voting in such election who reside in and are entitled by law to vote within the district proposed to be incorporated. No local or special laws shall be enacted for these purposes; provided, that the General Assembly may vary such provisions among the alternative forms of government. (1972 (57) 3184; 1973 (58) 67.)

In addition, the prohibition against special legislation is found in Article III, Section 34, Clause II:

SECTION 34. Special laws prohibited.

The General Assembly of this State shall not enact local or special laws concerning any of the following subjects or for any of the following purposes, to wit:

...

II. To incorporate cities, towns or villages, or change, amend or extend charter thereof.

Title 5, Chapter 3 provides for when a municipality may change its limits and annex property. The statutes require a municipality to file notice with the SOS, DOT, and DPS describing the new boundaries (5-3-90). When the entire area proposed to be annexed belongs to a corporation only (as appears the case here, Garrett & Garrett), it may only be annexed on the petition of the stockholders of the corporation, and upon agreement of the municipality's governing body to accept the petition by ordinance, is the annexation complete (5-3-120). View statutes here: <http://www.scstatehouse.gov/code/t05c003.php>

Issue:

Whether S.1000 violates the Constitutional prohibitions against enacting special or local legislation to change the Town of Camden's limits by allowing the Town to annex 1001 Old River Road, contiguous property to the town, by ordinance.

Conclusion:

This bill applies only to Camden and only to 1001 Old River Road and, therefore, does not apply equally to a class. This bill attempts to change the incorporated limits of the Town of Camden by circumventing the statutory process for annexing property owned by a corporation. Therefore, this bill is unconstitutional local, special legislation.

I suggest we reach out to a delegation member to understand the background on this issue – perhaps the owners do not want to maintain or sell the property, and so the town wants to intervene?