

SUPREME COURT OF SOUTH CAROLINA

City of Camden v. Fairfield Electric Cooperative, Inc., 372 S.C. 543

643 S.E.2d 687 (2007) · No. No. 26298 · Decided April 2, 2007

SUMMARY

The Supreme Court of South Carolina held that Fairfield Electric Cooperative lacked authority to continue providing electricity to a Lowe's store located on property annexed by the City of Camden. The court concluded that a security light on an otherwise unimproved tract did not constitute a building, structure, or facility that qualified as premises being served at the time of annexation under South Carolina law. The court affirmed the circuit court's summary judgment for the City.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Waller; Chief Justice Toal; Justice Moore; Justice Burnett; Justice Pleicones
JURISDICTION	South Carolina
DECIDED	April 2, 2007
DOCKET	No. 26298
DISPOSITION	affirmed
PROCEDURAL POSTURE	The City of Camden brought an action under S.C. Code Ann. § 33-49-250(1) seeking an order compelling Fairfield Electric Cooperative to cease providing electricity to a Lowe's store located on property annexed by the City. The circuit court granted the City's summary judgment motion, and Fairfield and intervenor Lowe's appealed.
STANDARD OF REVIEW	The Supreme Court reviewed the circuit court's grant of summary judgment and its interpretation and application of the governing statutes.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Fairfield Electric Cooperative, Inc., Lowe's Home Centers of Camden, South Carolina v. City of Camden

TOPICS

- public utilities
- municipal law
- statutory interpretation
- appellate procedure
- commercial litigation

PRACTICE AREAS

municipal law

public utilities

administrative law

commercial litigation

appellate procedure

QUESTIONS PRESENTED

1. Whether the Lowe's store was a "premises then being served" when Camden annexed the property, so that Fairfield could continue serving the property under the annexation exception in S.C. Code Ann. § 33-49-250(1).
2. Whether Fairfield's pre-annexation service of a security light on an unimproved lot constituted service to a building, structure, or facility sufficient to preserve the cooperative's statutory authority to serve the later-constructed Lowe's store.

HOLDINGS

1. The property was not a premises then being served at the time of annexation because the security light on the unimproved lot was not a building, structure, or facility to which electricity was being furnished.
2. The security light was not a structure within the contemplation of S.C. Code Ann. § 33-49-250 and therefore did not preserve Fairfield's authority to serve the later-constructed Lowe's store.
3. The statute does not require continuous ownership of a premises; a cooperative may continue serving customers after a change in ownership, but it must have been serving a qualifying building, structure, or facility at the time of annexation.

KEY QUOTATIONS

"The purpose of the exceptions is to "prevent the ouster of co-ops from areas they have historically served due to population growth or annexation."" (372 S.C. at 547)

"Such a holding would allow cooperative providers to effectively circumvent the statutory scheme set up by the Legislature simply by placing security lights in any areas in which it has distribution lines. Such a result is untenable." (372 S.C. at 549)

FACTUAL BACKGROUND

A 12.981-acre tract outside Camden was being developed for a Lowe's store. Before the City annexed the property, Fairfield installed a security light on the unimproved lot, but no building, structure, or facility occupied the property. Camden annexed the tract on October 8, 2002, and later, after construction, Fairfield supplied electricity to the Lowe's store despite the City's position that it had the legal right to provide the service.

PROCEDURAL HISTORY

Before annexation, Fairfield installed a security light on the unimproved property and later agreed to supply electricity to the proposed Lowe's store. Camden annexed the property and subsequently directed Fairfield not to serve new customers in the annexed area. After Fairfield continued supplying electricity to the completed store, Camden sued; the circuit court held Fairfield lacked legal authority to serve the property and granted summary judgment to Camden. The Supreme Court of South Carolina affirmed.

DISPOSITION

affirmed

CASES CITED

- Carolina Power & Light Co. v. Town of Pageland, 321 S.C. 538, 471 S.E.2d 137 (1996)
- Duke Power Co. v. Laurens Electric Cooperative, Inc., 344 S.C. 101, 543 S.E.2d 560 (Ct. App. 2000)
- State v. McKnight, 352 S.C. 635, 576 S.E.2d 168 (2003)
- Berkebile v. Outen, 311 S.C. 50, 426 S.E.2d 760 (1993)
- City of Newberry, 352 S.C. 568, 575 S.E.2d 84 (2003)

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