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**PUBLIC DUTY RULE - SOUTH CAROLINA**

## Repko v. County of Georgetown

**Court of Appeals of South Carolina - January 6, 2016 - S.E.2d - 2016 WL 62342**

Landowner brought negligence action against county after county allowed repeated reductions in financial guarantees posted by developer for infrastructure development on subdivision lots and infrastructure development was left unfinished. County moved for a directed verdict at close of landowner's case. The Circuit Court, Georgetown County, Benjamin H. Culbertson, J., granted the motion. Landowner appealed.

The Court of Appeals held that:

- County's supposed disclaimer of liability in ordinance was preempted by Tort Claims Act;
- Landowner's claims qualified for special duty exception to public duty rule; and
- Issue of whether county was grossly negligent in exercising its licensing powers or functions was for jury.

County's supposed disclaimer of liability for negligence, in ordinance addressing developer's posting of financial guarantees in lieu of completing required infrastructure improvements for a subdivision as a prerequisite to selling lots, was expressly preempted by Tort Claims Act.

County ordinances, which allowed developer to post financial guarantees in lieu of completing required infrastructure improvements before selling undeveloped subdivision lots, imposed special duty on county to purchaser of two undeveloped lots to manage financial guaranty provided by developer, and therefore, county was not immune under public duty rule from owner's negligence action against county, filed after county allowed several reductions in guarantee, developer filed bankruptcy, and infrastructure was left unfinished. Ordinances imposed duty to oversee any reduction of guarantees on planning department and department of works, satisfying "specific public officer" requirement, and owners of property in the undeveloped subdivision were identifiable as a class before county agreed to reduce financial guarantee.

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