

COMPLAINT

1 The plaintiff above named, complaining of the defendant,
2 alleges:

3 1. The plaintiff is a citizen and resident of the State
4 of South Carolina and is the owner of real property located on
5 the Isle of Palms in Charleston County, South Carolina, said
6 property consisting of two ocean-front lots which are more
7 particularly described in Exhibits "A" and "B" attached hereto.

8 2. The defendant, South Carolina Coastal Council, is an
9 agency and instrumentality of the State of South Carolina,
10 created by Act 123 of the 1977 South Carolina General Assembly,
11 and exercises regulatory authority and power over both public and
12 private lands and waters in the coastal zone of the State of
13 South Carolina pursuant to the powers granted to it by the South
14 Carolina General Assembly.

15 3. On June 8, 1988 the Governor of the State of South
16 Carolina signed into law Act 634 of the 1988 General Assembly
17 commonly known as the "Beachfront Management Act," which act
18 amends Act 123 of 1977 and seeks to impose restrictions on future
19 development of ocean-front property, such as the property of the
20 plaintiff, by way of imposing statutorily mandated "setback"
21 lines not previously required by law.

22 4. Pursuant to Act 634 of 1988, the defendant has
23 established "setback lines" and has published data and
24 methodologies to determine the precise location of these "setback
25 lines" on individual parcels of privately-owned property.

1 5. The plaintiff, relying on the information data and
2 methodologies supplied by the defendant, has located the "setback
3 lines" upon his property that is the subject of this action. The
4 set back lines transverse both lots in close proximity to
5 "Beachwood East Road" so that the vast majority of both lots lies
6 seaward of the statutorily-imposed setback lines.

7 6. The location of the "setback lines" on plaintiff's
8 property, due to the development and building restrictions
9 imposed by Act 634 of 1988 as well as the "administrative
10 interpretations" adopted by the defendant, prohibit any kind of
11 development, building or construction on plaintiff's property.
12 Resultingly, plaintiff has been denied all reasonable use of his
13 property, has been denied all reasonable investment-backed
14 expectations otherwise enuring to the plaintiff by his ownership
15 of this property, has been deprived of all incidence of private
16 ownership of this property, has been denied the unrestricted
17 right of use, enjoyment and disposal of the property, and the
18 property has been rendered valueless by the action of the
19 defendant, all to the damage of the plaintiff.

20 7. In South Carolina the "public beach" or area of
21 beach subject to unrestricted public use, extends only from the
22 mean high water mark to the mean low water mark of the Atlantic
23 Ocean. Plaintiff's property lies entirely above and some
24 distance inland from the mean high water mark of the Atlantic
25 Ocean.

1 8. Upon information and belief, prior to the passage of
2 Act 634 and the imposition of "setback lines" on plaintiff's
3 property, the plaintiff's property had a market value in excess
4 of \$2,000,000; upon information and belief, because of the
5 location of the "setback lines" on plaintiff's property and the
6 restriction on development imposed by the defendant pursuant to
7 Act 634, the plaintiff's property has no market or other economic
8 value.

9 9. The restrictions imposed on plaintiff's property by
10 the defendant are arbitrary and capricious and have affected a
11 taking of the plaintiff's property for the purpose of benefiting
12 the public of the state of South Carolina without the payment of
13 just compensation.

14 10. The stated purpose of Act 634 of 1988 is to protect
15 the public beach from erosion and the harmful effects of erosion-
16 control devices such as bulkheads, rip-rap and seawalls. The
17 plaintiff's property, however, is in its entirety landward of the
18 "public beach", has no erosion-control devices on or in front of
19 it, and is presently suitable in its natural state for
20 residential development.

21 11. The defendant's restriction on the use and
22 enjoyment of the plaintiff's property has affected a taking of
23 plaintiff's property without the payment of just compensation in
24 violation of Article I, Section 13 of the South Carolina
25 Constitution and Amendment V of the United States Constitution.

1 12. The defendants action in requiring plaintiff to
2 leave his property in an undeveloped state thus depriving
3 plaintiff of the use and enjoyment of his property simply because
4 the property is located on the ocean front, denies the plaintiff
5 the equal protection of the laws guaranteed under the United
6 States Constitution and the Constitution of the State of South
7 Carolina.

8 WHEREFORE, the plaintiff demands that the defendant pay
9 to him just compensation for the unlawful and unconstitutional
10 taking of his property in an amount to be determined by the trier
11 of facts; that the defendant pay to the plaintiff damages for the
12 temporary taking of his property from June 8, 1988 until such
13 time as this matter is finally resolved; that the defendant pay
14 to the plaintiff attorneys' fees, expert witness fees, and cost
15 reasonably associated with bringing this action, and that the
16 court award such other and further relief as it may deem just and
17 reasonable.