

Bluffton Today

Suit claims highway lessened property value.

Posted: April 17, 2011 - 7:33pm

By [Sarita Chourey](#)

BLUFFTON TODAY COLUMBIA BUREAU

Auto dealer claims road improvement damaged property.

COLUMBIA — A section of U.S. 278 at the edge of the Bluffton town limits may seem like an unremarkable pocket of big box stores, but friction over road construction has been building here for years and will now go before the state's high court.

On Wednesday, the S.C. Supreme Court will hear arguments in the suit Hilton Head Automotive LLC v. S.C. Department of Transportation. The property in question, purchased about 10 years ago by Hilton Head Automotive, abuts the south side of U.S. 278 between S.C. 46 and Burnt Church Road in Bluffton.

At the center of the disagreement is whether the automobile dealership should be compensated for damage to its property that resulted from SCDOT construction, even though the department did not seize any of the landowner's property.

In the 1940s and 1970s, the department acquired right-of-way easements from the original property owner in order to build and then widen the roadway area at the center of the current controversy.

Since then, the department has embarked on upgrades and expansions. A study in 2001 determined that U.S. 278, which had two lanes in either direction, should be widened to six lanes.

So in 2005, the transportation department closed the median cuts at Kitties Crossing and HHA/Home Depot. SCDOT then altered its construction plans to widen the highway so that no land would have to be taken from the dealership.

Along the way, the state compensated North Bluffton Properties and Stafford Rhodes; each received more than \$1 million for infringements on their access rights.

In the suit to be argued this week, HHA says its property lost value because of the department's use of part of its abutter's easement, which consisted of full turning movement onto U.S. 278. A brief filed by HHA's attorney says the "amount in controversy" is between \$3.2 and \$6 million.

The department, responding to the dealership's appeal, wants the Supreme Court to affirm an earlier circuit court order.

"Because this case does not involve the regulation of HHA's use of its property, in order for HHA to succeed on its claim, it must show that SCDOT has physically appropriated some aspect of HHA's property," reads a brief filed by the department's attorney in January.

What's more, it reads, "the landowner does not have a property right in the continuation or maintenance of traffic flow past its property.... SCDOT did not take any part of HHA's property."

Reach Sarita Chourey at sarita.chourey@morris.com or (803) 727-4257.