

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Deborah Brooks Durden, Administrative Law Judge

Appellate Case No. 2019-001867

Denis Yeo,

Appellant,

v.

Lexington County Assessor

Respondent.

RECORD ON APPEAL

Denis Yeo
228, Newpark Place
Columbia, SC 29212
(803) 447-0615
Pro se

Jeff Anderson,
140 East Main Street
Lexington, SC 29072
(803) 359 -2512
Attorney for Respondent

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Denis Yeo,

Docket No. 19-ALJ-17-0111-CC

Petitioner,

vs.

FINAL ORDER

Lexington County Assessor,

Respondent.

APPEARANCES: For Petitioner: Denis Yeo, *pro se*
For Respondent: Jeff M. Anderson, Esquire

STATEMENT OF THE CASE

This matter came before the Administrative Law Court (ALC or Court) pursuant to S.C. Code Ann. Section 12-60-2540(A) for a contested case hearing requested by Denis Yeo (Petitioner), against the Lexington County Assessor (Assessor). Petitioner contests Assessor's refusal to assess a dwelling on property contiguous with Petitioner's legal residence at four percent of the fair market value of the property. After the notice to the parties, a hearing was held on September 24, 2019, at the offices of the Administrative Law Court in Columbia, South Carolina.

STIPULATIONS OF FACT

The parties agreed to the following written stipulations of fact:

1. Petitioner owns two adjoining lots in Southwell subdivision and both lots have a house on it.
2. The TMS numbers for the two adjoining lots are 001947-01-056 (purchased in 2010) and 001947-01-057 (purchased in 2011). TMS 001947-01-056 is owned by Petitioner and his wife, Swee Choo Yeo. TMS 001947-01-057 is owned solely by Petitioner.
3. TMS 001947-01-056 is receiving the legal residence classification. TMS 001947-01-057 is not receiving the legal residence classification.
4. The TMS in question is 001947-01-057.
5. TMS 001947-01-057 is not used for business purposes and is not being leased. It is used as storage for TMS 001947-01-056.
6. No other immediate family member of Petitioner occupies TMS 001947-01-057.

FILED

October 17, 2019

SC ADMIN. LAW COURT

ISSUE

Whether a dwelling on a separate yet contiguous property of a legal residence should be assessed at four percent of the fair market value of the property according to S.C. Code Ann. Section 12-43-220(c)(1) (Supp. 2018).

FINDINGS OF FACT

Based upon the evidence presented, I make the following findings of fact, taking into consideration the burden on the parties to establish their respective cases by a preponderance of the evidence and taking into account the credibility of the witnesses:

This Court has personal and subject matter jurisdiction. Notice of the date, time, place and nature of the hearing was timely given to all parties.

This case arises from two adjacent properties owned by Petitioner and his wife. Petitioner resides on 228 Newpark Place (TMS-001947-01-056). The other property is 224 Newpark Place (TMS-001947-01-057). Each property contains a house, and the houses are within a few yards of one another. Petitioner and his wife live in the house on 228 Newpark Place (228) and use the house on 224 Newpark Place (224) for storage and entertaining their grandson. The house on 224 is not used for business purposes and is not currently leased to a third party or used as a residence. 228 and 224 are situated on separate lots in a residential neighborhood and have not historically been assessed as a single property.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, I conclude, as a matter of law, the following:

The South Carolina Administrative Law Court has jurisdiction over the matter pursuant to S.C. Code Ann. Section 12-60-2540(A) (2000), S.C. Code Ann. Section 1-23-600 (Supp. 2018), and S.C. Code Ann. Section 1-23-310, (2005 & Supp. 2018).

While this matter reaches this court somewhat in the posture of an appeal, the proceeding before this court is a *de novo* contested case hearing to determine the appropriate valuation of the property in question based upon the evidence presented at the hearing. See Smith v. Newberry County Assessor, 350 S.C. 572, 577, 567 S.E.2d 501, 504 (Ct. App. 2002) (“When a tax assessment case reaches the ALJ in this posture [i.e., upon appeal from a county board of assessment appeals], the proceeding in front of the ALJ is a *de novo* hearing.”); see also Reliance Ins. Co. v. Smith, 327 S.C. 528, 534, 489 S.E.2d 674, 677 (Ct. App. 1997) (“[A]lthough a case involving a property tax

assessment reaches the ALJ in the posture of an appeal, the ALJ is not sitting in an appellate capacity and is not restricted to a review of the decision below. Instead, the proceeding before the ALJ is in the nature of a *de novo* hearing.”).

The statute at issue in this matter is found at S.C. Code Ann. Section 12-43-220(c)(1):

The legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, and additional dwellings located on the same property and occupied by immediate family members of the owner of the interest, are taxed on an assessment equal to four percent of the fair market value of the property.

S.C. Code Ann. § 12-43-220(c)(1) (Supp. 2018). Section 12-43-220(c)(1) also states “For purposes of the assessment ratio allowed pursuant to this item, a residence does not qualify as a legal residence unless the residence is determined to be the domicile of the owner-applicant.”

S.C. Code Ann. Section 12-43-220(c)(2)(iv) (Supp. 2018) makes clear, “the burden of proof for eligibility for the four percent [residential] assessment ratio is on the owner-occupant.” Further, South Carolina courts have consistently held that exemptions from generally applicable tax statutes, such as the four percent residential exception at issue here, must be narrowly construed. The South Carolina Supreme Court discussed this principle of construction at length in Southeastern-Kusan, Inc. v. South Carolina Tax Commission, 276 S.C. 487, 280 S.E.2d 57 (1981):

As a general rule, tax exemption statutes are strictly construed against the taxpayer. This rule of strict construction simply means that constitutional and statutory language will not be strained or liberally construed in the taxpayer’s favor. It does not mean that we will search for an interpretation in the [tax collector’s] favor where the plain and unambiguous language leaves no room for construction. Only when the literal application of a statute produces an absurd result will we consider a different meaning.

Id. at 489-90, 280 S.E.2d at 58 (citations omitted).

Petitioner argues that the house on 224 qualifies for the reduced assessment rate because both properties are owned by Petitioner, 224 is contiguous with 228 where Petitioner’s primary residence is located, and the house is a dwelling occupied by Petitioner and his immediate family. Petitioner believes the wording of the statute requires that dwellings other than the owner’s legal residence qualify for the reduced tax assessment so long as the above criteria are met.

Our Supreme Court has held that where “the statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.” Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578,

581 (2000). Section 12-43-220(c)(1) clearly states that dwellings other than the legal residence may qualify for the reduced tax assessment rate. “The legal residence . . . and additional dwellings **located on the same property** and occupied by immediate family members of the owner of the interest [qualify for the lower rate].” S.C. Code Ann. § 12-43-220(c)(1) (Supp. 2018) (emphasis added). A dwelling qualifies for this reduced rate if it is occupied by immediate family members of the owner of the interest and is located on the same property as the legal residence.

Petitioner’s house on 224 does not qualify because the house is not on the same property as Petitioner’s legal residence on 228. The properties are distinguished by different TMS numbers. Petitioner cites Sonoco Products Company v. South Carolina Dept. of Revenue, 378 S.C. 385, 662 S.E.2d 599 (2008) as standing for the proposition that where two properties are contiguous and under the same ownership, they may be assessed as a single unit. The Sonoco case deals with determining when properties are contiguous. In that case the parties agreed that, if the parcels were considered contiguous, it was appropriate to assess them both as manufacturing property. Here, there is no dispute that the two parcels at issue are contiguous. Therefore, the Sonoco case does not resolve the issue here. In the case at hand, these properties have not been assessed as a single unit. The properties are distinct housing lots within a residential subdivision. Under these facts, 224 and 228 are separate and distinct properties and Section 12-43-220(c)(1) specifically requires additional dwellings to be “located on the same property.”

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby **ORDERED** that the dwelling on 224 Newpark Place does not qualify for a tax assessment rate of four percent of the fair market value of the property under Section 12-43-220(c)(1).

IT IS FURTHER ORDERED that the Assessor shall assess TMS 001947-01-057 at the 6% rate for the 2018 tax year.

AND IT IS SO ORDERED.


Deborah Brooks Durden
Administrative Law Judge

October 17, 2019
Columbia, South Carolina

TRANSCRIPT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT
Docket No. 19-ALJ-17-0111-CC

Denis Yeo,)
)
Petitioner,)
)
v.)
)
Lexington County Assessor,)
)
Respondent.)
-----)

ADMINISTRATIVE HEARING

Tuesday, September 24, 2019
10:02 a.m. - 11:17 a.m.

The administrative hearing before the Honorable Deborah Brooks Durden, was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 24th day of September, 2019 before Carla S. Dominick, Court Reporter and Notary Public in and for the State of South Carolina.



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APPEARANCES

Denis Yeo, Pro Se

Jeffrey M. Anderson, Esquire

DAVIS FRAWLEY, LLC

ATTORNEYS AT LAW

140 East Main Street

Lexington, South Carolina 29072

Attorney for Lexington County Assessor

Also Present:

Rick Dolan, Lexington County Assessor

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EXHIBITS

(Petitioner's Exhibit Numbers One through Three and Respondent's Exhibit Numbers One through Three were marked prior to the hearing and introduced as follows:)

Petitioner's Exhibit Number One	4
(Supreme Court opinion: Sonoco Products Co. vs. South Carolina Department of Revenue)	
Petitioner's Exhibit Number Two	4,22
(Conference Report)	
Petitioner's Exhibit Number Three	4,18
(South Carolina Code of Regulations Number 117-1760.2)	
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 Respondent's Exhibit Number One	 4,11
(Deed to 224 Newpark Place)	
Respondent's Exhibit Number Two	4,12
(Legal Residence Application)	
Respondent's Exhibit Number Three	4,38
(Pictures)	

(All Exhibits were retained by the Court.)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the rules of the Administrative Law Court and the South Carolina Rules of Civil Procedure.



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1 (Petitioner's Exhibit Numbers One through Three and
2 Respondent's Exhibit Numbers One through Three were
3 marked prior to the hearing.)

4 CALL TO ORDER:

5 **THE COURT:** We're here this morning for a hearing in
6 the matter of Dennis Yeo. Is that the pro ---

7 **MR. YEO:** That is correct.

8 **THE COURT:** --- correct pronunciation? Petitioner
9 versus the Lexington County Assessor,
10 Respondent. It's docket number 19-ALJ-17-0111.
11 I am Administrative Law Judge Debra Durden. We
12 have with us Mr. Yeo and we have ---

13 **MR. ANDERSON:** I'm Jeff -- Jeff Anderson. I'm the
14 County Attorney for Lexington County and Rick
15 Dolan is the County Assessor.

16 **THE COURT:** It's good to have you with us today.
17 And I see that y'all have filed the stipulation
18 of facts. I thank you for that. And I have --
19 I have read through those and -- and am
20 familiar with them. And from that, it looks
21 like we have what's primarily before me a legal
22 issue today.

23 **MR. YEO:** Yes.

24 **THE COURT:** But, Mr. Yeo, just so that you
25 understand. This is -- I'll -- I'll explain a



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1 little about you -- to you about our process.
2 We have a factual hearing, so we'll -- I'll
3 hear the facts, any -- any facts in addition to
4 the stipulation that you want to get in. I'll
5 give you an opportunity to give an opening
6 statement, which is sort of an orientation to
7 me about your case that's not evidence. And
8 then, you will have an opportunity to put up
9 your evidence. You can take the stand and
10 testify or you can present documents or
11 anything that you want to present to me. Then,
12 the County will have a similar opportunity to
13 present any of their evidence. And then, I'll
14 give each of you an opportunity to -- to talk
15 to me about the law that applies to the facts
16 that you've presented today in a -- in a brief
17 closing statement. I'll give you an
18 opportunity. I'll give the County an
19 opportunity. Do you have any questions about
20 our procedure or the process we're going to use
21 today?

22 **MR. YEO:** No. Not at this time.

23 **THE COURT:** Okay. All right. Well, in that case,
24 we will begin. Would you like to make an
25 opening statement or do you want to just wait



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1 and present your evidence?

2 **MR. ANDERSON:** Go ahead.

3 **THE COURT:** You don't have to make an opening
4 statement if you don't want to.

5 **OPENING STATEMENT BY MR. YEO:**

6 **MR. YEO:** Very, very briefly, Your Honor. I think
7 this is indeed a simple matter of -- you know,
8 of -- of legal interpretation of the -- of the
9 statutes. I think the facts are pretty plain.
10 I don't think there's any dispute over the
11 facts. And in my reading of the -- of the
12 statute, you know, it seems to me that the
13 statute does provide for the -- the -- property
14 that's in one ownership and contiguous, put to
15 the same use. It does provide for that
16 property to be assessed as a similar unit to be
17 assessed at the -- at the four percent rate.
18 Respondent denies that and that's why we're
19 here.

20 **THE COURT:** Okay. That's my job.

21 **OPENING STATEMENT BY MR. ANDERSON:**

22 **MR. ANDERSON:** Just very briefly, Your Honor. We --
23 we've got an unusual situation where Mr. Yeo
24 owns two houses side by side. Bought one --
25 one in 2010 and one in 2011. And my



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1 understanding, he -- he rented out the one he
2 was living in for a while, but now he's not
3 renting it out. It doesn't have any business
4 in it. He's using it for storage. And the
5 legal issue can you get legal residence on two
6 houses in a subdivision that's not being leased
7 and not being used for business, but again, you
8 have two residences. And that's what really
9 we're going to get down before the Court. I
10 will really save my argument to the very end.
11 But that's -- that's what the issue is. Two --
12 two houses side by side, he owns both of them.
13 I think his daughter was supposed to come and
14 hadn't come yet to live there, so I -- I
15 understand he was trying to -- to lower his
16 taxes that obviously the six percent taxes
17 without the school credit is a lot more for
18 that house for legal residence.

19 **THE COURT:** Okay.

20 **MR. ANDERSON:** And he is receiving legal residence
21 only. Well, I -- I'll get into the specifics
22 ---

23 **THE COURT:** Okay.

24 **MR. ANDERSON:** --- on one of the houses.

25 **THE COURT:** All right. All right. Mr. Yeo, will --



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1 it's now your turn to present whatever evidence
2 that you have that you would like to present.
3 You can take the stand and be sworn in an
4 testify or you can present documents. What --
5 or you can just rely on the stipulation of
6 facts that you've entered.

7 **MR. YEO:** May I make my argument at this time, Your
8 Honor?

9 **THE COURT:** A legal argument.

10 **MR. YEO:** Yeah. So ---

11 **THE COURT:** It's not time for that yet.

12 **MR. YEO:** Not time for that yet.

13 **THE COURT:** There'll be an opportunity for that.
14 This is -- this is the time if you have
15 additional facts that you want me to base the
16 decision on. Anything in addition to the
17 stipulation ---

18 **MR. YEO:** Okay.

19 **THE COURT:** --- that you ---

20 **MR. YEO:** Yes. There is one -- one -- one fact ---

21 **THE COURT:** Okay. Well, will you come and be sworn
22 in by the Court Reporter, then?

23 **MADAM COURT REPORTER:** If you'll raise your right
24 hand. Do you solemnly swear that the testimony
25 you're about to give in this matter is the



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1 truth, the whole truth, and nothing but the
2 truth, so help you God?

3 MR. YEO: Yes. I do.

4 DENIS YEO, having been duly sworn, testifies as
5 follows:

6 THE COURT: Please state your name for the record.

7 MR. YEO: My name is Denis Yeo.

8 THE COURT: D -- that's D-E-N-I-S?

9 MR. YEO: One N. That's right.

10 THE COURT: One N.

11 MR. YEO: That's the English spelling. Not the
12 American.

13 THE COURT: You may have seat, Mr. Yeo.

14 MR. YEO: Thank you.

15 MR. YEO - DIRECT TESTIMONY:

16 MR. YEO: Your Honor, as was mentioned, the -- the
17 house was bought in anticipation of a -- a
18 personal need in the family. When that need
19 didn't materialize due to circumstances beyond
20 my control, I did seek to rent it out and it
21 was rented out for a couple of years to a dear
22 friend of mine, Bill Shannahan, who is well
23 known in Lexington County as the owner of the
24 -- the -- I think it's not called the Blowfish.
25 After he vacated the premises and -- because he



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1 moved into his own house, we decided that we
2 would use the -- the space for our own needs,
3 for storage, for a place for our grandson to
4 come and be able to play ping pong and we even
5 have an additional refrigerator and freezer in
6 that place, so we can store, you know, food and
7 things like that. We are using that place as
8 our own personal residence as one would use
9 their residence. I have taken down portions of
10 the fence between the two properties. Not that
11 that should make any difference because the law
12 to me is not based on -- on outlines or
13 boundaries like that. It seems to me that the
14 -- you know, the properties are contiguous and
15 that all that should matter. But in any case,
16 I have taken down the fence, and you know, the
17 fence is in this portion here in the backyard.
18 So, I have access to the other property so that
19 I can go out the front of the house. I think
20 basically, that's all I -- I would like to, you
21 know, testify to.

22 **THE COURT:** All right. Well, if you would continue
23 to sit there for just a moment and give Mr.
24 Anderson an opportunity to ask you any
25 questions that he might have of you.



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1 MR. YEO: Yes.

2 **MR. YEO - CROSS-EXAMINATION BY MR. ANDERSON:**

3 Q: Just -- just briefly. Mr. Yeo, we've already
4 marked these as Exhibit -- Respondent's
5 Exhibits One and Two. I'm going to show you.
6 Is that -- is this the deed -- Exhibit One, the
7 deed to the property that is shown as 224
8 Newpark Place?

9 A: I -- the -- Yes.

10 MR. ANDERSON: Your Honor, we've already had this
11 marked as Respondent's Exhibit One. It would
12 be deed for the property in question here
13 today.

14 THE COURT: Okay. Mr. Yeo, you -- do you have any
15 objection to this coming into evidence?

16 A: No.

17 THE COURT: Okay. Respondent's One is admitted.

18 (Respondent's Exhibit Number One was admitted into
19 evidence.)

20 Q: All right. The next, Mr. Yeo, I'm going to
21 show you what's been marked as Respondent's
22 Exhibit Two. This is the application that
23 you've -- you made for legal residence for 224
24 Newpark Place. That's map number 009 -- 1947-
25 01-057. Is that the application that you made



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1 for that -- the legal residence application
2 that you made?

3 A: Yes.

4 **MR. ANDERSON:** Your Honor, this -- we would offer
5 this into evidence as Respondent's Exhibit Two.

6 **THE COURT:** Okay. Sir, do you any objection to this
7 coming into evidence?

8 A: No.

9 **THE COURT:** All right. Respondent's Two is
10 admitted.

11 **(Respondent's Exhibit Number Two was admitted into**
12 **evidence.)**

13 Q: Now, Mr. Yeo, just a couple of questions. I
14 just want to follow up. When you bought this
15 -- the house in question, 224 Newpark Place,
16 you bought it ready for your daughter to live
17 in when she moved here at some point; is that
18 correct?

19 A: Correct.

20 Q: Okay. And she -- for whatever reason, she just
21 hasn't gotten here yet; is that right?

22 A: That's right.

23 Q: And you said you rented it out to Mr. ---

24 A: Shannahan.

25 Q: --- Shannahan for -- how long did you rent it



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- 1 out to him?
- 2 A: It would have been, you know, about a year and
- 3 a half to two years. I -- I don't recall
- 4 exactly ---
- 5 Q: Okay.
- 6 A: --- that time, but it was about ---
- 7 Q: Okay. You bought it in 2011, did you rent it
- 8 out soon thereafter or was it ---
- 9 A: No.
- 10 Q: Okay.
- 11 A: I think it was around 2 -- 4 -- 2014.
- 12 Q: Okay. So, approximately two years, you leased
- 13 it to him?
- 14 A: Yes.
- 15 Q: Okay. And since then, you haven't leased it to
- 16 anybody?
- 17 A: No. I have not.
- 18 Q: You don't perform any business in there
- 19 obviously?
- 20 A: No. I do not.
- 21 Q: But you store stuff in there, stuff that
- 22 doesn't -- you don't need in your -- where you
- 23 actually reside at night, you store over in the
- 24 house?
- 25 A: Right.



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1 Q: Okay. But you -- you actually -- your -- where
2 you go at night to sleep would be 228 Newpark
3 Place; would that be correct?

4 A: That's right.

5 Q: I think that's all. Thank you.

6 **THE COURT:** Do you have anything you'd like to say,
7 you know, to follow up on those questions?

8 **MR. YEO:** It's just that the matter of relevance,
9 Your Honor. You know, I think we have agreed
10 to, you know, that the facts that have been
11 stipulated. So, you know, just the questions
12 of irrelevance, but that's okay.

13 **THE COURT:** All right. Yeah. I'll take that under
14 consideration as I'm -- as I'm considering the
15 case.

16 **MR. YEO:** Thank you.

17 **THE COURT:** All right. You can take a seat then and
18 if that's all that you -- all the facts you
19 have to present, then, we'll give Mr. Anderson
20 an opportunity to present any additional
21 witnesses or facts or documents that he'd like
22 to present.

23 **MR. ANDERSON:** Your Honor, I -- I think the
24 stipulation covers -- pretty much covers most
25 of our being that they would making an



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1 argument. We have a case to present to -- a
2 fellow court case and a ALC case we would like
3 to hand up at the appropriate time.

4 **THE COURT:** Okay.

5 **MR. ANDERSON:** And during our argument.

6 **THE COURT:** Well, it sounds like both of you are
7 eager to get on to your legal arguments. So,
8 we will do that. We will - when you are ready,
9 Mr. Yeo, you can -- you can -- now would be the
10 time for you to give me your legal argument.

11 **LEGAL ARGUMENTS BY MR. YEO:**

12 **MR. YES:** Your Honor, the legal issue in this matter
13 is whether a property continuously owned as
14 legal residence can be disqualified from legal
15 residential assessment of four percent if it is
16 not rented or use as a place of business, and
17 is occupied and used by the owner as he would
18 use his legal residence with the addition of a
19 legal residence as though the two properties
20 were one. In -- in a lesser matter, issue
21 arises and it says as a house on a contiguous
22 or adjacent lot under the same ownership have
23 to be connected to the legal residence in order
24 to qualify for the four percent assessment
25 value, or the does the property contiguity



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1 Assessor, docket number 01-ALJ-17-0173-CC,
2 2001. It is to be noted that the Court, the
3 Guthrie Court admits in note three at the end
4 of his opinion that it did not discovery any
5 South Carolina law construing the term legal
6 residence in a relevant manner. Accordingly,
7 its analysis was limited to examination of
8 state statutes and regulations. In that case,
9 the Court took a concession in the code and
10 turned into a disqualification criterion, when
11 it ruled that since the house was not occupied
12 by an immediate member of the family, that it
13 might qualify for the four percent assessment.
14 Here the Guthrie Court headed its own
15 disqualification criteria, occupation by owner
16 of the property. The only two disqualification
17 criteria of the code as mentioned above. The
18 Guthrie Courts construction of the code results
19 in an absorb situation. The house qualifies
20 for four percent assessment ratio if occupied
21 by a member of the owner's immediate family
22 because of family members special relationship
23 to the owner, but if occupied by the owner
24 himself or his spouse, it does not. The only
25 conclusion one can draw from the Court's and



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1 Respondent's construction of the code is that
2 the owner himself or his spouse is not a member
3 in the category of his own family, but is a
4 member in the category of those are not member
5 of his family, who do not qualify for the
6 special assessment. This I say is absurd.
7 Again, it is to presume that the owner of a
8 house and property contiguous to the legal
9 residents will not charge rent to a member of
10 his immediate family, but what if he did?
11 Would the house still qualify for the special
12 assessment? At the hearing before the County
13 Board of Appeals, this question was posed to
14 Mr. Dolan, the Respondent's witness here today
15 and his answer was if the county knew about it,
16 most certainly it would not. To answer in the
17 affirmative would involve a clear violation of
18 the code. You know if it's rendered out, it
19 doesn't qualify. I would presume even in a
20 case of a family member, although that matter
21 has not really been tried, I don't believe. In
22 this case, an owner then would be able to
23 charge a rent and still qualify for the four
24 percent assessment ratio if it is charged
25 against an immediate family member. To answer



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1 plain and ordinary meaning without resort to
2 subtle or forced construction to limit or
3 expand the statute's operation. Furthermore,
4 it said citing Unison Insurance Company versus
5 Schmidt, we will reject the statutory
6 interpretation when to accept it would lead to
7 a result so absurd that it could not have been
8 intended to either legislature or would defeat
9 the plain legislative intent. And that we have
10 on Page 3 of -- of the -- of the opinion. I
11 think it's Page 3, the third paragraph and the
12 last line. When the principle of ambiguity is
13 abandoned, absurdity results. Consider the
14 following situation, regulation 117-1750.2,
15 multi-use property. It's my Exhibit C. I
16 think it's Exhibit Three.

17 **THE COURT:** Yes.

18 **MR. YEO:** That regulation reads, if a particular
19 piece of property is used for more than one
20 purpose, then the value of the total piece of
21 property must be allocated on some equitable
22 basis. For example, a duplex in which the
23 owner resides in one part, rents the other
24 part, the value of the duplex must be allocated
25 on an equitable basis. This regulation begs



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1 the question, what if the owner does not rent
2 the other part. At this part, I'd just like to
3 -- to -- to say that it's my belief and if --
4 on information and belief the County would
5 assess the other part at six percent, even
6 though it would not be rented out or used as --
7 as a place of business. The very existence,
8 Your Honor, of the regulation would imply that
9 if the owner does not rent the other part, the
10 value of the duplex does not have to be
11 allocated on an equitable basis and should be
12 granted the four percent, which the County does
13 not do. The Respondent pays no attention to
14 this regulation for the -- the Respondent taxes
15 the other side of the owner occupied duplex at
16 six percent, whether it is rented out or not.
17 The Respondent is consistent with himself, but
18 at odds with the regulation. Your Honor, just
19 as an example of how absurd things become,
20 consider if there were a hole in the wall
21 between the two parts of the duplex, both parts
22 would qualify because now they are no longer
23 two separate dwellings. For example, there was
24 a door between the two parts. County assessors
25 have been known to -- to grant the -- the four

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1 percent. Some assessor -- some County
2 assessors, and I believe Richland County, I
3 checked with them, but they would not give me
4 a written statement to this affect; and I
5 didn't have to get a subpoena in. They will
6 grant the four percent assessment on either
7 side of the duplex if it is not ---

8 **MR. ANDERSON:** I know this is argument, but he's
9 kind of testifying here on hearsay or something
10 somebody told him about. I don't know.

11 **THE COURT:** Yeah, Mr. -- yeah, we need to stick to -
12 --

13 **MR. YEO:** Yes.

14 **THE COURT:** For this part of the ---

15 **MR. YEO:** Okay.

16 **THE COURT:** --- of the hearing, to your legal
17 argument based on the statutes and the
18 regulations, please.

19 **MR. YEO:** Your Honor, how large does the opening
20 have to be between the two sides? What if the
21 hole between the two sides encompasses the full
22 extent of the wall? Or if the hole was small
23 enough for a small person to go through, but
24 not a large person for the parts to qualify?
25 Who decides on the size of the hole? Such are



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1 the absurdities that arise from the principle
2 of ambiguity is relinquished. It is to be
3 noted that the duplex is actually two self-
4 contained dwellings that are contiguous. In
5 the case of the duplex abutting, it is not the
6 principle of abutment, but the principle of
7 ambiguity that includes abutment that would
8 qualify both parts of the duplex. Likewise,
9 two houses on the same lot that are connected
10 by a covered walkway would qualify for the four
11 percent assessment value whereas if they were
12 not connected, they would not. But on what
13 basis would they qualify? On the basis of
14 connectivity? The statute knows nothing of
15 connectivity. It only speaks of ambiguity. In
16 like manner, it is the principle of contiguity
17 that should qualify Petitioner's property that
18 it's a contiguous part of his residence.
19 Petitioner has shown that the legislative
20 intent of the amendment made in 1999 to the
21 statute was to remove language that would
22 prohibit the granting of the four assessment
23 value to more than one residence, so that owner
24 occupied residential property with all the
25 dwellings on it might retain that four percent



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1 assessment value. Assessing the dwellings at
2 six percent would be an attempt to defeat the
3 legislative intent and result in unjust
4 enrichment by the County. Such an attempt must
5 not be allowed to succeed.

6 **THE COURT:** All right. Mr. Anderson.

7 **MR. ANDERSON:** Just -- we've agreed on this picture
8 in the exhibit. I don't think I actually
9 entered into the ---

10 **THE COURT:** Okay. And that is ---

11 **MR. ANDERSON:** Exhibit Number Three.

12 **THE COURT:** Marked as ---

13 **MR. ANDERSON:** Marked Exhibit Three.

14 **(Respondent's Exhibit Number Three was introduced**
15 **into the record at this time.)**

16 **THE COURT:** Respondent's Three.

17 **MR. ANDERSON:** It would just be pictures of both
18 houses in question or -- well, both houses and
19 in particular 224 Newpark Place is the house in
20 question.

21 **THE COURT:** Okay.

22 **MR. ANDERSON:** Your Honor, Mr. Yeo, if he didn't go
23 to law school, he might should have. He did a
24 ---

25 **THE COURT:** I was very curious as, Mr. Yeo, as to



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1 that's it's contiguous in this case. When
2 owned totally or in part in fee or by life
3 estate and occupied by the owner of the
4 interest, and additional dwellings located on
5 the same property and occupied by immediate
6 members of the owner of the interest. That's
7 the part that Mr. Yeo was trying to explain
8 that that's not a requirement. I read that as
9 a little reading of that statute is ---

10 **THE COURT:** So, by your reading Mr. Yeo's occupation
11 of that himself, he is not a member of his own
12 immediate family under your reading?

13 **MR. ANDERSON:** He's not. He's not occupying. He's
14 -- he's storing -- he says he's storing ---

15 **THE COURT:** Okay.

16 **MR. ANDERSON:** --- some clothes over there.

17 **THE COURT:** So, you're focusing in on whether or not
18 he actually occupies it?

19 **MR. ANDERSON:** Well, I -- I don't think there's any
20 -- he says the -- the stipulation of facts is
21 he stores some stuff over there. He doesn't
22 occupy it. Our position is he's not occupying.
23 He's -- he's -- you can only have one residence
24 and the residence in the one house next door.
25 That's where he lives. That's where he goes to



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1 sleep at night. And so his position is you can
2 have two residences, two houses that two
3 residences and no problem with that. And our
4 position is you can't have that. If that's the
5 case, there's a lot of people at Myrtle Beach
6 that have houses at Myrtle Beach and houses
7 here that would say, okay, I want two
8 residences.

9 **THE COURT:** But those aren't contiguous. So, that -
10 - that example ---

11 **MR. ANDERSON:** I know.

12 **THE COURT:** --- doesn't really help me.

13 **MR. ANDERSON:** I know. But -- that is a different.

14 **THE COURT:** So, here's -- here's the -- let me just
15 explain to you the facts in a former case that
16 I've had and you try to distinguish ---

17 **MR. ANDERSON:** Okay.

18 **THE COURT:** --- here. Do -- take this out of a
19 suburban setting and put it out in the country,
20 which you get this situation more frequently --
21 -

22 **MR. ANDERSON:** Right.

23 **THE COURT:** --- in that situation where you've got
24 maybe an old farmhouse and the owners built a
25 nicer new home on the same property or cont --



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1 or own a contiguous lot. The old farmhouse is
2 no longer -- noone lives in it. It's used for
3 storage and there's an old freezer there. They
4 store their venison after they hunt. So, in
5 that case, I ruled that this other house was --
6 because it was contiguous and it was not rented
7 out and it was not used for any business, that
8 it was entitled to the four percent.

9 **MR. ANDERSON:** You want me to answer that?

10 **THE COURT:** Yeah. I'd like you to distinguish this
11 case from that case.

12 **MR. ANDERSON:** I think it depends -- I think it
13 depends on the condition of the house there.
14 The statute -- and again, I try to figure out
15 -- try to determine why the General Assembly
16 does what they do some time. My reading of the
17 statute that I just gave to you was the General
18 Assembly said, okay, you can only have one
19 residence, but you might have a mother-in-law
20 suite or a father-in-law suite in your
21 backyard, and we better take care of them. So,
22 you may have another dwelling or a pool house
23 or something where somebody lives in -- on your
24 lot where another member of your family may
25 reside and we can't -- we don't need to



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1 going to get four percent on that.

2 **THE COURT:** Okay. So, how do you get around the
3 language here that says additional dwellings?
4 So, this to me, when you say additional
5 dwellings located on the same property, that to
6 me says that even if it's nice -- even if it's
7 not a shed, if it's a home.

8 **MR. ANDERSON:** Our position, if it's additional
9 dwelling, it better be -- better have a family
10 member in it. That's our position.

11 **THE COURT:** I understand your position.

12 **MR. ANDERSON:** I mean, it's got to have that. Why
13 the General Assembly does it? I do -- again,
14 I'm trying to figure out what they -- why they
15 did what they did there. My thought is they
16 want to make sure you can build something in
17 the back of your house to bring a -- a sick
18 family member or a family member that needed to
19 come there. That's the -- I read that -- the
20 literal reading of statute requires it.

21 **THE COURT:** Okay.

22 **MR. ANDERSON:** I mean, otherwise, Your Honor, I
23 mean, they -- let's just take the extreme --
24 the other extreme. A developer -- a developer
25 could have five acres, build ten houses on it,



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1 a half acre each. Move in one of the houses
2 and put some clothes in the rest of the houses
3 and say I reside in ten houses. I mean, they
4 ought to be ---

5 **THE COURT:** And that comes down to a question of
6 fact.

7 **MR. ANDERSON:** Right.

8 **THE COURT:** As to whether he is in fact occupying --
9 he and his immediate family are occupying all
10 of those ten dwellings.

11 **MR. ANDERSON:** Right. I don't think Mr. Yeo is
12 really saying he's residing at this second
13 house. I think he's saying, I got some stuff
14 over there.

15 **THE COURT:** I think he's saying he's occupying it.
16 He doesn't say he's residing there.

17 **MR. ANDERSON:** Right.

18 **THE COURT:** He says he's occupying it.

19 **MR. ANDERSON:** He's got some -- the stipulation of
20 fact is ---

21 **THE COURT:** Occupying it with his ---

22 **MR. ANDERSON:** --- he stores -- he stores stuff.

23 **THE COURT:** --- stuff.

24 **MR. ANDERSON:** --- over there.

25 **THE COURT:** Yeah. And his grandson plays -- has a



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1 the special assessment ratio allowed by this
2 section on another residence. And that -- so,
3 that the sentence that was taken out, you can
4 have more -- I think his stance is you can have
5 more than one legal residence in this case.
6 It's -- it's in the perjury certification that
7 you can only have one legal residence. Your
8 Honor, it's -- it's an unusual case where --
9 where, again, most people don't by a house and
10 then by the house right beside it. And I -- I
11 know it's unusual and Mr. Yeo's done it. I
12 think he had a reason for doing it when he did
13 it and that reason hadn't -- hadn't
14 materialized. But -- and I understand that he
15 is paying more taxes on that house, but our
16 position is it's two -- it's two residences.
17 There's -- he can only live in one them.
18 They're not together. They're not - they're
19 contiguous of the five acre situation, but it's
20 -- it's a dwelling and in order for that to
21 qualify under my reading of the statute, his
22 daughter needs to live there. If his daughter
23 lived there, she -- it would probably qualify,
24 a family member living there. I keep asking,
25 when's the daughter going to move here. But



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APPELLANTS EXHIBITS

EXHIBIT B

pg 1

FREE CONFERENCE REPORT

H. 3696

The General Assembly, Columbia, S.C., June 22, 1999

The COMMITTEE OF FREE CONFERENCE, to whom was referred:

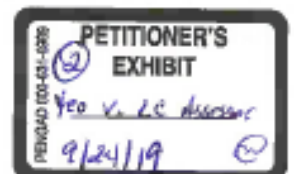
H. 3696 -- Ways and Means Committee -- General Appropriations Bill for Fiscal Year 1999-2000.

Beg leave to report that they have duly and carefully considered the same and recommend:

That the same do pass with the following amendments:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ PART I



SECTION 91

TO AMEND SECTION 12-43-220, AS AMENDED, OF THE 1976 CODE, RELATING TO CLASSIFICATION AND THE APPLICABLE ASSESSMENT RATIO OF PROPERTY FOR PURPOSES OF THE PROPERTY TAX, SO AS TO PROVIDE THAT OWNER-OCCUPIED RESIDENTIAL PROPERTY RECEIVING THE FOUR PERCENT ASSESSMENT RATIO RETAINS THAT ASSESSMENT RATIO, THE RESIDENTIAL EXEMPTION FROM SCHOOL OPERATING MILLAGE, AND THE HOMESTEAD EXEMPTION, IF APPLICABLE, FOR THE ENTIRE YEAR IN WHICH THE OWNERSHIP OR USE OF SUCH PROPERTY CHANGES AND TO MAKE CONFORMING AMENDMENTS.

A. Section 12-43-220(c) of the 1976 Code, as last amended by Act 442 of 1998, is further amended to read:

"(c)(1) The legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, and additional dwellings located on the same property and occupied by immediate family members of the owner of the interest, are taxed on an assessment equal to four percent of the fair market value of the property. If residential real property is held in trust and the income beneficiary of the trust occupies the property as a residence, then the assessment ratio allowed by this item applies if the trustee certifies to the assessor that the property is occupied as a residence by the income beneficiary of the trust. When the legal residence is located on leased or rented property and the residence is owned and occupied by the owner of a residence on leased property, even though at the end of the lease period the lessor becomes the owner of the residence, the assessment for the residence is at the same ratio as provided in this item. If the lessee of property upon which he has located his legal residence is liable for taxes on the leased property, then the property upon which he is liable for taxes, not to exceed five acres contiguous to his legal residence, must be assessed at the same ratio provided in this item. If this property has located on it any rented mobile homes or residences which are rented or any business for profit, this four percent value does not apply to those businesses or rental properties. For purposes of the assessment ratio allowed pursuant to this item, a residence does not qualify as a legal residence unless the residence is determined to be the domicile of the owner-applicant. ~~A taxpayer may receive the four percent assessment ratio on only one residence for a tax year.~~

(2)(i) To qualify for the special property tax assessment ratio allowed by this item, the owner-occupant must have actually owned and occupied the residence as his legal residence and been



APPLICATION FOR SPECIAL ASSESSMENT AS LEGAL RESIDENCE
 LEXINGTON COUNTY ASSESSOR'S OFFICE
 211 SOUTH LAKE DRIVE, STE 201
 LEXINGTON SC, 29072
 PHONE (803) 785-8190 FAX (803) 785-8149
 EMAIL: ASSESSOR@LEX-CO.COM
 WEBSITE: http://www.lex-co.sc.gov

RECEIVED

OCT 22 2018

Lexington County
 Assessor's Office

Contiguous to 228 Newpark where he receives 4LR
 KEEP A COPY FOR YOUR RECORDS* October 16, 2018

TAX MAP NUMBER: 001947-01-457	CC:	TAX YEAR 2018
NAME & MAILING ADDRESS OF PROPERTY OWNER	PROPERTY LOCATION & LEGAL DESCRIPTION	TAX DISTRICT
YEO, DENIS 228 NEWPARK PL COLUMBIA SC 29212	224 NEWPARK PL SOUTHWELL PHS I LOT 58	5 FW

I CERTIFY THE FOLLOWING UNDER THE PENALTY OF PERJURY INITIAL HERE SPOUSE/CO-OWNER

YOU MUST ANSWER ALL QUESTIONS OR YOUR APPLICATION WILL BE DENIED

If property is owned by a trust, you must submit a copy with your application & certify that you are the current income beneficiary of the trust.

Are you the current income beneficiary of the trust? () Yes () No (X) N/A

Do you occupy this property as your full-time permanent residence? (X) Yes () No - If no, explain:

Date you began to occupy this property as your full-time legal residence: JULY 1, 2018 Is your mailing address different than occupied Property?

(X) Yes () No - If yes, what is the physical address of your property 228 NEWPARK PLACE, COLUMBIA, SC 29212

Marital status (X) married () single () legally separated () divorced - Spouse's name: SUE-CHAO Yes If you are legally separated, please provide the date and county/state of filing.

Are you registered to vote at this property location? () Yes (X) No - If no, where are you registered?

NOT REGISTERED DUE TO BEING PERMANENT RESIDENT

Have both you and your spouse (if married) registered all automobiles in Lexington county? (X) Yes () No - If no, your application will be denied.

Have both you and your spouse (if married) updated the address on your SC Driver's license? (X) Yes () No - If no, your application will be denied.

Are you a citizen of the US? () Yes (X) No - If no, you must have a Permanent Residence Visa or Green Card to be considered for this exemption. Do you have a Green Card or Permanent Residence Visa? (X) Yes () No. Please provide a copy.

Will you and your spouse (if married) list this as your primary residence on your federal and state income tax return? () Yes (X) No - If no, explain.

CONTIGUOUS PROPERTY 228 NEWPARK PLACE WILL BE LISTED

Is any portion of this property being used as a business or rented? () Yes (X) No - If yes, please explain.

Was this property rented during the current tax year? () Yes (X) No - If yes, please provide dates rented.

Where did you previously live? 228 NEWPARK PLACE City: COLUMBIA

State: SC ZIP code 29212 County: LEXINGTON Did you own this property? (X) Yes () No - If no, please explain.

Did you have a lease/rent through a property management company? () Yes () No - If no, explain.

TMS 1947-01-056 has 4LR @ this location

Did you receive legal residence, homestead, or any residential discounts at your previous address? (X) Yes () No

Has that property been sold? () Yes (X) No - If yes, what was the selling date? If not sold, who is currently living in the home?

OWNER AND SPOUSE

MILITARY SERVICE APPLICANTS ONLY - MUST PROVIDE A COPY OF YOUR MILITARY ID, ORDERS & MOST CURRENT LES ANNUALLY

Are you a member of the armed forces? () Yes () No.

Dates that you have lived at this property to

Do you or your spouse (if married) own property in any other county in SC? () Yes () No - If yes, where:

Is that property listed for sale? () Yes () No - If yes, number of days on the market

PROVIDE THE FOLLOWING INFORMATION ABOUT YOUR HOME

Approximate heated sq. ft. 1800 Number of bedrooms 3 Number of baths 2 1/2 Pool? () Yes (X) No

Are there any other buildings including mobile homes on this property? () Yes (X) No - If yes, please describe.

If mobile home, what is the current decal number? Do you own the land the mobile home is on? () Yes () No

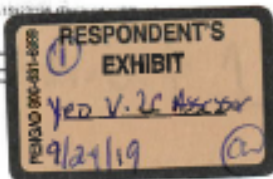
If no, list the owner of the property:

SECTION 12-43-230(C) (1) OF THE SOUTH CAROLINA CODE OF LAWS REQUIRES THAT THE APPLICANT SIGN THE FOLLOWING STATEMENT:

UNDER PENALTY OF PERJURY I CERTIFY THAT: The residence which is the subject of this application is my legal residence and where I am domiciled at the time of this application and that neither I, nor any member of my household, claim to be a legal resident of a jurisdiction other than South Carolina for any purpose and that neither I, nor a member of my household claim the special assessment relief by this section on another residence. Applicant initial here: [Signature] Spouse initial here:

BY SIGNING THIS APPLICATION: I understand that I must notify the Assessor within six months when I no longer qualify for the 4% assessment rate. Failure to notify the Assessor will impose a penalty equal to 100% of the tax paid, plus interest on that amount at the rate of 1% of one percent per month, but in no case less than thirty dollars more than the current year's taxes. This penalty and any interest paid are considered to be a lien on the property. Applicant initial here: [Signature] Spouse initial here:

both @



2011041683 FILED, RECORDED, INDEXED
 2011-10-21 11:34:31:687
 REC FEE: \$18.00 ST FEE: \$265.20
 CO FEE: \$112.20 Pages: 3
 Lexington County R.O.D. Debra H. Gunter
 DEED 8:Pg 15122:196

FOR RECORDER'S USE

STATE OF SOUTH CAROLINA)
) : TITLE TO REAL ESTATE
 COUNTY OF LEXINGTON)

KNOW ALL MEN BY THESE PRESENTS that I, **Amanda R. Chapman**, (hereinafter the "Grantor") in the State aforesaid for and in consideration of **One Hundred Two Thousand and no/100 (\$102,000.00) Dollars**, to me in hand paid at and before the sealing of these presents, by **Denis Yeo**, (hereinafter whether singular or plural the "Grantee") in the State aforesaid, (the receipt whereof is hereby acknowledged) have granted, bargained, sold and released and by these presents do grant, bargain, sell and release unto the said Grantee, his heirs and assigns:

All that certain piece, parcel or tract of land with the improvements thereon, situate, lying and being in the County of Lexington, State of South Carolina, being shown and designated as Lot No. Fifty-Eight (58) on a Revised Bonded Plat of Phase I, Southwell Subdivision, by Civil Engineering of Columbia, dated September 16, 1992, revised January 17, 1993, and recorded in the ROD Office for Lexington County in Plat Book 259 at page 88; being more particularly described on a plat prepared for Wael Youssef by Cox and Dinkins, Inc., dated April 20, 2004, and recorded in the Office of the ROD for Lexington County in Book 9258 at Page 110. For a more accurate description of said lot reference is made to latter mentioned plat. Being the same property heretofore conveyed to Amanda R. Chapman by deed of Wael Youssef and Hanan Elshekh dated August 21, 2006 and recorded in said ROD's Office in Deed Book 11330 at Page 200.

TMS NUMBER: 001947-01-057

GRANTEE'S ADDRESS: 312 Challedon Court, Columbia, SC 29212

This conveyance is subject to all easements, plat, restrictions, reservations, covenants and permits of record and all easements which a visual inspection of the property would reveal.

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

To Have and To Hold all and singular the premises before mentioned unto the said Grantee, his Heirs, Successors and Assigns forever.

And the Grantor does hereby bind himself and his heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantee and the Grantee's Heirs Successors and Assigns, against the Grantor and the Grantor's heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

Any reference in this instrument to the plural shall include the singular, and vice versa. Any reference to one gender shall include the others; including the neuter. Such words of inheritance shall be applicable as are required by the gender of the Grantee.

WITNESS the Hand and Seal of the Grantor this 12 Day of October in the year of our Lord two thousand eleven and in the two hundred and thirty-sixth year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered
in the Presence of:

Amanda R. Chapman (Seal)
Amanda R. Chapman

Dawn L. Borkowski
Witness

[Signature]
Notary

STATE OF SOUTH CAROLINA)
COUNTY OF)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named Grantor sign, seal and, as his act and deed, deliver the within written deed for the uses and purposes therein mentioned and that s/he with the other witness whose signature appears above witnessed the execution thereof.

Dawn L. Borkowski

SWORN to before me this 12 day of October, 2011.

[Signature] (L.S.)
Notary Public for South Carolina
My Commission Expires:



117-1760 Classification of Property - General Provisions as to Use of Property

117-1760.1. Classification of Companies

117-1760.2. Multi-Use Property

117-1760 Classification of Property - General Provisions as to Use of Property.

The purpose of these regulations are to provide information about classifying companies and property for property tax purposes.

117-1760.1. Classification of Companies.

The major operation of the company shall regulate such classification where the company is involved in more than one operation.

117-1760.2. Multi-Use Property.

Code Sections 12-43-210 to 12-43-310 of the South Carolina Code of Laws provides classifications of property for property tax purposes at different ratios of assessment.

If a particular piece of property is used for more than one purpose, then the value of the total piece of property must be allocated on some equitable basis. Then separate ratios could be applied to arrive at the assessed value of each part. For example a duplex in which the owner resides in one part and rents the other part the value of the duplex must be allocated on an equitable basis, such as square footage.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004.

PETITIONER'S PRE-HEARING STATEMENT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Denis Yeo,	Petitioner	)	Docket No. 19-AJ-17-0111-CC
		)	
		)	
vs.		)	
		)	
		)	PREHEARING STATEMENT
Lexington County Assessor,		)	
		)	
	Respondent	)	
		)	
		)	

1. Nature of the proceeding

The matter is before the South Carolina Administrative Law Court upon request of the Petitioner pursuant to S.C. Code Ann. §12-60-2540 for a contested case hearing against the decision of the Lexington County Assessor to deny the Legal Residence Assessment rate of 4% to a property that is owned by him at 224 Newpark Place (TMS-001947-01-057), contiguous to his legal residence at 228 Newpark Place (TMS-001947-01-056) and is being used by him as an extension of his legal residence.

2. Statutory provision conferring subject matter jurisdiction to the agency and other applicable statutes and regulations

- A. S.C. Code Ann. § 12-60-2540(A) confers subject matter to the Administrative Law Court
- B. S.C. Code Ann. § 12-43-220 (c)(1) which provides in part as follows:
The legal residence and not more than five acres **contiguous thereto**, when **owned totally or in part** in fee or by life estate **and occupied by the owner of the interest** (bold added),..., are taxed on an assessment equal to four percent of the fair market value of the property. (Qualification criteria)

If this property has located on it any rented mobile homes or **residences which are rented or any business for profit** (bold added), this four percent value does not apply to those businesses or rental properties. (Disqualification criteria)
- C. South Carolina Department of Revenue Regulation 117-1760.2
If a particular piece of property is used for more than one purpose, then the value of the total piece of property must be allocated on some equitable basis...For example, a duplex in which the owner resides in one part and rents the other part, the value of the duplex must be allocated on an equitable basis.

3. Issues presented for determination

- A. The pivotal issue is whether a property contiguous to the owner's legal residence can be disqualified from legal residence assessment if it is not rented out nor used as a place of business, and is occupied and used by the owner as he would use his legal residence with the indicia of a legal residence, as though the two properties were one.
- B. Does the house on a contiguous (adjacent) lot under the same ownership have to be connected to the legal residence in order to qualify for the 4% assessment value, or does the property of contiguity alone, apart from connectivity, suffice to meet the requirement of the statute? If connectivity is required, who is to specify the nature of the connection and approve the design?

4. Action requested of the Court

Petitioner requests the Court to find that 224 Newpark Place meets the qualification criteria of the statute and does not run afoul of the disqualification criteria for special assessment and that it be assessed and taxed as a single unit with 228 Newpark Place at the 4% assessment value.

5. Brief summary of facts to be presented at the hearing

Same facts as paragraphs 1-4 (ending with words "...through 2018 tax years.") of Respondent's Prehearing Statement.

The Statute is clear in its qualification criteria for the special assessment, "The legal residence and not more than five acres contiguous thereto, when owned **totally or in part** in fee or by life estate and occupied by the owner of the interest (bold added),..., are taxed on an assessment equal to four percent of the fair market value of the property.

It is equally clear in the only two criteria that would disqualify a property, "If this property has located on it any rented mobile homes or residences **which are rented or any business for profit** (bold added), this four percent value does not apply to those businesses or rental properties."

Respondent's statement that a homeowner is allowed only one legal residence relies on an earlier revision of the Code (Section 12-43-220(c)(1) of the 1976 Code as last amended by Section 24 of Act 431 of 1996, as cited in SC Revenue Ruling #97-4) which states, "....A taxpayer may receive the four percent assessment ratio on only one residence for a tax year." This statement is absent in the latest revision of the Code.

Respondent turns a concession in the Statute for "additional dwellings located on the same property and occupied by immediate family members of the owner of the interest" into a disqualification criterion against the owner of the interest, totally ignoring the principle of contiguity enunciated in the Supreme Court Opinion in *Sonoco Products Company vs. South Carolina Department of Revenue*, Supreme Court Opinion 26502 (2008) that where two properties are contiguous and under the same ownership, they may be assessed as a single unit.

The error in Respondent's interpretation of the Statute in regard to the term "residence" being solely in the singular number is seen in Respondent's assessment of duplexes. Respondent assesses the other side of a duplex at 6% even when it is not rented out nor used as a place of business for profit, but is used by the owner for his own personal ends, on the single residence theory. This is contrary to South Carolina Department of Revenue Regulation 117-1760.2. The very existence of the regulation implies that if the owner does not rent out the other part, the value of the duplex need not be allocated.

6. Summary of motions expected to be raised

None

7. List of proposed witnesses and exhibits

Exhibits:

- A. *Sonoco Products Company vs. South Carolina Department of Revenue. Supreme Court Opinion 26502 (2008)*
- B. South Carolina Department of Revenue Regulation 117-1760.2

8. Statement regarding the necessity for discovery, if any

It will be necessary to discover how the Assessor has treated other situations similar or identical to the Petitioner's. In addition, the assessment and taxation of owner occupied duplexes of both sides is highly relevant to the case at hand and discovery in this area is needed.

9. Estimated length of hearing

4 hours

10. Any dates in the next one hundred and twenty (120) days when not available for a hearing

Wednesday, July 17, 2019

11. Email address where I can be reached

dshyeo@aol.com

RESPONDENT'S PRE-HEARING STATEMENT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

COPY

Denis Yeo,	Petitioner,	)	Docket No. 19-ALJ-17-0111-CC
		)	
		)	
vs.		)	
		)	PRE-HEARING STATEMENT
Lexington County Assessor,		)	
		)	
	Respondent.	)	
		)	
		)	

1. The nature of the proceeding;

Response:

This matter is before the Lexington County Board of Assessment Appeals upon request of the Petitioner pursuant to S.C. Code 12-60-2530. Denis Yeo (Petitioner) contends that his adjoining lot, with one single family residential building located on each parcel, constitute one legal residence and that the Lexington County Assessor's office decision to tax one dwelling at 6% (Tax Map No. 001947-01-057) and the adjoining lot, with dwelling (Tax Map No. 001947-01-056), at the special assessment rate of 4% for the 2018 tax year is erroneous. The Lexington County Department of Assessment and Equalization disagrees with the Petitioner, finding that the owner can only receive the special assessment as Legal Residence on one residence.

2. Statutory provisions(s) conferring subject matter jurisdiction to the agency and other applicable statutes and regulations;

Response:

(A) Subject matter is conferred to the Administrative Law Court pursuant to 12-60-2540 and 1-23-600.

(B) S.C. Code Section 12-43-220 (c)(1) which provides in part as follows:

The legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, and additional dwellings located on the same property and occupied by immediate family members of the owner of the interest, are taxed on an assessment equal to four percent of the fair market value of the property.

3. The issues presented for determination;

Response:

Is the Petitioner entitled to legal residence assessment for two houses owned by the Petitioner on two lots that abut? The Petitioner is currently receiving the legal residence assessment for Tax

Map Number 001942-01-056. The Petitioner requests the legal residence assessment for the Tax Map Number 001947-01-057, which has been denied.

4. The action requested of the Court, if any;

Response:

The Assessor requests that the Court find that Petitioner is entitled to the legal residence assessment on only one house in which he is a resident, which is Tax Map Number 001947-01-056. Therefore, Petitioner requests that the legal residence assessment for Tax Map Number 001947-01-057 be denied.

5. A brief summary of the facts to be presented at the hearing;

Response:

1. Denis Yeo, (The Petitioner), purchased the subject property on October 12, 2011 and the deed was recorded in book 15122 page 196 on October 21, 2011. The subject property is located at 224 Newpark Place, Columbia SC 29212. The Tax Map Number is 001947-01-057.

2. On October 17, 2018, the Petitioner applied for the Special Assessment as Legal Residence for the property located at 224 Newpark Place Columbia SC 29212. TMS#001947-01-057.

3. On November 13, 2018 a letter was sent to the Petitioner denying the Application for Legal Residence.

4. Denis & Swee Choo Yeo purchased the property, next door, located at 228 Newpark Place Columbia SC 29212, TMS#001947-01-056 on July 16, 2010 and the deed recorded in book 14365 page 185 on July 28, 2010. They applied for the Special Assessment as Legal Residence on December 15, 2010 and have been receiving the 4% tax rate from 2011 through 2018 tax years.

S.C. Code Ann. Section 12-43-220(c) (1) (2000) (emphasis added). The statute uses the term "residence" solely in the singular number, referring throughout to "the legal residence," "the residence," and "a residence." Further, the first sentence of this section appears to conceive of the legal residence as a single dwelling when it draws a distinction between the "legal residence" and "additional dwellings located on the same property": the former is always entitled to the 4% assessment, whereas the latter is only so entitled when occupied by immediate family members of the owner of the property. This distinction is consistent with the proposition that the taxpayer can only dwell in one residence at a time, as it is not the taxpayer, but rather a member of his family, who can occupy the "additional dwellings" allowed under the exemption.

The statute also requires the owner or his agent to certify to the following statement:

"Under the penalty of perjury I certify that:

(A) The residence which is the subject of this application is my legal residence and where I am domiciled at the time of this application and that neither I nor any member of my household, claim to be a resident of a jurisdiction other than South Carolina for any purpose; and

(B) That neither I, nor a member of my household, claim the special assessment ratio allowed by this section on another residence.”

6. A summary of any motions expected to be raised at the hearing and the appropriate authority underlying the motion;

Response:

None.

7. A list of proposed witnesses and exhibits;

Response:

Witness: Rick Dolan

Exhibits:

(A) Deeds recorded in ROD Book 15122 at page 196 and Book 14365 at page 185.

(B) Legal residence application for Tax Map Number 001947-01-057.

8. A statement regarding the necessity for discovery, if any;

Response: None.

9. The estimated length of the hearing;

Response: 3 hours

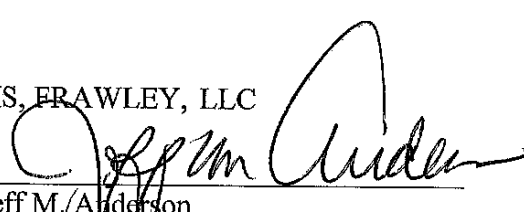
10. Any dates in the next one hundred twenty (120) days when you will not be available for a hearing; and

The second and fourth Tuesday of each month.

11. An email address where I can be reached;

Response: Jeff@oldcourthouse.com

DAVIS, FRAWLEY, LLC

By: 

Jeff M. Anderson

140 East Main Street, Post Office Box 489

Lexington, South Carolina 29072

Phone No.: (803) 359-2512

ATTORNEYS FOR THE RESPONDENT

Lexington, South Carolina

~~May~~ 3 , 2019.
June

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Denis Yeo,	)	DOCKET NO.: 19-ALJ-17-0111-CC
	)	
Petitioner,	)	
	)	
vs.	)	STIPULATION OF FACTS
	)	
Lexington County Assessor,	)	
	)	
Respondent.	)	

1. Denis Yeo owns two adjoining lots in Southwell subdivision and both lots have a house on it.
2. The TMS are 001947-01-056 (purchased in 2010) and 001947-01-057 (purchased in 2011).
(TMS 001947-01-056 is owned by Denis Yeo and Swee Choo Yeo. TMS 001947-01-057 is owned by just Denis Yeo.)
3. TMS 001947-01-056 is receiving the legal residence classification. TMS 001947-01-057 is not receiving the legal residence classification.
4. The TMS in question is 001947-01-057.
5. TMS 001947-01-057 is not used for business purposes and is not being leased. It is used as storage for TMS 001947-01-056.
6. No other immediate family member of Denis Yeo occupies 001947-01-057.

Legal issue to be decided – Does 12-43-220 (C) (1) authorize contiguous lots with houses which are owned by the same person to both receive the legal residence classification if the second house is not used for business purposes and is not leased to a third party but is also not occupied by an immediate family member of the owner of the lots?

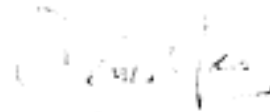
CERTIFICATE OF COUNSEL

RECEIVED

Oct 05 2020

SC Court of Appeals

I certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



Denis Yeo
Pro se