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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Master in Equity

James O. Spence, Master in Equity

Appellate Case No. 2022-001128

Grayson J. Dailey, Appellant,

v.

SC Home Holdings, LLC, Lexington
County and Jim Eckstrom in his official
capacity as Treasurer of Lexington
County, and John Doe, Respondents.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

Civil Action No.: 2020-CP-32-02231

Grayson J. Dailey,)
)
Plaintiff,)

ORDER

vs.)
)

SC Home Holdings, LLC, Lexington)
County, and Jim Eckstrom in his)
official capacity as Treasurer of)
Lexington County, and John Doe,)
)
Defendants.)

SUMMARY

The parties tried this non-jury quiet tax title case April 14, 2022. This case presents four issues. One: Did County properly post the property? Two: Did County properly advertise the sale? Three: Is Purchaser barred from keeping property purchased from original tax sale purchaser by doctrine of unjust enrichment? Four: If sale voided, what is proper remedy?

Plaintiff and Defendants presented various witnesses and evidence. For the reasons stated below, the court rules the tax sale was conducted pursuant to the strict compliance requirements of the tax sale statute and the tax sale is confirmed.

ISSUES

1. Did County properly post the property?
2. Did County properly advertise the property for sale?
3. Was Defendant SC Home Holdings, LLC unjustly enriched by purchasing this property?
4. If tax sale is voided, what is appropriate remedy?

THE COURT FINDS THE FOLLOWING UNDISPUTED FACTS:

1. This property is in Lexington County and is described as 2 acres; more or less as shown, on a plat recorded in Plat book 145-G at page 260 in the ROD for Lexington County and is listed as tax map number 004200-02-038.
2. Case referred to Equity Court by Order filed August 24, 2021.
3. The Parties filed a stipulation of facts that contain all relevant dates and acts. These facts are incorporated into this Order by reference. (See Defendant's Exhibit B)
4. All trial exhibits were admitted without objection.
5. Court finds County properly mailed all statutory notices to Plaintiff. (Stipulation of Facts Defendant's Exhibit A, Tr. p. 54, L.16-23)
6. Court finds County posted notice on Plaintiff's property and near the driveway of the Plaintiffs driveway that the plaintiff testified that he did not use. (Tr. p.46, L. 4-25, p. 47.L.1-25, p. 48., L. 1-15; p.49 L. 12-25; p.50, L. 1-25; p.51, L1-25; p. 51, L. 1-15. Tr. p. 35, L.18-20)
7. Court finds there was road construction on or near the property and that Plaintiff was away for extended times for family emergencies during the time the tax sale mailing and process occurred. (Tr. p. 17, L. 18-25, p. 18, L. 1-2)
8. Court finds Plaintiff's witness moved his mailbox off the road to a location closer to his home pursuant to postal carrier request. (Tr. p. 17, L. 10-17)
9. Court finds Plaintiff witness statement credible that in the past mail had been misplaced in various mailboxes. (Tr. p. 17, L. 18-25, p. 18, L. 1-2)
10. Court finds no evidence that Plaintiff's mail was misplaced in witness's or other person's mailbox(s).
11. Court finds no credible testimony or evidence that either Plaintiff or his witness never received any mail.
12. Court finds no postal carrier witness appeared to confirm, explain or deny any alleged mail delivery issues.
13. Court finds undisputed fact Plaintiff was at all relevant times, a knowledgeable businessperson who owned properties in Lexington County and understood that he had to pay taxes on property. (Tr. p. 29, L. 13-16)
14. Court finds Plaintiff's practice was to pay his tax bill when he received a notice or bill. (Tr. p. 40, L. 17-23)

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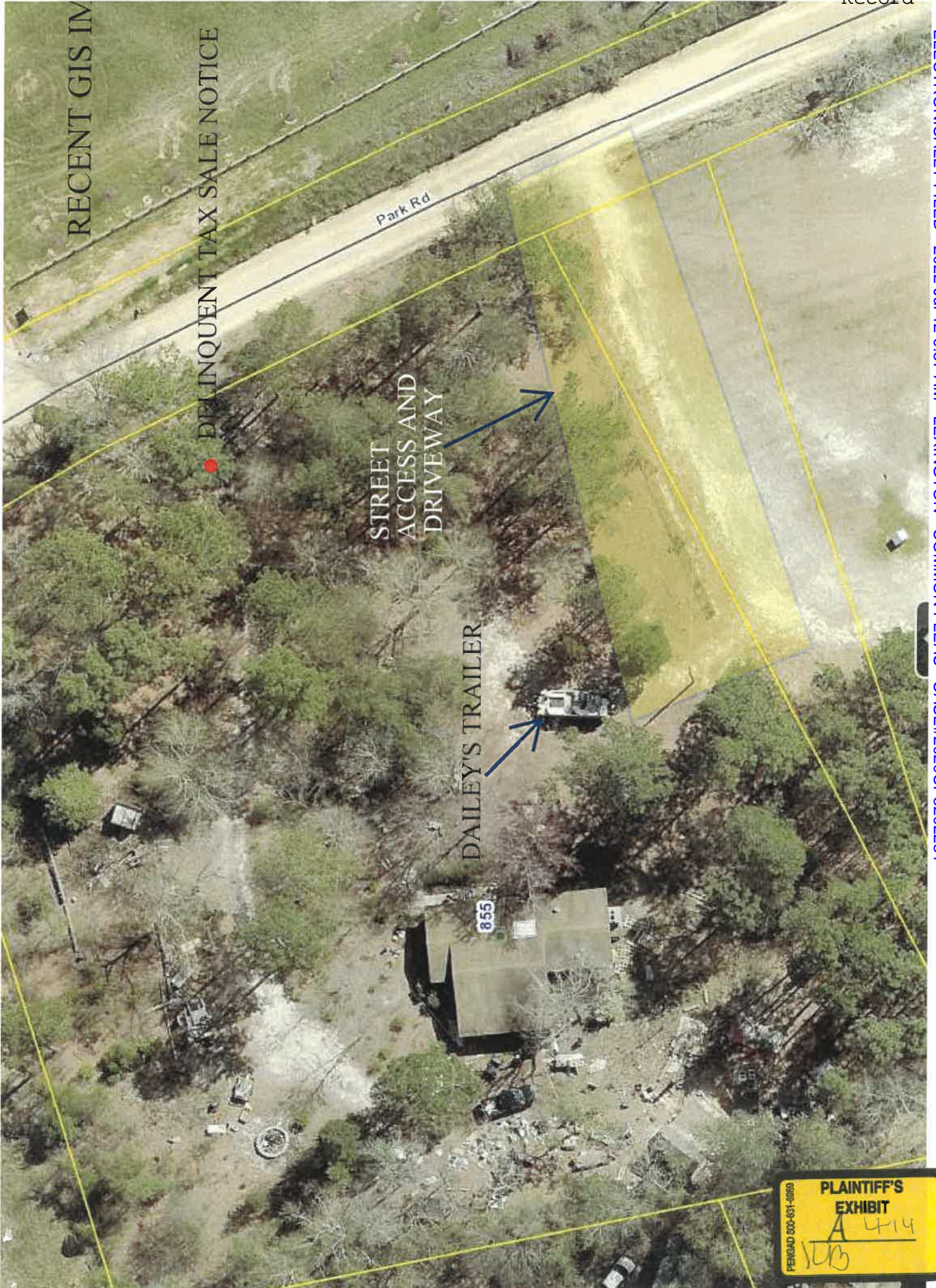
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15. Court finds Plaintiff learned of delinquent tax bills on both mobile home and land prior to expiration of redemption period and that he then contacted County of Lexington to discuss. (Tr. p. 60, L. 6-25, Tr. p. 61, L. 1-5)
16. The Plaintiff testified that he had other properties in Lexington County and that he was familiar with the tax billing process and knew that he should receive a tax bill for both the mobile home and real property. (Tr. p.44, L. 2-20).
17. Further, Plaintiff testified that he never inquired about a tax bill after the purchase of the property in March 2017 and that Plaintiff went two years and 8 months without inquiring about the property taxes. (Tr. p. 43, L. 17-25, Tr. p. 44, L1-20)
18. The Court finds Plaintiff misunderstood the proper redemption date and failed to timely redeem the property(s) as required by law. (Tr. p. 33, L. 24-25; Tr. p. 34, L. 1-12).
19. The Court did not rely upon nor consider the findings in Paragraphs 15 -18 to determine if County strictly complied with statutory construction. Plaintiff correctly notes that actual notice by defaulting taxpayer does not excuse strict compliance with statute.
20. Court finds FNADR, LLC was original tax sale purchaser that paid \$8,000.00 but thereafter assigned its bid to SC Home Holdings, LLC and the tax deed was recorded on April 15, 2020 in Record Book 20866 at Page 2992.
21. Defendant SC Home Holdings, LLC was assigned the subject property together with other properties from the original tax sale purchaser in a package of other properties for FNADZ, LLC. (Tr. p. 63, L. 1-25, Tr. p. 64, p. 64, L. 1)

DISPUTED FACTS/POSTING

22. The parties dispute whether the property was properly posted.
23. Visualizing the subject and surrounding property is essential to analysis of conspicuous sign posting.
24. Plaintiff's property is a two (2) acre tract bounded on the east by Park Road shown on Plat Book 145-G at Page 260 and further identified as identified as 855 Park Road, Lexington, S.C. (TMS #4200-02-038.)
25. Plaintiff's witness (Branham) is located adjacent/south to Plaintiff's property and identified as 847 Park Road, Lexington, S.C.

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RECENT GIS IM

DELINQUENT TAX SALE NOTICE

STREET ACCESS AND DRIVEWAY

DAILEY'S TRAILER

Park Rd

855

PLAINTIFF'S EXHIBIT A 414 SUB

26. Plaintiff's exhibit E (A 4-14) is a clear depiction of the property. The Red dot located on the driveway road from Park Road shows a long driveway coming off Park Road and going back to the home.

27. Plaintiff nor his neighbor witness used the posted driveway because they both used neighbor's driveway to the South side of Plaintiff's property. The neighbor's driveway clearly is located on the neighbor's property as it runs down the neighbor's property until it curves north in the general direction of where Plaintiff's trailer is located.

28..Plaintiff argues property was not properly posted since the noticed was not posted near the neighbor's property that Plaintiff used to access his property in a conspicuous place since he used his neighbor's driveway to access his property. (p. 31, L2-14.)

29. SC. Code Section 12-51-40 (c) provides as follows:

c) If the "certified mail" notice has been returned, take exclusive physical possession of the property against which the taxes, assessments, penalties, and costs were assessed by posting a notice at one or more conspicuous places on the premises, in the case of real estate, reading: "Seized by person officially charged with the collection of delinquent taxes of (name of political subdivision) to be sold for delinquent taxes", the posting of the notice is equivalent to levying by distress, seizing, and taking exclusive possession of it, or by taking exclusive possession of personalty. In the case of personal property, the person officially charged with the collection of delinquent taxes is not required to move the personal property from where situated at the time of seizure and further, the personal property may not be moved after seized by anyone under penalty of conversion unless delinquent taxes, assessments, penalties, and costs have been paid. Mobile homes are considered to be personal property for the purposes of this section unless the owner has de-titled the mobile home according to Section 56-19-510.

30. The certified mail notice of the tax sale to the Plaintiff was returned "unclaimed" so that posting of the property was required. (Stipulation of Facts #7).

31. The statute does not require posting on the nearest public road.

32. Statute requires posting at one or more conspicuous places on the premises. The evidence was that the posting was made on a tree near the driveway to the subject property and on the premises of the property that was sold for taxes. (Tr. p. 46, L. 1-23, Tr. p. 50, L. 11-25, Tr. p. 51, L. 1-16; Plaintiff's Exhibit E)

33. There is no evidence that the roadwork affected the posting of the notice on the property.

34. The notice could not have been posted on the neighbor's driveway-located on the opposite side of the lot from the street driveway-- as that would not have been on the premises of the tax sale property as required by the statute.

35. There was no evidence presented that the county had knowledge of the Plaintiff's use of the neighbor's driveway. (Tr. p. 50, L. 20-23)

36. In addition, the mobile home on the subject property was also sold for taxes and the notice for the mobile home was posted on the mobile home as testified and as shown by Defendant Exhibit A. The Plaintiff testified that he never saw the notice posted on the mobile home. (Tr. p. 37, L13-19, p51, L.22-25, p. 52, L1-17) which was contradicted by the testimony of the deputy delinquent tax collector, Brett Finley. (Tr. p. 51, L. 22-25, Tr. p. 52, L.1-17) The testimony from Mr. Finley was that the Plaintiff called and complained about the notice posted on his mobile home. (Tr. p. 51, L. 23-25, Tr. p. 52, L. 1-17)

37. Plaintiff admitted on cross-examination that had he driven down his driveway off the public road he would have seen the posted sign (Tr. P. 35 and 36):

Q. Mr. Dailey, the driveway that you don't use, was the posting near that driveway of the property?

A. Yes, sir. According to this, yes, yes, sir.

Q. Okay.

A---what the time frame was.

Q. Okay.

A. It- yeah. If I'd have driven into the driveway, I would have seen it; but I don't know during the time frame 'cause I was spending a lot of time in Hartsville back and forth to my parents.

Q. But that's—but the driveway that you didn't use was your actual driveway, not someone else's driveway. That was—

A. Yes, sir.

Q---your driveway.

A. **Yes.**

38. This court finds that the posting of the tax sale notice was posted in a conspicuous place on the premise near the driveway of the tax sale property which should have given Plaintiff notice of the tax sale of the subject property had he used his own driveway and not his neighbor's driveway.

DISPUTED FACTS/ADVERTISING

39. The parties dispute whether advertisement was proper. Plaintiff claims the advertisement was defective since the Plaintiff's name was not listed alphabetically in the tax sale notice. (Tr. p. 10, L. 4-22)

40. Defendants argue advertising was proper because only the defaulting taxpayer's name had to be posted in the newspaper according to SC Code Section 12-51- 40 (d) and that pursuant to SC Code section 12-37-610, the defaulting taxpayer was Regena Y. Quattlebaum since she was the owner at the beginning of the tax year. Nevertheless, the defendant, County included both the beginning of the tax year owner and the Plaintiff as a purchaser during the tax year in the newspaper advertisement notice. (Stipulation of facts #9).

SC Code 12-51-40 (d) provides as follows:

The property must be advertised for sale at public auction. The advertisement must be in a newspaper of general circulation within the county or municipality, if applicable, and must be entitled "Delinquent Tax Sale". **It must include the delinquent taxpayer's name** and the description of the property, a reference to the county auditor's map-block-parcel number being sufficient for a description of realty. The advertising must be published once a week before the legal sales date for three consecutive weeks for the sale of real property, and two consecutive weeks for the sale of personal property. All expenses of the levy, seizure, and sale must be added and collected as additional costs, and must include, but not be limited to, the expenses of taking possession of real or personal property, advertising, storage, identifying the boundaries of the property, and mailing certified notices. When the real property is divisible, the tax assessor, county treasurer, and county auditor may ascertain that portion of the property that is sufficient to realize a sum upon sale sufficient to satisfy the payment of the taxes, assessments, penalties, and costs. In those cases, the officer may partition the property and furnish a legal description of it.

SC Code Section 12-37-610 provides as follows:

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054.85	PRETTY GOOD PROPERTIES INC	119 MAC EDISTO RD	2	004638-03-008	2018/2017	3362.32
572.19	PRETTY GOOD PROPERTIES INC	304 BOYANA CT	4	005746-06-008	2018/2017	2430.75
1749.08	PRICE, ALYN L	421 WHITE HORSE RD	2	013200-02-117	2018/2017	484.81
163.47	PRICE, CARLA & TOMMIE	2341 CALKS FERRY RD	1	007822-05-009	2018/2017	2416.81
	PRICE, JAMES D	282 BOLLING SPRINGS RD	1	008530-01-014	2018/2017	888.07
535.51	PRICE, KATHLEEN M NYKA IRMA JOLLEY	OLD LEXINGTON RD	1	008700-01-004	2018/2017	2091.99
915.82	PRICE, PERRY G	1904 CHATTLEBAUM RD	1	008600-05-011	2018/2017	2014.43
326.4	PRICE, SHIRLEY JOHNS	508 SHERWOOD DR	3	003000-01-026	2014/2017	694.35
21.70	PRICE, TRAVIS	218 MANGO DR	1	008590-02-070	2018/2017	214.18
16.58	PRINCETON ROAD LAND HOLDINGS LLC	LAZY BROOK DR	1	007419-01-028	2018/2017	532.8
20.77	PROCTOR SR, RAY	ALERY LN	2	008818-01-018	2018/2017	789.17
14.78		CHOWN POINT RD	5	000600-01-159	2003/2017	736.68
11.06	PROLISE, JENNIFER	170 MACEDON DR	5 FD	002722-01-018	2018/2017	128.83
14.45	PRUITT, BERNADE	EDWARD HWY	1	006538-01-070	2015/2015	1102.41
14.39	PUCKETT, RAYMOND EARL	CLIFF RD	1	010818-01-004	2014/2017	1679.07
22.75	PUGH, PAT F	2940 CAMELIA ST	1	010000-04-032	2016/2017	1000.07
10.22	PULVER, JULIA	191 LANTERN HILL CIR	1	012700-02-173	2012/2017	251.49
11.75	PURDE, ZETTAMAE	2435 GLENH RD	2C	005735-18-010	2018/2017	1132.70
15.91	QUATTLEBAUM, ESSIE	107 LANTERN HILL CIR	1	003620-01-013	2014/2017	928.85
19.29	QUATTLEBAUM, REGINA Y	107 LANTERN HILL CIR	2	008000-05-021	2018/2017	2363.18
19.84		865 PARK RD	3B	007827-01-013	2018/2017	872.59
19.87	QUATTLEBAUM, ROBERT JOSEPH R & W LLC	NOW OWNED BY DAILEY GRAYSON SENTINEL RD	1	004200-02-038	2018/2017	1084.08
19.3		189 HARRISON CIR	3	003300-04-021	2018/2017	161
2.28	RABON, ROGER & SHIRLEY	NOW OWNED BY HARRISON, LYRIC	2	007937-03-028	2018/2017	6532.34
1.25	RAGIN, BERNICE TILLMAN	317 STANFORD RD	1	008200-04-042	2018/2017	982.12
1.29	RAINES, GEORGE D	1741 MIDDLE ST	2C	005784-03-004	2018/2017	1714.14
1.29		248 CULLER RD	4	012200-02-076	2018/2017	1618.23
1.57		NOW OWNED BY BARNHART, MELANIE F				
1.51	RAINES, PRESTON H	18628 OLD BARNWELL RD	1	008606-04-062	2018/2017	1085.47
1.54	RAJCHADEK, BOB & JEANNE (NOW HALL)	689 FALLAW RD	4	011000-01-168	2018/2017	202.84
1.56	RAN PROPERTY HOLDINGS ASSOCIATION L	119 LAMER AVE	2	007727-01-029	2016/2017	422.2
1.53	RAMAN, MISTY	2-A ALLISON CT	2C	005721-14-002	2018/2017	1488.98
1.53	RAMAN, MISTY	C-10 BRADLEY CT	2C	005721-15-010	2018/2017	1488.98
1.53	RAMAN, MISTY S	ST. ANDREWS RD	5FD	001920-02-012	2019/2017	2259.88
1.53	RANDOLPH, LASHAYNA D	107 BENTLEYSS LN	2	007000-02-007	2018/2017	1018.82
1.53	RANK, EDDIE R & SALLEE, CODY	201 CULLER RD	4	012200-02-001	2018/2017	1018.56
1.52	RANKERSON, SHEILA M	607 MAC EDISTO RD	4	014100-02-060	2018/2017	818.13
1.52	RAWLS, CONSTANCE R	1106 KITTY HAWK DR	2S	005801-02-005	2018/2017	287.78
1.52	RAWLS, BANNING S	140 HILL TOP RD	1	003719-03-004	2018/2017	812.86
1.52	RAWLS, EDDIE DEAN	LEE GUNTER RD	1	012500-03-071	2018/2017	148.47
1.52	RAWLS, GLORIA W HENET	RHETT RD	5 FD	002889-01-029	2018/2017	986.63
1.52	RAY, ALLEN	2662 POND BRANCH RD	1	008419-01-012	2018/2017	1618.87
1.52	RAY, ALLEN	2658 POND BRANCH RD	1	008419-01-082	2018/2017	1127.87
1.52	RAY, ALLEN	2670 POND BRANCH RD	1	008419-01-081	2018/2017	1258.74
1.52	RAY, ALLEN K	VALLEY STREAM RD	1	009400-01-081	2018/2017	578.78
1.52	RAY, CYNTHIA A	129 PATRICK DR	1	008630-06-016	2018/2017	948.07
1.52	RAY, REGINA B	214 WOODBRIEF CIR	2	003819-01-015	2017	234.98
1.52	RAY, SANDRA D	107 CANADIAN RD	1	005824-01-005	2018/2017	3718.87
1.52	RATER, JOHN	180 TOSHA ST	4	006800-01-024	2018/2017	1333.8
		NOW OWNED BY SUGAN, PAUL D				
	READY, DAVID ALLEN	8094 FAIRVIEW RD	3	008300-01-012	2018/2017	1778.18
	READY, DAVID ALLEN	6321 OLD TWO NOTCH	3	008200-03-004	2018/2017	574.8
	REAVES, ROBERT EREY	214 BROWNING CT	1	005588-01-040	2018/2017	571.34
	RECA LIMITED PARTNERSHIP	346 BELTLINE AVE	3B	005819-03-002	2018/2017	1702.38
	RECA LIMITED PARTNERSHIP	1204 MARCELLUS RD	1	005800-02-179	2018/2017	702.18
	RECA LIMITED PARTNERSHIP	126 MACEDON DR	1	010818-01-128	2018/2017	2917.44
	REDMOND, HAMPTON C JR LIFE ESTATE	REDMOND MILL RD	4	013000-05-027	2018/2017	128.79
	REDMOND, HAMPTON C JR LIFE ESTATE	REDMOND MILL RD	4	013000-05-029	2018/2017	323.2
	REDMOND, HAMPTON C JR LIFE ESTATE	REDMOND MILL RD	4	013000-05-058	2018/2017	116.08
	REDMOND, NANCY S	BLACKVILLE RD	4	011800-02-081	2018/2017	426.65
	REDMOND, NANCY S	281 SWANSEA RD	4S	012800-01-089	2018/2017	884.73
	REDMOND, NANCY S	432 J K BUCKER RD	4	013720-01-001	2018/2017	3157.88
	REDMOND, ROBERT WAYNE & TRACY JAY	123 MILLERS BRANCH RD	5	000800-05-034	2018/2017	2897.82
	REED, JOSEPH MARVIN	280 CALDON RD	4	013600-01-012	2018/2017	749.25
	REED, JULIA	918 POPLAR ST	2C	005749-11-031	2018/2017	1518.12
	REED, LEONITA E & WILSON, GLADYS J	2305 LEE ST	2C	005727-05-018	2018/2017	1902.4
	REED, WANDA HOPE & SIMPKINS, RAYLAT	304 LANE ST	3B	005817-04-083	2018/2017	1087.89
	REESE, PENNY FULLAM	1130 BLAKELY CT	2S	005730-05-013	2018/2017	3319.89
	REEVES, RUTH	324 & 332 TOMADAMS BS	1	010500-02-031	2018/2017	1283.01
	REGATA ROAD LAND INVESTORS LLC	307 REGATA RD	5 FW	002618-01-008	2018/2017	13084.8
	REGATA ROAD LAND INVESTORS LLC	231 REGATA RD	5 FW	002618-01-001	2018/2017	3088.73
	REICHARD, BRAD R & MICHELLE R	WOODRIDGE CT	3B	008088-01-029	2018/2017	108.82
	RETECH LLC	152 HYLER RD	1	005000-02-008	2018/2017	18621.57
	REYNOLDS, KENT K	GREENVALLEY LN	5 FD	003631-08-001	2018/2017	318.18
	REYNOLDS, ESTER T	N PARSON ST	2W	004643-12-022	2018/2017	544.28
	REYNOLDS, JOHN T	540 REEDY O SMITH RD	1	007300-08-048	2018/2017	266.84
	REYNOLDS, SHARON M	807 HOLLAND AVE	2C	005788-10-808	2018/2017	4831
	REYNOLDS, THEODORE R	650 CLAY HILL RD 864	1	010808-05-045	2018/2017	1074.71
	RHODES, BERNETHA	1414 POND ST	2C	005765-05-001	2018/2017	854.43
	RHODES, WILLIAM D & DONNA R	1319 BUSBEE RD	2	008000-05-081	2018/2017	579.89
	RICE BOB REALTY INC	300 TRIMBER RIDGE DR	2W	003715-03-010	2018/2017	7294.4

SECTION 12-37-610. Persons liable for taxes and assessments on real property. Each person is liable to pay taxes and assessments on the real property that, as of December thirty-first of the year preceding the tax year, he owns in fee, for life, or as trustee, as recorded in the public records for deeds of the county in which the property is located, or on the real property that, as of December thirty-first of the year preceding the tax year, he has care of as guardian, executor, or committee or may have the care of as guardian, executor, trustee, or committee.

41. The evidence is that both the 12-37-610 delinquent taxpayer and the Plaintiff's names were listed in the newspaper advertisement, together with a street address column, a Tax Map number Column, and an amount due column.. The court finds that the statutory advertisement notice requirement was met and exceeded by also listing the Plaintiff in the newspaper advertisement.

DISPUTED FACTS/ UNJUST ENRICHMENT

42. Plaintiff argues price paid by Plaintiff results in unjust enrichment because the subject property was purchased by the Plaintiff for \$68,000 and it was sold at the tax sale for \$8,000. (Tr. p. 71, L. 15-25)

43. A claim for unjust enrichment requires three elements: (1) Plaintiff conferred a benefit to defendant (2) defendant knowingly and voluntarily accepted the benefit and (3) it was unjust for defendant to retain that benefit without paying its value.¹¹ See *Williams Carpet Contractors, Inc. v. Shelly*, 734 S.E. 2d 177 (S.C. Ct. App. 2012).

44. This court finds that Plaintiff has not met any of the elements for unjust enrichment. The Plaintiff has not cited any case that has held that a tax sale should be overturned because of the law of unjust enrichment.

45. Tax sales are a government function fundamentally different from other public sales (such as a foreclosure sale) between two private parties.

CONCLUSIONS OF LAW

1. An action to set aside a tax sale lies in an action in equity. *King v James*, 694 S.E.2d 35, 39 (Ct. App. 2010)

2. "A tax execution is not issued against the property; it is issued against the defaulting tax[]payer." *Rives v. Balsa*, 325 S.C. 287, 293, 478 S.E.2d, 878, 881 (Ct. App. 1996). "Due process of law requires some sort of notice to a landowner before he is deprived of his property." *Id.* ". Tax sales must be conducted in strict compliance with statutory requirements." *In re Ryan Inv. Co.*, 335 S.C. 392, 395, 517 S.E.2d 692, 693 (1999). "[A]ll requirements of the law leading up to tax sales [that] are intended for the protection of the taxpayer against surprise or the sacrifice of his property are to be regarded [as] mandatory and are to be strictly enforced." *Forfeited Land Comm'n of Bamberg County v. Beard*, 424 S.C.137, 145, 817 S.E.2d 801, 804 (Ct. App. 2018) (alterations in original) (quoting *Donohue v. Ward*, 298 S.C. 75, 83, 378 S.E.2d 261, 265 (Ct. App. 1989)). "Failure to give the required notice [of a tax sale] is a fundamental defect in the tax proceedings which renders the proceedings absolutely void." *Rives*, 325 S.C. at 293, 478 S.E.2d at 881. *Scott v McAlister et al.*, Ct App. Opinion No. 5897 Filed March 9, 2022.
3. In addition to the code sections already referenced (12-51-40 b & c), Section 12-51-40 requires the following additional pretax sale requirements:

SECTION 12-51-40. Default on payment of taxes; levy of execution by distress and sale; notice of delinquent taxes; seizure of property; advertisement of sale.

After the county treasurer issues his execution against a defaulting taxpayer in his jurisdiction, as provided in Section 12-45-180, signed by him or his agent in his official capacity, directed to the officer authorized to collect delinquent taxes, assessments, penalties, and costs, requiring him to levy the execution by distress and sale of the defaulting taxpayer's estate, real or personal, or both, or property transferred by the defaulting taxpayer, the value of which generated all or part of the tax, to satisfy the taxes, assessments, penalties, and costs, the officer to which the execution is directed shall:

(a) On April first or as soon after that as practicable, mail a notice of delinquent property taxes, penalties, assessments, and costs to the defaulting taxpayer and to a grantee of record of the property, whose value generated all or part of the tax. The notice must be mailed to the best address available, which is either the address shown on the deed conveying the property to him, the property address, or other corrected or forwarding address of which the officer authorized to collect delinquent taxes, penalties, and costs has actual knowledge. The notice must specify that if the taxes, penalties, assessments, and costs are not paid, the property must be advertised and sold to satisfy the delinquency.

(b) If the taxes remain unpaid after thirty days from the date of mailing of the delinquent

notice, or as soon thereafter as practicable, take exclusive possession of the property necessary to satisfy the payment of the taxes, assessments, penalties, and costs. In the case of real property, exclusive possession is taken by mailing a notice of delinquent property taxes, assessments, penalties, and costs to the defaulting taxpayer and any grantee of record of the property at the address shown on the tax receipt or to an address of which the officer has actual knowledge, by "certified mail, return receipt requested-restricted delivery" pursuant to the United States Postal Service "Domestic Mail Manual Section S912". If the addressee is an entity instead of an individual, the notice must be mailed to its last known post office address by certified mail, return receipt requested, as described in Section S912. In the case of personal property, exclusive possession is taken by mailing the notice of delinquent property taxes, assessments, penalties, and costs to the person at the address shown on the tax receipt or to an address of which the officer has actual knowledge. All delinquent notices shall specify that if the taxes, assessments, penalties, and costs are not paid before a subsequent sales date, the property must be duly advertised and sold for delinquent property taxes, assessments, penalties, and costs. The return receipt of the "certified mail" notice is equivalent to "levying by distress".

4. The Plaintiff has only challenged the requirements of sections 12-51-40 (c) & (d) have not been met as has been set forth.
5. The County proved strict compliance with posting because the posting was in a conspicuous place near the driveway for the subject property.
6. The County proved strict compliance with advertising because the delinquent taxpayer as determined by SC Code Section 12-37-610 was listed in the newspaper advertisement, which is all that the 12-51-40 (d) requires. However, in addition, the defendant county gave additional notice to the Plaintiff who was also listed in the newspaper advertisement.
7. Plaintiff's argument that the advertising was defective because skimming the notice might not reveal all the information is not persuasive.
8. Plaintiff has no cause of action for unjust enrichment since Plaintiff fails to meet the elements of unjust enrichment as set forth herein.

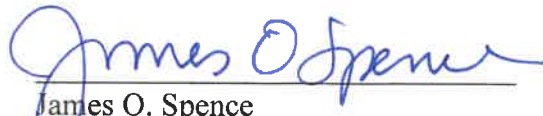
Based upon all the above findings and conclusions,

IT IS ORDERED THAT:

1. The tax sale challenge by Plaintiff is denied and the tax sale is hereby confirmed for Defendant SC Home Holdings, LLC.

IT IS SO ORDERED.

Date: July 12, 2022


James O. Spence
Master in Equity for Lexington County

ELECTRONICALLY FILED - 2022 Jul 12 9:57 AM - LEXINGTON - COMMON PLEAS - CASE#2020CP3202231

Common Pleas

CASE HISTORY FOR CASE 2020CP3202231

Grayson J Dailey VS Sc Home Holdings Llc , defendant, et al

FILED DATE: 6/25/2020

CASE TYPE: CP/Real Prop/Other 499

STATUS: Referred To Master

ASSIGNED JUDGE: Clerk Of Court C P, G S, And Family Court

ELECTRONICALLY FILED - 2022 Jul 12 9:57 AM - LEXINGTON - COMMON PLEAS - CASE#2020CP3202231

CASE PARTIES:

Plaintiff Dailey, Grayson J
855 Park Rd., Lexington, SC 29072

Defendant Sc Home Holdings Llc
131 Morninghill Dr., Columbia, SC 29210-7561

Plaintiff Attorney LaLima, William James
1635 Sunset Blvd., West Columbia, SC 29169

Defendant Doe, John

Defendant Jim Eckstrom Lexington County Treasurer
212 South Lake Drive Suite 201, Lexington, SC 29072

Defendant Lexington County

Defendant Attorney Anderson, Jeffrey M.
PO Box 489, Lexington, SC 290710489

Defendant Attorney Catoe, Dennis Wayne
200 Outlet Pointe Blvd., Columbia, SC 29210

Mediator - Primary Pauley, Michael Stephen
PO Box 2189, 711 East Main Street, Suite E, Lexington, SC 290712189

Alternate Mediator McGee, Thomas Wm. III
1320 Main Street, 17Th Floor, Columbia, SC 29201

CASE HISTORY FOR CASE 2020CP3202231

Dailey, Grayson J

855 Park Rd.

Lexington, SC 29072

Age: Unknown
DL#:

DOB: Unknown
SSN: 000-00-0000

Print Date: 04/15/2022
Print Time: 3:03:51PM
Requested By: C32GFAIRCL

CaseHistory.rpt V6.1

Page 1 of 2

ELECTRONICALLY FILED - 2022 JUN 12 9:57 AM - LEXINGTON - COMMON PLEAS - CASE#2020CP3202231

CASE HISTORY FOR CASE 2020CP3202231

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Action: Summons & Complaint				
Civil Filing Fee County 44%/100%	\$44.00	\$0.00	\$44.00	99
Civil Filing Fee State 56%	56.00	0.00	56.00	99
SCJD Filing Fee Proviso \$50 / \$25	50.00	0.00	50.00	99
Action: Order/Order Cover Sheet \$25.00				
Motion/Order Filing Fee \$25	25.00	0.00	25.00	99
Action: Order/Order Cover Sheet \$25.00				
Motion/Order Filing Fee \$25	25.00	0.00	25.00	99
Total:	\$200.00	\$0.00	\$200.00	

DATE	TIME	EVENT DESCRIPTION
6/25/2020	1:04 PM	Filing recorded: Summons & Complaint
6/25/2020	2:57 PM	Received payment of \$150 from William James LaLima for Grayson J Dailey. Printed receipt #247288.
8/4/2020	2:40 PM	Filing recorded: Service/Affidavit Of Service on Jim Eckstrom Lexington Count
8/4/2020	2:40 PM	Filing recorded: Service/Affidavit Of Service on Lexington County
8/4/2020	2:40 PM	Filing recorded: Service/Affidavit Of Service on Sc Home Holdings Llc
8/4/2020	2:46 PM	Filing recorded: NEF(08-04-2020 02:40:24 PM) Service/Affidavit Of Service
8/13/2020	1:01 PM	Filing recorded: Service/Acceptance Of Service on Grayson J Dailey
8/13/2020	1:04 PM	Filing recorded: NEF(08-13-2020 01:01:56 PM) Service/Acceptance Of Servic...
1/21/2021	1:04 PM	ADR/Alternative Dispute Resolution (Workflow)
1/21/2021	9:56 AM	Filing recorded: NEF(01-21-2021 09:56:41 AM) ADR/Notice of ADR
1/21/2021	12:00 AM	EFILEAUTO recorded the following Case Note: ADR/Notice of ADR
4/21/2021	9:56 AM	ADR/Notice of ADR
8/23/2021	11:21 AM	Received payment of \$25 from William James LaLima for Grayson J Dailey. Printed receipt #260343.
8/23/2021	11:06 AM	Filing recorded: Order/Order Cover Sheet \$25.00
8/23/2021	11:21 AM	Filing recorded: NEF(08-23-2021 11:06:53 AM) Proposed Order/Referred to M...
8/24/2021	8:27 AM	Order/Referred to Master or Special Referee
8/24/2021	8:28 AM	Filing recorded: NEF(08-24-2021 08:27:35 AM) Order/Referred to Master or ...
8/24/2021	12:00 AM	EFILEAUTO recorded the following Case Note: Order/Referred to Master or Special Referee
8/24/2021	12:00 AM	EFILEAUTO recorded the following Case Note: Master In Equity referral request generated for 32003 - Master in Equity
9/23/2021	12:00 AM	C32LSHEALY recorded the following Case Note: Case accepted by Master in Equity Court Agency 32003: Master in Equity
12/17/2021	12:00 AM	C32KWOODLI recorded the following Case Note: Payment Waived - Waiver Code "WR"
12/17/2021	12:00 AM	C32KWOODLI recorded the following Case Note: Master/Order/Other
12/17/2021	3:05 PM	Filing recorded: Order/Order Cover Sheet \$25.00
12/17/2021	3:30 PM	Filing recorded: NEF(12-17-2021 03:05:57 PM) Proposed Master/Order/Other
12/17/2021	4:01 PM	Master/Order/Other
12/17/2021	4:01 PM	Filing recorded: NEF(12-17-2021 04:01:45 PM) Master/Order/Other
12/17/2021	3:23 PM	Received Non-Monetary payment of \$25 from William James LaLima for Grayson J Dailey. Printed receipt #264163.
4/15/2022	9:18 AM	Master/Order/Other
4/15/2022	9:18 AM	Filing recorded: NEF(04-15-2022 09:18:10 AM) Master/Order/Other
4/15/2022	12:00 AM	C32MHUGGIN recorded the following Case Note: Master/Order/Other

Print Date: 04/15/2022
 Print Time: 3:03:51PM
 Requested By: C32GFAIRCL

CaseHistory.rpt V6.1

Page 2 of 2

1 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
2 COUNTY OF LEXINGTON) CASE NO.: 2020-CP-32-02231
3
4 GRAYSON J. DAILEY,)
5 Plaintiffs,)
6 vs.) Hearing
7 SC Home Holdings, LLC,) APRIL 14, 2022
8 Lexington County, and Jim)
9 Eckstrom in his official)
10 capacity as Treasurer of)
11 Lexington County, and John)
12 Doe Defendants,)
13 _____)

14
15 The within hearing, reported by Kathryn B Bostrom,
16 Court Reporter and Notary Public in and for the State of
17 South Carolina; pursuant to Rule 30 of the South Carolina
18 Rules of Civil Procedure; said hearing was taken at the
19 Lexington County Master In Equity, Lexington, South
20 Carolina, on Thursday, the 14th day of April, 2022,
21 commencing at the hour of 11:00 a.m.
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APPEARANCES:

Before the Honorable James O. Spence

Representing the Plaintiff:

William J. LaLima, Esquire

LaLima Law Firm

1635 Sunset Boulevard

West Columbia, South Carolina 29169

Representing SC Home Holdings:

Dennis Wayne Catoe, Esquire

Catoe Law

200 Outlet Pointe Boulevard

Columbia, South Carolina 29210

Representing Lexington County:

Jeff M. Anderson, Esquire

Davis Frawley

140 East Main Street

Lexington, South Carolina 29072

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1 EXHIBITS

2 Plaintiff Exhibit No. A (4 page) 19

3 (Photo)

4 Plaintiff Exhibit No. B (1 pages) 21

5 (Photo)

6 Plaintiff Exhibit No. C (1 page) 22

7 (Photo)

8 Plaintiff Exhibit No. D (1 pages) 24

9 (Photo)

10 Plaintiff Exhibit No. E (2 page) 49

11 (photos)

12 Defendant Exhibit No. A (1 page) 42

13 (Photo)

14 Defendant Exhibit No. B (4 pages) 55

15 (Stipulation)

16

17 Court Reporter's Legend:

18 dashes [--] Intentional or purposeful]

19 interruption

20 [ph] Denotes phonetically written

21 [sic] Written as said

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P-R-O-C-E-E-D-I-N-G-S

THE COURT: All right. We're here on Daily vs. SC Home Holdings, et al. It's 2020-CP-32-02231. Pursuant to order of reference August 24, 2021. This is an action regarding a tax title. Plaintiff is represented by Mr. Lalima. Defendant Home -- SC Home Holdings is represented by Mr. Catoe. County of Lexington is represented by Mr. Anderson. Before we go to do brief openings, I want to first thank Madam Court Reporter for showing up at last minute. So thank you, ma'am. Next thing is for the folks here who are witnesses, just a couple of rules. You'll be sworn and you'll come up in sit in this area right here. Mr. Jones will swear you. Remember that if your attorney or another attorney makes an objection, that everybody needs to stop talking because Madam Court Reporter can only take down one person talking at a time. So make sure everybody stops talking and everybody will have an opportunity to speak. While the trial is going on, I'm going to be up here typing because I have bad handwriting. So I don't play poker, I don't even have email up here. So what I'm doing is I'm typing my script as we go

1 through it. After the trial is over, your client
2 -- your attorneys will meet with you very briefly
3 outside, and then to -- to basically say, "This
4 is what we'll do next." You can take off. They
5 will come back in and then we will get dates for
6 how we're going to do the proposed orders, and
7 the attorneys and I will go through specifically
8 what facts they're asking me to decide, the
9 disputed facts and the legal issues that are
10 outstanding. Final thing is if I'm typing and
11 I'm concentrating, I have been told that I look
12 angry. I'm not. I'm concentrating. I'm sorry
13 it takes a lot of facial muscles for me to
14 concentrate. So don't take -- don't read into
15 anything on how much I type when your people are
16 talking or that other people are talking. It's
17 my typing ability. All right. And any --
18 anything from the attorneys before we do brief
19 openings?

20 MR. LALIMA: I believe we do have a stipulation of
21 facts. Whether or not you want that handed up or
22 put on the record --

23 THE COURT: All right. Let's put that on the record,
24 and then we'll do the opening. All right. Thank
25 you.

1 MR. ANDERSON: Your Honor, these are our stipulation
2 of facts and we've got all the documents here to
3 back them up, but it sounds like we're not going
4 to need them based on the stipulation of facts.
5 May be a couple of the exhibits that we'll need
6 to go over on that, but probably don't need them
7 all as we go through this.

8 THE COURT: All right. So what I've been handed is a
9 joint stipulation of facts that has 12 line
10 items. Mr. Anderson indicates everyone has
11 agreed to that. Mr. Catoe, is that accurate?

12 MR. CATOE: I have reviewed it and I agree with it.

13 THE COURT: All right. Mr. LaLima?

14 MR. LALIMA: Yes, Your Honor.

15 THE COURT: All right. And also he's indicated that
16 the stipulation of facts refers to underlying
17 documents. So all counsel has -- I'm presuming
18 has waived any right to the documents that are
19 mentioned or relied on in the underlying
20 documents. Is that correct, Mr. LaLima?

21 MR. LALIMA: It is, but some of the documents will be
22 necessary for the disputed facts.

23 THE COURT: All right. Okay. Mr. Catoe?

24 MR. CATOE: That's correct. I think there's only a
25 couple of those issues that are in dispute, Your

1 Honor.

2 THE COURT: All right. All right. Thank you, Mr.
3 Anderson.

4 MR. ANDERSON: If I could, Your Honor, just
5 housekeeping. Brett Finley here from the County
6 and Jim Eckstrom's here. Mr. Eckstrom has to
7 leave in about 45 minutes. He just wanted the
8 Court to know that. He's not a witness.

9 THE COURT: All right.

10 MR. ANDERSON: He's going to get up and leave.
11 Didn't want to disturb the ---

12 THE COURT: Okay. All right. Thank you. Thanks.

13 MR. ANDERSON: Thank you.

14 THE COURT: All right. Brief opening.

15 MR. LALIMA: May it please the Court.

16 THE COURT: Yes, sir.

17 MR. LALIMA: This is a tax sale case. Mr. Dailey
18 bought the property in 2017, correct? And he
19 bought it midway through 2017. So the prior
20 owner was Ms. Quattlebaum, and she was given --
21 notices were sent to her because the prior year
22 tax bill was in her name. Mr. Dailey understands
23 he's responsible for the bill, but contends he
24 never received any of those due to some
25 construction going on there and the mailboxes

1 were torn down and there were problems out there
2 on the road. During the height of the issues, I
3 believe the first notice of the delinquency was
4 really sent on -- in April of 2018, and around
5 that time, mid to late 2018, his father had --
6 his parents live in Hartsville, South Carolina.
7 Father had suffered a stroke, mother was in
8 failing health, he lost a nephew and a brother.
9 So he was spending most of his time up in
10 Hartsville; however, he now lives primarily in
11 that residence where he exercises visitation with
12 his son 'cause his ex-wife and son live here in
13 Lexington. So there were extenuating
14 circumstances that had him out of the county. I
15 understand that the mailing procedures in the
16 stipulation of facts seem to be in order, and on
17 the face, it appears to be a valid tax sale. The
18 main two issues are as follows: One is the
19 conspicuousness of the order -- of the notice
20 'cause it was posted on a tree on a driveway that
21 was not regularly used, away from the road such
22 that it couldn't really be seen well from the
23 road. Also around this time, there was
24 significant construction going on across the
25 street, and permits were posted everywhere. So

1 it was -- not everywhere, that's a bit hyperbolic
2 -- but there were many notices posted up and
3 around. So it additionally confused and made the
4 notice less conspicuous. And then finally,
5 the posting in the newspaper. While the statute
6 says that it just has to include the owner's
7 name, Mr. Dailey was not listed alphabetically as
8 the owner, which he was at the time. And I
9 understand the tax bill was primarily in Ms.
10 Quattlebaum's name, but by having Mr. Dailey's
11 name only in the body of the notice as opposed to
12 alphabetically listed, it is not sufficient
13 notice to him in the paper. And the reason for
14 these notices in the paper and the public posting
15 is not just so Mr. Dailey sees it, but such that
16 his friends and neighbors in the community could
17 see it, too, and say, "Hey, Jarrett, I know
18 you're up in Hartsville. Here's an issue with
19 your house." None of the neighbors saw it -- the
20 posting, and he was not aware of the listing in
21 the newspaper because it did not list his name
22 alphabetically. Thank you.

23 THE COURT: All right. Thank you. All right. How
24 y'all want to do this?

25 MR. CATOE: Well, Your Honor, I'm here representing

1 SC Home Holdings.

2 THE COURT: All right.

3 MR. CATOE: Mr. Cognata is president of that company.
4 Basically he bought this at tax sale in November
5 2019. The tax sale was a year earlier. He was
6 issued a deed. Most of any testimony he has is
7 post-redemption. Nothing prior to that other
8 than to make the Court aware that he was not the
9 initial bidder on the property. The bid for the
10 \$8,000 was by a company FNADZ. It was assigned
11 to him. He had to pay considerably more to buy
12 the property. He's also incurred some loss
13 'cause he's not been able to rent the property,
14 do anything with the property because Mr.
15 Dailey's still in the property. He can't be
16 removed. And as -- he believes the tax sale was
17 done properly and that's his contention. He
18 think he properly owns it. We would also ask
19 the Court to quiet title on this because the only
20 defendant of quiet title at this point would be
21 Mr. Dailey, and if you rule in our favor and
22 against him, basically there are no more issues
23 involving the title. And that's our case, Your
24 Honor.

25 THE COURT: All right. Thank you. Mr. Anderson.

1 MR. ANDERSON: May it please the Court, Your Honor.
2 I'm here for Lexington County Treasurer's Office.
3 Real briefly, this was a case of property -- this
4 -- the taxes that were owed for 2017. This is a
5 case where a property was sold in March 2017 from
6 Quattlebaum to Dailey in March of 2017. So had a
7 new owner 2017, but the owner at the beginning of
8 the year was Regina Quattlebaum. As part of the
9 -- and I didn't pass this out a while ago,
10 there's an attachment to the stipulation of facts
11 is a summary sheet that Brett Finley has prepared
12 for the notices that went out, and I'm going to
13 hand this out if that's okay.

14 THE COURT: All right. Thank you.

15 MR. LALIMA: It's without objection.

16 THE COURT: Without ---

17 MR. CATOE: No objection, Your Honor.

18 THE COURT: --- objection.

19 MR. ANDERSON: And Your Honor, I was going to -- for
20 the Court's record, I was going to file the
21 stipulation of facts and that ---

22 THE COURT: Thank you.

23 MR. ANDERSON: --- as part of the record.

24 THE COURT: At the end of -- at the conclusion of the
25 testimony, I'll ask all parties to confirm what's

1 being introduced. So -- all right. Yes, sir.

2 MR. ANDERSON: Your Honor, the -- I'm just going to
3 go briefly through what was done in this case if
4 that's okay.

5 THE COURT: Yes, sir.

6 MR. ANDERSON: The taxes were not paid for 2017. So
7 we had an owner at the beginning of the year, Ms.
8 Quattlebaum, owner as of March. The beginning of
9 2017 it was Dailey. The -- after the taxes
10 weren't paid as of March 17th of 2018, the
11 execution notices went out. The execution
12 notices went out to Regina Quattlebaum and also
13 to Grayson Dailey, both people, on April 13,
14 2018. Nothing happened after that, so the next
15 thing that happens is the certified letters go
16 out before the sale. The certified letter went
17 out to both Regina Quattlebaum, who signed for
18 the -- signed for letter on June 1st. It was
19 sent May 25th. It was signed by her on June 1,
20 2018. This same letter was sent to Grayson
21 Dailey on May 25th, and it came back unclaimed on
22 October 14th. Because this property came back
23 unclaimed, it was posted, and we're going to get
24 into that a little bit more about conspicuousness
25 of it; but it's posted on September 13, 2018, by

1 Roger Petty. Nothing happened then. Still
2 hadn't -- taxes hadn't been paid, so it was
3 advertised three weeks in the paper three weeks
4 in the paper. The advertisement did have Regina
5 Quattlebaum, but then it -- over to the side it
6 had the new owner, Grayson -- the -- now owned by
7 Grayson Dailey. And so -- and again, the owner at
8 the beginning of the year, under statute 12-37-
9 610, is the person legally responsible for the
10 taxes. So that's why that person's names is
11 still in the notice, but we also cover it both
12 ways by putting the new owner in there also. So
13 the property went to tax sale on November 5,
14 2018, and it got bought by someone at the tax
15 sale who's now assigned it to the bidder. Then
16 after the tax sale, County does -- not required
17 by statute, sends a courtesy letter out saying --
18 it was sent out on November 26th to Grayson
19 Dailey saying, "By the way, your property's been
20 sold for taxes and you need to know that. You're
21 going to get notices later." That's a regular
22 mail notice, and again, that's not required by
23 statute. Again, at the end of the redemption
24 period, as required by statute, notice was sent
25 to Grayson Dailey September 23, 2019, and it came

1 back unclaimed. And it was sent to the address
2 on the deed to Mr. Dailey that he purchased in 2
3 -- in March 2017. That's the only address the
4 County had. County's -- this matter, we're
5 just trying to do a tax sale the right way, and
6 we're not adversary to anybody in here. We just
7 want to present the facts that we know them and
8 let the Court decide. We think we did it right.

9 We looked at this -- before we did the tax
10 deed, we were contacted by an attorney, not Mr.
11 LaLima, but another attorney to look at this
12 before we did a tax deed. We looked at it,
13 couldn't find anything we did wrong. We'll void
14 a sale any time that we think we did something
15 wrong. We didn't see anything wrong here. So --
16 -

17 THE COURT: Oh --

18 MR. ANDERSON: --- tax deed was given.

19 THE COURT: All right. One just quick follow-up
20 question: There's an overage of \$6,015.92, and
21 that hasn't been claimed.

22 MR. ANDERSON: It's not been done.

23 THE COURT: All right. Thank you. Yes, sir.

24 MR. ANDERSON: That's all, Your Honor.

25 THE COURT: Okay. All right. Yes, sir.

1 MR. LALIMA: It's a bit -- a little bit out of turn,
2 but we're going to call Mr. Lloyd Branham, who is
3 a neighbor of Mr. Dailey, to the stand and ---

4 THE COURT: All right. Thank you.

5 HOWELL LLOYD BRANHAM, having been first
6 duly sworn, testifies as follows:

7 THE COURT: All right. Thank you. You can have a
8 seat, Mr. Branham.

9 MR. LALIMA: Thank you.

10 DIRECT EXAMINATION

11 BY MR. LALIMA:

12 Q. Mr. Branham, what is your address?

13 A. 847 Park Road, Lexington 29072.

14 Q. And is that address directly adjacent to Mr. Dailey's

15 --

16 A. Yes, sir.

17 Q. -- property? Okay. How long have you lived at that
18 address?

19 A. Since like 1983.

20 Q. And in -- during the year of 2018, was there
21 construction going on in that area?

22 A. Oh, yes. A lot.

23 Q. And what kind of problems did that construction cause?

24 A. Well, you know, they even had part of the road beared
25 off and the road was terrible. And they had signs

1 everywhere, you know, 'cause they put in The Courage
2 Center -- I don't know if you guys know about The
3 Courage Center and The Memory Center on the end of the
4 road. They were kind of all doing a lot of that at
5 the same time. And we had some farmers and I was
6 doing some farming, too. So the roads stayed tore up
7 pretty good amount after that.

8 **Q. Okay. Did the road construction impact your mailbox**
9 **at all?**

10 A. Oh, well, I had to move my mailbox from the road on --
11 into my yard because the road gotten so bad and the
12 mail lady came to me and asked me. She couldn't put
13 my mail in my box. She said, "Can you move your box
14 in your yard so I can pull in your yard to it to mail
15 it." I mean, she couldn't physically get out of her
16 car and even cross the ditch because the ditch had
17 gotten so bad.

18 **Q. Okay. And are there times out there that you receive**
19 **other people's mail?**

20 A. Oh, I've received Jerry's mail. I've received
21 Quattlebaum's over the years. Glen, that lives below
22 me, I get his mail all the time, and we just switch
23 them back and forth we know who they are, you know;
24 and usually we know who they go to, you know what I'm
25 saying, you know. I got one the other day that was

1 for the Memory Center on 378. It was posted 847 378,
2 not Park Road. It's -- you know --

3 **Q. Right. Okay. Do you recall ever receive or getting**
4 **certified mail for Mr. Dailey?**

5 A. No.

6 **Q. Okay. And do you and Mr. Dailey often share a**
7 **driveway?**

8 A. Yes. When he moved in, he has trailers and stuff that
9 he moves around, you know, all kind of tools and
10 plants and things on it. And he asked me if he could
11 use my driveway, my first driveway, so he could access
12 his property with the things that he does.

13 **Q. Okay.**

14 MR. LALIMA: If I may approach the witness, Your
15 Honor?

16 THE COURT: Yes, sir.

17 **Q. Like to show you a series of pictures that I've marked**
18 **for information purposes with a little "E" at the top.**
19 **If you would flip through those pictures, please.**

20 A. This is -- the first one's as it is today or several
21 months ago. Yeah, that's my property and that line --
22 his property and my driveway next to it.

23 **Q. Okay. And does that fairly and accurately represent**
24 **an aerial view of your property?**

25 A. Yes, sir.

1 Q. Okay.

2 A. You can see my first driveway, and it's -- we even had
3 to work on it 'cause it had gotten bad. And Jerry
4 helped me get some dirt and all so we could put it in
5 to make it where we both could use it because it was
6 getting bad also.

7 Q. Okay.

8 MR. LALIMA: Your Honor, I'd like to introduce this
9 as Plaintiff's Exhibit A.

10 MR. CATOE: No objection, Your Honor.

11 MR. ANDERSON: No objection.

12 THE COURT: Without objection, Plaintiff's A.

13 (PLAINTIFF'S EXHIBIT A MARKED FOR
14 IDENTIFICATION PURPOSES (4 pages) -
15 PHOTOS)

16 BY MR. LALIMA:

17 Q. Is there also depicted in the -- in Plaintiff's
18 Exhibit A, on the first page of it, can you see a
19 driveway to -- a second driveway to Mr. Dailey's
20 property?

21 A. You -- from this aerial view, you cannot see it from
22 there. There's a driveway there, but I haven't used
23 it in forever, and we have a -- I mean, you know, we
24 used that other one mainly all the time.

25 Q. Okay. And show you another picture that's been marked

1 for identification purposes with an "A" in the top
2 right corner, previously provided to both counsel. Do
3 you recognize the image in that picture?

4 A. Sure. That's our road.

5 Q. Okay. And on -- on that one, can you see an
6 introduction to -- or Mr. Dailey's first driveway?

7 A. Yes, sir.

8 Q. All right. And is that --

9 A. Now, see, this is new.

10 Q. Okay.

11 A. This is the latest one. This isn't one like it was
12 before because you see the mailboxes on that side of
13 the road. You understand what I'm saying?

14 Q. Yes, sir.

15 A. And before that, the mailboxes are on the other side
16 and you couldn't hardly see it. They redid this
17 culvert.

18 Q. Okay.

19 A. All that's been done since then.

20 Q. Okay. So this is what it looks like today ---

21 A. That's what it looks like now.

22 Q. And ---

23 A. But years ago, it didn't look like it.

24 Q. But is that driveway in approximately the same place
25 today as it was in 2018?

1 A. It's pretty close, right.

2 Q. Okay.

3 A. But the culver was much smaller. It was harder to
4 find that driveway.

5 Q. Okay. Thank you. And does it -- at least as of
6 today, fairly and accurately represent the way the
7 property looks?

8 A. Yes, sir.

9 Q. Okay.

10 MR. LALIMA: I'd like this introduced as Plaintiff's
11 Exhibit B.

12 MR. CATOE: No objection, Your Honor.

13 THE COURT: Without objection.

14 (PLAINTIFF'S EXHIBIT B MARKED FOR
15 IDENTIFICATION PURPOSES (1 pages) -
16 PHOTOS)

17 THE COURT: May I see A and B just briefly?

18 MR. LALIMA: Yes, sir.

19 THE COURT: All right. Thank you.

20 MR. LALIMA: Thank you, Your Honor.

21 BY MR. LALIMA:

22 Q. And show you another image that's been marked for
23 identification purposes as Plaintiff's B. Can you
24 identify the image in that picture or document?

25 A. Yes, sir. This is basically the same one we had

1 before.

2 Q. Okay. And is that just a close-up view of Plaintiff's
3 Exhibit B or closer view of the driveway?

4 A. Right.

5 Q. Okay. Does it fairly and accurately represent the
6 area as it looks approximately today?

7 A. Yes, sir.

8 Q. Okay.

9 MR. LALIMA: Like this marked as Plaintiff's C.

10 MR. CATOE: No objection.

11 MR. ANDERSON: No objection.

12 THE COURT: Without objection.

13 (PLAINTIFF'S EXHIBIT C MARKED FOR
14 IDENTIFICATION PURPOSES (1 pages) -
15 PHOTOS)

16 BY MR. LALIMA:

17 Q. And one final image for you to take a gander at. This
18 one has been marked for identification purposes.
19 There's an "E" at the top right corner. What does
20 that image show?

21 A. This is the image is my first driveway.

22 Q. Okay. And is that ---

23 A. And it shows the mailbox in my yard. You see it?

24 Q. I see it.

25 A. See where I moved the mailbox. It's real small.

1 Q. Okay. Yes.

2 A. That's why I had to move the mailbox because the road
3 was so bad.

4 Q. All right. Would you circle on that what is the --
5 your mailbox.

6 A. (Complies.)

7 Q. And does this image fairly and accurately reflect the
8 ---

9 A. You can --

10 Q. --- a fair representation of your driveway today?

11 A. And you can even see some of the buildings in the far
12 background that they -- that construction was done on
13 that one ---

14 Q. Okay.

15 A. --- out by the highway.

16 Q. Well ---

17 A. I think it's the tops of the buildings that they put
18 out there. The Memory Center?

19 Q. Right. Right. Okay.

20 MR. LALIMA: If I could -- like to introduce this as
21 Plaintiff's D, Plaintiff D.

22 Q. Oh. You just circle where his ---

23 A. That's his box.

24 Q. That is.

25 A. Yeah. They moved it. See, it was on the other side

1 of the road, and the road got so bad they couldn't
2 deliver the mail, and they put -- the lady asked me.
3 She came to me. Said, "Can you move your mailbox onto
4 your land so I can drive in," 'cause all -- that
5 driveway up --

6 **Q. Okay.**

7 A. -- you know, and that's why I moved it there.

8 MR. ANDERSON: No objection.

9 MR. CATOE: No objection.

10 THE COURT: That's Plaintiff's No. D.

11 (PLAINTIFF'S EXHIBIT D MARKED FOR
12 IDENTIFICATION PURPOSES (1 pages) -
13 PHOTOS)

14 BY MR. LALIMA:

15 **Q. At any time during 2018, did you see any notices**
16 **posted on the land for a tax seizure?**

17 A. No, sir.

18 **Q. Okay. And how often do you drive by that property?**

19 A. At least two times a day and back then I was still
20 working. So maybe four times a day on average. My
21 wife goes by there a couple times a day. My son does,
22 and you know, of course, we have talked about the
23 situation and we never seen it. I mean, you know,
24 that's just -- if he -- I'd seen it, I'd told you; but
25 I didn't see it.

1 Q. Okay.

2 A. I did not see it.

3 Q. And if you had seen it, is that something you would
4 have told Mr. Dailey about?

5 A. Oh, yeah. We would have talked, and you know, I
6 would've tried to help him out if I'd have known the
7 situation; but we didn't know until it was too late.

8 Q. Gotcha. Okay.

9 MR. LALIMA: I have no further questions for this
10 witness.

11 THE COURT: All right. Cross?

12 CROSS-EXAMINATION

13 BY MR. CATOE:

14 Q. Mr. Branham, I think you've indicated on the
15 photograph where the placement of the driveway that --
16 you see where this red dot is -- that the driveway --
17 that looks to be the driveway to the property --

18 A. Right.

19 Q. -- he didn't use. He used the property -- your
20 property ---

21 A. He was using mine, and if he -- if any of us done that
22 one, it was very, very seldom because it's so tight.
23 You can't hardly back out or get out into the road.

24 Q. Okay. But ---

25 A. And --

1 Q. --- if he had not --

2 THE COURT: Wait a minute. Hold on one. Y'all are
3 talking over each other. And would you also
4 please identify which exhibit you're ---

5 MR. CATOE: Okay.

6 THE COURT: --- asking him to testify from so I can -
7 --

8 Q. Exhibit B that --

9 A. Right.

10 Q. -- you've indicated that is his -- would be his normal
11 driveway.

12 A. That is his first driveway. That's his driveway.

13 Q. That's his driveway.

14 A. Right.

15 Q. But in the Exhibit -- is it E, it was listed as E?

16 THE COURT: D.

17 MR. LALIMA: E was introduced as A. I did it out of
18 turn ---

19 MR. CATOE: Okay.

20 MR. LALIMA: --- 'cause I wasn't expecting to ---

21 MR. CATOE: A, Exhibit A.

22 THE COURT: Yeah.

23 BY MR. CATOE:

24 Q. Exhibit A which has the aerial view, the obvious
25 driveway here is open. That's your property, and

1 **that's how he enters his property.**

2 A. Yes, sir. And as I said, he's got trailers and he
3 does construction and all that and he's in and out
4 with flowers and all kind of stuff. It -- when he
5 first moved there, he asked me if he could take a
6 section of the fence out so he could gain access to
7 his property.

8 **Q. But he doesn't have an easement or any legal right to**
9 **use that road, right?**

10 A. Only by what I -- by ---

11 **Q. So the County wouldn't be aware of any rights.**

12 A. No, sir. That's my -- that's -- I have a driveway on
13 the top part of my property and one on the lower part.

14 **Q. Now, you indicated you've lived on the property since**
15 **the '80s?**

16 A. Yes, sir.

17 **Q. All right. Then Mr. Dailey bought this property in**
18 **2017. Is that 'bout when he moved onto the property?**

19 A. Pretty close as far as I remember.

20 **Q. Has he lived there ever since?**

21 A. Yes, sir. I mean, you know, you might not see him for
22 months at a time.

23 **Q. But that's his only residence.**

24 A. As far as I know, right.

25 **Q. And that physical address of 855 Park Road, Lexington,**

1 **that is his home address.**

2 A. Yes, sir.

3 **Q. All right.**

4 MR. CATOE: No further questions, Your Honor.

5 THE COURT: Mr. ---

6 MR. ANDERSON: No questions.

7 THE COURT: --- Anderson?

8 MR. ANDERSON: No questions.

9 THE COURT: Any --

10 MR. LALIMA: No redirect.

11 THE COURT: All right. You can sit -- you can step
12 down, sir.

13 THE WITNESS: Thank you.

14 THE COURT: Thank you.

15 MR. LALIMA: Your Honor, I'd ask if this witness
16 could be excused.

17 MR. CATOE: No objection.

18 MR. ANDERSON: No objection.

19 THE COURT: All right. You -- certainly excused.
20 Thank you for coming.

21 MR. LALIMA: At this time we'd call Mr. Dailey.

22 THE COURT: Mr. Dailey, please come forward and be
23 sworn.

24 GRAYSON JARRETT DAILEY, having been first
25 duly sworn, testifies as follows:

1 THE COURT: Thank you. Please have a seat.

2 THE WITNESS: Yes, sir.

3 DIRECT EXAMINATION

4 BY MR. LALIMA:

5 Q. Mr. Dailey, when did you buy the subject property?

6 A. It was March 2017.

7 Q. Okay. And at the closing of that property, were you
8 aware that there -- were the taxes due yet on that
9 property?

10 A. They were not.

11 Q. Okay. And how long have you lived in Lexington?

12 A. Since 1999.

13 Q. Okay. Have you owned other property in Lexington?

14 A. Multiple properties. Yes, sir.

15 Q. Okay. Have you always paid your taxes before?

16 A. I have.

17 Q. Okay. And currently, how many pieces of property do
18 you own in Lexington?

19 A. This is the only piece that I have other than boats
20 and trucks and --

21 Q. Okay. Real property?

22 A. Yes, sir.

23 Q. Okay. And during 2018, did you have any unusual
24 circumstances in your life?

25 A. Yeah. 2017 -- well, prior to buying this place in

1 December, I lost my brother and that was in December,
2 and we bought this place. And my parents were in
3 declining health and without my brother, I was going
4 back and forth helping them. And in 2018, my father -
5 - he had a heart attack, he had a stroke. My mother
6 was in bad health, and I was constantly back and forth
7 to Hartsville helping them during the course of 2018.

8 **Q. Okay. So were there extended periods you were not**
9 **staying at the property in town?**

10 A. I rarely stayed there. As matter of fact, the
11 gentleman just left, he -- I kept contact with him all
12 the time saying just keep eye on the place anybody's
13 over there, and he did. And he rode by and normally,
14 when -- that whole time the mail was so bad we really
15 didn't get any because some of these pictures you saw
16 are like the post road widening and after all the
17 construction and the dust settled there, but during
18 that time, it was a nightmare.

19 **Q. All right. And are you -- if you would view and look**
20 **through the exhibits that have been previously**
21 **introduced in this case, A through D I believe.**

22 A. (The witness complies.)

23 **Q. And if you would turn to the first page of A.**

24 A. (Complies.)

25 **Q. On this page, does it show a utility trailer of yours?**

1 A. Yes, it does.

2 **Q. Okay. And which driveway is that trailer closest to?**

3 A. That is very close to Mr. Branham's property where I
4 entered on the other side of the trailers and
5 everything that we pull. This picture actually was --
6 this is a newer one. When the -- prior to them
7 widening this road and putting in this new ditches and
8 stuff, you could barely even get out of this driveway.
9 It was like -- you could barely get out with your
10 truck. You couldn't get out with a trailer or boat or
11 anything. That's the reason I primarily started using
12 that -- his driveway, and just became habit and that's
13 what I've used ever since and I've done that ever
14 since I moved into the place when we were out there.

15 **Q. Okay. And you -- were you ever aware of certified**
16 **mail that was sent to your address?**

17 A. No, I was not.

18 **Q. Okay. And so you didn't receive mail and just ignore**
19 **it, correct?**

20 A. No, I did not.

21 **Q. And if you had known about the tax bill, did you have**
22 **the means to pay it?**

23 A. Yes, I did, and I've had -- owned property for years.
24 I've always paid my property taxes. I wouldn't just
25 throw away a certified letter with property taxes due

1 --

2 **Q. And why is it important for you to keep this piece of**
3 **property in Lexington?**

4 A. I bought this property primarily for visitation with
5 my son so -- 'cause he lives in Lexington with his
6 mother and my parents live in Hartsville. So I'm
7 constantly back and forth, but weekends were --
8 sometimes, during the week, when I had some jobs here,
9 I've got trailers for there; but primarily weekends my
10 visitation with him are spent at this house and we're
11 trying to get a custody deal where I may get more
12 custody of him and this is where we would live and
13 reside as planned.

14 **Q. Okay. And how old is your son?**

15 A. He'll be nine tomorrow.

16 **Q. Okay. Were you ever aware of a posting on your land**
17 **about the seizure of your property by the County of**
18 **Lexington?**

19 A. No, I was not.

20 **Q. Okay. If you had been, what would you have done?**

21 A. I would have taken care of the property taxes had I
22 seen any type of notice or -- for tax. Yes, I would
23 have paid the taxes.

24 **Q. And how much did you pay for this piece of property?**

25 A. I think it was 69,000.

1 Q. Okay.

2 A. 69.

3 Q. And that was in 2017?

4 A. Yes, it was.

5 Q. What would you anticipate the value of this piece of
6 property worth today?

7 A. Probably 150, way -- you know, the house, I've done a
8 lot of work to. It's been updated. It's brick and
9 mortar foundation now. It's got a gable roof, sealed
10 roof. We've done some upgrades of plumbing,
11 electrical, and all this was -- I was doing before I
12 found out about the tax sale. So -- matter of fact,
13 Zillow had it listed mistakenly, what, year before
14 last or last year for 150, and people were coming in
15 left and right every day trying to -- ask me if I was
16 -- had my property for sale. I said no. So I finally
17 had to contact Zillow tell them to take it off 'cause
18 they were --

19 Q. And when did you work -- when did you first learn that
20 it had been sold?

21 A. It was 2019 I think, later in 2019.

22 Q. And how did you come to discover that it had been
23 sold?

24 A. I told Mr. Finley and Mr. Eckstrom -- I met with them.
25 I received -- it was -- I wish I'd saved the

1 recording, but it was a voice recording of someone ask
2 me if I wanted to save my property or something about
3 taxes; and that's when I contacted Lexington County.
4 And at that time I'd spoken with someone. They said I
5 had some time to redeem my property and that when I
6 talked to them, it was supposed to be in December he
7 told me. I contacted them in December, only to find
8 out that I was 27 days too late to redeem the property
9 at the date he told me, but it was the wrong date. So
10 I mean, that's when I realized that my property had
11 been sold and the redemption date was over before I
12 found out about it.

13 **Q. Had you received any mail or letters about the**
14 **redemption?**

15 A. I had not. No.

16 **Q. Okay. And what do you attribute that to?**

17 A. The mail situation there's been -- I mean, it's
18 horrific ever since I moved there. We had the
19 construction started there. This, of course, is the
20 new road that you see now, but the -- when I first
21 moved there, this was like half as big -- half as wide
22 as this road. All the construction -- matter of fact,
23 my -- they snatched my -- mailbox was on the other
24 side of the road here on Exhibit B. They -- as was
25 Mr. Branham's. They had to move them to this side

1 because they couldn't even get to that side it was so
2 bad, and the mail lady wouldn't even come down the
3 road for weeks at a time.

4 **Q. Okay.**

5 A. We didn't get mail. We didn't.

6 **Q. All right. And are you still staying in Hartsville to**
7 **assist taking care of your parents?**

8 A. I am, and not as much as I was, but it's probably 40
9 percent of the time there, 60 percent of the time
10 here.

11 **Q. Okay. Thank you.**

12 MR. LALIMA: I have no further questions for this
13 witness.

14 THE COURT: Cross, Mr. Anderson?

15 MR. ANDERSON: Yes, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. ANDERSON:

18 **Q. Mr. Dailey, the driveway that you don't use, was the**
19 **posting near that driveway of the property?**

20 A. Yes, sir. According to this, yes, yes, sir.

21 **Q. Okay. So if you'd been using that driveway, you**
22 **probably would have seen the posting?**

23 A. I don't -- I never knew when it was up there. I have
24 no idea how long it was there. I don't know ---

25 **Q. Okay.**

1 A. --- what the time frame was.

2 Q. Okay.

3 A. It -- yeah. If I'd have driven into that driveway, I
4 would have seen it; but I -- I don't know during the
5 time frame 'cause I was spending a lot of time in
6 Hartsville back and forth to my parents.

7 Q. But that's -- but the driveway that you didn't use was
8 your actual driveway, not somebody else's driveway.

9 That was ---

10 A. Yes, sir.

11 Q. --- your driveway.

12 A. Yes.

13 Q. Okay. All right. I'm just going to go through the
14 notices that the County says they sent to you. Just
15 want you to tell me whether you got them or not.

16 A. Okay.

17 Q. The original tax bill that went out in probably
18 October of 2017 is in your name at 855 Park Road. Is
19 that -- did you get that tax bill?

20 A. No, I did not.

21 Q. Okay. Did you get a notice from the County, an
22 execution notice, in the -- by -- notice dated April
23 13, 2018?

24 A. No. No, sir.

25 Q. Okay. Did you get a certified letter that was sent

1 prior to the tax sale dated May 25, 2018.

2 A. No. I received no certified letters.

3 Q. Did you receive a letter after the tax sale? The tax
4 sale occurred on November 5, 2018. Did you receive a
5 regular mail letter dated November 26, 2018, telling
6 you about the tax sale?

7 A. No.

8 Q. Okay. Did you not receive a certified letter at the
9 end of the redemption period dated September 23rd --
10 23, 2019?

11 A. As I said, I received no certified mail from
12 Lexington.

13 Q. Okay. Did you have any conversations with the County
14 about the posting of the tax sale notice on the mobile
15 home?

16 A. No. Not that I know of. Well, I talked to them after
17 I found out about the -- when I had the phone call, I
18 called Brett and I went and had a meeting with Mr.
19 Eckstrom ---

20 Q. That was after the redemption period?

21 A. Yes, sir.

22 Q. Okay. Now, you mentioned a mobile home several times
23 and about what all you've done to it. Have you got a
24 title to that mobile home? It's typically a title,
25 like, for a mobile home?

1 A. Yes, I do.

2 Q. Have you registered that with the County of Lexington?

3 A. I have not. After speaking with them on that, I asked
4 should I do that and they said wait 'til we find out
5 what we're going to do with the tax sale, and that's
6 when I did -- I didn't pursue it any further.

7 Q. Okay. But let's got back a minute. The deed from you
8 -- that you received for the real estate in March of
9 2017, mentions a mobile home. When I say do you have
10 a certificate of title, do you have something besides
11 that deed that was deeded in March of 2017?

12 A. There were two separate things and I can't remember
13 what they were. They were two separate things that --
14 during the closing, and I don't ---

15 Q. The separate thing should have been a certificate of
16 title, like a vehicle title that you would take to DMV
17 to record and then take it to the County to record to
18 get it in your name. Did you do -- did you take --
19 send the title to DMV and did you take it then to the
20 County?

21 A. I didn't. No, sir, I did not. I -- no, I did not.

22 Q. So you -- to this day you have not done that.

23 A. No, sir. No, sir.

24 Q. Okay. And have you paid taxes on that mobile home
25 since you got it?

1 A. No, sir.

2 Q. All right. You realize the County does not know that
3 you own it because you haven't registered it with the
4 County.

5 A. I realized that when I -- after I spoke with them. I
6 ---

7 Q. Okay.

8 A. My attorney -- as I said, I had a lot going on during
9 that time, and that's no reason for anything, but I
10 assumed, which was wrong, he took care of all that
11 'cause I paid him to do the closing. I've never
12 bought a mobile home before. I didn't know you had to
13 go --

14 Q. Okay. So -- well, the bottom line is that you haven't
15 paid any taxes on the mobile home since you ---

16 A. No.

17 Q. -- bought --

18 A. No.

19 Q. -- your --

20 A. No, sir.

21 MR. ANDERSON: That's all. Thank you.

22 THE COURT: Mr. Catoe, any cross?

23 MR. CATOE: Go ahead.

24 THE COURT: Any cross?

25 MR. CATOE: Yes, Your Honor.

1 THE COURT: All right.

2 CROSS-EXAMINATION

3 BY MR. CATOE:

4 Q. Mr. Dailey, you just indicated you've not paid any
5 taxes on the mobile home since you bought it. You
6 haven't paid any taxes on the land since you bought
7 it; is that correct? You bought it in March of 2017?

8 A. That's correct.

9 Q. All right. And you had a closing then, you had an
10 attorney. Did he tell you that any taxes after the
11 day of closing would be your taxes to pay?

12 A. I don't recall. I don't recall. It's been ---

13 Q. Well, the taxes weren't out in March. So the taxes,
14 usually in Lexington, come out in November or
15 December.

16 A. Right.

17 Q. So were you looking for taxes come November, December
18 of 2017?

19 A. If they came in the mail, sir, I would -- wasn't
20 sitting there waiting on them to come in, no. Like I
21 said, I had a lot going on and I wasn't standing by
22 the mailbox waiting on tax receipts; but if they come
23 in, I pay them.

24 Q. All right. I think the Court -- and I think it's been
25 stipulated, you received four notices: Two by regular

1 mail and --

2 MR. LALIMA: Objection.

3 THE COURT: All right. Wait a minute.

4 Q. Okay.

5 THE COURT: Rephrase that because you said he
6 received.

7 Q. You were sent four notices: Two by regular mail and
8 two by certified. And you indicated you didn't
9 receive any of them; is that correct?

10 A. Again, I received no certified mail and no mail.

11 Q. All right. You also indicated that you didn't see the
12 posting for the tax sale that's -- I think it's on a
13 tree at your -- the driveway you don't use; that
14 correct?

15 A. I did not say I saw it, no. I didn't see it.

16 Q. You didn't see it.

17 A. No.

18 Q. Okay.

19 A. And neither did my neighbors or anybody else.

20 Q. All right. Did you not also get a posting on your
21 mobile home on the same day or thereabouts?

22 A. No, sir.

23 Q. All right. So --

24 MR. CATOE: Excuse me, Your Honor.

25 (Brief pause.)

1 Q. Let me hand this --

2 MR. LALIMA: Without objection.

3 THE COURT: All right.

4 Q. If you'll take a look at this and what exhibit are we
5 at? F?

6 THE COURT: All right. All right. We've got
7 Plaintiff's -- a Plaintiff's -- are we gonna just
8 mark them all 'cause we've said Plaintiff
9 Exhibits.

10 MR. CATOE: This is Defendant's exhibit.

11 THE COURT: All right. So that will be Defendant --

12 COURT REPORTER: A or 1 ---

13 THE COURT: A, Defendant A.

14 MR. CATOE: All right. And you said without
15 objection?

16 MR. ANDERSON: Without objection.

17 THE COURT: Without objection.

18 MR. ANDERSON: Yeah.

19 (DEFENDANT'S EXHIBIT A MARKED FOR
20 IDENTIFICATION PURPOSES (1 pages) -
21 PHOTOS)

22 BY MR. CATOE:

23 Q. And what does this purport to show? Is that the
24 mobile home?

25 A. Yes, sir.

1 Q. Okay. And do you understand what this on the -- this
2 on the property?

3 A. Yes, I see it there, yes, sir.

4 Q. All right. And that's some type of posting?

5 A. Yes, sir.

6 Q. Okay.

7 THE COURT: May I see it?

8 MR. CATOE: Yeah.

9 Q. Now, the County indicates that that was posted on the
10 same date as the tree was.

11 A. Yes, sir.

12 Q. But you didn't see either one of them.

13 A. No, sir.

14 Q. And you've never seen the posting on your home.

15 A. No, I have not.

16 THE COURT: All right. That's Defendant A.

17 Q. Now, so you didn't pay any taxes in 2017 when you
18 bought the property, and you didn't receive any
19 notice. You didn't get the tax bill. 2018, 2019, did
20 you ever inquire with the County why you weren't
21 getting tax bills?

22 A. When I went and met with Mr. Eckstrom and Brett, yes,
23 sir, I did.

24 Q. Well, that was after the redemption period, was it
25 not?

1 A. Yes.

2 Q. Okay. I mean, from the date that you bought the
3 property in March 10th of 2017, until the day of
4 redemption, which was 11/5/19, you owned the property
5 for two years and eight months. In that time period,
6 did you not think you had taxes to pay?

7 A. If I received the tax bills, I would have paid them.
8 I would -- like I say, I --

9 Q. Well, you've indicated you have several other property
10 -- you've had several properties in Lexington County;
11 is that correct?

12 A. That's correct.

13 Q. And you paid taxes on them.

14 A. Yes. And I received bills on them. I --

15 Q. But you normally know when the taxes come out, the tax
16 bills?

17 A. When I get them in the mail, sir.

18 Q. But in two years and eight months, you didn't inquire
19 about any tax bills.

20 A. I didn't receive any tax bills, no.

21 MR. CATOE: No further questions, Your Honor.

22 THE COURT: Anything on redirect?

23 MR. LALIMA: Just for clarity purposes.

24 REDIRECT EXAMINATION

25 BY MR. LALIMA:

1 Q. Earlier you testified you thought your attorney had
2 filed the mobile home title that -- you're referring
3 to the closing attorney, not me, correct?

4 A. That's correct.

5 Q. Okay.

6 MR. LALIMA: No further ---

7 A. That was the closing attorney. Yes. Sorry for --

8 Q. No, that's okay.

9 THE COURT: All right.

10 MR. CATOE: No further cross.

11 THE COURT: All right. Nothing on re-cross.

12 MR. CATOE: Nothing, Your Honor.

13 THE COURT: All right. Okay. All right. You can
14 step down.

15 THE WITNESS: Okay. Thank you.

16 THE COURT: Okay. Anything?

17 MR. LALIMA: Call Brett to the stand.

18 THE COURT: All right. Mr. Finley.

19 BRETT EDWARD FINLEY, having been first duly
20 sworn, testifies as follows:

21 THE COURT: All right. Thank you.

22 DIRECT EXAMINATION

23 BY MR. LALIMA:

24 Q. Hi, Mr. Finley.

25 A. Yes, sir.

1 Q. I'd like to -- are you -- have you reviewed the file
2 relating to this particular tax sale?

3 A. Yes, sir.

4 Q. And in part of the file, was there a picture of where
5 the notice of seizure was apparently posted on the
6 land?

7 A. Yes, sir.

8 Q. I'd like to show you a picture that defense attorney
9 has graciously provided. Is -- are you familiar with
10 that picture?

11 A. Yes, sir.

12 Q. Okay. Now, you did not personally go out there and
13 post that, correct?

14 A. No, sir.

15 Q. Do you know the gentleman who did post it?

16 A. The company I know. The gentleman works for the
17 company, Palmetto Posting.

18 Q. Okay. Do you have any knowledge of how it was posted
19 to the tree?

20 A. I was not there, so I know when they go out, they're
21 supposed to post it in an area where somebody would
22 see it. But I do -- I wasn't there when they posted
23 it, no.

24 Q. And is that -- that somebody would see it, is that for
25 the general public to see or exclusively for the

1 **homeowner?**

2 A. I think it's for anyone to see, to be able to touch
3 base with the person or the person themselves to see
4 it so they can reach back out to us.

5 **Q. Okay. And is that also the reasoning behind listing**
6 **it in the newspaper?**

7 A. Correct. The newspaper, we have to do it three times
8 prior to the tax sale. So yes, sir.

9 **Q. And that notice is designed not just for the specific**
10 **tax payer, but for the general public, too, correct?**

11 A. I would think so. I -- obviously, I can't speak
12 specifically on the statute, but I would think that
13 was the case.

14 **Q. Okay. And this particular posting in the newspaper**
15 **was not posted under the alphabetical name of Dailey**
16 **comma Grayson, correct?**

17 A. Correct. It was posted under Quattlebaum, and now
18 owned by Grayson Dailey.

19 **Q. Okay. So in order to find Mr. Dailey's name, you**
20 **would have to read through the actual text of what was**
21 **posted.**

22 A. Correct.

23 **Q. And so someone skimming alphabetically would not --**
24 **his name would not have appeared in the alphabetical**
25 **listing of the owners.**

1 A. Right. Wouldn't be under D, no, sir.

2 Q. Okay. And do you know from this picture how back --
3 how far back from the road the notice was posted?

4 A. No, sir.

5 Q. Does it appear to be visible from the road?

6 A. Do not know 'cause I cannot see the road on the --
7 that picture.

8 Q. Okay. And can you identify the type of tree that it's
9 attached to?

10 A. I would say it's a pine tree.

11 Q. Okay.

12 A. Yeah.

13 Q. And is pine bark -- if you know, is pine bark a very
14 sturdy substance to attach something to?

15 A. I have no idea. Sorry.

16 Q. Okay. Thank you.

17 MR. LALIMA: No further -- well, I'd like to
18 introduce that as, I guess, Plaintiff's Exhibit -
19 -

20 THE COURT: D?

21 MR. CATOE: It's actually two pictures. You want
22 them -- do both of them as one?

23 MR. LALIMA: Yes. We can do both of them as one.

24 THE COURT: That'd be --

25 MR. LALIMA: Plaintiff's E.

1 THE COURT: E? E?

2 COURT REPORTER: Yes, sir.

3 THE COURT: So that's two pictures, Plaintiff's E.
4 (PLAINTIFF'S EXHIBIT E MARKED FOR
5 IDENTIFICATION PURPOSES (2 pages) -
6 PHOTOS)

7 MR. LALIMA: Now, I have no further questions.

8 THE COURT: All right. Cross?

9 MR. CATOE: Yes, Your Honor. I have a question.

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. CATOE:

13 **Q. Mr. Finley, you see from the photograph, I think it**
14 **was Plaintiff's A, it's an aerial shot.**

15 A. Yes, sir.

16 **Q. And it has a red dot and that portrays where the**
17 **posting was; is that right?**

18 A. On ours, on the one I would be looking at, when
19 Palmetto gives us the posting back, usually there's a
20 star on it. So it would be -- you look at that and
21 attribute to what --

22 **Q. All right. Take a look at this.**

23 A. Yes, sir.

24 **Q. It's --**

25 MR. CATOE: That already entered as an exhibit?

1 MR. LALIMA: Yes.

2 A. So on this one, they show the actual picture of the
3 posting on the right hand side. They show the aerial
4 view in that. They show a star where they would
5 actually have posted the property.

6 Q. **And that -- oh, can you identify which exhibit that**
7 **is?**

8 A. Yes, sir. It's Plaintiff's Exhibit E.

9 THE COURT: E?

10 A. Right.

11 Q. **And Mr. Finley, is the protocol normally to post it at**
12 **the entrance to the property?**

13 A. Post it on the property where somebody can see it, if
14 they can get to it. Here you see it on a tree. If
15 there wasn't something like that, they would put a
16 stake down and post on the stake.

17 Q. **But that would appear to be the entrance to the**
18 **property.**

19 A. Yeah. That's what ---

20 Q. **Would the County be aware that there was a different**
21 **driveway crossing another person's property to get to**
22 **his property?**

23 A. No, sir.

24 Q. **All right. So in your opinion, was it placed in a**
25 **proper place?**

1 A. Yes, sir.

2 MR. CATOE: No further questions, Your Honor.

3 THE COURT: Mr. Anderson, anything on cross?

4 CROSS-EXAMINATION

5 BY MR. ANDERSON:

6 Q. Just to clarify, the second driveway that's been
7 testified here today, that -- that's near where this
8 posting was done from what you can tell.

9 A. So my understanding, if what you're asking is what I
10 would visualize as a driveway to the property I see on
11 this piece, the other driveway that they were speaking
12 about, I think at Mr. Branham's property, I don't know
13 where that is; but the driveway that I would think for
14 this piece of property I would visualize it, from this
15 picture, to the right here where the placard was with
16 the posting.

17 Q. On the posting, the -- on the mobile home --

18 A. Yes, sir.

19 Q. -- that's Defendant's Exhibit A, is that posting for
20 the tax sale on the mobile home?

21 A. Yes, sir.

22 Q. Did you have a conversation with the plaintiff about
23 the posting of the ---

24 A. I didn't --

25 Q. --- mobile home?

1 A. -- but there's notes -- we have to keep notes in the
2 system, and there's a note from September of 2018 that
3 Mr. Dailey reached out to Susan Cockrell, who works in
4 our office, and spoke to her questioning why the
5 posting was on the property. He didn't know there
6 were taxes on the mobile home. He thought it was
7 included in the actual real estate sale of the
8 property.

9 **Q. That's September of what year?**

10 A. 2018.

11 **Q. Before the sale?**

12 A. Yes, sir.

13 **Q. So your office has notes that reflect that Mr. Dailey**
14 **asked you about the notice on the mobile home and why**
15 **it was posted.**

16 A. Ask this -- Susan Cockrell, yes, sir. There's notes
17 from that day, and I have a copy of it.

18 MR. ANDERSON: Your Honor, I'm not going to go
19 through -- I mean, I'm prepared to go through all
20 the notices that were sent, but since we
21 stipulated to that, I don't want to take the time
22 to do that unless somebody --

23 THE COURT: I -- my understanding is everybody has
24 stipulated --

25 MR. LALIMA: Yes.

1 THE COURT: -- to all the notices that are referred
2 to again on the breakdown sheet, the two-page
3 breakdown sheet and the underlying documents. So
4 nothing is being objected to on what they claim
5 they sent. I understand -- as I understand the
6 testimony at this point, the County and its
7 witnesses and the stipulations are that the
8 County says, "We sent these things." Defendant's
9 testimony has been, "I don't recall getting
10 them." Is that accurate?

11 MR. LALIMA: That's accurate.

12 THE COURT: Okay.

13 MR. ANDERSON: And just -- and I guess just for the
14 record I could ask him about the summary sheet
15 you prepared that you just read ---

16 THE COURT: Right.

17 MR. ANDERSON: I know --

18 THE COURT: Yeah. And then let's make sure these get
19 introduced and -- I know they're stipulated.
20 Make sure they get introduced ---

21 MR. ANDERSON: In evidence.

22 THE COURT: --- at the right time.

23 MR. ANDERSON: Okay.

24 THE COURT: Here.

25 MR. ANDERSON: You want to put them into evidence?

1 THE COURT: Yeah.

2 MR. ANDERSON: Okay. All right.

3 BY MR. ANDERSON:

4 Q. Brett, have you looked over the -- these stipulation
5 of --

6 A. Yes, sir.

7 Q. And did you prepare the separate documents attached to
8 those stipulations? Did you prepare that tax sale
9 summary?

10 A. Yes, sir.

11 Q. So are those -- is the content of the stipulations and
12 the attachment to the stipulations are those accurate
13 from your review of the file?

14 A. From my review of the file, yes, sir.

15 Q. Okay.

16 MR. ANDERSON: Your Honor, we'd like to offer this
17 into evidence.

18 THE COURT: All right. That would be Plaintiff's D
19 and --

20 COURT REPORTER: Is that Plaintiff's?

21 MR. ANDERSON: Defendant's B.

22 THE COURT: Excuse me. Defendant's B and -- are
23 there two?

24 MR. ANDERSON: Well --

25 THE COURT: There's a stipulation.

1 MR. ANDERSON: The stipulation references the
2 attachment.

3 THE COURT: Right.

4 MR. ANDERSON: So it's just really one.

5 THE COURT: All right. Defendant's B. All right.

6 (DEFENDANT'S EXHIBIT B MARKED FOR
7 IDENTIFICATION PURPOSES (4 pages) -
8 STIPULATION)

9 BY MR. ANDERSON:

10 **Q. And Brett, did you have conversations with Mr. Dailey**
11 **after the tax sale?**

12 A. Yes, sir.

13 **Q. After the redemption period?**

14 A. Yes, sir.

15 **Q. And can you just summarize what those conversations**
16 **were?**

17 A. Sure. Yes, sir. Mr. Dailey had called in and stated
18 that he had a conversation with someone in the County
19 and thought that the redemption period was later than
20 it actually was. The redemption ended in November.
21 He thought it was in December. When we had our
22 conversation, we went over the tax sale file, and in
23 the midst of that, Mr. Dailey wanted to speak with Mr.
24 Eckstrom and myself and we asked him to write
25 something up and I'd take it to Mr. Eckstrom; and in

1 the midst of that, basically we had a meeting, Mr.
2 Eckstrom, myself, Michael Carter from the mobile home
3 department. We sat down and spoke with Mr. Dailey.
4 And as was brought up, he did mention he had some
5 personal things going on: Brother passing, nephew
6 passing, Dad having some health issues; and then, also
7 the custody of his son, and that this was a place
8 where he had, you know, purchased to -- for that, that
9 he was going to be, you know, living in that place
10 with his son. And so we -- the conversation basically
11 ended with -- we felt like we had done what we were
12 required to do. He should reach out to the bidder.
13 If the bidder would offer him a late redemption, we
14 would consider that, and that -- the conversation went
15 and that didn't happen. And so we had a conversation
16 that, you know, unfortunately, again, we felt like we
17 had done what we were required to do and that the tax
18 sale was going to stand.

19 **Q. Okay. And you met with him to see if it was anything**
20 **that you'd done wrong and ---**

21 **A. Correct.**

22 **Q. --- if you had, you would have voided the sale.**

23 **A. Yes, sir.**

24 **Q. Okay. On Defendant's Exhibit B, the summary that you**
25 **prepared --**

- 1 A. Yes, sir.
- 2 Q. -- can you tell us, on the second page, it has the
3 amount of overage from the tax sale.
- 4 A. Yes, sir. The amount of overage is \$6,015.92.
- 5 Q. And has it been claimed by anyone?
- 6 A. No, sir.
- 7 Q. Okay. And how much was the tax sale itself?
- 8 A. The actual bid on the tax sale was \$8,000.
- 9 Q. So the amount -- the overage was how much again?
- 10 A. \$6,015.92.
- 11 Q. That's still being held by Lexington County.
- 12 A. Yes, sir.
- 13 Q. Okay. Just briefly, and not to go into again to the
14 mobile home issue, but the -- from your review of the
15 records, does the County have this mobile home in the
16 name of Mr. Dailey?
- 17 A. It's not in the name of Mr. Dailey. It's -- when it's
18 gone to tax sale, it wound up not being bid on and it
19 wound up as a forfeited land commission piece. So
20 that's where it --
- 21 Q. So he -- so nobody is -- no third party owns the
22 mobile home now. If he wanted to take care of those -
23 -
- 24 A. Right.
- 25 Q. -- matter, he might could do that.

1 A. Right. Yes, sir.

2 Q. **But in summary, have you found anything that the**
3 **County -- that your office did not do that should have**
4 **been done for the tax sale?**

5 A. Not -- the requirements we're supposed to do for the
6 tax sale, no sir.

7 MR. ANDERSON: That's all, Your Honor. Thank you.

8 THE COURT: All right. Any brief redirect?

9 REDIRECT EXAMINATION

10 BY MR. LALIMA:

11 Q. **I believe -- if you'd look at Plaintiff's Exhibit E.**

12 A. Yes, sir.

13 Q. **Your testimony is that it was posted at the entrance**
14 **to the property. If you'd look at the second page of**
15 **E, it appears the posting is far back from the road;**
16 **is that correct?**

17 A. If you looked at the picture and the star, it looks
18 like it's off, but I'd say it's off the road a little
19 bit.

20 Q. **Okay. So it's not at the entrance to the property,**
21 **correct?**

22 A. I couldn't say, but I mean, if you're saying entrance,
23 that it's sitting right on the road, doesn't look like
24 it's sitting on the road.

25 Q. **Okay. And you have no knowledge of how it was**

1 **allegedly affixed to the tree, correct?**

2 A. Correct. Yes, sir.

3 **Q. And on the mobile home, is that put on the mobile home**
4 **with painter's tape?**

5 A. I do not know that answer.

6 **Q. So you don't know how securely those ---**

7 A. Right.

8 **Q. --- were ---**

9 A. Right.

10 **Q. --- posted.**

11 A. I do not.

12 **Q. And so it's possible they fell off the next day.**

13 A. It could have. I do not know that.

14 **Q. Okay. And in the notes, where there was allegedly a**
15 **conversation with someone at your staff, was there any**
16 **discussion prior to the redemption -- well, prior to**
17 **the sale of the real estate being foreclosed on?**

18 A. This was not a real estate. This was basically
19 looking at the mobile home posting and calling and
20 questioning the mobile home posting with the mobile
21 home taxes that he wasn't aware of.

22 **Q. Okay. And so there was never any, "Oh, by the way,**
23 **we've also taken your land."**

24 A. There's no note in that real estate or -- excuse me --
25 in the mobile home notes that state that.

1 Q. Okay. Thank you.

2 A. Yes, sir.

3 MR. LALIMA: No further questions.

4 RE-CROSS-EXAMINATION

5 BY MR. ANDERSON:

6 Q. Just since he brought up about the sign may have
7 fallen off the mobile home, let's get clear on that.
8 September prior to the tax sale, he called your office
9 asking about the notice on the mobile home.

10 A. Yes, sir.

11 Q. So it was on -- it --

12 A. Yes, sir.

13 Q. Obviously it was seen at that time.

14 A. I can tell you the day, and I apologize, I've got all
15 the paperwork in here, but I've got it saved
16 somewhere. If I remember correctly, it was September
17 14th of 2018. (As read) September 14, 2018, Mr.
18 Dailey called in about the sign posted on his door.
19 Stated he knew nothing about the taxes to the mobile
20 home." "I didn't know they were part of the property"
21 is what it says. He states, which it does, that the
22 mobile home is included and told that -- you know, and
23 the question of penalties and all that. But that's
24 the date, 9/14 of 2018.

25 Q. And that was -- the sale was November 5th of --

1 A. November 5th of 2018.

2 Q. All right. This was September 14th of ---

3 A. September 14, 2018, yes, sir.

4 Q. That's all. Thank you.

5 A. Yes, sir.

6 MR. LALIMA: Briefly.

7 REDIRECT EXAMINATION

8 BY MR. LALIMA:

9 Q. But those -- the posting about the real estate was not
10 on the mobile home, correct?

11 A. Correct. Right.

12 Q. And so -- and there was no conversation that the real
13 estate was also being sold.

14 A. Correct.

15 Q. So it would be fair to assume in Mr. -- that Mr.
16 Dailey was only discussing the mobile home and had no
17 knowledge of the land being sold separately, correct?

18 A. That's what the conversation was, mobile home, yes,
19 sir.

20 Q. Okay. Thank you.

21 THE COURT: All right. You can step down. Thank
22 you, sir.

23 MR. LALIMA: Plaintiff rests.

24 THE COURT: All right. Anything from Defendants
25 before you begin your case?



E

RECENT GIS IM

DELINQUENT TAX SALE NOTICE

Park Rd

STREET ACCESS AND DRIVEWAY

DAILEY'S TRAILER

855

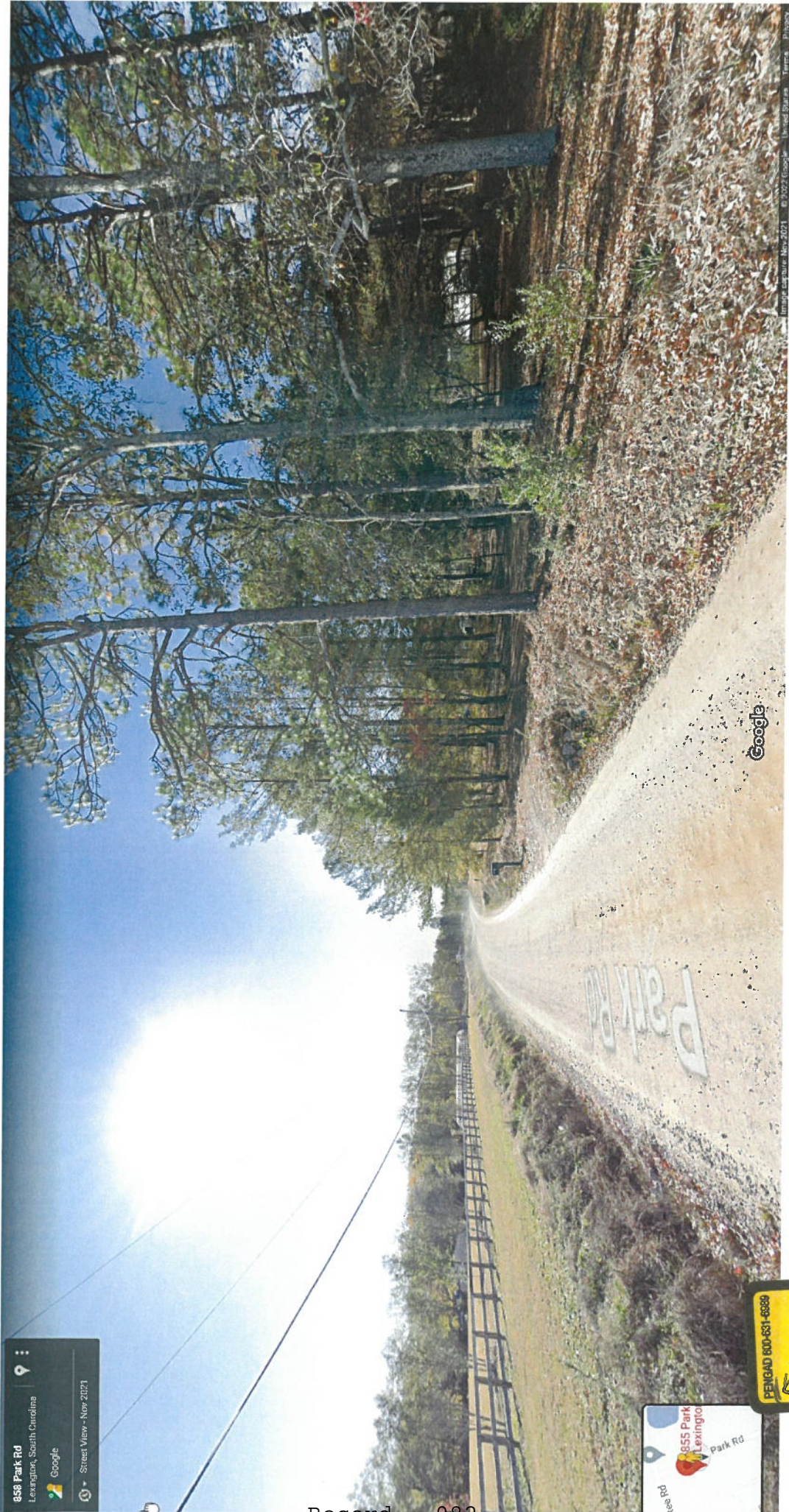
PENNSAID 800-631-6888
PLAINTIFF'S EXHIBIT
 A 414
 100







A



B



856 Park Rd
Lexington, South Carolina
Google
Street View - Nov 2021

PLAINTIFF'S EXHIBIT
C 44-22
103
PENGAD 800-631-8999





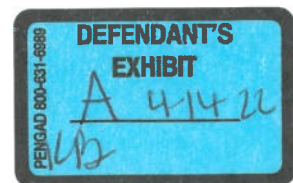
△

PLAINIFF'S
 EXHIBIT
 D 41422
 PERCAD 800-851-8889

4/13/22, 2:19 PM

1724089_18_30_12_Image_1.jpg (2560x1920)

△ (A)



https://postingpro.net/Photos/1724089_18_30_12_Image_1.jpg

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

Civil Action No.: 2020-CP-32-02231

Grayson J. Dailey,)
)
Plaintiff,)

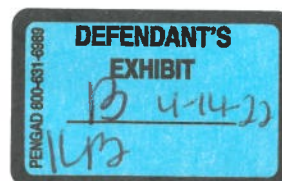
**JOINT STIPULATION
OF FACTS**

vs.)
)

SC Home Holdings, LLC, Lexington)
County, and Jim Eckstrom in his)
official capacity as Treasurer of)
Lexington County, and John Doe,)
)
Defendants.)

Plaintiff, Grayson J. Dailey, and Defendants, SC Home Holdings, LLC, Lexington County, and Jim Eckstrom in his official capacity as Treasurer of Lexington County, and John Doe hereby stipulate and agree to the facts set forth below.

1. Dailey purchased the real property from Regina Y. Quattlebaum by deed recorded on March 10, 2017 in Book 19058 at page 345.
2. The real property was receiving legal residence classification for 2017 as the owner as of December 31, 2016 (Quattlebaum) qualified for legal residence.
3. The tax bill for 2017 was mailed to Grayson Dailey at 855 Park Road, Lexington, SC 29072 which was the grantee address on the deed from Quattlebaum to Dailey.
4. The 2017 property taxes were not paid.
5. Execution notice was mailed to Grayson Dailey and Regina Quattlebaum on April 13, 2018.
6. Pretax sale certified notices were sent to both Quattlebaum (as the December 31, 2016 owner) and to Dailey on May 25, 2018. Quattlebaum signed for the notice on June 1, 2018. Dailey's presale notice went to the address on the deed to Dailey and was returned unclaimed on October 14, 2018.
7. Property was posted September 13, 2018, but Plaintiff argues that the posting was not conspicuous.



8. Real Property was advertised in the newspaper on October 11, 2018, October 18, 2018 and October 25, 2018 in the name of Quattlebaum, Regina Y., now owned by Dailey, Grayson.
9. Tax Sale was November 5, 2018.
10. Regular mail (courtesy notice that is not required by statute) redemption notice was mailed to Dailey at the address on the deed to Dailey on November 26, 2018.
11. The end of redemption notice was sent by certified mail to Dailey at the same grantee address on the deed to Dailey on September 23, 2019 and came back unclaimed on October 18, 2019.
12. The above summary of the tax sale process is further shown by the attached tax sale summary prepared by the Lexington County Deputy Tax Collector.

Lexington, South Carolina

_____ day of _____, 2022

By: _____

William James LaLima (SC Bar #15276)
 LaLima Law Firm, LLC
 1635 Sunset Blvd.
 West Columbia, SC 29169
 (803) 807-6292
 Attorney for Plaintiff

By: _____

Dennis Wayne Catoe (SC Bar #0001164)
 200 Outlet Pointe Blvd.
 Columbia, SC 29210
 (803) 407-2500
 Attorney for Defendant SC Home Holdings, LLC

By: _____

Jeff M. Anderson (SC Bar #380)
 Davis Frawley, LLC
 P. O. Box 489
 Lexington, SC 29072
 (803) 359-2512
 Attorney for Defendants Lexington County
 and Jim Eckstrom in his official capacity as
 Treasurer

**PACKET BREAKDOWN FOR COURT
DATE N/A TIME N/A JUDGE SPENCE
ATTORNEY**

TAX SALE DATE 11/5/2018 BOOK 57 ITEM 502 SOLD FOR TAX YEARS: 2017 & 2018

TMS #: 004200-02-038 LOCATION: 855 PARK RD DESCRIPTION: NONE

NAME: DAILEY, GRAYSON

**ADDRESS: 855 PARK RD
LEXINGTON SC 29072**

DATE OF EXECUTION: MARCH 17, 2018

EXECUTION NOTICE REGULAR MAIL: APRIL 13, 2018

QUATTLEEBAUM, REGINA Y
147 AGAPE VILLAGE CT
WEST COLUMBIA SC 29169

EXECUTION NOTICE REGULAR MAIL: APRIL 13, 2018

DAILEY, GRAYSON
855 PARK RD
LEXINGTON SC 29072

CERTIFIED LETTER BEFORE TAX SALE MAILED: MAY 25, 2018

QUATTLEEBAUM, REGINA Y
147 AGAPE VILLAGE CT
WEST COLUMBIA SC 29169

DATE SIGNED FOR OR COMMENTS OWNER: RETURNED SIGNED BY R Y QUATTLEBAUM JUNE 1, 2018

CERTIFIED LETTER BEFORE TAX SALE MAILED: MAY 25, 2018

DAILEY, GRAYSON
855 PARK RD
LEXINGTON SC 29072

DATE SIGNED FOR OR COMMENTS OWNER: RETURNED UNCLAIMED OCTOBER 14, 2018

DATE PROPERTY POSTED: SEPTEMBER 13, 2018

POSTED BY: ROGER PETTY

ADVERTISEMENT DATES:

OCTOBER 11, 2018 LEXINGTON CHRONICLE, TWIN CITY NEWS

OCTOBER 18, 2018 LEXINGTON CHRONICLE, TWIN CITY NEWS

OCTOBER 25, 2018 LEXINGTON CHRONICLE, TWIN CITY NEWS

LETTER AFTER TAX SALE SENT REGULAR MAIL: NOVEMBER 26, 2018

DAILEY, GRAYSON
855 PARK RD
LEXINGTON SC 29072

CERTIFIED REDEMPTION LETTER AFTER TAX SALE MAILED: SEPTEMBER 23, 2019

DAILEY, GRAYSON
855 PARK RD
LEXINGTON SC 29072

DATE SIGNED FOR OR COMMENTS OWNER: RETURNED UNCLAIMED OCTOBER 18, 2019

**BID AMOUNT: \$8,000.00 BIDDER NAME: SC HOME HOLDINGS, LLC
DEED ISSUED TO BIDDER: 3-26-20 RECORDED: 4-15-20 BK 20866 PG 2992
DEED SENT TO BIDDER: 4-16-20**

OVERAGE OF \$ 6,015.92 HAS NOT BEEN CLAIMED

**INFORMATION COPIED FROM PACKET
4/11/2022 BY BRETT FINLEY**

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON)	
)	
Grayson J. Dailey,)	Case No.: 2020-CP-32-02231
Plaintiff,)	
)	
VS.)	
)	[PROPOSED] ORDER
SC Home Holdings, LLC, Lexington)	
County, and Jim Eckstrom in his)	
official capacity as Treasurer of)	
Lexington County, and John Doe,)	
)	
Defendants.)	
)	

DATE OF TRIAL:	April 14, 2022
PRESIDING JUDGE:	The Honorable James O. Spence
PLAINTIFF’S ATTORNEY:	William James LaLima, Esquire
DEFENDANT’S ATTORNEY:	Dennis W. Catoe, Esquire
DEFENDANT’S ATTORNEY:	Jeffrey M. Anderson, Esquire
COURT REPORTER:	Kathryn Bostrom

THIS MATTER came before the South Carolina Court of Common Pleas for the Eleventh Judicial Circuit for trial on April 14, 2022. Present at the trial were Plaintiff Grayson J. Dailey with counsel William LaLima, Defendant SC Home Holdings, LLC with counsel Dennis Catoe, and Defendants Lexington County and Jim Eckstrom, in his official capacity as Treasurer of Lexington County with counsel Jeffrey Anderson.

The Court’s file reflects that the *Lis Pendens* was filed on June 24, 2020. Defendants Lexington County and Jim Eckstrom were served on July 13, 2020. Defendant SC Home Holdings, LLC was served on July 14, 2020. Defendants Lexington County and Jim Eckstrom filed an answer on or about July 23, 2020. Defendant SC Home Holdings, LLC filed an answer on or about August 13, 2020. This case was transferred to the Lexington County Master-in-

Equity on or about August 24, 2021 pursuant to Plaintiff's Motion for Reference, filed on or about August 23, 2021.

Plaintiff purchased the property at 855 Park Road, Lexington, SC 29072, TMS # 004200-02-038 (hereinafter "the property") from Regina Y. Quattlebaum on March 10, 2017. (See Record Book 19058 at Page 345).¹ Thereafter, on November 5, 2018, the property was sold at public auction.

Plaintiff argues that the tax sale should be set aside because of Defendant Lexington County's failure to strictly comply with the tax sale statutory requirements. Specifically, Plaintiff argues that Defendant failed to properly post notice on the property and failed to properly advertise the sale of the property in violation of S.C. Precedent. Additionally, Plaintiff argues that allowing the title to the property to be transferred to Defendant SC Home Holdings would result in unjust enrichment. Defendants argue that Lexington County did comply with applicable statute and, as such, request that this Court quiet title on the property.

ISSUES

1. Did Defendant Lexington County properly post the property?
2. Did Defendant Lexington County properly advertise the property for sale?
3. Was Defendant SC Home Holdings, LLC unjustly enriched by purchasing the property?
4. If the tax sale is voided, what is the appropriate remedy?

FINDINGS OF FACT

1. The property in question is located in Lexington County.
2. This Court obtained jurisdiction by Order of Reference filed August 21, 2021.

¹ Despite the mobile home having an attached deck and roofed addition, the title was not retired, and it still has a separate tax bill which is not the subject of this action.

3. The parties filed a stipulation of facts that contain all relevant dates and acts. These facts are incorporated into this Order by reference. (Defendants' Exhibit A).
4. All trial exhibits were admitted without objection.
5. This Court finds that Defendant Lexington County properly mailed all statutory notices to Plaintiff.
6. This Court finds that Defendant Lexington County posted a notice on Plaintiff's property.
7. This Court finds that there was road construction on or near the property in question and that Plaintiff was away for extended periods of time for family emergencies during the time that the tax sale mailing and process occurred. (Tr. 16:20-22, 30:2-10).
8. This Court finds that Plaintiff's witness moved his mailbox off the road to a location closer to his home pursuant to postal carrier's request. (Tr. 17:8-15).
9. This Court finds Plaintiff's witness statement that, in the past, mail had been misplaced in various mailboxes, credible. (Tr. 17:18-25).
10. This Court finds no evidence that Plaintiff's mail was misplaced in witness' or other person's mailbox(s).
11. This Court finds no credible testimony or evidence that either Plaintiff or his witness never received any mail.
12. This Court finds no postal carrier witness appeared to confirm, explain, or deny any alleged mail delivery issues.
13. This Court finds, as undisputed fact, that Plaintiff was, at all relevant times, a knowledgeable businessperson who owned properties in Lexington County and understood that he had to pay taxes on property. (Tr. 29:13-15, 44:7-17)².

² This fact is not relevant to this case, however. The United States Supreme Court reasoned that, "the common knowledge that property may become subject to government taking when taxes are not paid does not excuse the

14. This Court finds that Plaintiff's practice was to pay his tax bill when he received a notice or bill. (Tr. 40:19-23).
15. This Court finds that Plaintiff learned of delinquent tax bills on both the mobile home and land prior to the expiration of the redemption period and that he then contacted Defendant Lexington County to discuss. (Tr. 34:1-12).
16. This Court finds that Plaintiff misunderstood the proper redemption date and failed to timely redeem the property(s) as allowed by law. (Tr. 34:1-12, 55:17-21).
17. This Court finds that FNADZ, LLC was the original tax sale purchaser who paid \$8,000.00 on November 5, 2018. (See Record Book 20866 at Page 2992-2995).
18. This Court finds that Defendant SC Home Holdings, LLC bought subject property, together with other properties, from the original tax sale purchase through a bulk sale of packaged properties. Home Holdings estimates the subject property represents \$10,000.00 to \$18,000.00 of his investment (Tr. P.63 ln. 25 & p. 64 ln. 9).
19. The parties dispute whether the property was properly posted in a "conspicuous" location as required by statute.
20. Plaintiff argues the property was not properly posted because the notice of the seizure was posted in an inconspicuous location on a tree far back from, and not visible from the road on a clearly unused driveway.
21. The parties dispute whether the advertisement of the property in the newspaper was proper.
22. Plaintiff claims that the advertisement was defective because it was posted under "Quattlebaum, Regina Y" with Plaintiff's name appearing only in the body of the notice

government from complying with its constitutional obligation of notice before taking private property. [the Court has] previously stated the opposite: An interested party's 'knowledge of delinquency in the payment of taxes is not equivalent to notice that a tax sale is pending.' Mennonite, supra, at 800. See, Dickerson v. United States, 530 U. S. 428, 443 (2000)." Jones v. Flowers, 547 US 220, 233 (2006)

and, not listed alphabetically; as such, it was not sufficient notice to him. Tr. 10:5-13, 47:14-18.

23. Plaintiff argues that the price paid by Plaintiff for the property results in unjust enrichment because the tax sale purchase price amount represents less than one-tenth the value of the real estate.

24. Defendants offered no witness to verify how the notice was affixed to a tree or whether it was visible from the road.

DISCUSSION

1. **Defendant Lexington did not post notice of seizure in a conspicuous location as required by statute.**

South Carolina Code § 12-51-40(a) provides that, in the event the certified mail notice has been returned, a delinquent tax collector is required to “take exclusive physical possession of the property... by posting a notice at **one or more conspicuous places** on the premises.” (emphasis added).

Notice was posted on a tree near a driveway on the property not regularly used by Plaintiff and away from the road such that it could not be seen from the road. (Plaintiff’s Ex. E). The photographs of the scene clearly show a winding driveway through forested land that is covered in pine-straw with no tire tracks. Plaintiff’s neighbor testified that, despite driving by the property anywhere from two to four times a day on average, he never saw any notices posted on the land. Tr. 24:15-20. No witness appeared to testify as to how the notice was allegedly affixed to a tree, or what the weight, durability, or composition of the notice was comprised of.

The United States Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or **property without due process of law.**" The Fourteenth Amendment, ratified in 1868, uses the same eleven words,

called the Due Process Clause, to describe a legal obligation of all states. These words have as their central promise an assurance that all levels of American government must operate within the law and provide fair procedures.

The United State Supreme Court has addressed the importance of notice as the initial question for due process analysis. In Greene v. Lindsey, 456 US 444 (1982) the Court reasoned, “But whatever the efficacy of posting in many cases, it is clear that, in the circumstances of this case, **merely posting notice on an apartment door does not satisfy minimum standards of due process.**

"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. Milliken v. Meyer, 311 U. S. 457; Grannis v. Ordean, 234 U. S. 385; Priest v. Las Vegas, 232 U. S. 604; Roller v. Holly, 176 U. S. 398." Mullane v. Central Hanover Tr. Co., 339 U. S. 306, 314. Schroeder v. City of New York, 371 US 208, 212 (1962) (where in addition to newspaper publication the state posted 22 notices on trees and poles along a seven-or eight-mile stretch of the river in the general vicinity of the appellant's premises.)

South Carolina has no case directly addressing when a Tax Sale Notice is “conspicuous”. However several other courts have addressed this issue, “courts have properly required that posting be accomplished by ‘placing the notices **somewhere on the premises for all to observe,**’ rather than handing the notice to an owner, Tax Claim Bureau Upset Sale, 95 Montgomery County L.R. 262, 265 (PA 1972), or in **"such a manner as to attract attention,"** Otto v. Dauphin County Tax Claim Bureau, 24 Pa.D. & C.3d 709, 710 (1980). We agree with the trial court that in this case, the manner in which the notice was posted informed no one that the

subject property was being exposed to tax sale. Consol. Return by McKean County, 820 A.2d 900, 903 (Pa. Cmmw. Ct. 2003) (emphasis added).

Moreover, Lexington offered no evidence that even if it was initially posted in a conspicuous location, that the manner of posting was sufficiently secured. In a similar situation, a Pennsylvania Court reasoned:

The issue is whether or not the notice was "reasonably secured" to the telephone pole. Nannen testified that he attached it with "ordinary masking tape." He had no recollection of how he attached it. Consequently we have no way of concluding whether or not it was "reasonably secured." There is no testimony, for example, whether he secured the notice by winding the tape around the pole, or whether he only taped the corners of the notice to the pole, or only the top and bottom of the notice. Obviously, how it was affixed to the pole determines whether it was reasonably secured. If we do not know how it was taped to the pole, we cannot conclude whether it was reasonably secured.

Consol. Return by McKean County, 820 A.2d 900, 903 (Pa. Cmmw. Ct. 2003).

Although the statute does not specifically require that a notice of seizure be posted on the road, it is of considerable significance that the statute require the notice to be "conspicuous." Under South Carolina law, the "cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature." *Hawkins v. Bruno Yacht Sales, Inc.*, 353 S.C. 31, 577 S.E.2d at 207 (2000). Where a statute's language is plain and unambiguous, conveying a clear meaning, there is "no occasion for employing rules of statutory interpretation;" however, where the language is ambiguous, the Court must construe the terms of the statute. *Wade v. Berkeley Cnty.*, 348 S.C. 224, 559 S.E.2d 586, 588 (2002). Here, the vast wealth of case law favors an interpretation of any statutory ambiguity in favor a property owner and a defaulting taxpayer. "All requirements of law leading up to tax sales are intended for the protection of the taxpayer against surprise or the sacrifice of his property..." *Baker v. Denton*, 37 F.Supp.3d 794, 799 (D.S.C. 2014) (citing *Tanner v. Florence County Treasurer*, 336 S.C. 552, 563, 521 S.E.2d 153, 158-159 (1999)).

“The rationale behind posting [a tax sale] notice is to notify the defaulting taxpayer that delinquent property taxes are due.” *Forfeited Land Com’n of Bamberg v. Beard*, 424, S.C. 137, 817 S.E.2d 801, 804 (S.C.App. 2018) (citing *Smith v. Barr*, 375 S.C. 157, 161, 650 S.E.2d 486, 488 (Ct. App. 2007)). Black’s Law Dictionary defines a “conspicuous place” as “for purposes of posting notices, a location that is **reasonably likely to be seen**,” that is, likely to put people on notice that the property has been seized for delinquent taxes. *Black Law’s Dictionary*, 11th ed. 2019.

“South Carolina’s tax sales were promulgated to protect the government against willful, persistent, and long standing delinquents; they were not created to punish taxpayers who failed to pay their taxes because of legitimate mistake or error.” *Johnson v. Arbabi*, 347 S.C. 132, 553 S.E.2d 453 (S.C.App. 2001). At the time the notice was posted, Plaintiff was routinely out of town for family emergencies. Tr. 30:6-7. Additionally, he did not know the title to the trailer and real estate were not merged or that taxes were owed when he closed on the property.

Lexington County only offered one witness to testify about the “conspicuousness” of the posting. Mr. Brett Finley testified that he did not know how it was affixed to the property or which tree it was affixed to. He further testified that the purpose of posting was so notice could be given to the public (transcript p.46-47):

12 Q. Okay. Now, you did not personally go out there and
 13 post that, correct?
 14 A. No, sir.
 15 Q. Do you know the gentleman who did post it?
 16 A. The company I know. The gentleman works for the
 17 company, Palmetto Posting.
 18 Q. Okay. Do you have any knowledge of how it was posted
 19 to the tree?
 20 A. I was not there, so I know when they go out, they're
 21 supposed to post it in an area where somebody would
 22 see it. But I do -- I wasn't there when they posted
 23 it, no.
 24 Q. And is that -- that somebody would see it, is that for
 25 the general public to see or exclusively for the

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1 homeowner?
 2 A. I think it's for anyone to see, to be able to touch
 3 base with the person or the person themselves to see
 4 it so they can reach back out to us.
 5 Q. Okay. And is that also the reasoning behind listing
 6 it in the newspaper?
 7 A. Correct. The newspaper, we have to do it three times
 8 prior to the tax sale. So yes, sir.
 9 Q. And that notice is designed not just for the specific
 10 tax payer, but for the general public, too, correct?
 11 A. I would think so. I -- obviously, I can't speak
 12 specifically on the statute, but I would think that
 13 was the case.

The only evidence submitted by the county shows the notice was posted far from the road on a tree on the property that was not visible to passersby. As the Pennsylvania Court

reasoned, tax sale notices should be placed “**somewhere on the premises for all to observe** [and] ... **in "such a manner as to attract attention,"** the manner in which the notice was posted informed no one that the subject property was being exposed to tax sale. Consol. Return by McKean County, 820 A.2d 900, 903 (Pa. Cmmw. Ct. 2003). (emphasis added, internal quotes omitted).

Plaintiff used his neighbor’s property to gain access to his property. Tr. 27:4-7. While Plaintiff did not have an easement nor any legal right to use his neighbor’s property as a driveway to enter his property, the neighbor’s driveway is the driveway closest to the Plaintiff’s trailer and there are clear tire tracks from use. Tr. 31:2-3, Pl. Ex. B. The burden of hanging multiple notices is low. The photographs show suitable trees and areas to post notices conspicuous to passersby. Given the existence of two driveways in close proximity to another, the significant road construction occurring at the time, and the potential risk that a delinquent tax owner may not become aware of a posted notice, it is reasonable that a delinquent tax collector post more than one notice in such circumstances. At the very least, notice should have been posted in a conspicuous location on the property as required by the statute.

Mr. Finlay admitted the posting was not at the entrance to the property and was “off the road a little bit”:

- 11 Q. I believe -- if you'd look at Plaintiff's Exhibit E.
- 12 A. Yes, sir.
- 13 Q. Your testimony is that it was posted at the entrance
- 14 to the property. If you'd look at the second page of
- 15 E, it appears the posting is far back from the road;
- 16 is that correct?
- 17 A. If you looked at the picture and the star, it looks
- 18 like it's off, but I'd say it's off the road a little
- 19 bit.
- 20 Q. Okay. So it's not at the entrance to the property,
- 21 correct?
- 22 A. I couldn't say, but I mean, if you're saying entrance,
- 23 that it's sitting right on the road, doesn't look like
- 24 it's sitting on the road.
- 25 Q. Okay. And you have no knowledge of how it was

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- 1 allegedly affixed to the tree, correct?
- 2 A. Correct. Yes, sir.
- 3 Q. And on the mobile home, is that put on the mobile home
- 4 with painter's tape?
- 5 A. I do not know that answer.
- 6 Q. So you don't know how securely those ---
- 7 A. Right.
- 8 Q. --- were ---
- 9 A. Right.
- 10 Q. --- posted.

The burden is on Lexington to show they complied with posting in a “conspicuous” location. Lexington failed to offer any evidence that the location or manner of posting was reasonable and calculated to provide notice. In fact the only evidence Lexington provided shows the posting was not visible from the road to passersby and therefore not posted in a “conspicuous” location as required by statute.

Once it is determined there is a defect in the statutory notice, it renders the tax sale absolutely void. All other testimony or evidence relating to confusion about the redemption period is irrelevant under S.C. law. Under South Carolina law, failure to give the required notice of a tax sale is a fundamental defect in the tax sale proceedings that renders the proceedings absolutely void. *Baker v. Denton*, 37 F.Supp.3d 794 (2014). Moreover, under South Carolina law, the fact that the defaulting taxpayer has actual notice of the impending tax sale is insufficient to uphold a tax sale absent strict compliance with statutory requirements. *Baker. Reeping v. JEBBCO, LLC* 402 S.C.195, 740 S.E.2d 504 (S.C.App. 2013). *King v. James* 388 S.C. 16, 694 S.E.2d 35 (S.C.App. 2010). *Hawkins v. Bruno Yacht Sales, Inc.* (S.C. 2003) 353 S.C. 31, 577 S.E.2d 202. *Johnson v. Arbabi*, 347 S.C. 132, 553 S.E.2d 453, *rehearing denied*, (S.C.App. 2001) reversed 355 S.C. 64, 584 S.E.2d 113.

2. **Advertisement in the newspaper was non-compliant with constitutional principles of notice.**

The advertisement was defective because it was posted under the name of “Quattlebaum, Regina Y.” Plaintiff’s name appeared only in the body of the notice and, not alphabetically; as such, it was not sufficient notice to him. Tr. 10:5-13, 47:14-18. The South Carolina Supreme Court has ruled the newspaper publication must be **in the name of the owners**. *Osborne et al. v. Vallentine*, 196 S.C. 90, 96 (S.C. 1941) found a tax sale invalid when “[t]he advertisement of sale was not **in their names as owners**” (emphasis added). This advertisement was in the name

of Quattlebaum, not Dailey. As earlier stated, "An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is **notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.** Milliken v. Meyer, 311 U. S. 457; Grannis v. Ordean, 234 U. S. 385; Priest v. Las Vegas, 232 U. S. 604; Roller v. Holly, 176 U. S. 398." Mullane v. Central Hanover Tr. Co., 339 U. S. 306, 314. Schroeder v. City of New York, 371 US 208, 212 (1962) (emphasis added).

The overriding objective of the statute providing that once a construction "levy by distress" has been accomplished, the tax collector must "advertise the property for sale at a public auction," is to protect the defaulting taxpayer from unfair surprise and sacrifice. *Hawkins*, 342 S.C. 352, 536 S.E.2d 698 (S.C.App. 2000).

In order to find Plaintiff's name in the newspaper postings, one would have to read through the actual text of what was posted. As such, someone skimming the postings, whether that be Plaintiff or someone likely to notify him, would not have seen Plaintiff's name listed alphabetically with the other owners. Merely including Plaintiff's name in the body of the notice, as opposed to listing his name alphabetically as the owner, is not likely to accomplish the objective of protecting a defaulting taxpayer from unfair surprise and sacrifice. And it does not constitute a publication "in the name of the taxpayer" as required by South Carolina precedent.

3. Defendant was unjustly enriched given the unique facts of this case.

The price paid by Plaintiff for the property results in unjust enrichment because the tax sale purchase price amount represents less than one-tenth the value of the real estate. Under the unique facts of this case where road construction limited access to the driveway, made the mail boxes unusable, with the Plaintiff's family tragedies it would be unjust to allow Defendant Home Holdings to receive a windfall benefit of more than fifteen times their investment.

Plaintiff bought the property for Sixty Nine Thousand Dollars (\$69,000.00), which represented an approximate fair market value. Tr. 32: 24-25. He testified that through substantial improvements like adding a gabled roof and brick skirt, the value today would be approximately \$150,000.00. The property was sold at auction for Eight Thousand Dollars (\$8,000.00). Plaintiff testified that several improvements and upgrades have been added to the property and he anticipates that the property is worth around One Hundred Fifty Thousand Dollars (\$150,000.00). Tr. 33:5-7. Defendant home holdings estimated their investment in the property to be between \$10,000 and \$18,000.00 (Tr. P.63 ln. 25 & p. 64 ln. 9).

Equity abhors a forfeiture and will seek to avoid one if at all possible. Under the unique facts of this case, the court should set aside the tax sale and quiet title in favor of Plaintiff. "A court of equity abhors forfeitures, and will not lend its aid to enforce them. Jones v. N.Y. Guar. & Indem. Co., 101 U.S. 622, 628, 25 L.Ed. 1030 (1879). "Equity does not favor forfeitures or penalties and will relieve against them when practicable in the interest of justice." Lane v. N.Y. Life Ins. Co., 147 S.C. 333, 374, 145 S.E. 196, 209 (1928). The court has the power in equity to deny or delay forfeiture when fairness demands. Lewis v. Premium Inv. Corp., 351 S.C. 167, 172, 568 S.E.2d 361, 364 (2002). Regions Bank v. Wingard Properties, Inc., 715 SE 2d 348, 394 S.C. 241, 256 (SC Ct App. 2011) (internal quotes omitted).

To recover for unjust enrichment, a plaintiff must show that (1) he conferred a non-gratuitous benefit on the defendant, (2) that the defendant realized some value from the benefit, and (3) that it would be inequitable for the defendant to retain the benefit without paying the plaintiff for its value. Id. 394 S.C. 241 @ 257. Under the unique facts of this case, unjust enrichment would be an appropriate remedy to quiet title in favor of Plaintiff.

CONCLUSIONS OF LAW

1. **AN ACTION TO SET ASIDE A TAX SALE LIES IN AN ACTION IN EQUITY.**

King v. James, 694 S.E.2d 35, 39 (Ct. App. 2010). “A tax execution is not issued against the property, it is issued against the defaulting taxpayer.” *Rives v. Balsa*, 325 S.C. 287, 293, 478 S.E.2d, 878, 881 (Ct. App. 1996). “Due process of law requires some sort of notice to a landowner before he is deprived of his property.” *Id.* “Tax sales must be conducted in strict compliance with statutory requirements.” *In re Ryan Inv. Co.*, 335 S.C. 392, 395, 517 S.E.2d 692, 693 (1999). “[A]ll requirements of the law leading up to tax sales [that] are intended for the protection of the taxpayer against surprise or the sacrifice of his property are to be regarded [as] mandatory and are to be strictly enforced.” *Forfeited Land Comm’n of Bamberg County*, 424 S.C. 137, 145, 817 S.E.2d 801, 804 (Ct. App. 2018) (alterations in original) (quoting *Donahue v. Ward*, 298 S.C. 75, 83, 378 S.E.2d 261, 265 (Ct. App. 1989)). “Failure to give the required notice of a [tax sale] is a fundamental defect in the tax proceedings which renders the proceedings absolutely void.” *Rives*, 325 S.C. at 293, 478 S.E.2d at 881. *Scott v. McAlister et al.*, Ct. App. Opinion No. 5897 (Filed March 9, 2022).

2. South Carolina Code § 12-51-40 lays out the proper statutory procedure for notifying a taxpayer of delinquent taxes before conducting a tax sale of the defaulting taxpayer’s property. The delinquent tax collector is required to mail a notice of delinquent taxes to the defaulting taxpayer and any grantee of record of the property. § 12-51-40(a). If the taxes remain unpaid after thirty days, the delinquent tax collector is permitted to take exclusive possession of the property by, in the case of real property, mailing a notice of delinquency to the defaulting taxpayer and any grantee of record of the property by “certified mail, return receipt requested-restricted delivery.” § 12-51-40(b). In the event

the “certified mail” notice is returned, the delinquent tax collector must “take exclusive physical possession of the property...by posting a notice at one or more *conspicuous* places on the premises.” § 12-51-40(c) (emphasis added). Lastly, the delinquent tax collector must make weekly advertisements of the delinquent tax sale in a newspaper of general circulation within the county of municipality. § 12-51-40(d).

3. **DEFENDANT LEXINGTON COUNTY FAILED TO PROPERLY POST A “CONSPICUOUS” NOTICE.**
4. **DEFENDANT LEXINGTON COUNTY FAILED TO SHOW STRICT COMPLIANCE WITH ADVERTISING “IN THE NAME OF THE DEFAULTING TAXPAYER” IN THE PUBLICATION.**
5. **UNJUST ENRICHMENT IS APPROPRIATE AS A REMEDY.**
6. **PLAINTIFF IS ENTITLED TO QUIET TITLE.**

Based on the totality of the evidence, the Court finds that the tax sale of the property did NOT strictly comply with S.C. Code Ann. § 12-51-40(c) in that the notice of delinquent taxes was not posted in a conspicuous place on the property. Additionally, the Court finds that the tax sale of the property violated S.C. Code Ann. § 12-51-40(d) in that the advertisements of the delinquent tax sale were defective. Because all requirements of the law leading up to tax sales which are intended for the protection of the taxpayer against surprise of the sacrifice of his property are to be regarded as mandatory and are to be strictly enforced, the Court finds that the tax sale of the property and the resulting tax deed are void on this basis.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The auction and tax sale of the property on November 5, 2018 is hereby set aside.

2. The resulting Tax Deed, in the Lexington County Register of Deeds Office at Deed Book, is hereby rescinded and declared void.
3. The subsequent transfer of the property by way of Deed from FNADZ, LLC to SC Home Holdings, LLC recorded April 15, 2020 at Deed Book 20866, Page 2992-2995 is also rescinded and declared void.
4. Plaintiff properly remit all redemption amounts due for taxes and penalties to Lexington County within 30 DAYS of this Order being filed, with all appropriate amounts then being returned to S.C. Home Holdings as successor purchaser to FNADZ, LLC by Lexington County.
5. Upon proper repayment of the redemption amount as set forth above, a certified copy of this Order may be filed in the Register of Deeds office and, upon filing, the Register of Deeds shall enter in the public records, under the names of Grantors and Grantees, the fact that the two previously referenced deeds have been cancelled via Court Order and that Plaintiff's deed remains valid.

AND IT IS SO ORDERED.

James O. Spence
Master-in-Equity/Special Circuit Court Judge

_____, 2022
Lexington, South Carolina

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Jan 03 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Master in Equity

James O. Spence, Master in Equity

Appellate Case No. 2022-001128

Grayson J. Dailey, Appellant,

v.

SC Home Holdings, LLC, Lexington
County and Jim Eckstrom in his official
capacity as Treasurer of Lexington
County, and John Doe, Respondents.

CERTIFICATION OF RECORD

I certify that this designation contains no matter which is irrelevant to this appeal.

/S William J. LaLima_____

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ATTORNEY FOR Appellant

December 12, 2022