

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Shirley C. Robinson, Administrative Law Judge

Case No. 11-ALJ-17-0536-CC

Gary Hearn.....Respondent,

v.

Laurens County Assessor.....Appellant.

INITIAL REPLY BRIEF OF APPELLANT

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ARGUMENT

Notwithstanding Taxpayer's¹ arguments in his Respondent's Brief, there is not substantial evidence in the Record to support the Administrative Law Court's ("ALC") conclusion, and the ALC's decision should be reversed and the Assessor's valuation of the Property should be reinstated.

I. THERE IS NOT SUBSTANTIAL EVIDENCE IN THE RECORD TO SUPPORT THE ADMINISTRATIVE LAW COURT'S DECISION

The ALC expressly and improperly relied upon inadmissible hearsay to support its decision. In its Final Order and Decision ("Order"), the ALC stated: "the best evidence of the property's fair market value is the value as determined in th[e] appraisal, which is \$81,000." (Order, at 6.) According to the ALC itself, the ALC based its decision on the inadmissible appraisal.

To the extent the ALC used the land values in the comparable properties presented by Mr. Burden as a foundation for its Order, the ALC erred. In its Order, the ALC stated its belief that Mr. Burden had not stated why the comparable properties' land values were different than the Taxpayer's land value. (Order, at 4.) The ALC was incorrect.

At the hearing, Mr. Burden, a real estate appraiser with the Laurens County Assessor's Office, explained the principles of real property appraisal and the key differences in Taxpayer's Property and other comparable properties, which caused the Taxpayer's land value to be greater than his neighbors' land values. (Transcript of Hearing, p. 106, line 4 – p. 117, line 13.) In fact, on cross-examination, the Taxpayer himself lead Mr. Burden through the details of why the comparable properties had

¹ For ease and brevity, all defined terms used in Laurens' Initial Brief are reincorporated into this Reply Brief.

different land values than his Property, citing specific differences in the lots, including the fact that Taxpayer's lot appeared to be twice the size of the other comparable properties, the fact that Taxpayer's lot had better lake views, and the fact that Taxpayer's deep water access was superior to some of the other properties. (Transcript of Hearing p. 117, line 23 – p. 131, line 25.) There was simply no evidence in the record before the ALC sufficient to overcome the presumption that the Assessor's valuation was correct, *see S.C. Tax Comm'n v. S.C. Tax Bd. of Review*, 278 S.C. 556, 562, 299 S.E.2d 489, 492–93 (1983) (citing 84 C.J.S. *Taxation* § 537(a)), or to rebut the testimony of the Assessor, Mr. Burden, or the evidence of value presented by the Taxpayer himself.² To the extent the ALC relied on the land values of the comparable properties submitted by Mr. Burden, the ALC did so in error.

II. TAXPAYER'S ARGUMENT THAT THE ASSESSOR'S VALUATION OF THE PROPERTY VIOLATES SOUTH CAROLINA CODE ANNOTATED SECTION 12-37-90(d) IS MERITLESS

Laurens agrees with the Taxpayer that complying with "SC Code of Laws 12-37-90(d) is [a] very important part of Assessors['] duties" The Assessor himself provided the Court with a great deal of information regarding Laurens' efforts to comply with section 12-37-90(d), both in general terms and in this specific case. (Transcript of Hearing, p. 75, line 20 – p. 92, line 1.) The law is clear that "[a]bsolute accuracy with respect to valuation and complete equality and uniformity are not practically attainable." *Wasson v. Mayes*, 252 S.C. 497, 167 S.E.2d 304 (1969). Further, to show that the

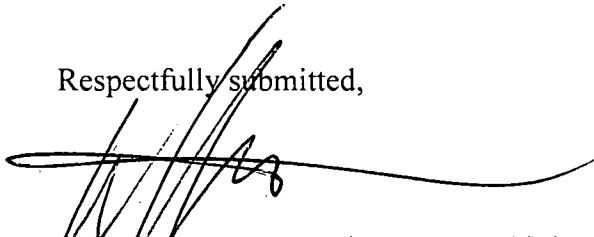
² The Taxpayer's deed indicated that the Taxpayer purchased the Property for \$375,000. Although the Taxpayer stated that \$50,000 of the sales price was attributable to various articles of personal property, (Transcript of Hearing, at p. 6, line 23 – p. 7, line 3), the "price paid for property at an actual, voluntary, and *bona fide* sale thereof is presumptive evidence of the property's value." *Rutledge v. St. Paul Fire & Marine Ins. Co.*, 286 S.C. 360, 368, 334 S.E.2d 131, 136 (Ct. App. 1985) (citing C.J.S. *Evidence* § 1049 at 840 (1964)). Further, the Taxpayer articulated, at numerous times throughout the ALC's hearing, that he believes the \$325,000 value established by his own appraisal was the fair market value of the Property. (*See, e.g.*, Transcript of Hearing, at p. 6, line 23 – p. 7, line 3.)

Assessor violated section 12-37-90(d), Taxpayer must have presented evidence that the Assessor is "systematically and intentionally" undervaluing or overvaluing his Property. See *Owen Steel Co., Inc. v. S.C. Tax Comm'n.*, 287 S.C. 274, 276-77, 337 S.E.2d 880, 881 (1985). There is simply nothing in the Record to support Taxpayer's argument.

CONCLUSION

Laurens County respectfully asks that this Court reverse the decision of the Administrative Law Court and reinstate the Laurens County Assessor's valuation of the subject Property at \$302,500.

Respectfully submitted,



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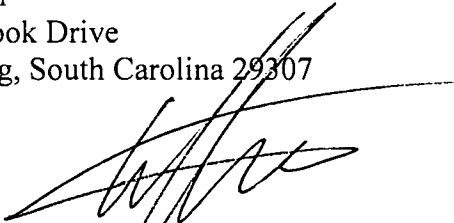
v.

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PROOF OF SERVICE

The undersigned hereby certifies that on June 18, 2013 s/he has caused a copy of the Initial Reply Brief of Appellant to be served on all parties of record by placing a copy of the same in the United States Mail, postage prepaid, addressed as follows:

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