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SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Mt. Pleasant Investments, LLC,

Docket No. 23-ALJ-17-0501-CC

Petitioner,

vs.

FINAL ORDER

Charleston County Assessor,

Respondent.

APPEARANCES: For the Petitioner: G. Hamlin O'Kelley, III, Esq., and James C. Spears, III

For the Respondent: Kevin M. DeAntonio, Esq.

STATEMENT OF THE CASE

This matter is before the Administrative Law Court (ALC or court) pursuant to a request for a contested case filed by Mt. Pleasant Investments, LLC, (Petitioner). The Petitioner challenges the Charleston County Assessor's (Assessor or Respondent) determination that the Current Fair Market Value of the Petitioner's property is \$6,821,000. The sole disputed issue in this case is the Current Fair Market Value of the property.

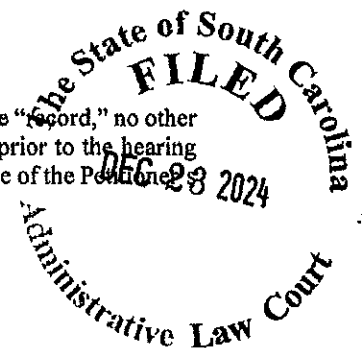
A hearing was held on September 5, 2024, at the ALC in Columbia, South Carolina. After careful consideration of the evidence, the parties' arguments, and the applicable law, the court finds that the Assessor's determination should be upheld and the Current Fair Market Value of the Petitioner's property is \$6,821,000.

FINDINGS OF FACT

The parties stipulated to the relevant facts in this matter prior to the hearing:¹

1. The property at issue is located at 10 West Edge Street, Unit 4, Charleston, South Carolina 29403, and identified by Charleston County Tax Map Number 460-00-00-039 (Property).

¹ Apart from a collection of documents the parties introduced as a joint exhibit and referred to as the "record," no other evidence or testimony was presented at the hearing in this matter. The parties submitted briefs prior to the hearing arguing their respective positions with respect to the determination of the Current Fair Market Value of the Petitioner's Property.



2. The tax year in dispute is 2023. The Petitioner filed an objection for tax year 2022, however, the objection was untimely, so the Petitioner's objection was treated as an objection for tax year 2023.
3. The Property was first entered onto the Assessor's tax rolls in tax year 2021 following the creation of a condominium regime which subdivided one original parcel into five (5) new parcels, including the Property, Unit 1 (TMS No. 460-00-00-036), Unit 2 (TMS No. 460-00-00-037), Unit 3 (TMS No. 460-00-00-038), and the common elements (TMS No. 460-00-00-040).
4. For tax year 2021, the Assessor determined the Property's fair market value and taxable value to be \$6,063,000 as of December 31, 2020.
5. The stated consideration for the Property, along with Unit 1, Unit 2, and interests in the common elements, was \$133,897,000, as shown on the deed to the Petitioner dated July 27, 2021, and recorded on August 2, 2021, in Book 1019, Page 564, in the Office of Register of Deeds for Charleston County.
6. The Petitioner's purchase of the Property constituted an Assessable Transfer of Interest (ATI) pursuant to S.C. Code Ann. § 12-37-3150.
7. Pursuant to S.C. Code Ann. § 12-37-3140(A)(l)(b), the ATI triggered a new appraisal of the Property's fair market value as of December 31, 2021, which would go into effect for tax year 2022.
8. For the ATI appraisal, the Assessor determined the Property's fair market value to be \$8,034,000 for tax year 2022. The Parties agree that \$8,034,000 would have been the Property's fair market value and taxable value if the Property were not also eligible for the ATI Exemption and had the Petitioner not requested the ATI Exemption provided by S. C. Code Ann. § 12-37-3135.
9. The Petitioner did timely request the ATI Exemption provided by S.C. Code Ann. § 12-37-3135 for tax year 2022.
10. Prior to the Petitioner purchasing the Property, the previous owner of the Property completed certain improvements, which were fit for their intended use as of April 9, 2021.
11. The Parties agree that \$6,821,000 would have been the Property's fair market value and taxable value for tax year 2022 for the previous owner if the previous owner had not sold the Property and had the Petitioner not purchased the Property in 2021.

12. Applying the 25% ATI Exemption, the ATI Fair Market Value—as that term is defined in S.C. Code Ann. § 12-37-3135(A)(1)—of \$8,034,000 was reduced by 25% to an Exemption Value—as that term is defined in S.C. Code Ann. § 12-37-3135(A)(3)—of \$6,025,500.
13. Pursuant to S.C. Code Ann. § 12-37-3135(B)(2)(a), the Exemption Value cannot be less than the Current Fair Market Value—as that term is defined in S.C. Code Ann. § 12-37-3135(A)(2).
14. In instances where a property's Exemption Value is less than its Current Fair Market Value, the Assessor treats the Current Fair Market Value as the property's taxable value.
15. Here, the Parties disagree over the Property's Current Fair Market Value.
16. The Assessor asserts that the Property's Current Fair Market Value was \$6,821,000, which is the tax year 2021 fair market value plus \$758,000, which the Assessor asserts is the value of the improvements completed prior to the ATI. The Assessor included the value of the improvements in reliance on:
 - a. S.C. Code Ann. § 12-37-3140(A)(2) which provides “[t]o the fair market value of real property as determined at the time provided in item (1) of this subsection, there must be added the fair market value of subsequent improvements and additions to the property”; and
 - b. S.C. Code Ann. § 12-37-3140(E) which provides “[v]alue attributable to additions and improvements, and changes in value resulting from assessable transfers of interest occurring in a property tax year are first subject to property tax in the following tax year[. . .].”
17. Because the Exemption Value (\$6,025,500) was less than the Assessor's determination of Current Fair Market Value (\$6,821,000), the Assessor determined that the Property's taxable value for tax year 2022 was \$6,821,000.
18. The Petitioner asserts that the Property's Current Fair Market Value is \$6,063,000, which was the Property's fair market value as reflected on the books of the Assessor for tax year 2021, when the ATI occurred. The Petitioner asserts that the value of the improvements cannot be retroactively added to the Property's Current Fair Market Value used in determining the Exemption Value. Due to the fact the improvements were completed prior to the ATI, the Petitioner asserts that their value was accounted for in the ATI Fair Market Value. The Petitioner further asserts that had the improvements not been completed prior to the ATI, it would have either not purchased the Property or reduced the purchase price.

19. Because the Exemption Value (\$6,025,500) is less than the Petitioner's asserted Current Fair Market Value (\$6,063,000), the Petitioner asserts that the Property's taxable value for tax year 2022 should be \$6,063,000.
20. The Petitioner filed a timely appeal to the Assessor in connection with the 2023 valuation. The Assessor denied the Petitioner's appeal.
21. The Board concurred with the Assessor and issued a decision to that effect on November 28, 2023. The Board's written decision appears to contain errors in its description of the Parties' positions. The Board's written decision says that the Petitioner feels the Current Fair Market Value for tax year 2021 should be \$6,821,027, however, it was the Assessor who took that position. Additionally, the Board's written decision says that the taxable value for 2022 should be \$6,025,500, however, neither party took that position. The Board's ultimate decision was that it concurred with the Assessor, and thus the Parties agree that the Board determined that the taxable value for tax year 2023 should be \$6,821,027.²

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, the court concludes the following as a matter of law:

1. The court has jurisdiction over this matter pursuant to Sections 1-23-600 and 12-60-2540(A) of the South Carolina Code. S.C. Code Ann. § 1-23-600 (Supp. 2023); S.C. Code Ann. § 12-60-2540(A) (2014).
2. The proceeding before this court is a *de novo* contested case hearing to determine the appropriate Current Fair Market Value of the Petitioner's Property based upon the evidence presented at the hearing. *See Smith v. Newberry Cnty. Assessor*, 350 S.C. 572, 577, 567 S.E.2d 501, 504 (Ct. App. 2002) (citation omitted).
3. The Petitioner, as the taxpayer, bears the burden of proving, by a preponderance of the evidence, that the taxing authority's determination is incorrect. *See Anonymous v. State Bd. of Med. Exam'rs*, 329 S.C. 371, 375, 496 S.E.2d 17, 19 (1998) (citation omitted); *Newberry Mills, Inc. v. Dawkins*, 259 S.C. 7, 15-16, 190 S.E.2d 503, 507 (1972); *Cloyd v. Mabry*, 295 S.C. 86, 88, 367 S.E.2d 171, 173 (Ct. App. 1988) (citations omitted).

² The court notes that, in this case, the Assessor takes the position that the taxable value is \$6,821,000, rather than \$6,821,027. There was no explanation for the \$27 discrepancy.

4. Moreover, there is a presumption that an assessor's valuation of a real property is correct. *See S.C. Tax Comm'n v. S.C. Bd. of Review*, 278 S.C. 556, 562, 299 S.E.2d 489, 492-93 (1983) (citation omitted) ("On appeal to a reviewing board or officer, the assessor's decision as to the situs of property, its taxability, and the valuation put on it generally is presumed to be correct until the contrary appears, and the person complaining has the burden of proving his grievance."); 84 C.J.S. TAXATION § 487 (May 2024 Update) ("In the absence of a showing to the contrary, tax assessors, tax officials, and boards of assessors are presumed to act fairly and in accordance with law when assessing property.").
5. Pursuant to section 12-37-3140 of the South Carolina Code, the fair market value of real property is its fair market value applicable for the later of: (a) property tax year 2007; (b) December thirty-first of the year in which an ATI has occurred; (c) as determined on appeal; or (d) as determined in a countywide reassessment program. S.C. Code Ann. § 12-37-3140(A) (2014). That section further provides that "the fair market value of subsequent improvements and additions to the property" must be added "[t]o the fair market value of real property as determined at the time provided in item (1) of this subsection." S.C. Code Ann. § 12-37-3140(A)(2) (2014).
6. According to section 12-37-3130 of the South Carolina Code, an "[a]ssessable transfer of interest" means a transfer of an existing interest in real property that subjects the real property to appraisal." S.C. Code Ann. § 12-37-3130 (2014). Section 12-37-3140(E) further provides that "[v]alue attributable to additions and improvements, and changes in value resulting from assessable transfers of interest occurring in a property tax year are first subject to property tax in the following tax year" S.C. Code Ann. § 12-37-3140(E) (2014).
7. As set forth above, the parties agree that the Petitioner's purchase of the Property constituted an ATI. *See* S.C. Code Ann. § 12-37-3150(1) (2014). The ATI triggered a new appraisal of the Property's fair market value as of December 31, 2021, which would go into effect for tax year 2022. *See* S.C. Code Ann. § 12-37-3140(A)(1)(b) (2014).
8. Pursuant to section 12-37-3135 of the South Carolina Code:

When a parcel of real property and any improvements thereon subject to the six percent assessment ratio provided pursuant to Section 12-43-220(e) and which is currently subject to property tax undergoes an assessable transfer of interest after 2010, there is allowed an exemption from property tax of an amount of the ATI

fair market value³ of the parcel as determined in the manner provided in item (2) of this subsection.

S.C. Code Ann. § 12-37-3135(B)(1) (2014). “The exemption allowed by this section is an amount equal to twenty-five percent of ATI fair market value of the parcel.” S.C. Code Ann. § 12-37-3135(B)(2)(a) (2014).

9. “However, no exemption value . . . may be less than current fair market value of the parcel.”
Id.

10. As relevant here, “[c]urrent fair market value’ means the fair market value⁴ of a parcel of real property as reflected on the books of the property tax assessor for the current property tax year.” S.C. Code Ann. § 12-37-3135(A)(2) (2014). Similarly, “[e]xemption value” means the ATI fair market value when reduced by the exemption allowed by this section.” S.C. Code Ann. § 12-37-3135(A)(3) (2014).

11. In instances where a property’s Exemption Value is less than its Current Fair Market Value, the Assessor treats the Current Fair Market Value as the property’s taxable value. *See* S.C. Code Ann. § 12-37-3135(B)(2)(b).

OPINION

The parties agree that \$8,034,000 would have been the Property’s fair market value and taxable value if the Property were not also eligible for the ATI Exemption and had the Petitioner not requested the ATI Exemption. The \$8,034,000 figure includes the value of the improvements at issue. The parties also agree that \$6,821,000 would have been the Property’s fair market value and taxable value for tax year 2022 for the previous owner if the previous owner had not sold the Property to the Petitioner in 2021. That figure also includes the value of the improvements at issue. Furthermore, the parties agree that \$6,025,500 would have been the Property’s Exemption Value after applying the 25% ATI exemption to the ATI Fair Market Value of \$8,034,000. As the Exemption Value cannot be less than the Current Fair Market Value, the sole disputed issue in this

³ “‘ATI fair market value’ means the fair market value of a parcel of real property and any improvements thereon as determined by appraisal at the time the parcel last underwent an assessable transfer of interest.” S.C. Code Ann. § 12-37-3135(A)(1) (2014).

⁴ “‘Fair market value’ means the fair market value of a parcel of real property and any improvements thereon as determined by the property tax assessor by an initial appraisal, by an appraisal at the time the parcel undergoes an assessable transfer of interest, and as periodically reappraised pursuant to Section 12-43-217.” S.C. Code Ann. § 12-37-3135(A)(4) (2014).

case is the Current Fair Market Value of the Petitioner's Property for tax year 2023. This, in turn, depends on whether and how the improvements to the Property were factored into its value.

The Assessor argues that the Property's Current Fair Market Value is \$6,821,000—which represents the tax year 2021 fair market value of \$6,063,000 plus \$758,000 for the value the Assessor assigned to the improvements completed prior to the ATI.⁵ The Petitioner asserts that the Property's Current Fair Market Value is \$6,063,000, which was the Property's fair market value as reflected on the books of the Assessor for tax year 2021, prior to the ATI. With respect to the improvements, the Petitioner argues that because the improvements were completed prior to the ATI, they were included in the ATI Fair Market Value of \$8,034,000 and cannot be retroactively added to the Property's Current Fair Market Value. For the reasons set forth below, the court finds that the Property's Current Fair Market Value is \$6,821,000.

“‘Current fair market value’ means the fair market value of a parcel of real property as reflected on the books of the property tax assessor for the current property tax year.” S.C. Code Ann. § 12-37-3135(A)(2). However, the “[v]alue attributable to additions and improvements, and changes in value resulting from assessable transfers of interest occurring in a property tax year are first subject to property tax in the following tax year”⁶ S.C. Code Ann. § 12-37-3140(E). Accordingly, “the fair market value of subsequent improvements and additions to the property” must be added “[t]o the fair market value of real property as determined” pursuant to that subsection. *See* S.C. Code Ann. § 12-37-3140(A)(2).

⁵ The Assessor argued that there are two (2) ways to determine the Current Fair Market Value when improvements are completed in the same year as an ATI, both of which, it contends, result in the same Current Fair Market Value under the facts of this case. Under what the Assessor referred to as “Method A,” the ATI Fair Market Value of \$8,034,000 has the 25% ATI exemption in the amount of \$2,008,500 applied to obtain an Exemption Value of \$6,025,500. Since this is lower than the 2021 fair market value of \$6,063,000, the Assessor added the value of the improvements (\$758,000) to the 2021 fair market value to obtain a Current Fair Market Value of \$6,821,000. Under “Method B,” the value of the improvements (\$758,000) is subtracted from the purchase price (\$8,034,000) to obtain an ATI Fair Market Value of \$7,276,000, after which the Assessor applied the 25% ATI exemption in the amount of \$1,819,000 to obtain an Exemption Value in the amount of \$5,457,000. Since this is lower than the 2021 fair market value of \$6,063,000, the Assessor similarly added the value of the improvements (\$758,000) to the 2021 fair market value to obtain a Current Fair Market Value of \$6,821,000. The court notes, however, that under both of these methods, the process of obtaining the Current Fair Market Value is the same: adding the assessed value of the improvements (\$758,000) to the 2021 fair market value of the Property (\$6,063,000) prior to the improvements being made. The only difference between the methods is the means of determining that the Exemption Value is lower than the Current Fair Market Value.

⁶ Notably, only property and improvements currently subject to taxation at the six percent assessment ratio are eligible for the ATI exemption. S.C. Code Ann. § 12-37-3135(B)(1) (2014). Here, the improvements were not subject to taxation in 2021 and, thus, would not be eligible for the ATI exemption provided under that section. *See id*; *see also* S.C. Code Ann. § 12-37-670(A) (2014) (“No new structure must be listed or assessed for property tax until it is completed and fit for the use for which it is intended.”).

Here, the fair market value of the Petitioner's Property as reflected on the Assessor's books for 2021 is \$6,063,000—which the Petitioner asserts is the Current Fair Market Value for the Property. However, this figure does not include the value of the improvements added to the Property, which were completed and fit for their intended use as of April of 2021, after the 2021 tax value had been established. Therefore, contrary to the Petitioner's assertions, the value of the improvements must be included in the taxable value of the Property. The Assessor assigned a value of \$758,000 to the improvements, a figure which the Petitioner does not challenge.⁷ Relying on sections 12-37-3140(A)(2) and 12-37-3140(E) of the South Carolina Code, the Assessor added the assessed value of the improvements (\$758,000) to the 2021 fair market value (\$6,063,000) to obtain a Current Fair Market Value of \$6,821,000 for tax year 2023. The Petitioner failed to carry its burden of overcoming the presumption in favor of, or otherwise establishing an error in, the Assessor's determination as to the taxable value of the Property. *See S.C. Tax Comm'n v. S.C. Bd. of Review*, 278 S.C. 556, 562, 299 S.E.2d 489, 492-93 (1983) (citation omitted); 84 C.J.S. TAXATION § 487 (2023) (“In the absence of a showing to the contrary, tax assessors, tax officials, and boards of assessors are presumed to act fairly and in accordance with law when assessing property.”).

To that end, the court finds that applying the Petitioner's suggested value of \$6,063,000, representing the 2021 taxable value of the Property prior to the improvements, would necessarily mean that the value of the improvements would escape taxation, in contravention of the statutory scheme. *See, e.g.*, S.C. Code Ann. § 12-37-3140(A)(2), -3140(E); *see also Se. Kusan, Inc. v. S.C. Tax Comm'n*, 276 S.C. 487, 489, 280 S.E.2d 57, 58 (1981) (“As a general rule, tax exemption statutes are strictly construed against the taxpayer.”). Accordingly, the court does not find that the Petitioner has met its burden of establishing that the Property's taxable value is \$6,063,000.

In sum, the court finds that the Petitioner failed to carry its burden of establishing that the Assessor's assigned value of \$6,821,000 for the Property for tax year 2023 is inaccurate or otherwise erroneous. While the court acknowledges that the process of obtaining a Current Fair Market Value when improvements are completed in the same year as an ATI lacks clarity under

⁷ The Petitioner stipulated that \$6,821,000 would have been the Property's fair market value and taxable value for tax year 2022 for the previous owner if the previous owner had not sold the Property and had the Petitioner not purchased the Property in 2021. *See* Joint Stipulation of Fact No. 11. Presumably, this figure was reached the same way the Assessor reached the Current Fair Market Value in this case; by adding the assessed value of the improvements (\$758,000) to the Property's 2021 fair market value (\$6,063,000).

the law, the Assessor's determination—which is presumed to be correct—is reasonable and consistent with the statutory scheme. Accordingly, the Petitioner has not met its burden of establishing an error in that regard.

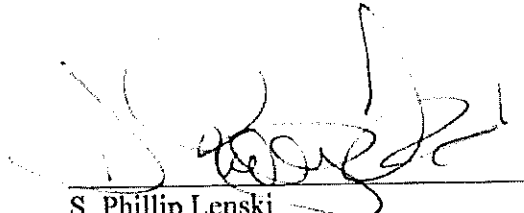
ORDER

Based upon the foregoing findings of fact and conclusions of law,

IT IS HEREBY ORDERED that the Current Fair Market Value, or taxable value, of the Petitioner's Property is \$6,821,000 for tax year 2023.

AND IT IS SO ORDERED.

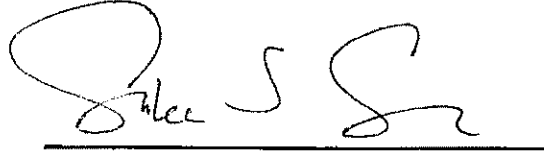
December 23, 2024
Columbia, South Carolina



S. Phillip Lenski
Administrative Law Judge

CERTIFICATE OF SERVICE

I, Erika S. Easler, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Erika S. Easler
Judicial Law Clerk

December 23, 2024
Columbia, South Carolina

