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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable S. Phillip Lenski, Administrative Law Judge
Docket No. 23-ALJ-17-0501-CC

Appellate Case No. 2025-000239

Mt. Pleasant Investments, LLC, *Appellant,*

v.

Charleston County Assessor, *Respondent.*

INITIAL BRIEF OF RESPONDENT

Bernard E. Ferrara, Jr., S.C. Bar No. 9034
Kevin M. DeAntonio, S.C. Bar No. 101169
CHARLESTON COUNTY ATTORNEY'S OFFICE
Lonnie Hamilton, III Public Services Building
4045 Bridge View Drive
North Charleston, South Carolina 29405
(843) 958-4010
bferrara@charlestoncounty.org
kdeantonio@charlestoncounty.org

Attorneys for Respondent
Charleston County Assessor

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ASSESSOR'S STATEMENT OF ISSUES ON APPEAL

- I. WHETHER AND HOW THE ASSESSOR CAN ADD THE VALUE OF PREVIOUSLY UNTAXED IMPROVEMENTS TO REAL PROPERTY WHEN THE IMPROVEMENTS WERE COMPLETED IN THE SAME YEAR AS, BUT PRIOR TO, AN ASSESSABLE TRANSFER OF INTEREST ELIGIBLE FOR THE EXEMPTION PROVIDED BY S.C. CODE ANN. § 12-37-3135.
- II. THE ALC DID NOT COMMIT REVERSIBLE ERROR BY STATING THAT THE SOLE DISPUTED ISSUE IN THIS CASE IS THE CURRENT FAIR MARKET VALUE OF THE PROPERTY FOR TAX YEAR 2023.
- III. THE ALC DID NOT UNLAWFULLY APPLY S.C. CODE ANN. §§ 12-37-3140(A)(2) AND 12-37-3140(E) IN ADDING THE VALUE OF THE IMPROVEMENTS TO THE 2021 FAIR MARKET VALUE.
- IV. THE ASSERTION BY THE ALC THAT THE IMPROVEMENTS ARE NOT ELIGIBLE FOR THE ATI EXEMPTION BECAUSE THE IMPROVEMENTS WERE NOT SUBJECT TO TAXATION IN TAX YEAR 2021 IS A CORRECT INTERPRETATION OF S.C. CODE ANN. § 12-37-3135.
- V. THE VALUE OF THE IMPROVEMENTS WOULD ESCAPE TAXATION IF NOT ACCOUNTED FOR IN THE CALCULATION OF THE ATI EXEMPTION.

STATEMENT OF THE CASE

This matter is before the Court upon Appellant Mt. Pleasant Investments, LLC's ("Taxpayer") February 6, 2025, Notice of Appeal of the Orders of the Honorable S. Phillip Lenski, Administrative Law Judge ("ALJ"), dated December 23, 2024, and January 28, 2025.

This appeal concerns a property tax valuation dispute between Taxpayer and Respondent Charleston County Assessor ("Assessor"; collectively, the "Parties"). Taxpayer contests the Assessor's valuation, for tax year 2023, of Taxpayer's real property located at 10 West Edge Street, Unit 4, Charleston, South Carolina 29403, and identified by Charleston County Tax Map Number 460-00-00-039 (the "Property").

On September 25, 2023, Taxpayer appealed the Assessor's valuation of the Property for tax year 2023 to the Charleston County Board of Assessment Appeals ("Board"). (Appeal to Board, ALC R. at 34–67). The Board rendered its decision on November 28, 2023, wherein the Board concurred with the Assessor that the taxable value of the Property was \$6,821,000 for tax year 2023. (Board Decision, ALC R. at 104).

On December 21, 2023, Taxpayer contested the Board's decision by filing a Request for Contested Case Hearing with the Administrative Law Court ("ALC"). (Request for Contested Case Hearing). On April 5, 2024, the Parties submitted a Consent Motion for Continuance and Entry of Scheduling Order advising the ALC that the Parties were in the process of developing a list of facts the Parties agree upon and a list of documents the Parties agree may be admitted as evidence at the hearing. (Motion for Scheduling Order). The Parties further advised that the facts and evidence were, for the most part, not in dispute, that no live witness testimony would be needed at the hearing, and that the Parties wished to establish a briefing schedule akin to an appellate case. (Motion for Scheduling Order). On April 8, 2024, the ALJ granted the consent motion. (Scheduling Order).

On April 23, 2024, the Parties jointly submitted Stipulations of Facts to the ALJ. (Stipulations of Facts). In accordance with the Scheduling Order, Taxpayer submitted its Brief to the ALJ on May 2, 2024, (Taxpayer ALC Brief), the Assessor submitted its Brief on May 17, 2024, (Assessor ALC Brief), and Taxpayer submitted its Reply Brief on May 24, 2024, (Taxpayer ALC Reply Brief). On May 31, 2024, the ALJ entered an Order and Notice of Hearing ordering that the Contested Case Hearing would be held on September 5, 2024. (Notice of Hearing).

On August 15, 2024, following consultation with the ALJ in advance of the Contested Case Hearing, the Parties submitted a single 126-page exhibit containing all the materials that were before the Board (“ALC Record on Appeal”) which the Parties agreed should be entered into evidence at the hearing. (Hearing Notice Email Chain; ALC R.). Although the Contested Case Hearing was heard *de novo*, the Parties intended the exhibit to serve as a record on appeal before the ALC. (Hearing Notice Email Chain).

The Contested Case Hearing was held on September 5, 2024. The Stipulations of Fact and the ALC Record on Appeal were both admitted into evidence at the hearing. (Tr. 6:4–11). The ALJ entered a Final Order on December 23, 2024, upholding the Assessor’s valuation and ordering that the taxable value of the Property was \$6,821,000 for tax year 2023. (Final Order).

On January 2, 2025, Taxpayer filed a Motion for Reconsideration. (Motion for Reconsideration). The Assessor filed a Response in Opposition to Taxpayer’s Motion for Reconsideration on January 13, 2025. (Response to Motion for Reconsideration). On January 28, 2025, the ALJ entered an Order denying Taxpayer’s Motion for Reconsideration. (Order Denying Motion for Reconsideration).

This appeal followed.

STATEMENT OF FACTS

The parties entered into Stipulations of Facts which were submitted to the Court on April 23, 2024. The tax year in dispute is 2023. (Stipulations ¶ 2). Taxpayer filed an objection for tax year 2022, however, the objection was untimely, so Taxpayer's objection was treated as an objection for tax year 2023. (Stipulations ¶ 2).¹ 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 new parcels, including the Property. (Stipulations ¶ 3). 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. (Stipulations ¶ 4).

Taxpayer purchased the Property, along with other parcels and interests in the condominium regime, for the stated consideration of \$133,897,000, as shown on the deed to Taxpayer dated July 27, 2021, and recorded August 2, 2021, in Book 1019, Page 564, in the Office of the Register of Deeds for Charleston County. (Stipulations ¶ 5–6). Taxpayer's purchase of the Property constituted an Assessable Transfer of Interest ("ATI") pursuant to S.C. Code Ann. § 12-37-3150. (Stipulations ¶ 6). Pursuant to S.C. Code Ann. § 12-37-3140(A)(1)(b), this 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. (Stipulations ¶ 7).

Prior to Taxpayer purchasing the Property, the previous owner of the Property completed certain improvements, which were fit for their intended use as of April 9, 2021. (Stipulations ¶ 10). Thus, at a point between December 31, 2020 (the date upon which the tax year 2021 values were based) and July 27, 2021 (the date of the ATI), improvements to the Property were completed

¹ The tax year in dispute is 2023, however, this case is focused on the taxable value placed on the Property for tax year 2022 which was carried forward to tax year 2023.

and fit for their intended use, and thus became subject to taxation pursuant to S.C. Code Ann. § 12-37-670 and § 12-37-3140(A)(2) for the following tax year, tax year 2022.

Additionally, Taxpayer timely requested the 25% ATI Exemption provided by S.C. Code Ann. § 12-37-3135 (“ATI Exemption”) for tax year 2022. (Stipulations ¶ 9). Thus, the Assessor’s valuation of the Property for tax year 2022 had to take into consideration the newly taxable improvements, the ATI, and the ATI Exemption.

Pursuant to S.C. Code Ann. § 12-37-3140(A)(2), the Assessor determined the fair market value of the new improvements to be \$758,000 and added that value to the Property’s previous (tax year 2021) fair market value, \$6,063,000, for a new total fair market value of \$6,821,000. (See Stipulations ¶ 16). This would have been the Property’s fair market value and taxable value for tax year 2022 if there had been no ATI. (Stipulations ¶ 11).

For the ATI appraisal, the Assessor determined the Property’s fair market value to be \$8,034,000 for tax year 2022. (Stipulations ¶ 8). This would have been the Property’s fair market value and taxable value if the Property were not also eligible for the ATI Exemption. (Stipulations ¶ 8).

Applying the 25% ATI Exemption, the ATI Fair Market Value²—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. (Stipulations ¶ 12). However, 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). (Stipulations ¶ 13). In instances where a property’s Exemption Value

² Although they are not capitalized in the statute, the terms “ATI fair market value”, “current fair market value”, and “exemption value” defined in S.C. Code Ann. § 12-37-3135(A) will be capitalized throughout this brief when referring to the statutory definitions.

is less than its Current Fair Market Value, the Assessor treats the Current Fair Market Value as the property's taxable value. (Stipulations ¶ 14).

The Assessor determined that the Property's Current Fair Market Value was \$6,821,000, which is the tax year 2021 fair market value (\$6,063,000) plus the value of the improvements completed in 2021 (\$758,000). (Stipulations ¶ 16).³ 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. (Stipulations ¶ 17).

Taxpayer asserts the Assessor erred in adding the value of the improvements completed in 2021 to the Property's Current Fair Market Value, and thus contends that the Property's taxable value for tax year 2022 should be \$6,063,000. (Stipulations ¶ 18–19).

Taxpayer filed a timely objection and protest with the Assessor in connection with the 2023 valuation which the Assessor denied. (Stipulations ¶ 20). Taxpayer then appealed to the Board which concurred with the Assessor and issued a decision to that effect on November 28, 2023. (Stipulations ¶ 21).

³ When improvements are completed in the same year as an ATI that is eligible for the ATI Exemption, the Assessor employs either or both of two methods, Method A and Method B, to process the ATI Exemption and reach a final taxable value, as explained in more detail *infra*. (Assessor's Exchange to Board, ALC R. at 95–96; Assessor ALC Brief at 10–13). The Stipulations of Facts outline the Assessor's Method A, however, the Assessor relied on both Method A and Method B before the Board and before the ALC. (Assessor's Exchange to Board, ALC R. at 95–96; Assessor ALC Brief at 10–13). Both Methods result in the same taxable value.

STANDARD OF REVIEW

Pursuant to S.C. Code Ann. § 12-60-3380 of the South Carolina Revenue Procedures Act, an appeal from the decision of the ALC must be made in accordance with S.C. Code Ann. § 1-23-610(B) of the South Carolina Administrative Procedures Act (“APA”). The APA sets forth the standard of review as follows:

The review of the administrative law judge’s order must be confined to the record. The court may not substitute its judgment for the judgment of the administrative law judge as to the weight of the evidence on questions of fact. The court of appeals may affirm the decision or remand the case for further proceedings; or, it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-610(B).

This appeal concerns questions of law and statutory interpretation which this Court reviews *de novo*. *Fairfield Waverly, LLC v. Dorchester Cnty. Assessor*, 432 S.C. 287, 289, 852 S.E.2d 739, 740 (Ct. App. 2020) (citing *Town of Summerville v. City of N. Charleston*, 378 S.C. 107, 110, 662 S.E.2d 40, 41 (2008)). Additionally, this Court “may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal.” Rule 220(c), SCACR.

ARGUMENT

The Assessor is not satisfied with the Taxpayer's Statement of Issues on Appeal. *See* Rule 208(b)(2), SCACR. Therefore, the Assessor begins its argument by first addressing the ultimate issue raised in this case. After addressing the ultimate issue, the Assessor will respond in turn to each of the issues on appeal as presented by Taxpayer.

I. WHETHER AND HOW THE ASSESSOR CAN ADD THE VALUE OF PREVIOUSLY UNTAXED IMPROVEMENTS TO REAL PROPERTY WHEN THE IMPROVEMENTS WERE COMPLETED IN THE SAME YEAR AS, BUT PRIOR TO, AN ASSESSABLE TRANSFER OF INTEREST ELIGIBLE FOR THE EXEMPTION PROVIDED BY S.C. CODE ANN. § 12-37-3135.

The issue before the Court is a novel one: whether and how the Assessor can add the value of previously untaxed improvements to real property when the improvements were completed in the same year as, but prior to, an ATI eligible for the ATI Exemption. Here, the Assessor's application of the ATI Exemption resulted in a tax exemption of \$1,213,000 off the purchase price of the Property. Taxpayer demands an exemption of \$1,971,000. The difference—\$758,000—is the fair market value of a 1,300-square-foot hair salon unit completed in April 2021 that will go untaxed if Taxpayer prevails.

The Assessor's valuation of the Property for tax year 2022 had to take three things into consideration requiring two interim appraisals followed by application of the ATI Exemption. First, improvements to the Property were completed and fit for their intended use as of April 9, 2021, and thus first became subject to taxation in tax year 2022. *See* S.C. Code Ann. §§ 12-37-3140(A)(2), (E); 12-37-670(A).⁴ The Assessor appraised the 2021 improvements and added their value to the Property's previous fair market value which was determined as of December 31, 2020. *See* S.C. Code Ann. § 12-37-3140(A). Second, the Property underwent an ATI on July 27, 2021,

⁴ Resulting in a fair market value of \$6,821,000. (Stipulations ¶ 11, 16).

triggering 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), (E).⁵ Third, Taxpayer timely requested and was eligible for the ATI Exemption for tax year 2022. *See* S.C. Code Ann. § 12-37-3135. After the Assessor conducted the interim appraisals required by the new improvements and the ATI, the Assessor then applied the ATI Exemption to reach the Property's final taxable value of \$6,821,000 for tax year 2022, which was carried forward to 2023.

A. The Assessor was Mandated by S.C. Code Ann. § 12-37-3140(A)(2) to Add the Fair Market Value of the Improvements to the Property's Previous Fair Market Value.

Before Taxpayer applied for the ATI Exemption and before Taxpayer purchased the Property, improvements were made to the Property in April 2021 and must be accounted for in tax year 2022.

Pursuant to S.C. Code Ann. § 12-37-3140, the fair market value of real property is its fair market value applicable for the later of: (a) property tax year 2007; (b) December 31st 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)(1). 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). Additionally, “[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). The taxable status of real property for a given year is to be determined as of December 31st of the preceding tax year. *See Hampton Friends of the Arts v. S.C. Dep't of*

⁵ Resulting in a fair market value of \$8,034,000. (Stipulations ¶ 8).

Revenue, 401 S.C. 372, 375, 737 S.E.2d 628, 629–30 (2013); *Atkinson Dredging Co. v. Thomas*, 266 S.C. 361, 369, 223 S.E.2d 592, 596 (1976).

For tax year 2021, the Assessor determined the fair market value of the Property was \$6,063,000 as of December 31, 2020, when the Property was 15,211 square feet. (See Assessor’s Exchange to Board, ALC R. at 85). The Property’s tax map parcel did not exist until 2020, so tax year 2021 was the first time the Property was included on the tax rolls. (Stipulations ¶ 3). During tax year 2021, improvements were made to the Property by way of the addition of a 1,300-square-foot unit for a hair salon that was complete and fit for its intended use as of April 9, 2021. (See Assessor’s Exchange to Board, ALC R. at 85; Stipulations ¶ 10).

Pursuant to S.C. Code Ann. § 12-37-3140(A)(2), the fair market value of the April 2021 improvements to the Property must be added to the Property’s fair market value as determined at the time of the Property’s previous appraisal’s date of valuation which, here, was December 31, 2020.⁶ In accordance with this statutory mandate, the Assessor determined the fair market value of the hair salon unit to be \$758,000 and added that value to the Property’s previously appraised fair market value, \$6,063,000, for a new total fair market value of \$6,821,000. (See Stipulations ¶ 16). The Parties agree that this would have been the Property’s fair market value and taxable value for tax year 2022 if there had been no ATI. (Stipulations ¶ 11). The Assessor contends that the improvements would escape taxation if the Property’s tax year 2022 taxable value was any less than \$6,821,000.

⁶ “To 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.” S.C. Code Ann. § 12-37-3140(A)(2) (emphasis added). The Property does not fit neatly into any of the four enumerated dates of value provided in “item (1) of this subsection” because the Property’s tax map parcel did not exist until 2020 and was not added to the tax rolls until 2021. Still, the fair market value as most recently determined prior to the improvements was the fair market value determined as of December 31, 2020. See S.C. Code Ann. § 12-37-900; *Atkinson Dredging Co.*, 266 S.C. at 369, 223 S.E.2d at 596.

Taxpayer argues that because the Property subsequently underwent an ATI in 2021, S.C. Code Ann. § 12-37-3140(A)(2)'s mandate to add the value of the 2021 improvements to the Property's previously appraised value becomes a nullity. Taxpayer's argument is that the relevant date of valuation for the ATI appraisal is December 31, 2021, and that the improvements were not "subsequent" to December 31, 2021, and therefore the value of the improvements cannot be considered. (*See* Appellant's Br. 8–9). Taxpayer's argument ignores that the Assessor was required to conduct two appraisals for tax year 2022: one appraisal for the April 2021 improvements with a date of valuation of December 31, 2020, and another appraisal for the July 2021 ATI with a date of valuation of December 31, 2021. Neither of the values derived from these appraisals became the Property's tax year 2022 taxable value because the taxable value was ultimately determined by the ATI Exemption. Both appraisals, however, were necessary to calculate the ATI Exemption.

The fair market value of improvements is determined independent of countywide reassessment, independent of ATIs, and thus, independent of ATI Exemptions. *See* S.C. Code Ann. § 12-37-3140. Section 12-37-3140(A)(1) establishes that, in most cases, a property's fair market value is determined either as of December 31st of the year in which an ATI occurred or through countywide reassessment. If improvements are made to property in the interim between ATIs or countywide reassessments, then the Assessor must add the value of those subsequent improvements to the previous fair market value of the property. S.C. Code Ann. § 12-37-3140(A)(2). Thus, the base line for a property's fair market value is determined by its appraisal triggered by either the previous ATI or previous countywide reassessment, whichever is later. The value of subsequent improvements to property are added separately on top of the previous base

line value. When appraising the value of subsequent improvements, the applicable date of valuation remains the same as it was when the previous ATI or countywide reassessment occurred.

The date of valuation for the appraisal of the improvements was December 31, 2020, *see* S.C. Code Ann. § 12-37-3140(A)(2), whereas the date of valuation for the appraisal of the ATI was December 31, 2021, *see* S.C. Code Ann. § 12-37-3140(A)(1). Both interim appraisals had to be conducted because “[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) (emphasis added). Thus, regardless of whether an ATI occurred, the Assessor still must comply with S.C. Code Ann. § 12-37-3140(A)(2) and add the value of the improvements to the Property’s previous fair market value. The statutorily mandated appraisal of the 2021 improvements to the Property must be reflected in the final taxable value placed on the Property for tax year 2022.

B. The Assessor’s Calculation of the ATI Exemption Correctly Incorporated the Fair Market Value of the Improvements.

The final step in processing an ATI Exemption involves a comparison of the Exemption Value⁷ versus the Current Fair Market Value,⁸ and whichever number is greater becomes the property’s taxable value. *See* S.C. Code Ann. § 12-37-3135(B)(2)(a). This comparison must be, in the Assessor’s words, an “apples-to-apples” comparison. (Assessor’s Exchange to Board, ALC R. at 95–96). That is, the Exemption Value and the Current Fair Market Value must be values of the same thing.

⁷ Exemption Value is defined as the ATI Fair Market Value when reduced by twenty-five percent. *See* S.C. Code Ann. § 12-37-3135(A)(3), (B)(2)(a).

⁸ Current Fair Market Value is defined as 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).

When improvements are completed in the same year as an ATI that is eligible for the ATI Exemption, the Assessor employs either or both of two methods, Method A and Method B, to process the ATI Exemption and reach a final taxable value. (Assessor’s Exchange to Board, ALC R. at 95–96). Under Method A, the value of the improvements is included in both the Current Fair Market Value and the ATI Fair Market Value. Under Method B, the value of the improvements is omitted from both the Current Fair Market Value and the ATI Fair Market Value, and the value of the improvements is added after calculating the ATI Exemption. Both methods result in an apples-to-apples comparison and both methods lead to the same result using a different order of operations. Here, they lead to a tax year 2022 taxable value of \$6,821,000.

i. Assessor’s Method A

2021 Fair Market Value	+ Value of Improvements	= Current Fair Market Value
\$6,063,000	+\$758,000	= \$6,821,000
ATI Fair Market Value	(-) 25% Exemption	= Exemption Value
\$8,034,000	(-) \$2,008,500	= \$6,025,500
		Tax Year 2022 Taxable Value
		\$6,821,000

Under Method A, the Current Fair Market Value (\$6,821,000) is the Property’s tax year 2021 fair market value (\$6,063,000) plus the value of new improvements (\$758,000). The 25% ATI Exemption is applied to the ATI Fair Market Value (\$8,034,000)—which includes the value of the new improvements—to reach the Exemption Value (\$6,025,500). The Current Fair Market Value (\$6,821,000) is compared to the Exemption Value (\$6,025,500) and the greater number becomes the tax year 2022 taxable value. (Assessor’s Exchange to Board, ALC R. at 95). This method results in an apples-to-apples comparison because both sides of the equation include the value of the new improvements.

Much of the dispute in this case centered around the Assessor's Method A and the definition of Current Fair Market Value in the ATI Exemption statute, S.C. Code Ann. § 12-37-3135. Current Fair Market Value is defined as "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). Although "the current property tax year" is not clearly defined, it has been interpreted to mean the year in which the ATI occurred, here 2021.⁹ For tax year 2021, what was "reflected on the books of the property tax assessor" was the fair market value of the Property before the completion of the hair salon unit, \$6,063,000. What was not reflected on the books of the Assessor for tax year 2021, however, was the value of the 1,300-square-foot hair salon unit completed in April 2021 which the Parties agree had a fair market value of \$758,000. (*See* Stipulations ¶ 11). The completion of the hair salon cannot be ignored because, as set forth in the previous section, the value of improvements is determined independent of ATIs and thus, by extension, independent of ATI Exemptions. *See* S.C. Code Ann. § 12-37-3140(A)(2), (B), (E).

Again, the issue before the Court is a novel one. South Carolina case law interpreting the ATI Exemption is essentially limited to one case decided by the Court of Appeals. *See Fairfield Waverly*, 432 S.C. 287, 852 S.E.2d 739. In *Fairfield Waverly*, the issue before the Court was whether a property owner must claim the ATI Exemption during the first year of eligibility or whether they can claim it in subsequent years. *Id.* at 288, 852 S.E.2d at 739. The issue of improvements being completed in the same year as an ATI was not presented to, nor addressed by, the Court in *Fairfield Waverly*.

The *Fairfield Waverly* opinion does, however, provide some support for the Assessor's Method A. There, the Court wrote that the "legislature intended the ATI Exemption's value to be

⁹ *See Fairfield Waverly*, 432 S.C. at 290, 852 S.E.2d at 740 (describing Current Fair Market Value "in laymen's terms, [as] the pre-sale fair market value.").

set and established at the time the assessable transfer of interest occurs.” *Id.* at 292, 852 S.E.2d at 741. Here, the improvements were completed by the time the ATI occurred, so it is proper under *Fairfield Waverly* for the improvements to be incorporated into the ATI Exemption calculation by including their value in the Current Fair Market Value as set forth in the Assessor’s Method A. Additionally, the Court described Current Fair Market Value “in laymen’s terms, [as] the pre-sale fair market value.” *Id.* at 290, 852 S.E.2d at 740. Although the value of the improvements was not “on the books” at the time of the ATI, there is no question that the “pre-sale fair market value” of the Property as improved was \$6,821,000 even if that appraisal occurred after the ATI. (*See* Stipulations ¶ 11).

ii. Assessor’s Method B

2021 Fair Market Value				= Current FMV
\$6,063,000				= \$6,063,000
Purchase Price	(-) Value of Improvements	= ATI FMV	(-) 25% Exemption	= Exemption Value
\$8,034,000	(-) \$758,000	= \$7,276,000	(-) \$1,819,000	= \$5,457,000
				Taxable Value without Improvements
				\$6,063,000
Taxable Value without Improvements		+ Value of Improvements		= TY 2022 Taxable Value
\$6,063,000		+\$758,000		= \$6,821,000

Under Method B, the Current Fair Market Value is the Property’s tax year 2021 fair market value as reflected on the books of the Assessor (\$6,063,000). The value of the improvements (\$758,000) is subtracted from the Property’s purchase price (\$8,034,000) to reach an ATI Fair Market Value (\$7,276,000) that excludes the value of the salon. The 25% ATI Exemption is applied to the ATI Fair Market Value (\$7,276,000) to reach an Exemption Value (\$5,457,000) that

excludes the value of the salon. The Current Fair Market Value (\$6,063,000) is compared to the Exemption Value (\$5,457,000) and the greater number, the Current Fair Market Value, becomes the tax year 2022 pre-improvements taxable value. The value of the improvements (\$758,000) is then added to the Current Fair Market Value (\$6,063,000) to reach the tax year 2022 taxable value (\$6,821,000). (Assessor's Exchange to Board, ALC R. at 96). This method also employs an apples-to-apples comparison because both sides of the ATI Exemption comparison exclude the value of the new improvements. The value of the previously untaxed salon unit is then added at the end of the calculation to reach a final taxable value.

“The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). South Carolina courts have consistently held that exemptions from generally applicable tax statutes, such as the ATI Exemption at issue here, must be strictly construed against the taxpayer. *Southeastern-Kusan, Inc. v. S.C. Tax Comm'n*, 276 S.C. 487, 489–90, 280 S.E.2d 57, 58-59 (1981).

The ATI Exemption's eligibility requirements, set forth in S.C. Code Ann. § 12-37-3135(B)(1), indicate that previously untaxed improvements should be excluded from the ATI Exemption altogether. “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” S.C. Code Ann. § 12-37-3135(B)(1) (emphasis added). This language establishes prerequisite conditions that must be present at the time the ATI occurs. In other words, the Property, including the hair salon improvements, must undergo an ATI after 2010, be subject to tax, and be subject to the six percent assessment ratio in the hands of the seller. *See At Home Props. CLT, LLC v. York Cnty. Assessor*, Docket No. 23-ALJ-17-0486-CC, 2024 SC ALJ LEXIS

109 (S.C. Admin. Law Ct. Apr. 24, 2024) (noting that this interpretation of the ATI Exemption comports with the Department of Revenue’s interpretation and the longstanding practice of all the counties in the state). When the Property underwent an ATI in July 2021, the hair salon unit was not “currently subject to property tax.” See S.C. Code Ann. § 12-37-670(A) (“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.”). Thus, the hair salon unit was not eligible for the ATI Exemption and the value of those improvements needed to be carved out of the ATI Exemption calculation as was done in Method B.

The ATI Exemption statute, S.C. Code Ann. § 12-37-3135, is one part of the South Carolina Real Property Valuation Reform Act, S.C. Code Ann. § 12-37-3110 to -3170. Statutes are not to be read “as though individual laws or collections of laws exist in a vacuum; instead, the [C]ourt considers the entire statute when determining its meaning.” *Synovus Bank v. S.C. Dep’t of Revenue*, 444 S.C. 30, 37, 906 S.E.2d 85, 89 (Ct. App. 2024). “[I]n ascertaining the intent of the legislature, a court should not focus on any single section or provision but should consider the language of the statute as a whole.” *King v. AnMed Health (In re. Hosp. Pricing Litig.)*, 377 S.C. 48, 59, 659 S.E.2d 131, 137 (2008). “When multiple sections belong to the ‘same general statutory scheme,’ those sections ‘must be construed together and each given effect[] if it can be done by any reasonable construction.’” *Synovus Bank*, 444 S.C. at 37, 906 S.E.2d at 89 (quoting *Hinton v. S.C. Dep’t of Prob., Parole & Pardon Servs.*, 357 S.C. 327, 333, 592 S.E.2d 335, 338 (Ct. App. 2004)).

The Assessor’s interpretation of the prerequisite conditions set forth in S.C. Code Ann. § 12-37-3135(B)(1) neatly aligns with the following section, S.C. Code Ann. 12-37-3140, which

treats the value of previously untaxed improvements as separate from and additional to ATI value. *See* S.C. Code Ann. § 12-37-3140(A)(2), (B), (E); *see also* Section I.A., *supra*.

Additionally, improvements and ATIs are both exceptions to the general rule that a property's taxable value cannot increase more than 15% within a five-year period. S.C. Code Ann. § 12-37-3140(B). Put another way, values attributable to improvements and ATIs are uncapped. Taxpayer argues that any reduction in taxable value resulting from an ATI Exemption is similar to the 15% cap established in S.C. Code Ann. § 12-37-3140(B) on increases in value attributable to a countywide reassessment. (Appellant's Br. at 4 n.1). If that is the case and taxable value under the ATI Exemption should be treated like countywide reassessment values which are capped at a 15% increase, then previously untaxed improvements should be treated separately from the ATI Exemption just as they are treated separately from countywide reassessment. *See* S.C. Code Ann. § 12-37-3140(A)(2), (B), (E). Since improvement values are uncapped and operate outside the 15% countywide reassessment cap, then it stands to reason that previously untaxed improvements should also operate outside the ATI Exemption which is the other statutory cap on taxable value.

There is statutory and case law support for both Method A and Method B which both lead to the same taxable value using different orders of operations, and which both ensure that improvements to property do not go untaxed when an ATI occurs the same year. The Assessor correctly applied the ATI Exemption to Taxpayer's Property resulting in a tax exemption of \$1,213,000.

II. THE ALC DID NOT COMMIT REVERSIBLE ERROR BY STATING THAT THE SOLE DISPUTED ISSUE IN THIS CASE IS THE CURRENT FAIR MARKET VALUE OF THE PROPERTY FOR TAX YEAR 2023.

Taxpayer's first issue on appeal pertains to the ALC's framing of the issue presented in the case. The ALC Final Order begins with a Statement of the Case which states therein that "[t]he sole disputed issue in this case is the Current Fair Market Value of the property." (Final Order at 1). This is likely due to the Parties stipulating to the fact that "the Parties disagree over the Property's Current Fair Market Value." (Stipulations ¶ 15). To the extent the ALC was only considering the Assessor's Method A, which appears to be the case, then the ALC was correct to state that the sole disputed issue in this case is the Current Fair Market Value of the Property.

The ultimate issue in the case, however, is the Property's taxable value for tax year 2023, which was carried forward from tax year 2022. The ALC correctly decided this issue by determining that the taxable value of the Property is \$6,821,000 for tax year 2023. (Final Order at 9). The Assessor's reliance on two different methods, Method A and Method B, to determine the Property's taxable value for tax year 2022 may have led to some confusion in terminology in the Final Order.¹⁰ Under the Assessor's Method A, the Current Fair Market Value and the taxable value are both the same number, \$6,821,000. Under Method B, however, the Current Fair Market Value is \$6,063,000 and the taxable value is \$6,821,000. The ALC's conclusion that "the Current Fair Market Value, or taxable value, of the [Taxpayer's] Property is \$6,821,000 for tax year 2023" (ALC Final Order at 9), is thus consistent with the Assessor's Method A, but not necessarily with Method B.

¹⁰ For example, footnote 5 of the Final Order does not perfectly describe the Assessor's Method A and Method B. (See Final Order at 7 n.5). The Final Order mistakenly describes the Assessor's Methods as ways to determine the "Current Fair Market Value" which both result in the same "Current Fair Market Value." (Final Order at 7 n.5). On the contrary, the Assessor's Methods are ways to determine the final taxable value of property. The two Methods reach different Current Fair Market Values, but the same final taxable value.

Taxpayer argues that the Current Fair Market Value, defined as “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”, must be \$6,063,000. (Appellant’s Br. at 7–8). If that is the case, then the Assessor must rely on Method B—which determined that the Current Fair Market Value was \$6,063,000—to ensure the improvements do not escape taxation. Regardless of how the ALC framed the issue, the Final Order’s ultimate finding was that the hair salon improvements had to be accounted for in the ATI Exemption calculation, and that, when accounting for the improvements, the taxable value of the Property for tax year 2022, carried forward to tax year 2023, is \$6,821,000. Any technical error in how the ALC framed the issue did not impact the merits of the case and should not constitute reversible error.

III. THE ALC DID NOT UNLAWFULLY APPLY S.C. CODE ANN. §§ 12-37-3140(A)(2) AND 12-37-3140(E) IN ADDING THE VALUE OF THE IMPROVEMENTS TO THE 2021 FAIR MARKET VALUE.

Taxpayer’s second issue on appeal makes the argument that the Assessor must ignore the statutorily mandated appraisal of the improvements completed in April 2021 because there was a subsequent ATI in July 2021. The Assessor’s response to this issue is more thoroughly set forth in Section I.A., *supra*, and thus the Assessor craves reference thereto and incorporates herein.

As is stated in more detail in Section I.A., *supra*, pursuant to S.C. Code Ann. § 12-37-3140(A)(2), the Assessor was mandated to add the fair market value of the 2021 improvements to the Property’s previously appraised fair market value. Here, the Property’s fair market value prior to the improvements was \$6,063,000 based on a date of value of December 31, 2020. Adding the value of the hair salon unit (\$758,000) resulted in a new fair market value of \$6,821,000.

The appraisal of the improvements was the first of two interim appraisals the Assessor was mandated to perform prior to applying the ATI Exemption and reaching a final taxable value. The

dispute in this case relates to the effect of this interim appraisal and whether the appraisal has any bearing on the ATI Exemption calculation. Taxpayer asks the Court to ignore the appraisal of the improvements. The Assessor asserts that the value of the improvements must be reflected somewhere in the ATI Exemption calculation. This can be done by either including the improvements in the Current Fair Market Value as in Method A or by adding their value after calculating the ATI Exemption as in Method B.

IV. THE ASSERTION BY THE ALC THAT THE IMPROVEMENTS ARE NOT ELIGIBLE FOR THE ATI EXEMPTION BECAUSE THE IMPROVEMENTS WERE NOT SUBJECT TO TAXATION IN TAX YEAR 2021 IS A CORRECT INTERPRETATION OF S.C. CODE ANN. § 12-37-3135.

The ALC Final Order, in Footnote 6, provides the simplest justification for upholding the Assessor's determination that the Property's taxable value for tax year 2022, carried forward to tax year 2023, is \$6,821,000. The footnote provides:

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.”).

(ALC Final Order at 7 n.6). The Assessor invites this Court to affirm the ALC on this ground pursuant to Rule 220(c), SCACR.

In response to Taxpayer's third issue on appeal, the Assessor craves reference to and incorporates herein its interpretation of S.C. Code Ann. § 12-37-3135(B)(1) as is more fully explained in Section I.B.ii., *supra*, as it relates to the Assessor's Method B. At the ALC hearing, the Assessor relied primarily on Method B, as supported by S.C. Code Ann. § 12-37-3135(B)(1),

as being the most appropriate way of handling the ATI Exemption when improvements are completed in the same year as an ATI. (*See* Tr. 32:23–37:23).

The Assessor asks that the Court, pursuant to Rule 220(c), SCACR, affirm the ALC Final Order’s conclusion that the Property’s taxable value is \$6,821,000 for tax year 2023, upon the ground that the 2021 improvements to the Property were not eligible for the ATI Exemption pursuant to S.C. Code Ann. § 12-37-3135(B)(1).

V. THE VALUE OF THE IMPROVEMENTS WOULD ESCAPE TAXATION IF NOT ACCOUNTED FOR IN THE CALCULATION OF THE ATI EXEMPTION.

Taxpayer argues that the improvements will not escape taxation because their value was included in the consideration Taxpayer paid for the property, and thus included in the ATI Fair Market Value. (Appellant’s Br. at 11–12). Taxpayer asserted in the ALC that it would have reduced the purchase price accordingly if the improvements had not been completed. (See Taxpayer ALC Brief at 6). Taxpayer’s assertion presents a hypothetical scenario that essentially describes the Assessor’s Method B and demonstrates that it does not matter whether the improvements were completed by the seller before the ATI or by the buyer after the ATI. The value of the improvements must be taken into consideration either way. The law makes no distinction as to who does the work but rather concerns itself with the Assessor having the duty to add new and previously untaxed improvements to the tax rolls. *See* S.C. Code Ann. § 12-37-90 (enumerating duties of assessor including that assessor shall, “when values change, reappraise and reassess real property so as to reflect its proper valuation in light of changed conditions ...”).

Consider the hypothetical scenario where Taxpayer purchased the Property without the improvements and then designed, constructed, and completed them post-ATI, but prior to December 31, 2021. Subtracting the value of the improvements (\$758,000) from the purchase price (\$8,034,000) results in a hypothetical ATI Fair Market Value of \$7,276,000. Without regard

to the improvements, applying the 25% ATI Exemption results in a hypothetical Exemption Value of \$5,457,000. Without regard to the improvements, the Current Fair Market Value would be \$6,063,000. Because the Current Fair Market Value is the floor, the Exemption Value and thus the taxable value would be \$6,063,000. However, the Assessor would know by the time it processes the ATI Exemption that the improvements were completed by December 31, 2021.¹¹ Pursuant to S.C. Code Ann. § 12-37-3140(A)(2), the value of the improvements (\$758,000) would need to be added to the hypothetical Exemption Value/taxable value (\$6,063,000) resulting in a final tax year 2022 taxable value of \$6,821,000—the same value the Assessor placed on the Property in the case at bar.

The ATI Exemption statute, S.C. Code Ann. § 12-37-3135, establishes a floor below which the exemption may not go. When improvements are not at issue, that floor is the fair market value of the property in the hands of the seller. That floor indicates a legislative intent that the ATI Exemption should not result in a taxable value that is lower for the buyer than it would be for the seller had the property not been sold. Taxpayer has not demonstrated why the Property's taxable value should be less than it would be if the previous owner never sold it.

¹¹ ATI Exemptions are not processed until after January 31 of the year following an ATI. *See* S.C. Code Ann. § 12-37-3135(C). Thus, when the Assessor processed Taxpayer's ATI Exemption in early 2022, the Assessor was aware that the improvements to the Property were completed and fit for their intended use as of December 31, 2021.

CONCLUSION

Wherefore, for the foregoing reasons, Taxpayer has not met its burden of showing that the Assessor's valuation was incorrect. The Assessor respectfully requests that the Court affirm the ALC's finding that the Assessor's methodology and resulting taxable value of the Property, \$6,821,000, for tax year 2022, and thus tax year 2023, was correct.

Respectfully submitted,

CHARLESTON COUNTY ATTORNEY'S OFFICE



Bernard E. Ferrara, Jr., Esquire (SC Bar No. 9034)
Kevin M. DeAntonio, Esquire (SC Bar No. 101169)
bferrara@charlestoncounty.org
kdeantonio@charlestoncounty.org
Lonnie Hamilton, III Public Services Building
4045 Bridge View Drive
North Charleston, South Carolina 29405
(843) 958-4010

Attorneys for Respondent
Charleston County Assessor

North Charleston, South Carolina
July 16, 2025

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable S. Phillip Lenski, Administrative Law Judge
Docket No. 23-ALJ-17-0501-CC

Appellate Case No. 2025-000239

Mt. Pleasant Investments, LLC, *Appellant,*

v.

Charleston County Assessor, *Respondent.*

PROOF OF SERVICE

I certify that I have served the Initial Brief of Respondent on Appellant Mt. Pleasant Investments, LLC, by depositing a copy of the same in the United States Mail, postage prepaid, on July 16, 2025, addressed to its attorneys of record, G. Hamlin O’Kelley, III, and James C. Spears, III, 652 Coleman Blvd., Suite 200, Mt. Pleasant, SC 29464, and via email to G. Hamlin O’Kelley, III, at Hamlin.okelley@buistbyars.com and James C. Spears, III, at James.spears@buistbyars.com.

CHARLESTON COUNTY ATTORNEY’S OFFICE



Bernard E. Ferrara, Jr., Esquire (SC Bar No. 9034)
Kevin M. DeAntonio, Esquire (SC Bar No. 101169)
bferrara@charlestoncounty.org
kdeantonio@charlestoncounty.org
Lonnie Hamilton, III Public Services Building
4045 Bridge View Drive
North Charleston, South Carolina 29405
(843) 958-4010
Attorneys for Respondent

North Charleston, South Carolina
July 16, 2025