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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Deborah Brooks Durden, Administrative Law Judge

Case No. 23-ALJ-17-0384
Case No. 23-ALJ-17-0385
Case No. 23-ALJ-17-0386
Case No. 23-ALJ-17-0387
Case No. 23-ALJ-17-0468
Case No. 23-ALJ-17-0469
Case No. 23-ALJ-17-0470

Greens of Rock Hill, LLC,..……Appellant,

v.

York County Assessor ……..…….Respondent,

AND

Greens of Rock Hill, LLC,..……Appellant,

v.

York County Assessor ……..…….Respondent,

AND

Veloway Office Building, LLC……Appellant,

v.

York County Assessor ……..…….Respondent,

AND

Riverwalk Flint Medical Office Building, LLC……Appellant,

v.

York County Assessor ……..…….Respondent,

AND

Riverwalk River District Building 6, LLC……Appellant,

v.

York County Assessor …….……Respondent,

AND

Riverwalk River District Building 7, LLC……Appellant,

v.

York County Assessor …….……Respondent,

AND

Riverwalk River District Building 9, LLC……Appellant,

v.

York County Assessor …….……Respondent,

INITIAL BRIEF OF APPELLANTS

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July 18, 2025

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STATEMENT OF ISSUES ON APPEAL

I. **DID THE ADMINISTRATIVE COURT ERR IN FINDING THAT S.C. CODE ANN. § 12-37-90(C) EMPOWERED THE ASSESSOR TO REASSESS THE LAND VALUE OF THE SUBJECT PROPERTIES DURING A YEAR NOT DELINEATED IN S.C. CODE ANN. § 12-37-3140?**

II. **DID THE ADMINISTRATIVE LAW COURT ERR IN FAILING TO DISTINGUISH BETWEEN THE UNDERLYING LAND VALUE OF THE SUBJECT PROPERTIES AND THE IMPROVEMENTS WHEN DETERMINING WHETHER THE ASSESSOR HAD AUTHORITY TO REASSESS THE UNDERLYING LAND VALUES?**

III. **DID THE ADMINISTRATIVE LAW COURT ERR BY FAILING TO RECOGNIZE THAT ALL OF THE SUBJECT PROPERTIES WERE REASSSESED DUE TO A SUBDIVISON OF THE PROPERTIES AND THEN ERR IN FINDING THAT THERE WERE "CHANGED CONDITIONS" AUTHORIZING THE REASSESSMENT?**

STATEMENT OF THE CASE

This is an appeal from an order denying Appellants' appeal of Respondent York County Assessors' (the "***Assessor***") valuation of seven (7) properties in York County, South Carolina for the tax year 2022. The appeals were timely filed for all of the Subject Properties, and that issue is not contested. The sole issue presented to the Administrative Law Court, and before this tribunal, is whether the Assessor had the authority to reassess the value of the underlying land for the Subject Properties under South Carolina law. Thus, it is a purely legal issue.

By order dated October 3, 2024, all of the appeals were consolidated for hearing pursuant to ALC Rule 19(D) before Judge Deborah Brooks Durden. (Order of Consolidation). The parties filed a Joint Stipulation of Facts on March 14, 2025 and then filed an Amended Joint Stipulation of Facts on March 27, 2025. (Joint Stip.) (Amended Joint Stip.).

Appellants filed their Motion for Summary Judgment on March 31, 2025. (Pet. Mot. Sum. Judg.). Respondent filed a Memorandum in Opposition on April 8, 2025 and Appellants filed a Reply on April 11, 2025. (Resp. Mem. in Opp. to Mot. for Sum. Judg.) (Pet. Reply to Mem. in Opp.).

Respondent filed its Motion for Summary Judgment on April 3. 2025, 2025. (Resp. Mot. Sum. Judg.). Petitioners filed the Memorandum in Opposition on April 7, 2025. (Pet. Mem. in Opp.).

On May 19, 2025, the Court issued an Order Granting Respondent's Motion for Summary Judgment and Denying Petitioner's Motion for Summary Judgment. (May, 19, 2025 Order). The Court did not hold a hearing and ruled on the briefs. Petitioners filed a Motion to Alter or Amend on May 27, 2025. (Mot. to Alt. or Amend). The Respondent filed a Memorandum in Opposition on June 16, 2025. (Mem. in Opp. to Mot. to Alt. or Amend.). On June 17, 2025, the Court issued

an order denying the Motion to Alter or Amend, again on the briefs (the May 19, 2025 Order and June 17, 2025 Order collectively referred to as the "***Order***").

Appellants filed and served their Notice of Appeal on June 20, 2025.

STATEMENT OF FACTS

A. Description of Subject Properties.

This consolidated matter concerns seven parcels of real property (collectively, the "***Subject Properties***") in York County, all of which were part of a larger development owned and developed by one of the Appellants, Greens of Rock Hill, LLC ("***GRH***"):

a. TMS # 662-07-01165 – A 11.22 acre parcel of unimproved land owned by GRH ("***11 Acre Property***");

b. TMS # 662-07-01162 – A 15.83 acre parcel of unimproved land owned by GRH ("***15 Acre Property***") ;

c. TMS # 662-07-01282 – A .46 acre developed parcel with a 15,828 square foot office building transferred from GRH to Veloway Office Building, LLC by deed recorded on March 3, 2017 and indexed in the York County Register of Deeds Office at Book 16263, Page 179 ("***Veloway Property***");

d. TMS # 662-07-01-300 – A 2.03 acre parcel with an office building transferred from GRH to Riverwalk Flint Medical Office Building LLC by deed recorded May 8, 2018 and indexed at Book RB 16963, page 197 ("***Riverwalk Flint Property***").

e. TMS #662-07-01-147 – a .39 acre parcel with an office transferred from GRH to Riverwalk River District Building 6 LLC by deed recorded in the York County Register of Deeds Office on July 30, 2014 at Deed Book 14275, Page 4. ("***Building 6 Property***").

f. TMS #662-07-01-287 – a .83 acre parcel with mixed retail and apartments transferred from GRH to Riverwalk River District Building 7 LLC by deed recorded in the York County Register of Deeds Office on June 29, 2017 at Deed Book 16451, Page 197 ("***Building 7 Property***").

g. TMS #662-07-01-185 – a .23 acre parcel with mixed retail and apartments transferred from GRH to Riverwalk River District Building 9 LLC by deed recorded in the York County Register of Deeds Office on recorded on July 25, 2016 at Deed Book 15814, Page 364. ("***Building 9 Property***").

(Am. Joint Stip. at 2-3). The 11 Acre Property and 15 Acre Property ("***Unimproved Properties***") have remained unimproved through the time period relevant to this appeal. The Veloway Property, Riverwalk Flint Property, Building 6 Property, Building 7 Property and Building 9 Property ("***Developed Properties***") were developed at various times relevant to this appeal. As noted herein, the Assessor reassessed the underlying land value for all of the Subject Properties in the year after the relevant subdivision plat for each property was recorded, and then added the improvement value to only the Developed Properties after a certificate of occupancy was issued for those properties but did not again reassess the underlying land value.

B. The Parent Parcels.

The Subject Properties have common parent tracts of unimproved land totaling just over 1,000 acres that were conveyed as four separate parcels from Celanese Acetate LLC to GRH by deed recorded in the York County Register of Deeds on October 18, 2005 and indexed in Deed Book 7503, Page 099. (Am. Joint Stip. at 3). The entire tract was annexed by the City of Rock Hill and rezoned from Industrial Development to Planned Development Residential (PD-R),

Planned Development Commercial (PD-C) and Planned Development Major Employment Center (PD-MEC) by operation of the 2008 Ordinance. (Am. Joint Stip. at 3-4). This was the final rezoning for the property that ultimately became the Subject Properties, and was the final assessable transfer of interest, as that term in statutorily defined.

The entire tract was subdivided into two parcels, and those parcels were assigned new tax map numbers: Tax map Parcel 662-07-01-094 (approximately 349 acres); and Tax Map Parcel 662-07-01-095 (approximately 660 acres). (Am. Joint Stip. at 4).

Parent parcel TMS # 662-07-01-095, as subdivided from time to time over the years, was first assigned a value and taxed in the tax year 2009 and it has remained a remnant has remained an unimproved land parcel. It has been assessed at a value of $5,000 per acre since its creation.

Parent parcel TMS # 662-07-01-094, as subdivided from time to time over the years, was first assigned a value and taxed in the tax year 2009 and its remnant has remained an unimproved land parcel. It has been assessed at the following values in the ensuing tax years:

Year	Acreage	Value Per Acre	Total	Note(s)
2009	377.09	$5,300.00	$2,020,700.00	
2010	377.09	$5,300.00	$2,020,700.00	
2011	371.26	$5,000.00	$1,856,300.00	Reassessment Year
2012	178.31	$10,000.00	$1,783,100.00	
2013	184.54	$10,000.00	$1,845,400.00	
2014	156.25	$10,000.00	$1,562,500.00	
2015	114.69	$10,000.00	$1,146,900.00	Reassessment Year
2016	58.37	$29,400.00	$1,717,000.00	
2017	46.61	$19,000.00	$885,600.00	
2018	46.15	$19,000.00	$876,900.00	
2019	45.28	$19,000.00	$860,300.00	
2020	45.28	$19,000.00	$860,300.00	Reassessment Year

(Am. Joint Stip. at 4).

C. The Unimproved Properties (11 Acre Property and 15 Acre Property).

The Unimproved Properties have, at all relevant times, remained under the ownership of GRH (Am. Joint Stip. at 5-6). The Unimproved Properties were both subdivided from TMS # 662-07-01-095 to create TMS #662-07-01-132 by plat recorded in the York County Register of Deeds Office on January 17, 2013 at Plat Book E177, Page 1. (Am. Joint Stip. at 4, 6).

The York County Assessor's Office began taxing the TMS #662-07-01-132 for the 2014 tax year. TMS #662-07-01-132, as further subdivided, has remained an unimproved parcel. The yearly tax valuation for TMS #662-07-01-132 is as follows:

2014:	$5,000 per acre (219.88 acres, market value = $1,099,400)
2015:	$20,000 per acre (County reassessment – now 174.10 acres; market value = $3,467,906)
2016-2021:	$40,000 per acre (26.66 acres; market value = $1,066,400)
2022:	$5,000 per acre (due to appeal change, now 26.66 acres)

(Am. Joint Stip. at 6). TMS # 662-07-01-132 was subdivided into the 11 Acre Property by operation of a subdivision plat recorded in the York County Register of Deeds Office on August 26, 2015 at Plat Book E338, Page 5. (Am. Joint Stip. at 5). TMS # 662-07-01-132 was subdivided into the 15 Acre Property by operation of a subdivision plat recorded in the York County Register of Deeds Office on August 26, 2015 at Plat Book E338, Page 4. (Am. Joint Stip. at ¶ 5).

The York County Assessor's Office began taxing the 11 Acre Property for the 2016 tax year. The historical taxes for the 11 Acre Property are as follows:

2016-2017:	$40,000 per acre (total of $465,200; 11.63 acres)
2018-present:	$40,000 per acre (total of $448,800- slight downward adjustment of acreage)

(Am. Joint Stip. at ¶ 14). The York County Assessor's Office began taxing the 15 Acre Property for the 2016 tax year. It has been taxed at $40,000 per acre (total of $633,200) every year since 2016. (Am. Joint Stip. at ¶ 27).

D. The Developed Properties.

As noted below, the Developed Properties were all subdivided from unimproved parcels, with the underlying land value being reassessed in the year following recordation of the subdivision plat. The Developed Properties were then transferred to entities commonly controlled by GRH[1] and then improved. For each of the Developed Properties, the Assessor then added the value of the improvements after the issuance of a certificate of occupancy. The Assessor did not reassess the underlying land value.

a. The Veloway Property.

The Veloway Property was subdivided directly from TMS # 662-07-01-094 and created by operation of a subdivision plat recorded in the York County Register of Deeds Office on March 2, 2017 at Plat Book 153, Page 352. (Am. Joint Stip. at 7). Ownership of the Veloway Property was transferred from GRH to Veloway Office Building, LLC, a commonly controlled entity, by deed recorded in the York County Register of Deeds Office on March 3, 2017 at Book RB 16263, page 179. (Am. Joint Stip. at ¶ 7). Veloway Office Building, LLC completed construction of an office building on the Veloway Property in 2018 and received a certificate of occupancy in 2018. Prior to construction of the office building, the Veloway Property was an unimproved parcel. (Am. Joint Stip. at 7).

[1] The Assessor does not dispute that the entities to which the Developed Properties were transferred were commonly controlled by GRH, as that term is defined in S.C. Code § 12-37-3130(6).

The Assessor began taxing the Veloway Property for the 2018 tax year, the year after recordation of the subdivision plat. The Assessor then added the building value in 2019, the year after the certificate of occupancy was issued. The historical taxes for the Veloway Property are as follows:

Year	Acreage	Value Per Acre	Total Land Value	Building Value	Total	Note(s)
2018	0.46	$860,000.00	$395,600.00	-	$395,600.00	
2019	0.46	$860,000.00	$395,600.00	$2,805,000.00	$3,200,600.00	
2020	0.46	$860,000.00	$395,600.00	$3,053,712.00	$3,488,672.00	Reassessment Year
2021	0.46	$860,000.00	$395,600.00	$2,448,795.00	$2,883,755.00	
2022	0.46	$860,000.00	$395,600.00	$2,265,537.00	$2,661,137.00	Bldg. value reduced during pendency of appeal

(Am. Joint Stip. at 8).

b. The Riverwalk Flint Property.

The immediate parent parcel for the Riverwalk Flint Property – TMS #662-07-01-176– was subdivided from TMS # 662-07-01-094 by plat recorded in the York County Register of Deeds Office on July 15, 2015 at Plat Book E330, Page 4. (Am. Joint Stip. at 8). The Assessor began taxing TMS #662-07-01-176 for the 2016 tax year. The taxes for TMS #662-07-01-176, which has remained an unimproved parcel, are as follows:

Year	Acreage	Value Per Acre	Total	Note(s)
2016	19.38	$25,000.00	$484,500.00	
2017	19.38	$25,000.00	$484,500.00	
2018	19.38	$25,000.00	$484,500.00	
2019	17.35	$28,000.00	$484,500.00	
2020	17.26	$200,000.00	$3,457,000.00	Reassessment Year
2021	15.8	$200,000.00	$3,160,000.00	

(Am. Joint Stip. at 8-9).

Ownership of the Riverwalk Flint Property was transferred from GRH to Riverwalk Flint Medical Office Building LLC, a commonly controlled entity, by deed recorded in the York County Register of Deeds Office on May 8, 2018 at Book RB 16963, page 197. (Am. Joint Stip. at 9).

Riverwalk Flint Medical Office Building LLC completed construction of an office building on the Riverwalk Flint Property in 2019 and received a certificate of occupancy on during that year. (Am. Joint Stip. at 9). Prior to construction of the office building, the Riverwalk Flint Property was an unimproved parcel. (Am. Joint Stip. at 9).

The Assessor began taxing the Riverwalk Flint Property for the 2019 tax year, the year after recordation of the subdivision plat. The Assessor then added the building value in 2020, the year after the certificate of occupancy was issued. The historical taxes for the Riverwalk Flint Property are as follows:

Year	Acreage	Value Per Acre	Total Land Value	Building Value	Total	
2019	2.03	$ 700,000.00	$ 1,421,000.00		$ 1,421,000.00	
2020	2.03	$ 700,000.00	$ 1,421,000.00	$ 2,935,075.00	$ 4,356,075.00	Reassessment Year
2021	2.03	$ 700,000.00	$ 1,421,000.00	$ 4,030,975.00	$ 5,451,975.00	Bldg value increased after appeal
2022	2.03	$ 700,000.00	$ 1,421,000.00	$ 2,509,802.00	$ 3,930,802.00	Bldg value decreased after appeal

(Am. Joint Stip. at 9-10).

c. Building 6 Property.

The Building 6 Property was subdivided directly from TMS # 662-07-01-094 and created by operation of a subdivision plat recorded in the York County Register of Deeds Office on May 23, 2014 at Plat Book E253, Page 5. (Am. Joint Stip. at 10). Ownership of the Building 6 Property was conveyed from GRH to Riverwalk River District Building 6 LLC, a commonly controlled

entity, by deed recorded in the York County Register of Deeds Office on July 30, 2014 at Deed Book 14275, Page 4. (Am. Joint Stip. at 10).

Riverwalk River District Building 6 LLC completed construction of a mixed-use building on the Building 6 Property in 2016 and received a certificate of occupancy on March 10, 2016. The Building 6 Property was an unimproved parcel until construction of the building. (Am. Joint Stip. at 11).

The Assessor began taxing the Building 6 Property for the 2015 tax year, the year after recordation of the subdivision plat. The Assessor then added the building value in 2017, the year after the certificate of occupancy was issued. The historic market values for the Building 6 Property are as follows:

Year	Acreage	Value Per Acre	Total Land Value	Building Value	Total	Note(s)
2015	0.39	$256,000.00	$99,840.00	-	$100,000.00	
2016	0.39	$256,000.00	$99,840.00	-	$100,000.00	
2017	0.39	$256,000.00	$99,840.00	$3,298,000.00	$3,398,000.00	
2018	0.39	$256,000.00	$99,840.00	$3,298,000.00	$3,398,000.00	
2019	0.39	$256,000.00	$99,840.00	$3,298,000.00	$3,398,000.00	
2020	0.39	$1,000,000.00	$390,000.00	$5,583,635.00	$5,973,635.00	Reassessment Year
2021	0.39	$750,000.00	$292,500.00	$5,435,879.00	$5,728,379.00	Bldg. value reduced during pendency of appeal
2022	0.39	$750,000.00	$292,500.00	$2,265,537.00	$5,093,430.00	Bldg. value reduced during pendency of appeal

(Am. Joint Stip. at 11).

d. Building 7 Property.

The immediate parent parcel for the Building 7 Property - TMS #662-07-01-146 – was subdivided from TMS # 662-07-01-094 and created by operation of a subdivision plat recorded in the York County Register of Deeds on May 23, 2014 at Plat Book E253, Page 5. (Am. Joint Stip. at 12). The Assessor began taxing the TMS #662-07-01-146 for the 2015 tax year. The taxes for TMS #662-07-01-146, which has remained an unimproved parcel, are as follows:

Year	Acreage	Value Per Acre	Total	Note(s)
2015	2.65	$70,000.00	$185,500.00	Reassessment Year
2016	2.65	$70,000.00	$185,500.00	
2017	2.65	$70,000.00	$185,500.00	
2018	1.37	$400,000.00	$548,000.00	
2019	1.37	$400,000.00	$548,000.00	
2020	1.37	$500,000.00	$685,000.00	Reassessment Year
2021	1.37	$500,000.00	$685,000.00	
2022	1.37	$350,000.00	$480,000.00	Value reduced during appeal

(Am. Joint Stip. at 12). TMS # 662-07-01-146 was subdivided into the Building 7 Property by operation of a subdivision plat recorded in the York County Register of Deeds Office on June 27, 2017 at PB 154, Page 455. (Am. Joint Stip. at 12). Ownership of the Building 7 Property was conveyed from GRH to Riverwalk River District Building 7 LLC, a commonly controlled entity, by deed recorded in the York County Register of Deeds Office on June 29, 2017 at Deed Book 16451, Page 197. (Am. Joint Stip. at 12).

Riverwalk River District Building 7 LLC completed construction of a mixed-use building on the Building 7 Property in 2019 and received a certificate of occupancy on March 19, 2019. (Am. Joint Stip. at ¶ 12). Prior to construction of the office building, the Building 7 Property was an unimproved parcel. (Am. Joint Stip. at ¶ 12).

The Assessor began taxing the Building 7 Property for the 2018 tax year, the year after recordation of the subdivision plat. The Assessor then added the building value in 2020, the year after the certificate of occupancy was issued. The historic market values for the Building 7 Property are as follows:

Year	Acreage	Value Per Acre	Total Land Value	Building Value	Total	Note(s)
2018	0.83	$1,000,000.00	$830,000.00	-	$830,000.00	
2019	0.83	$1,000,000.00	$830,000.00	-	$830,000.00	
2020	0.83	$1,000,000.00	$830,000.00	$9,867,110.00	$10,697,110.00	Reassessment Year
2021	0.83	$750,000.00	$622,500.00	$12,695,482.00	$13,317,982.00	
2022	0.83	$750,000.00	$622,500.00	$10,486,441.00	$11,108,941.00	Bldg. value reduced during pendency of appeal

(Am. Joint Stip. at ¶ 13).

e. Building 9 Property.

The Building 9 Property was subdivided directly from TMS # 662-07-01-094 and created by operation of a subdivision plat recorded in the York County Register of Deeds Office on June 10, 2016 at PB E399, Page 7. (Am. Joint Stip. at 13). Ownership of the Building 9 Property was conveyed from GRH to Riverwalk River District Building 9 LLC, a commonly controlled entity, by deed recorded in the York County Register of Deeds Office on recorded on July 25, 2016 at Deed Book 15814, Page 364. (Am. Joint Stip. at 14). Riverwalk River District Building 9 LLC completed construction of a mixed retail and apartment building on the Building 9 Property in 2017 and received a certificate of occupancy on July 10, 2017. (Am. Joint Stip. at 14).

The Assessor began taxing the Building 9 Property for the 2017 tax year, the year after recordation of the subdivision plat. The Assessor then added the building value in 2018, the year after the certificate of occupancy was issued. The historic values for the Building 9 Property are as follows:

Year	Acreage	Value Per Acre	Total Land Value	Building Value	Total	Note(s)
2017	0.23	$700,000.00	$161,000.00		$161,000.00	
2018	0.23	$700,000.00	$161,000.00	$2,320,000.00	$2,481,000.00	
2019	0.23	$700,000.00	$161,000.00	$2,320,000.00	$2,481,000.00	
2020	0.23	$700,000.00	$161,000.00	$2,735,439.00	$2,896,439.00	Reassessment Year
2021	0.23	$750,000.00	$172,500.00	$3,494,999.00	$3,667,449.00	Bldg. value increased during pendency of appeal
2022	0.23	$750,000.00	$172,500.00	$2,954,753.00	$3,127,253.00	Bldg. value reduced during pendency of appeal

(Am. Joint Stip. at 14).

STANDARD OF REVIEW

A motion for summary judgment shall be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP. "In determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences that may be drawn therefrom in the light most favorable to the party opposing summary judgment." *Pallares v. Seinar*, 407 S.C. 359, 365, 756 S.E.2d 128, 131 (2014). "An appellate court applies the same standard used by the trial court under Rule 56(c) when reviewing the grant of a motion for summary judgment." *Spence v. Wingate*, 395 S.C. 148, 156, 716 S.E.2d 920, 925 (2011). "Where cross motions for summary judgment are filed, the parties concede the issue before [the court] should be decided as a matter of law." *Wiegand v. U.S. Auto. Ass'n*, 391 S.C. 159, 163, 705 S.E.2d 432, 434 (2011).

ARGUMENT

The primary issue in this appeal, and the issue from which all issues in this appeal flow, was the Administrative Law Court's erroneous holding that the Assessor may reassess the underlying land portion of the value of the Subject Properties due to "changed conditions" pursuant to S.C. Code Ann. § 12-37-90(c), despite the fact that the standards for reassessment are clearly set forth in the South Carolina Real Property Valuation Reform Act, S.C. Code Ann. § 12-37-3110 *et. seq.* (the "***Act***"). The Assessor conceded that there was no assessable transfer of interest or other event warranting reassessment of the underlying land values of any of the Subject Properties under the Act. (Respondent Mot. Sum. Judg, at 8). While there are notable differences between the Subject Properties concerning state of development and ownership, these differences are

irrelevant if the Court correctly finds that the Assessor's reliance on S.C. Code § 12-37-90(c) as a basis for real property reassessment was unlawful and therefore vacates the Administrative Law Court's decision. Further, because the Assessor conceded that there was no assessable transfer of interest and therefore no basis for reassessment of the underlying land value of the Subject Properties under the Act, a contention with which the Administrative Law Court agreed, then there is no basis to remand this for any further decision. In sum, the Court should vacate the Administrative Law Court's Order and direct that the relief requested by the Appellants be granted.

While Appellants assert that the Court need not analyze the Order any further than Argument I below, Appellants hereby address all of the errors in the Order which require the Court to reverse the Administrative Law Court decision.

I. THE ADMINISTRATIVE COURT ERRED IN FINDING THAT S.C. CODE ANN. § 12-37-90(C) EMPOWERS THE ASSESSOR TO REASSESS THE LAND VALUE OF THE SUBJECT PROPERTIES DURING A TIME PERIOD NOT AUTHORIZED BY S.C. CODE ANN. § 12-37-3140.

In a decision that contradicts the explicit language and intent of the South Carolina Constitution along with legislatively crafted statutory scheme of the Act, the Administrative Law Court held the Assessor's reassessment of the Appellants' real property pursuant to the phrases "changed conditions" or "changed circumstances" of S.C. Ann. Code § 12-37-90(c) was proper.[2] The Administrative Law Court, in its decision, *sua sponte* focused on whether the Act served as an implied repeal of S.C. Ann. Code § 12-37-90(c). First, this argument was never made by either party and moreover is not germane to the analysis regarding the applicability of § 12-37-90.

[2] The Administrative Law Court appears to use the term "changed circumstances" interchangeably with "changed conditions." (Order at 17-18, 21). S.C. Code Ann. § 12-37-90(c) uses only the phrase "changed conditions." This is likely a scrivener's error, but to the extent the Administrative Law Court relies on "changed circumstances," that is not a standard applicable to the appraisal and valuation of real property for the purpose of taxation under any South Carolina authority.

Second, the Court's reliance on S.C. Ann. Code § 12-37-90(c) is unnecessary as §12-37-90(c) is outside of the specific statutory framework and language set forth in the State Constitution, the Act, and more specifically S.C. Code Ann. § 12-37-3140(A)(1) of the Act. Upon ratification, South Carolina Constitution Art. X, § 6, as further implemented by the Act, became the sole statutory basis setting forth the methods and timing upon which the Assessor shall reassess property for the purpose of real property taxation.

S.C. Code Ann. § 12-37-90 was passed in 1975 to require that, among other things, all counties are required to employ full-time assessors. It is an enabling statute purely and plainly intended to authorize the creation of a county governmental job position and define those job responsibilities in great detail:

> The assessor is responsible for the operations of his office and shall:
>
> (a) maintain a continuous record of recorded deed sales transactions, building permits, tax maps, and other records necessary for a continuing reassessment program;
>
> (b) diligently search for and discover all real property not previously returned by the owners or their agents or not listed for taxation by the county auditor, and list such property for taxation in the name of the owner or person to whom it is taxable;
>
> ***(c) when values change, reassess and reassess real property so as to reflect its proper valuation in light of changed conditions, except for exempt property and real property required by law to be appraised and assessed by the department, and furnish a list of these assessments to the county auditor;***
>
> (d) determine assessments and reassessments of real property in a manner that the ratio of assessed value to fair market value is uniform throughout the county;
>
> (e) appear as necessary before an appellate board to give testimony and present evidence as to the justification of an appraisal;
>
> (f) have the right of appeal from a disapproval of or modification of an appraisal made by him;
>
> (g) perform duties relating to the office of tax assessor required by the laws of this State;

> (h) be the sole person responsible for the valuation of real property, except that required by law to be appraised and assessed by the department, and the values set by the assessor may be altered only by the assessor or by legally constituted appellate boards, the department, or the courts;
>
> (i) have the right to enter and examine all new nonresidential buildings and structures and those portions of an existing nonresidential building or structure covered by a building permit for renovations or additions.

(emphasis added). The statute is silent on defining either the method or specific timing for real property reassessment. Although subsection (c) provides that the assessor must reassess property "when values change" . . . "in light of changed conditions" it never defines "changed conditions" and provides no guidelines for the reassessment itself. This, in effect, left all decisions regarding the assessment of real property in the hands of the Assessor and subject to inconsistent, diverse and varying results not only within a specific county but also throughout the entire State from one county to another.

In 2007, the South Carolina Constitution was amended to provide for "[e]stablishment of [the] method of valuation for assessment of real property within [South Carolina]." S.C. Const. Ann. Art. X, § 6. Paragraph two of Article X, § 6 provides:

> The General Assembly shall establish, through the enactment of general law, and not through the enactment of local legislation pertaining to a single county or other political subdivision, the method of assessment of real property within the State that shall apply to each political subdivision within the State. ***Each political subdivision shall value real property by a method in which the value of each parcel of real property, adjusted for improvements and losses, does not increase more than fifteen percent every five years unless, as defined by the General Assembly, an assessable transfer of interest occurs.***

(emphasis added). A plain text reading of the amendment indicates the legislature's clear and express intent to provide uniformity and certainty into the method and timing for real property assessment and taxation. It further imposes a clear, mandatory limit on increases in the taxable value of real property except for defined circumstances. Article X, § 6 is self-executing and sets

an absolute ceiling on how much a property's taxable value may increase outside of a quadrennial reassessment or a legislatively-defined assessable transfer of interest. No statute—including S.C. Code § 12-37-90(c)—nor any administrative practice, may override this constitutional limitation. *Knotts v. S.C. Dep't of Natural Res.*, 348 S.C. 1, 10, 558 S.E.2d 511, 515, (2002) (Any portion of a statute in conflict with the South Carolina Constitution is void). Article X § 6 further directs the General Assembly to enact a general law (*i.e.* uniform state law) which sets forth the sole method for assessing real property for the purpose of taxation and provides that the value of each parcel of real property, adjusted for improvements and losses, shall not increase more than fifteen percent every five years **unless an assessable transfer of interest occurs**. There is no mention of "changed conditions" or "changed circumstances" or any other standard triggering reassessment.

The General Assembly followed the Constitutional directive by passing the Act, which was originally enacted in 2006 but did not take effect until 2007 after the ratification of the amendment to Article X (*see* S.C. Code Ann. §12-37-3110-History). Upon ratification, the Act became the sole controlling statutory framework for the assessment of real property in South Carolina. This statutory interpretation is also supported with S.C. Code Ann. § 12-43-210, which requires that "[a]ll property must be assessed uniformly and equitably throughout the State."

The statute that specifically defines and provides guidelines for when real property may be reassessed is S.C. Code Ann. § 12-37-3140(A)(1). This statute within the Act enumerates the only 4 instances where real property shall be reassessed: a) the year 2007 (the first year of the Act's applicability); (b) December thirty-first of the year in which an assessable transfer of interest has occurred; (c) as determined on appeal; or (d) as a result of any countywide reassessment program which, pursuant to S.C. Code Ann. § 12-43-217, occur once every five years. S.C. Code Ann. § 12-37-3140(A)(1). This provision is supplemented by the very next subsection, which

provides that "(2) 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). Additionally, the legislature specifically set forth the definition and parameters of the term "assessable transfer of interest" (as referenced in the Constitutional Amendment) in the very next statutory section – S.C. Code Ann. § 12-37-3150.

As intended by the General Assembly, upon ratification of the Constitutional Amendment and the Act, the statutory scheme for real property reassessment became uniform, specific, and orderly. Moreover, S.C. Code Ann. §12-37-3120 of the Act specifically provides that "[i]f the provisions of this article are inconsistent with other provisions of law, the provisions of this article apply," thus resolving any conflicts arising out of other inconsistent or prior provisions of law, including both the Assessor's argument and the Administrative Law Judge's reliance on the phrase "changed conditions" of S.C. Code Ann. § 12-37-90(c). In fact, contrary to the Administrative Law Court's *sua sponte* decision that §12-37-90 was not impliedly repealed by the Act (as stated earlier (an argument never presented to the Court), it is and was Appellants' position that S.C. Code Ann. §12-37-90 should only be read in conjunction with the Act. Again, S.C. Code Ann. §12-37-90 is merely an enabling statute creating and describing the Assessor's full-time position. Upon ratification the Act became the uniform procedural and substantive law specifically detailing the methods and timing (otherwise known as "changed conditions") for real property assessment throughout the State.

Despite the clear and unambiguous intent of the legislature and the statutory framework established by both the State Constitution and the Act, the Administrative Law Court incorrectly followed prior flawed decisions issued by Administrative Law Court judges by continuing to apply

§12-37-90(c) as a "catch all" provision enabling an assessor to subjectively determine that conditions have changed, thereby altogether bypassing the provisions of the Act and more specifically S.C. Code Ann. § 12-37-3140 and § 3150. Furthermore, the reliance on § 12-37-90(c) to justify reassessment based solely on platting, subdivision, or so-called 'changed conditions' is constitutionally impermissible. Such an interpretation nullifies the 15% cap by allowing assessors unlimited discretion to revalue properties whenever a parcel boundary changes, thereby defeating the constitutional purpose of predictability and taxpayer protection. As a result, the uniformity required by Article X, §6 of the South Carolina Constitution, along with S.C. Code Ann. §12-43-210, is cast aside in favor of the whims and wishes of each county assessor, who simply get to choose what constitutes a "changed condition."[3] Simply put, the South Carolina Constitution controls. Any reassessment of Appellants' properties not based on an assessable transfer of interest or during a lawful quadrennial reassessment is unconstitutional and void.

From a practical standpoint, the Administrative Law Court's decision relying on § 12-37-90(c) to permit the Assessor to reassess property at any time they determine that a "changed condition" has occurred leads to complete disorder, is unfair to property owners, and undermines the uniformity and predictability demanded by the South Carolina Constitution and State law. As shown by the actions of the Assessor, assessors will simply increase values in any year they see fit

[3] The Administrative Law Court attempted to address this by citing S.C. Code § 12-37-3160(A), a provision establishing that the Department of Revenue may establish regulations for identifying circumstances that constitute an assessable transfer of interest not evidenced by the transfer of fee simple title. (Order at 19). This reasoning is mystifying. First, the Administrative Law Court is using the Act itself to justify why the Assessor should be able to ignore the Act. Further, the cited statutory provision deals with defining an assessable transfer of interest. As noted herein, the Assessor conceded there was no assessable transfer of interest and the Administrative Law Court agreed stating: "In these cases, no assessable transfer of interest has occurred, and thus, the remaining question is whether there existed 'changed conditions' under § 12-37-90(c) to the newly created parcels that would warrant appraisal of the Subject Properties." (Order at 16).

without following the statutes set forth in the Act. The definition of "changed condition" is in the eye of the beholder, and could include simple changes in market conditions, pollution of property, construction of improvements on nearby properties and other factors, none of which qualify as an "assessable transfer of interest." However, Assessors will never reduce property values based on those same factors, instead choosing to wait for countywide reassessment years. The result of the Administrative Law Court's reliance on §12-37-90(c) as an additional catchall provision for the Assessor is not only unfair and disorderly but specially countermands the very purpose of Article X §6 of the Constitution, the Act and §12-37-210, all of which were intended to create uniformity throughout the State when assessing real property.

In sum, the South Carolina Constitution and the S.C. Code Ann. §§ 12-37-3140 and -3150 require that reassessments occur either in countywide reassessment years or upon the occurrence of an assessable transfer of interest, and to that the value of improvements and additions may be added. S.C. Code Ann. § 12-37-90 is merely an enabling statute setting forth and defining the job duties of the County Full-Time Assessor position. It has no bearing on the substantive and procedural law created by the legislature in State Constitution and the Act that specifically detail the circumstances which authorize real property reassessment. The Court's reliance and application of S.C. Code Ann. § 12-37-90(c), as additional authority for reassessment was a plain error of law and must be reversed, with instructions to award the relief requested by the Appellants.

II. THE ADMINISTRATIVE LAW COURT ERRED BY FAILING TO DISTINGUISH BETWEEN THE UNDERLYING LAND VALUE AND THE IMPROVEMENTS ON THE SUBJECT PROPERTIES.

The Act provides a clear framework for the appraisal of underlying real property and separate changes to value resulting from subsequent improvements or additions. Pursuant to S.C. Code Ann. § 12-37-3140(A)(1), an assessor may reassess the fair market value of the underlying

land where there has been an assessable transfer of interest or during countywide reassessment years. S.C. Code Ann. § 12-37-3140(A)(2) then dictates that "[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." (emphasis added). "Additions" or "improvements" are defined as "an increase in the value of an existing parcel of real property because of . . . new construction . . .." S.C. Code Ann. § 12-37-3130. Thus, the separation of the land value and improvement value is unambiguous, as noted in S.C. Code Ann. § 12-37-3140(B):

> Any increase in the fair market value of real property attributable to the periodic countywide appraisal and equalization program implemented pursuant to Section 12-43-217 is limited to fifteen percent within a five-year period to the otherwise applicable fair market value. This limit must be calculated on the land and improvements as a whole. **However, this limit does not apply to the fair market value of additions or improvements to real property in the year those additions or improvements are first subject to property tax, nor do they apply to the fair market value of real property when an assessable transfer of interest occurred in the year that the transfer value is first subject to tax.**

(emphasis added). Further, S.C. Code Ann. 12-37-670(B)(1) provides:

> A county governing body by ordinance may provide that previously untaxed improvements to real property must be listed for taxation with the county assessor of the county in which it is located by the first day of the next calendar quarter after a certificate of occupancy is issued for the structure. A new structure must not be listed or assessed until it is completed and fit for the use for which it is intended, as evidenced by the issuance of the certificate of occupancy or the structure actually is occupied if no certificate is issued.

The statutory scheme is clear: underlying land values may be reassessed during countywide reassessment periods or upon the occurrence of an assessable transfer of interest. To that amount, the improvement value may be added in the year the certificate of occupancy is issued. Then, both land value and the improvements may be subject to reassessment during the next countywide reassessment year or upon the occurrence of an assessable transfer of interest. If the

General Assembly had intended for land to be reassessed in total due to construction activities, there would be no need to add the value of improvements to the land value. The General Assembly would have simply defined improvements as an assessable transfer of interest.

Here, the Administrative Law Court erroneously held that "reassessments are also triggered by two other events, [including] . . . completion of most types of 'improvements' or 'additions,' including new construction." (Order at 20). That is contrary to the Act. As noted above, the property is not reassessed when a certificate of occupancy is issued. Rather, pursuant to the statute, the value of the improvements is added, and then the entire value can only be reassessed during a countywide reassessment or in the case of an assessable transfer of interest.

The Appellants have appealed only the Respondent's improper reassessment of the underlying land values of the Subject Properties following the administrative subdivision of each property in years where there had been no countywide reassessment or assessable transfer of interest (again, a point conceded to by the Assessor). (Respondent Mot. Sum. Judg, at 8). The Administrative Law Court erred by failing to address the Appellants' arguments as to each of the Subject Properties and by holding that construction of improvements triggered the reassessment of the entire parcels. The Assessor did not have the statutory right to perform these assessments and therefore this Court must reverse the Administrative Law Court's decision.

III. THE ADMINISTRATIVE LAW COURT ERRED BY FAILING TO ANALYZE WHETHER AN ADMINISTRATIVE SUBDIVISON WAS A "CHANGED CONDITION" WARRANTING REASSESSEMENT OF EACH OF THE SUBJECT PROPERTIES AND CONSIDERING IMPROPER FACTORS IN DETERMINING THE EXISTENCE OF A "CHANGED CONDITION."

As noted above, the Administrative Law Court erred as a matter of law by applying S.C. Code Ann. § 12-37-90(c) to support the Assessor's reassessment of the Subject Properties, and therefore the factors she considered are largely irrelevant. However, to the extent this Court holds

that application of § 12-37-90 was appropriate, the Administrative Law Court erred as a matter of law by: (A) failing to analyze each of the Subject Properties separately; (B) considering factors that were not relevant to inquiry and are precluded by the Act; and (C) failing to rule that an administrative subdivision, without more, is not a "changed condition."

A. The Administrative Law Court erred by failing to analyze each of the Subject Properties separately.

As noted herein, the appeal to the Administrative Law Court, and this appeal, concerns only whether the Assessor had authority to reassess the land value of the Subject Properties during years during which there was no assessable transfer of interest or countywide reassessment. The differences in the Subject Properties – specifically whether and when they were improved – is therefore germane to the application of §12-37-90. Those differences are clear.

The Developed Properties differ from the Unimproved Properties in that the Developed Properties were improved after being subdivided from larger unimproved parcels while the Unimproved Properties remained unimproved after subdivision. (Am. Joint Stip. at 5-7, 9-12, 14). GRH owned the Unimproved Properties at all times relevant to this appeal (Am. Joint Stip. at 5-6). On the contrary, after subdivision from larger unimproved parcels, GRH transferred ownership of each of the Developed Properties to a commonly controlled entity in the same year as the subdivision occurred. (Am. Joint Stip. at 7-14). For all the Subject Properties, the Assessor reassessed the land value in the year after the subdivision occurred. (Am. Joint Stip. at 5-6, 8, 10-11, 13-14). Further, each of the Developed Properties was constructed over the course of various time periods, and the Assessor added the value of the improvements on each of the Developed Properties after a certificate of occupancy was issued. (Am. Joint Stip. at 8, 10-11, 13-14). The

Assessor did not reassess the land value of **any** of the Developed Properties in the year after the certificate of occupancy was issued. (Am. Joint Stip. at 8, 10-11, 13-14).

Despite Appellants' request in their Motion to Alter or Amend, the Administrative Law Court declined to analyze whether there existed a "changed condition" for each of the Subject Properties individually. Given the stated justifications for the Court's Order – to include conveyances and site clearing – this is an oversight. As noted, the Unimproved Properties remained unimproved and under the ownership of GRH while the Developed Properties were transferred to commonly controlled entities and developed over the course of different years. As such, the Administrative Law Court should have evaluated the reassessment of land values on each Subject Properties individually. The Administrative Law Court's failure to do so requires reversal.

B. The Administrative Law Court erred by considering transfer of certain of the Subject Properties to commonly controlled entities and clearing, siting and construction when determining that there existed "changed conditions" warranting reassessment.

The Administrative Law Court held that "changed conditions" exist where new platting of the property is accompanied by other changes which represent real, physical changes to the property and to the previously assigned value. (Order at 17).[4] The Court then analyzed the transfer and development timeline for each of the Developed Properties, without mention of the 11 Acre Property and 15 Acre Property. (Order at 17-18). The Court found it persuasive that all of the Subject Properties had been subdivided from parent tracts, some (the Developed Properties) were transferred to different companies (all of which were commonly controlled by GRH) and clearing, siting, grading, permitting, and construction occurred on some of the Subject Properties (again,

[4] The Administrative Law Court appears to cite *Lindsey v. South Carolina Tax Commission*, 302 S.C. 274, 395, S.E.2d 184 (1990) for this proposition, but it is unclear why. The *Lindsey* decision contains no discussion of the impact of physical changes to the property.

the Developed Properties only). (Order at 15). The Court held that, when taken together, these activities "[rose] to changed [conditions] for the [Developed Properties]." (Order at 18.)

In addition to the failure to even address the Unimproved Properties, the Administrative Law Court also improperly considered the transfer to commonly controlled entities and clearing, siting and construction despite the fact that the Act clearly contemplates that those factors should not trigger reassessment. This is an error, for two reasons.

First, it is undisputed that GRH owned the predecessor parcels to the Subject Properties prior to subdivision. It is also undisputed that GRH transferred ownership of the Developed Properties to entities owned nearly exclusively by GRH. (Am. Joint Stip. at 7, 9-12, 14). These are unquestionably transfers to "commonly controlled entities" as defined in the Act. S.C. Code Ann. § 12-37-3130(6). Transfers to commonly controlled entities cannot constitute an assessable transfer of interest under the Act. S.C. Code Ann. § 12-37-3150(B)(8). The Respondent never argues otherwise. Yet the Court held that transfer to a commonly controlled entity, when combined with other factors, may serve as a basis for finding the requisite "changed conditions" necessary to authorize reassessment pursuant to S.C. Code Ann. 12-37-90.[5] That is preposterous. The General Assembly unequivocally provided that transfer to a commonly controlled entity is not an assessable transfer of interest warranting reassessment under the Act. The Assessor and the Court cannot simply do an end run around that mandatory language by magically turning it into a "changed condition."

[5] As an aside, this is an excellent example of why § 12-37-90(c) does not, and cannot, form an alternate basis authorizing reassessment. It clearly undermines and conflicts with the provisions of the Act.

Second, clearing, siting, grading, permitting, and construction on the Subject Properties is also explicitly addressed in the Act and in other provisions of Title 12. As noted herein, S.C. Code Ann. 12-37-670(B)(1) provides that untaxed improvements may not be taxed until they are completed, and a certificate of occupancy is issued. The Act provides that improvements and additions are separately added to the value of the land. S.C. Code Ann. § 12-37-3140(A)(2). That is exactly what happened for all of the Developed Properties. Yet, the Court holds that the activities that go into the completion of improvements – clearing, siting, grading, permitting and construction – when combined with other factors, provide a basis for reassessment of the underlying land as a "changed condition." That is a total disregard of the Act. It allows the Assessor to ignore the requirement that a certificate of occupancy be issued and double dip by adding taxable value to the underlying land for the activities that constitute an improvement, which is also then added to the taxable value of the land. This is another end run around the provisions of the Act that must be rejected by this Court.

C. The Administrative Law Court erred by failing to analyze whether subdivision of the Subject Properties, standing alone, provides a sufficient "changed condition" to warrant reassessment.

As noted herein, the only event that all the Subject Properties had in common was that the Assessor reassessed the land value of each property in the year after that property was subdivided from its unimproved parent parcel. The differences included: (a) the Unimproved Properties remained under the ownership of GRH, while the Developed Properties were transferred to commonly controlled entities; and (b) the Unimproved Properties remained undeveloped, while the Developed Properties were eventually improved, and the land value of the Developed Properties was not reassessed in the year after the improvements were finished. While the Assessor did not put any evidence in the record as to the actual basis for land value reassessment, the only

inference that can be drawn is that the one factor common to all the Subject Properties in the year prior to reassessment of the underlying land values was the actual basis used by the Assessor: subdivision.

No South Carolina court has ruled on whether subdivision alone can serve as the basis for reassessment under the Act or otherwise. The Administrative Law Court noted in dicta that "arguably, the subdivision of property in and of itself might qualify as a 'changed condition' as described in § 12-37-90," but did not rule on that basis. (Order at 16). The only guidance available is a 2021 South Carolina Attorney General's Opinion, which provides that a subdivision alone is **not** an assessable transfer of interest:

> [I]t is clear for an ATI to occur, there must be a transfer of an interest or a change in the use of the property. Your letter indicates the property owner did not convey the property, but simply subdivided it, maintaining ownership both before and after the subdivision of the property. You also do not indicate a change in use of the property. We do not believe the General Assembly intended for these circumstances to amount to an ATI. Therefore, based solely on the information provided to us, we are of the opinion that a new assessment or reassessment would not be triggered.

S.C. Op.Atty.Gen. (January 14, 2021) 2021 WL 303802.

The Attorney General's opinion is well-reasoned and correct. First, had the General Assembly intended to include subdivision as a reassessment event, it would have simply included it as an assessable transfer of interest with other common transactions, including "conveyance by deed" and "a change of use of real property when classification of property changes as a result of a local zoning ordinance change." S.C. Code Ann. § 12-37-3150(1) and (10). Or, the General Assembly would have included subdivision or a reduction in the boundaries of the property in the definition set forth in § 12-37-3130. Subdivision is one of the most common real estate transactions, and the specific omission of it in the Act speaks volumes. Second, recognizing subdivision as a reassessment event disincentivizes responsible development. Subdividing land

does not create a sale, gift, or exchange — nor does it automatically change the beneficial ownership. It is, in many cases, a prerequisite for financing, zoning compliance, or construction — not taxable events. Doubtlessly, that is one of the reasons it was not enumerated as an assessable transfer of interest in the Act.

The Administrative Law Court's failure to identify the subdivision as the basis for reassessment of the underlying land values of all of the Subject Properties also led to another error – the use of *Hugh Allen Palmer v. Richland County Assessor*, 13-ALJ-17-0554-CC, 2014 SC ALJ LEXIS 400 (S.C. ALC 2014) as authority to support the decision.[6] *Hugh Allen Palmer* is of no value in analyzing the Assessor's actions with respect to the Subject Properties. The *Hugh Allen Palmer* decision merely concerned whether S.C. Code Ann. § 12-37-90(c) was impliedly repealed. As discussed in Section 1 above, this argument was not made by either party to the Administrative Law Court in this case. The *Hugh Allen Palmer* decision did not adjudicate the conflict between the application of § 12-37-90 and the South Carolina Constitution. It did not adjudicate whether the subdivision of a prior unimproved parcel provided a basis for reassessment. Finally, it did not adjudicate whether § 12-37-90(c) is inconsistent with the provisions of the Act – all issues in this appeal.

Further, the *Hugh Allen Palmer* case is factually inapposite. In that case, the landowner merged two parcels which contained six total structures, then subdivided the merged parcel into six new parcels and sold two of them. *See* 2014 SC ALJ LEXIS 400 at *5. The Assessor reassessed the sold parcels as an assessable transfer of interest (appropriately) and reassessed the remaining

[6] The primary reason that the *Hugh Allen Palmer* decision is not persuasive is that the Administrative Law Court improperly applied S.C. Code Ann. § 12-37-90(c) as authority for the reassessment rather than the provisions of the Act.

parcels due to "changed conditions" pursuant to S.C. Code Ann. § 12-37-90(c). The Administrative Law Judge found that certain changes, combined together, constituted "physical changes" that met the definition of "changed conditions." *Id.* at *10. These changes included the sale of land and buildings to a third party (unrelated, not commonly controlled) which occurred the same year as the merging of two parcels containing land and buildings, re-subdivision and platting. *Id.* The decision also involved stipulated values following actual sales, which were accepted by the Court. That fact pattern is wholly dissimilar to the Subject Properties. Here, the only issues involve platting adjustments within a development and reassessment of underlying land values prior to any change in use. None of the Subject Properties were merged with other parcels containing buildings, then re-subdivided. The Unimproved Properties have never been developed or had a building on them, and the Developed Properties had no changes in use or improvements at the time of reassessment of the underlying land value.

The Administrative Law Court therefore erred in failing to recognize that the subdivision was the basis for reassessment of all of the Subject Properties and analyze the Assessor's authority in that context. This led to an erroneous reliance on the *Hugh Allen Palmer* case, which did not determine whether applying S.C. Code 12-37-90(c) to a mere subdivision, without sales or changes in ownership, is constitutional under South Carolina Constitution Article X § 6. Therefore, *Hugh Allen Palmer* has no persuasive value in analyzing the present case.

For reasons set forth above, a subdivision is not a "changed condition" warranting reassessment[7], and the Administrative Law Court's decision must be reversed.

[7] To the extent relevant, subdivision is also not an assessable transfer of interest, as that term is defined and enumerated in the Act.

CONCLUSION

For the above-referenced reasons, the Administrative Law Court's Order must be reversed and the fair market value of the underlying land value of each of the Subject Properties should be returned to $5,000 per acre - the value of the parent parcels prior to subdivision and improper reassessment by the Assessor.

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Attorneys for the Appellants

July 18, 2025
Charleston, SC

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Deborah Brooks Durden, Administrative Law Judge

Case No. 23-ALJ-17-0384
Case No. 23-ALJ-17-0385
Case No. 23-ALJ-17-0386
Case No. 23-ALJ-17-0387
Case No. 23-ALJ-17-0468
Case No. 23-ALJ-17-0469
Case No. 23-ALJ-17-0470

Greens of Rock Hill, LLC,..……Appellant,

v.

York County Assessor …….……Respondent,

AND

Greens of Rock Hill, LLC,..……Appellant,

v.

York County Assessor …….……Respondent,

AND

Veloway Office Building, LLC……Appellant,

v.

York County Assessor …….……Respondent,

AND

Riverwalk Flint Medical Office Building, LLC……Appellant,

v.

York County Assessor …….……Respondent,

AND

Riverwalk River District Building 6, LLC……Appellant,

v.

York County Assessor ……Respondent,

AND

Riverwalk River District Building 7, LLC……Appellant,

v.

York County Assessor ……Respondent,

AND

Riverwalk River District Building 9, LLC……Appellant,

v.

York County Assessor ……Respondent.

PROOF OF SERVICE

I, Matthew E. Tillman, certify that I have served the foregoing **INITIAL BRIEF OF APPELLANTS** on all other parties to this matter via electronic mail on July 18, 2025, addressed to their attorneys of record as follows, as evidenced by Exhibit "A" attached hereto:

Laura Dover
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Attorney for Respondent

Charleston, South Carolina
July 18, 2025

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EXHIBIT "A"

From: Casey, Carol
To: Dover, Laura
Cc: Tillman, Matthew
Subject: Greens of Rock Hill, LLC v. York County Assessor - Appellant"s Initial Brief and Designation of Matter
Date: Friday, July 18, 2025 4:41:27 PM
Attachments: image465382.png
image619771.png
image288355.png
image174704.png
Appellants" Initial Brief.pdf
Appellant"s Designation of Matter to be Included in the Record on Appeal.pdf

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Attached for service, please find the Initial Brief of Appellants and Appellants' Designation of Matter to be Included in the Record on Appeal.

Thank you,
Carol

Carol Casey
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