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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. Philip Lenski, Administrative Law Judge
Docket No. 23-ALJ-17-0501-CC

Appellate Case No. 2025-000239

Mt. Pleasant Investments, LLC.....Appellant,

vs.

Charleston County Assessor.....Respondent.

APPELLANT'S FINAL REPLY BRIEF

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ARGUMENT

The Appellant adopts and incorporates by reference all previously defined terms from its Initial Brief. The Respondent's Brief fails to address the plain and unambiguous language of S.C. Code Ann. §12-37-3135 as a whole and misinterprets the case law interpreting such statute. Furthermore, as the Respondent points out, the ALC's Final Order contains error, and, for the reasons given herein, the Appellant avers that these errors require the reversal of the ALC's Final Order.

I. THE RESPONDENT'S ARGUMENT RELIES ON CRITICAL ERRORS OF LAW IN COMING TO THE CONCLUSION THAT S.C. CODE ANN. §12-37-3140 MANDATES THE ADDITION OF THE VALUE OF THE IMPROVEMENTS TO THE CURRENT FAIR MARKET VALUE.

Respondent argues that it is statutorily *mandated* to perform two interim appraisals prior to application of the ATI Exemption, due to the fact there were improvements completed in the same year as an ATI. (Respondent's Br. 8-9, 11-12). The Respondent presumably makes this claim in furtherance of its argument that, regardless of the fact an ATI occurred in the same year the Improvements were completed, the value of the Improvements must be added to the Current Fair Market Value.[1] The Respondent argues the Improvements must be valued separately through an interim appraisal and added to the Current Fair Market Value as if an ATI did not ever occur. (Respondent's Br. 10). To be clear, there is no statutory mandate for the Respondent to perform "interim appraisals" in this situation. The Respondent is free to perform interim appraisals for its

[1] The Respondent apparently uses the term "previous fair market value" in Section I.A of their Brief instead of "Current Fair Market Value." To be clear, Current Fair Market Value, as defined by S.C. Code Ann. § 12-37-3135(A)(2), is the figure that would operate to serve as the Exemption Value in a case where the Current Fair Market Value is greater than the ATI Fair Market value reduced by twenty-five percent (25%). As agreed upon by the Parties, and as acknowledged by the Respondent throughout its Brief, the determination of the Current Fair Market Value is the ultimate issue in this matter. (*See, generally,* R. pp. 83-86; *See, e.g.*, Respondent's Br. 5-6).

own purposes internally if it chooses to employ such method to appraise properties uniformly and equitably throughout Charleston County in accordance with South Carolina law, but the Respondent cannot use such a method to calculate an ATI Exemption when there is no legal authority to do so. Once the Property underwent an ATI on July 27, 2021, there was only one appraisal required under South Carolina law, based on a December 31, 2021 valuation date. S.C. Code Ann. §12-37-3140(A)(1)(b). The Respondent performed an appraisal based on the ATI in the amount of $8,034,000 and has already acknowledged that, but for the Appellant applying for an ATI Exemption, only one appraisal would have been necessary. (*See* R. p. 21; *See* R. p. 84). The Respondent's argument essentially suspends the reality of an ATI having occurred in furtherance of calculating the ATI Exemption to include the value of the Improvements in the Current Fair Market Value figure.

In furtherance of this argument, the Respondent suggests that the fair market value of improvements is determined independently of ATIs. (Respondent's Br. 11). The Respondent suggests this implies a logical conclusion that improvements should be calculated independently of ATI Exemptions. (Respondent's Br. 11). To be clear, improvements completed in the same year as an ATI would not be appraised independently of the ATI appraisal. *See generally* S.C. Code Ann. §12-37-3140. The statutory scheme of S.C. Code Ann. §12-37-3140 allows for the addition of improvement value that is *subsequent to* December 31st of the year of the most recent ATI (or as determined by countywide reassessment). S.C Code Ann. §§12-37-3140(A)(1)(b), (A)(1)(d), and (A)(2). This logically makes sense because the County Assessor will always be able to incorporate the value of any improvements completed in the same year as the ATI in its uncapped ATI appraisal (and the value pursuant to a countywide reassessment will ultimately be tied to the most recent ATI appraisal), avoiding any concern of value attributable to improvements

escaping taxation. The Respondent's assertion that two separate appraisals must be performed in calculating the ATI Exemption is not supported by South Carolina law and does not make logical sense.

II. THERE IS NO LEGAL AUTHORITY FOR THE RESPONDENT'S "METHOD A" AND "METHOD B" AND CONTRARY TO THE RESPONDENT'S CLAIM SUCH METHODS LEAD TO INCONSISTENT RESULTS.

The Respondent states that it uses one of "Method A" or "Method B" in calculating an ATI Exemption when improvements are completed in the same year. (Respondent's Br. 13). Much of the Respondent's argument relies on its claim that one of either Method A or Method *must* be used in calculating the ATI Exemption in order to the ensure the Improvements "do not go untaxed," and that either method leads to the same result. (Respondent's Br. 18 (citing *Fairfield Waverly, LLC v. Dorchester County Assessor*, 432 S.C. 287, 290, 852 S.E.2d 739, 740)).

A. The Respondent's Method A

Under the Respondent's Method A, the value of the Improvements was included in the Current Fair Market Value. (Respondent's Br. 13). The Respondent acknowledges in its brief that the Current Fair Market Value has been interpreted to mean the fair market value of the property on the books of the property tax assessor in the year in which the ATI occurred. (Respondent's Br. 14). The Respondent cites the *Fairfield Waverly* case in support of its argument, quoting this Court as stating that the "legislature intended the ATI Exemption's value to be set and established at the time the assessable transfer of interest occurs." (Respondent's Br. 14-15 (citing *Fairfield Waverly*, 432 S.C. at 292, 852 S.E.2d at 741)). The Respondent states that since the Improvements were completed at the time of the ATI, it would be proper under the holding in *Fairfield Waverly* for the Improvements to be incorporated and included in the Current Fair Market Value. (Respondent's Br. 15). In order for this argument to work, the Respondent is essentially suggesting

that the Current Fair Market Value is not the fair market value on the books of the Assessor for tax year 2021.[2]

The Respondent is ignoring two important facts: 1) the value of the Improvements was not on the books of the Assessor any time during tax year 2021, and 2) this Court in *Fairfield Waverly* also stated that "the definitional parts of the ATI Exemption cannot change over time." *Fairfield Waverly*, 432 S.C. 287 at 294, 852 S.E.2d 739 at 742. At the time of the ATI on July 27, 2021, $6,063,000 was the Current Fair Market Value. (R. pp. 83-84). By including the Current Fair Market Value as a floor for the Exemption Value, the General Assembly presumably intended to ensure that no taxpayer receive a lower taxable value than the taxable value of a property in the hands of the seller. The Assessor's argument for using Method A to calculate the ATI Exemption goes a step further and essentially reduces the benefit of the ATI Exemption in the instance of improvements being completed in the same year as an ATI, despite the fact that the value of such improvements are included in the ATI Fair Market Value. *See* S.C. Code Ann. §12-37-3135(A)(1). The Respondent acknowledges that "the ATI Exemption can, and often does, result in a property tax value that does not increase after an ATI." (R. p. 145). Given that the value of the Improvements is in fact included in the calculation of the ATI Exemption, there is no legal or equitable reason that the Current Fair Market Value should be increased beyond what the fair market value on was on the books of the Assessor at the time of the ATI.

B. The Respondent's Method B

Under the Respondent's Method B, the value of the Improvements is removed entirely from calculation of the ATI Exemption, as such improvement value is not included in the ATI Fair

[2] Given the definition of Current Fair Market Value, in adding the Improvements to the Current Fair Market Value, Respondent is arguing that the Current Fair Market Value should be the 2022 fair market value *as if an ATI never had occurred.*

Market Value or the Current Fair Market Value. (Respondent's Br. 13). The Respondent's argument for excluding the value of the Improvements relies squarely on the language of S.C Code Ann. §12-37-3135(B)(1), stating that the Improvements are not eligible for the ATI Exemption because such Improvements were not subject to property tax at the time of the ATI. (Respondent's Br. 16). Despite the ALC's Final Order holding that the Improvements would be included in calculating the Current Fair Market Value, Respondent asks this Court to affirm the ALC's Final Order based on a footnote, and despite repeatedly campaigning for either method to be used when improvements are completed in the same year as an ATI, Respondent now argues that Method B should be the primary method used. (R. p. 14, 113; Respondent's Br. 21-22; *See* R. pp. 305-321). To the extent that the Respondent asks this Court to solely apply Method B, the Respondent's argument must be rejected based on the reasons described herein.

The Respondent cites the ALC in stating that this interpretation comports with the Department of Revenue's interpretation and longstanding practice. (Respondent's Br. 16-17 (citing *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)). The ALJ's ruling in *At Home Props CLT* is easily distinguishable from this case. The two properties discussed in *At Home Props CLT* were taxed at the 4% assessment ratio at the time such properties underwent an ATI. *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). The ALJ's ruling upheld the York County Assessor's reading of S.C. Code Ann. §12-37-3135(B)(1) and (C), arguing that the plain language of the statute did not conflict with the York County Assessor's interpretation of the statute that a property taxed at the 4% assessment ratio at the time of an ATI would not be eligible for an ATI Exemption. (*Id.*). The Property at issue here was subject to the 6% assessment ratio at the time of the ATI and

there is no dispute of that – but rather, the Respondent asserts that the Improvements were not eligible for the ATI Exemption. The ALJ's ruling deals with the assessment ratio of the property as a whole, and the statute makes clear that property that is subject to the 4% assessment ratio is not eligible for the ATI Exemption. *See, Id.*; *See* S.C. Code Ann. §12-37-3135(B)(1).

Even if the Respondent's interpretation of the ATI Exemption statute was a long-standing practice of all counties in South Carolina supported by the Department of Revenue, this interpretation is contrary to the plain and unambiguous language of the statute and should not be upheld. *See Brown v. S.C. Dep't of Health and Env't Control*, 348 S.C. 507, 515, 560 S.E..2d 410, 415 (2002) ("While a court typically defers to an agency's construction of its own regulation, where the plain language of the statute is contrary to the agency's interpretation, the Court will reject its interpretation."). Notwithstanding, the Appellant has not seen any evidence that either of Respondent's methods are in widespread use by other counties in South Carolina or supported by the Department of Revenue. As established in the Appellant's Initial Brief, the plain and unambiguous language of the ATI Exemption statute as a whole is contrary to the Respondent's position, as the plain language of the statute makes clear that any improvements completed in the same year as an ATI would be part of the ATI Exemption calculation. (Appellant's Br. 10 ("ATI Fair Market Value means the 'fair market value of a parcel of real property *and any improvements* thereon *as determined by appraisal at the time the parcel last underwent an assessable transfer of interest*.' S.C. Code Ann. §12-37-3135(A)(1)" emphasis added)); *See King v. AnMed Health (In re. Hosp. Pricing Litig.)*, 377 S.C. 49, 59, 659 S.E.2d 131, 137(2008) "[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."). The entire framework of the statute is based on computing an exemption amount to apply to the ATI Fair Market Value, which again, would include the value

of improvements completed in the same year as an ATI. *See* S.C. Code Ann. §12-37-3135(A)(1), (B)(2)(a). The framework of S.C. Code Ann. §12-37-3135 as it reads is in harmony with S.C. Code Ann. §12-37-3140, whereby any improvements that were completed *subsequent to* the ATI appraisal date would simply be added to the Exemption Value as determined by the ATI Exemption for the previous taxable year.

Though tax exemption statutes are strictly construed against the taxpayer, it does not mean that a court "will search for an interpretation in the [tax collector's] favor where the plain and unambiguous language leaves no room for construction." *Southeastern-Kusan, Inc. v. South Carolina Tax Commission*, 276 S.C. 487, 489, 280 S.E.2d 57, 58 (1981). "Only when the literal application of a statute produces an absurd result will [the court] consider a different meaning." *Martin v. Ellisor*, 266 S.C. 377, 223 S.E.2d 415 (1976).

The Appellant's application of the statute in calculating the ATI Exemption follows the plain language of the statute and does not produce absurd results. As stated in Section II.A *supra*, the Appellant's literal application of the statute simply ensures that no taxpayer receives a lower taxable value than the taxable value of the property in the hands of the seller after application of the ATI Exemption. Respondent's Method B is in contravention of the plain language of the statute and would render the language of the statute meaningless. Therefore, the Respondent's Method B should not be upheld as an acceptable method of calculating the ATI Exemption.

C. The Respondent's Methods for Calculating ATI Exemption Produces Absurd Results

The Respondent has consistently taken the position that Method A and Method B lead to the same taxable value and that either can be used to calculate the ATI Exemption. (*See, e.g.*, R. p. 113; Respondent's Br. 13, 18). If the Respondent truly performs two interim appraisals when there are improvements completed in the same year as an ATI, as stated in the Respondent's brief,

there are plenty of scenarios where the resulting taxable value could be different, depending on which method is used. (*See* Respondent's Br. 8-9, 11). Consider the same example given by the Appellant in its Initial Brief, whereby a property with a previous fair market value of $1,000,000 has improvements worth $200,000 completed in the same year (2023) such property is sold for $2,000,000. (Appellant's Initial Br. 11). As shown below, the resulting taxable value of the property would be different depending on which method is used.

2023 FMV	+ Value of Improvements	**= Current Fair Market Value**
$1,000,000	$200,000	= $1,200,000
ATI Fair Market Value	(-) 25% Exemption	**= Exemption Value**
$2,000,000	$500,000	= $1,500,000
		Tax Year 2024 Taxable Value (Method A)
		$1,500,000

2023 Fair Market Value				**= Current FMV**
$1,000,000				= $1,000,000
Purchase Price	(-) Value of Improvements	= ATI FMV	(-) 25% Exemption	**= Exemption Value**
$2,000,000	$200,000	= $1,800,000	$450,000	=$1,350,000
				Taxable Value Without Improvements
				$1,350,000

Taxable Value without Improvements	+ Value of Improvements	**= TY 2024 Taxable Value (Method B)**
$1,350,000	$200,000	$1,550,000

One can imagine other scenarios where the differing results would be even more drastic.[3] Of course, this is assuming that there are truly two interim appraisals performed. The Respondent

[3] For example, consider a scenario whereby an unimproved parcel of land with a fair market value of $100,000 has a house built on the property with the value of such improvements being $3,000,000, and in the same year the property is sold for $5,000,000. Under Method A, the taxable value after applying the ATI Exemption would be $3,750,000, and under Method B such taxable value would be $4,500,000.

acknowledges that at the time of processing an ATI Exemption, it would know about the completion of the improvements, so the "interim" improvement appraisal could certainly be adjusted to result in the taxable value that the Assessor prefers. Neither of Method A or Method B are supported by the statutory framework or the case law interpreting such statutory framework, and, as shown above, can produce absurd results when comparing both methods. The Assessor's stated and continued use of either Method A or Method B would prevent the Assessor from applying ATI Exemptions uniformly and equitably.

III. THE LEGAL ANALYSIS OF THE ALC IN ITS FINAL ORDER CONSTITUTES REVERSIBLE ERROR.

The Respondent asks this Court to uphold the ALC, despite acknowledging an error of law in the ALC's Final Order. (Respondent's Br. 20). The ALC's Final Order states that "the sole disputed issue in this case is the Current Fair Market Value of the Petitioner's Property for tax year 2023." (R. pp. 13-14). The Respondent tries to bolster the ALC's analysis by stating that the ALC only likely considered Method A in framing the main issue. (Respondent's Br. 19). However, the ALC's only mention of Method A or Method B was a footnote, which incorrectly states the differences between the Assessor's methods. (R. p. 14; *See* Respondent's Br. 19). Ultimately, the ALC's holding in the Final Order was that the Improvements would have to be included in determining the Current Fair Market Value, and that the appropriate year of determining the Current Fair Market Value is 2023 rather than 2021, despite the 2021 Current Fair Market Value being supported by the statute and prior case law. (R. p. 15); *See* S.C. Code Ann. §12-37-3135(A)(2); *Fairfield Waverly*, 432 S.C. at 292, 852 S.E.2d at 741. This Court may reverse a decision of the Administrative Law Court "if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is affected by [an] error of law . . ." S.C.

Code Ann. § 1-23-610(B)(d). The errors of law described herein, and the technical errors referenced by Respondent, constitute reversible error and this Court should not uphold the ALC's Final Order.

CONCLUSION

For the foregoing reasons, the Appellant respectfully requests that this Court overturn the ALC's ruling in its Final Order on the grounds that the ALC's ruling relied on errors of law and rule that the taxable value of the Property for 2023 is $6,063,000.

September 12, 2025

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