

November 12, 2025

VIA EMAIL: ctappfilings@sccourts.org
AND VIA OVERNIGHT DELIVERY
The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

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SC Court of Appeals

*RE: Mt. Pleasant Investments, LLC v Charleston County Assessor
C/A No.: 23-ALJ-17-0501-CC
Appellate Case No. 2025-000239
Client File No.: 8378.0012*

Dear Ms. Kitchings:

Enclosed please find six (6) additional bound copies of the Record on Appeal, the Appellant's Final Brief and Final Reply Brief in the above-referenced matter along with the original Proof of Service and Certificate of Counsel.

By copy of this letter, I am serving same upon all counsel. Should you have any questions, please feel free to contact me.

Yours very truly,



G. Hamlin O'Kelley, III

GHOIII/atd

Enclosures

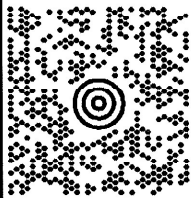
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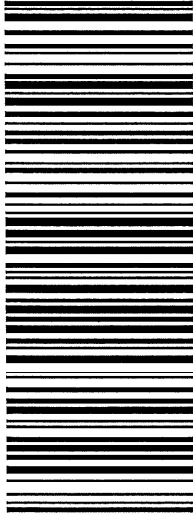


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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Administrative Law Court

The Honorable S. Phillip Lenski

Case No. 23-ALJ-17-0501-CC
Appellate Case No. Pending

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

vs.

Charleston County Assessor.....Respondent.

**CERTIFICATE OF COUNSEL
PURSUANT TO RULE 211 (b) SCACR**

I certify the additional six (6) bound copies of the Appellant’s, Mt. Pleasant Investments, LLC, Final Brief and Final Reply Brief, and Record on Appeal, and that they are in compliance with Rule 211 (b) SCACR in that no changes were made.

Mt. Pleasant, South Carolina

November 12, 2025

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In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY
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The Honorable S. Phillip Lenski

Case No. 23-ALJ-17-0501-CC
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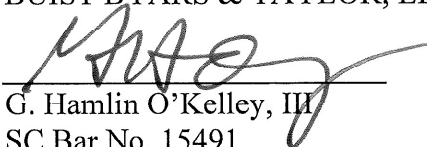
PROOF OF SERVICE

I certify that I have served six (6) additional bound copies of the Record on Appeal, the Appellant’s Final Brief, and the Appellant’s Final Reply Brief, by depositing a copy of same Via Overnight Delivery to The South Carolina Court of Appeals, and Via Email to The South Carolina Court of Appeals, ctappfilings@sccourts.org, Bernard E. Ferrara, Jr., bferrara@charlestoncountry.org, Kevin M. Deantonio, kdeantonio@charlestoncountry.org, to Mark G. Belle mbelle@charlestoncounty.org, and Brittany M. Darnell, bdarnell@charlestoncounty.org.

Mt. Pleasant, South Carolina

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November 12, 2025



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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 BRIEF

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STATEMENT OF ISSUES ON APPEAL

- I. THE ADMINISTRATIVE LAW COURT ERRED IN LAW AND IN FACT BY STATING THAT THE SOLE DISPUTED ISSUE IN THIS CASE IS THE CURRENT FAIR MARKET VALUE OF THE APPELLANT'S PROPERTY FOR TAX YEAR 2023.
- II. THE ADMINISTRATIVE LAW COURT UNLAWFULLY APPLIED S.C. CODE ANN. §§12-37-3140(A)(2) AND 12-37-3140(E) IN ADDING THE VALUE OF THE IMPROVEMENTS (\$758,000) TO THE 2021 FAIR MARKET VALUE.
- III. THE ASSERTION BY THE ADMINISTRATIVE LAW COURT THAT THE IMPROVEMENTS ARE NOT ELIGIBLE FOR THE ATI EXEMPTION BECAUSE THE IMPROVEMENTS WERE NOT SUBJECT TO TAXATION IN YEAR 2021 IS AN INCORRECT INTERPRETATION OF S.C. CODE ANN. §12-37-3135.
- IV. THE VALUE OF THE IMPROVEMENTS ARE NOT ESCAPING TAXATION BY NOT ADDING THE VALUE OF THE IMPROVEMENTS TO THE CURRENT FAIR MARKET VALUE.

STATEMENT OF THE CASE

This matter is before this Court appealing the Order of the Honorable S. Phillip Lenski, Administrative Law Judge, dated December 23, 2024. (R. p. 8).

On September 25, 2023, Appellant commenced an appeal with the Charleston County Board of Assessment Appeals (the "Board") regarding the subject property, 10 West Edge Street, Unit 4, Charleston, SC, Charleston County TMS No. 460-00-00-039, (the "Property"). (R. p. 24). A hearing was held before the Board on November 15, 2023.

On November 28, 2023, the Board rendered its decision concurring with the Charleston County Assessor's Office (the "Assessor") stating the Appellant failed to meet its burden of proof. (R. p. 1). The Board's written decision appears to contain errors in its description of the Parties' positions, stating that the Appellant feels the current fair market value for tax year 2021 should be \$6,821,027. However, it was the Respondent who took this position. Additionally, the Board's written decision says that the taxable value for 2022 should be \$6,025,500. (R. p. 1). However, neither party took that position. The parties agree that the Board's ultimate decision was that it

concluded with the Respondent, and that the taxable value for tax year 2023 should be \$6,821,027. (R. p. 86).

On December 21, 2023, the Appellant made a request for a contested hearing with the South Carolina Administrative Law Court. (R. p. 78).

A hearing was held on September 5, 2024 in front of Judge Lenski, and on December 23, 2024, Judge Lenski issued a final order, ruling that the Appellant had not met its burden of establishing an error in regards to determination of the Current Fair Market Value as defined by S.C. Code Ann. §12-37-3135(A)(2) (“Current Fair Market Value”), which ultimately would determine the taxable value of the Property. (R. p. 8).

The Appellant filed a Motion to Reconsider on January 13, 2025, and said Motion was denied by the Order dated January 28, 2025. (R. p. 18).

This appeal followed.

STATEMENT OF FACTS

The facts in this matter are largely agreed upon as stipulated to in the parties Stipulation of Facts. (R. p. 83). The Appellant 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. (R. p. 83).

Prior to Appellant’s purchase of the Property, the Property was first entered onto the Respondent’s tax rolls in tax year 2021 with a fair market value of \$6,063,000, following the creation of a condominium regime which subdivided one original parcel into five new parcels, including the Property, Unit 1 (TMS No. 460-00-00-036), Unit 2 (TMS No. 460-00-00-037), Unit 3 (TMS No. 460-00-00-038), and the Common Elements of the horizontal property regime (TMS No. 460-00-00-040). For tax year 2021, the Assessor determined the Property’s fair market value and taxable value to be \$6,063,000, based on an appraisal date of December 31, 2020.

In October 2020, prior to the Appellant's purchase of the Property, the previous owner, 10 West Edge Owner, LLC (the "Previous Owner") entered into a lease agreement with the current tenant of the Property, wherein the Previous Owner completed certain improvements to the Property prior to the tenant being able to occupy the Property and operate its salon business. These improvements included, but were not limited to, constructing of a storefront, installing ceilings, installing water lines, installing gas lines, installing walls, installing HVAC, installing concrete flooring, and installing plumbing (the "Improvements"). A Certificate of Occupancy was issued by the City of Charleston on April 9, 2021. (R. p. 294). The parties agree that the Improvements were indeed complete and fit for their intended use as of April 9, 2021. (R. p. 84).

The Appellant purchased the Property, Unit 1, Unit 2, Unit 3, and the Common Elements on July 27, 2021, for the stated consideration of \$133,897,000, as shown on the deed to Appellant dated July 27, 2021, and recorded on August 2, 2021, in Book 1019, Page 564, in the Office of Register of Deeds for Charleston County. (R. p. 195). This transfer constituted an Assessable Transfer of Interest ("ATI") pursuant to S.C. Code Ann. § 12-37-3150. (R. p. 84). Pursuant to S.C. Code Ann. § 12-37-3140(A)(1)(b), the ATI required a new appraisal of the Property (as well as Unit 1, Unit 2, and Unit 3) as of December 31, 2021, which would go into effect for tax year 2022. As shown on the Notice of Classification, Appraisal, and Assessment for tax year 2022 in appraising the Property pursuant to the ATI, the Respondent determined the Property's fair market value for tax year 2022 to be \$8,034,000. (R. p. 21). The Parties agree that \$8,034,000 would have been the Property's fair market value and taxable value if the Property were not also eligible for the ATI Exemption and had the Appellant not requested the ATI Exemption provided by S.C. Code Ann § 12-37-3135. (R. p. 84).

Appellant timely requested an ATI Exemption be applied to the Property, as statutorily permissible by S.C. Code Ann § 12-37-3135. (R. p. 86).

Applying the 25% ATI Exemption, the ATI Fair Market Value of \$8,034,00—as that term is defined in S.C. Code Ann. § 12-37-3135(A)(1)—was reduced by twenty-five percent (25%) to an Exemption Value of \$6,025,500—as that term is defined in S.C. Code Ann. §12-37-3135(A)(3).

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).

In instances where a property’s ATI Fair Market Value after being reduced by twenty-five percent (25%) is less than its Current Fair Market Value, the Current Fair Market Value serves as the Exemption Value, and the parties agree that the Property’s Current Fair Market Value shall serve as the Exemption Value, thereby determining the Property Tax Value (taxable (capped) value)¹ for 2023, as defined by S.C. Code Ann. Ann. §12-37-3135(A)(5). S.C. Code Ann. §12-37-3135(B)(2)(a) (R. pp. 84-85). Here, the Parties disagree regarding the determination of the Property’s Current Fair Market Value. (R. p. 85).

The Respondent asserts that the Property’s Current Fair Market Value was \$6,821,000, which is the tax year 2021 fair market value plus \$758,000, which the Respondent asserts is the value of the Improvements completed prior to the ATI. (R. p. 85). The Respondent included the value of the Improvements in reliance on:

- a. S.C. Code Ann. § 12-37-3140(A)(2) which provides “[t]o the fair market value

¹ S.C. Code Ann. §12-37-3135(A)(5) defines Property Tax Value as “the fair market value as it may be adjusted downward to reflect the limit imposed pursuant to 12-37-3140(B).” S.C. Code Ann. §12-37-3140(B) generally limits the increase in a property’s fair market value (for purposes of ad valorem taxation) attributable to a countywide appraisal and equalization program pursuant to S.C. Code Ann. §12-43-217 by fifteen percent (15%) of the otherwise applicable fair market value (in the absence of any increase due to the countywide appraisal and equalization program being implemented). Generally, by the statute’s defining of Property Tax Value in S.C. Code Ann. §12-37-3135(A)(5) and the calculation of Property Tax Value being based on Exemption Value, the statute purports to treat any reduction in taxable value pursuant to an ATI Exemption as similar to any limitation imposed by a countywide appraisal and equalization program pursuant to S.C. Code Ann. §12-43-217, wherein there is a difference between the maximum value for purposes of ad valorem taxes and such property’s fair market value (*See* S.C. Const., Art. X, §6).

of real property as determined at the time provided in item (1) of this subsection, there must be added the fair market value of subsequent improvements and additions to the property”; and

- b. S.C. Code Ann. § 12-37-3140(E) which provides “[v]alue attributable to additions and improvements, and changes in value resulting from assessable transfers of interest occurring in a property tax year are first subject to property tax in the following tax year [...]”

Due to the Exemption Value (\$6,025,500) being less than the Respondent’s determination of Current Fair Market Value (\$6,821,000), the Respondent determined that the Property’s taxable value for tax year 2022 was \$6,821,000. (R. p. 85).

The Appellant asserts that the Property’s Current Fair Market Value was \$6,063,000, which was the Property’s fair market value as reflected on the books of the Assessor for tax year 2021, when the ATI occurred. The Appellant asserts that no legal authority exists that would allow for the Assessor to consider the value of the Improvements in determining the Property’s Current Fair Market Value, which ultimately determines the Property’s taxable (capped) value. The Current Fair Market Value is known in laymen’s terms as the “pre-sale fair market value,”² and in this instance, the pre-sale fair market value was \$6,063,000. The Improvements were completed prior to the ATI, and are considered in the calculation of the Exemption Value in that the value of such Improvements was accounted for in determining the ATI Fair Market Value.

² This Court has described the Current Fair Market Value as the “pre-sale fair market value.” *Fairfield Waverly, LLC v. Dorchester County Assessor*, 432 S.C. 287, 290 (S.C. App. 2020); *See also* 2022 Charleston County Commercial Real Property Tax Exemption Application (2022 ATI Exemption application) (stating that the “exemption allowed results in a ‘taxable value’ of 75% of the ‘ATI fair market value’ or the previous fair market value, whichever is higher.” Notably, Charleston County has removed the above-referenced language from its ATI Exemption Form (See current Charleston County ATI Exemption Form). Numerous other counties still use the same (or similar) language used in the previous Charleston ATI Exemption form. (*See, e.g.*, Georgetown County ATI Exemption Form, Horry County ATI Exemption Form, York County ATI Exemption Form, Dorchester County ATI Exemption Form, Aiken County ATI Exemption Form, Anderson County ATI Exemption Form, and Laurens County ATI Exemption Form).

Due to the Exemption Value (\$6,025,500) being less than Appellant's asserted Current Fair Market Value (\$6,063,000), the Appellant asserts that the Property's taxable value for tax year 2022 should be \$6,063,000.

STANDARD OF REVIEW

Section 1-23-610(B) of the Administrative Procedures Act sets forth the appropriate standard of review in an appeal from the Administrative Law Court. *Kiawah Dev. Partners, II v. S.C. Dep't of Health & Env't Control*, 411 S.C. 16, 28, 766 S.E.2d 707, 715 (2014). 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 . . . [or is] arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion." S.C. Code Ann. § 1-23-610(B)(d), (f). Questions of statutory interpretation are questions of law, which this Court reviews de novo. "The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature." *Charleston Cnty. Sch. Dist. v. State Budget & Control Bd.*, 313 S.C. 1, 5, 437 S.E.2d 6, 8 (1993). "The best evidence of legislative intent is the text of the statute." *Creswick v. Univ. of S.C.*, 434 S.C. 77, 82, 862 S.E.2d 706, 708 (2021)(citing *Wade v. State*, 348 S.C. 255, 259, 559 S.E.2d 843, 844 (2002); and *Hodges v. Rainey*, 341 S.C. 79 at 85, 533 S.E.2d 578 at 581(2000).

ARGUMENT

- I. THE ADMINISTRATIVE LAW COURT ERRED IN LAW AND IN FACT BY STATING THAT THE SOLE DISPUTED ISSUE IN THIS CASE IS THE CURRENT FAIR MARKET VALUE OF THE APPELLANT'S PROPERTY FOR TAX YEAR 2023.

The Administrative Law Court's Order of December 23, 2024 erred in stating that the sole disputed issue in this case is the Current Fair Market Value of the Appellant's Property for tax year 2023. (R. p. 8). Although the tax year in dispute is indeed tax year 2023, and the determination of the Current Fair Market Value is the paramount issue in this case, the Administrative Law Court erred in ruling that the Current Fair Market Value is determined based on the fair market value of the Property for tax year 2023. The 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). The last sentence of S.C Code Ann. § 12-37-3135(B)(1), states that the ATI Exemption "applies at the time the ATI Fair Market Value first applies," interpreted by this Court to indicate that the Current Fair Market Value, in serving as a floor for property tax purposes, is the pre-sale fair market value. *Fairfield Waverly, LLC v. Dorchester County Assessor*, 432 S.C. 287, 290 (S.C. App. 2020). This Court in *Fairfield Waverly* goes on to explain that, based on the plain language of the statute, the South Carolina Legislature intended the ATI Exemption's value to be set and established at the time of the assessable transfer of interest," and that the "definitional parts of the ATI Exemption cannot change over time..." *Id.* The Respondent also acknowledged the same in its Brief to the Administrative Law Court. (R. pp. 112, 116).

Given that the parties agree that Appellant timely applied for the ATI Exemption to be applied to tax year 2022, the law is clear that the Current Fair Market Value would be the fair

market value on the books of the assessor for tax year 2021. The Order correctly states that the fair market value of the Property as reflected on the books of the Assessor for tax year 2021 was \$6,063,000. (R. p. 9). Therefore, \$6,063,000 would serve as the floor for property tax purposes in applying the ATI Exemption to the Property, as the definitional part of the ATI Exemption are set and established at the time of the ATI.

II. THE ADMINISTRATIVE LAW COURT UNLAWFULLY APPLIED S.C. CODE ANN. §§12-37-3140(A)(2) AND 12-37-3140(E) IN ADDING THE VALUE OF THE IMPROVEMENTS (\$758,000) TO THE 2021 FAIR MARKET VALUE.

Based on the Administrative Law Court's incorrect determination of the Current Fair Market Value, used in determining the Exemption Value for the Property, the Administrative Law Court erred in law in applying S.C. Code Ann. §§12-37-3140(A)(2) and 12-37-3140(E) in adding the value of the Improvements (\$758,000) to the 2021 fair market value, presumably based on the determination that the Property's Current Fair Market Value is based on tax year 2023 rather than tax year 2021. (R. pp. 13-14).

Pursuant to South Carolina Code Ann. §12-37-3140(A)(1), the fair market value of real property is determined as of the later of: (a) property tax year 2007, (b) December thirty-first of the year in which an ATI occurred, (c) as determined on appeal, or (d) as determined in a countywide reassessment program. The Order cites S.C. Code Ann. §12-37-3140(A)(1)(b) in stating that due to Appellant's purchase of the Property constituting an ATI, a new appraisal was triggered as of December 31, 2021, that would go into effect for tax year 2022. (R. p. 9). The Order further states that, pursuant to S.C. Code Ann. §12-37-3140(E), value attributable to improvements are first subject to property tax in the following year, and that accordingly, pursuant to S.C. Code Ann. §12-37-3140(A)(2), the value of *subsequent* improvements would be added to the fair market value of real property as determined at the time provided in S.C. Code Ann. §12-37-3140(A)(1) (emphasis added). (R. p. 12).

The Improvements were completed and fit for their intended use during the 2021 tax year, and thus would not be considered subsequent to December 31, 2021. Hence the value of the Improvements were not on the books of the Assessor for the 2021 tax year. Pursuant to S.C. Code Ann. §12-37-3140(E), the value attributable to the Improvements would not have been subject to taxation and put on the books of the Assessor until tax year 2022. (*See* ALJ Final Order page 7). Based on the foregoing, Appellant has clearly carried its burden in showing that S.C. Code Ann. §§12-37-3140(A)(2) and 12-37-3140(E) were incorrectly applied in adding the value of the Improvements to the 2021 fair market value of the Property (\$6,063,000). Although as a general rule tax exemption statutes are strictly construed against the taxpayer, the Administrative Law Court's interpretation of S.C. Code Ann. §§12-37-3140(E) and 12-37-3140(A)(2) conflicts with the clear and unambiguous language of those code sections and the overall statutory scheme.

III. THE ASSERTION BY THE ADMINISTRATIVE LAW COURT THAT THE IMPROVEMENTS ARE NOT ELIGIBLE FOR THE ATI EXEMPTION BECAUSE THE IMPROVEMENTS WERE NOT SUBJECT TO TAXATION IN YEAR 2021 IS AN INCORRECT INTERPRETATION OF S.C. CODE ANN. §12-37-3135.

The Administrative Law Court, in citing S.C. Code Ann. §12-37-3140(E), suggests that because the Improvements were not subject to taxation in 2021, the Improvements were not eligible for the ATI Exemption. (R. p. 14). In that footnote, the Administrative Law Court further cites S.C. Code Ann. §12-37-3135(B)(1) in stating that only property and improvements subject to taxation at the six percent (6%) assessment ratio are eligible for the ATI Exemption. *Id.*

This is an incorrect interpretation of S.C. Code Ann. §12-37-3135(B)(1), as this statute simply requires that when a *parcel of real property and any improvements thereon* undergoes an ATI, in order for the parcel of real property to be eligible for an ATI Exemption, such parcel of property must be: 1) subject to the 6% assessment ratio (i.e., the property was not previously taxed at the 4% assessment ratio as a personal residence or agricultural property), and 2) the property

must be currently subject to property tax (i.e. purchasing property from a charitable organization wherein the property is exempt from property tax pursuant to S.C. Code Ann. §12-37-220 could deem the property ineligible for an ATI Exemption). S.C. Code Ann. §12-37-3135(B)(1) (emphasis added).

In reading the clear language of the statute, the calculation of Property Tax Value is based on Exemption Value. S.C. Code Ann. §12-37-3135(B)(1). Exemption Value means the ATI Fair Market Value when reduced by the exemption allowed by S.C. Code Ann. §12-37-3135(B)(2) (twenty-five percent (25%) of the ATI Fair Market Value or such lesser amount as necessary to prevent the Exemption Value from being less than the Current Fair Market Value). S.C. Code Ann. §12-37-3135(A)(3). ATI Fair Market Value means the “fair market value of a parcel of real property and any improvements thereon *as determined by appraisal at the time the parcel last underwent an assessable transfer of interest.*” S.C. Code Ann. §12-37-3135(A)(1) (emphasis added).

The value of improvements completed in the same tax year as an ATI would logically be included in the calculation of the ATI Exemption Value due to the fact the value of said improvements would, by definition, be included in the ATI Fair Market Value, and furthermore would be included in determining the Exemption Value. *See* S.C. Code Ann. §12-37-3135(A)(1); *See also*, S.C. Code Ann. §§12-37-3135(A)(3). Based on the clear and unambiguous definition of Exemption Value, the statute makes clear that improvements completed in the same year as an ATI would not be treated separately from calculation of the ATI Exemption as suggested by the Administrative Law Court.

IV. THE VALUE OF THE IMPROVEMENTS ARE NOT ESCAPING TAXATION BY NOT ADDING THE VALUE OF THE IMPROVEMENTS TO THE CURRENT FAIR MARKET VALUE.

The Order states that applying \$6,063,000 as the Current Fair Market Value “would necessarily mean that the value of the improvements would escape taxation, in contravention of the statutory scheme.” (R. p. 15). Appellant has met its burden of establishing that the value of the Improvements are not escaping taxation. The value of the Improvements were included in the ATI Fair Market Value of \$8,034,000, used in determining the Exemption Value. The assertion that the Improvements are escaping taxation is presumably based on the fact that the Property’s fair market value would remain the same after applying the ATI Exemption under Appellant’s argument.³ However, Respondent acknowledges that the ATI Exemption can, and often does, result in a property tax value remaining unchanged after an ATI. (R. p. 145). Respondent states that “when an ATI is accompanied by improvements that have not yet been subject to taxation, the subsequent year’s taxable value must reflect the additional value of those improvements. *Id.* Consider a property with a previous fair market value of \$1,000,000, where improvements to the property with a fair market value of \$200,000 are completed in the same year that the property is sold for \$2,000,000. After applying the ATI Exemption, the taxable value of such property would be \$1,500,000 (ATI fair market value of \$2,000,000 less 25% (\$1,500,000) is greater than the previous fair market value of \$1,000,000). Are the \$200,000 worth of previously untaxed improvements escaping taxation here, where the value of said improvements were directly included in the ATI Fair Market Value which determined the Exemption Value?

The fact that the Property’s taxable value remained unchanged from the previous fair market value after applying the ATI Exemption should not persuade this Court to uphold the

³ Ultimately, an ATI can have a pro-taxpayer effect (eligibility to apply for ATI Exemption) or anti-taxpayer effect (Respondent’s ability to reappraise the property without a 15% cap).

Administrative Law Court's erroneous interpretation of the Current Fair Market Value and the overall statutory scheme. The Administrative Law Court's ruling is in contravention of the statutory scheme of S.C. Code Ann. §§12-37-3135 and 12-37-3140, which already ensures that improvements do not escape taxation. In the context of S.C. Code Ann. §12-37-3135, a taxpayer will never receive more than a 25% reduction from what would otherwise be the new taxable value of a property, and the previous fair market value will otherwise serve as a floor. *See* S.C. Code Ann. §12-37-3135(B)(2)(a). In the context of S.C. Code Ann. §12-37-3140, where improvements are completed in the same year as an ATI, the Assessor already has the ability to determine the fair market value of the property and new improvements based on an uncapped ATI appraisal. (S.C. Code Ann. §12-37-3140(A)(1)(b)). As acknowledged by the Assessor, the ATI appraisal is uncapped, and Assessor was aware of the Improvements at the time the ATI appraisal was performed and at the time the ATI Exemption was processed. (R. p. 115).

CONCLUSION

For the foregoing reasons, the Appellant requests that this Court reverse the decision of the Administrative Law Court and require both it and the Respondent use the Appellant's valuation of \$6,063,000 for the Property for tax year 2023.

Respectfully submitted:

Mt. Pleasant, South Carolina
September 12, 2025



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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 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
<hr/>		
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		
<hr/>				
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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