Exhibit A

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Eric DeWeerd, Petitioner, v. Beaufort County Assessor, Respondent.	Docket No. 25-ALJ-17-0008-CC **ORDER GRANTING MOTION FOR SUMMARY JUDGMENT**

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court ("ALC" or "Court") pursuant to a Request for a Contested Case Hearing filed by Eric DeWeerd ("Petitioner")[1] against the Beaufort County Assessor ("Respondent").[2] Petitioner challenges the December 19, 2024 decision of the Beaufort County Board of Assessment Appeals ("Board") in which it concurred with the 2017 and 2018 tax refund denial determinations of the Assessor ("Respondent" or "Assessor").[3] The subject property is 4 McIntosh Road, Hilton Head, South Carolina ("Property").

Petitioner filed his Request for a Contested Case Hearing on January 11, 2025.[4] This matter was assigned to the undersigned on January 16, 2025. On February 18, 2025, the Court issued an

[1] In the July 23, 2025 Notice of Hearing, the Court addressed an amendment to the caption to reflect Eric DeWeerd was the sole Petitioner on the basis that he was the only named party in the Request for Contested Case.
[2] The Court generally has jurisdiction of this matter pursuant to S.C. Code Ann. §§ 1-23-600 (Supp. 2025) and 12-60-2560 (2014).
[3] While this matter reaches the Court somewhat in the posture of an appeal, the proceeding before the Court is a *de novo* contested case hearing. *See Richland Cnty. Assessor v. Hull*, 408 S.C. 405, 406, 759 S.E.2d 745, 746 (2014) (memorandum opinion adopting standard set forth in *Reliance Ins. Co. v. Smith*, 327 S.C. 528, 489 S.E.2d 674 (Ct. App. 1997)); *Smith v. Newberry Cnty. Assessor*, 350 S.C. 572, 577, 567 S.E.2d 501, 504 (Ct. App. 2002) ("When a tax assessment case reaches the AL[C] in this posture[, upon appeal from a county board decision], the proceeding in front of the AL[C] is a *de novo* hearing."); *see also Reliance*, 327 S.C. at 534, 489 S.E.2d at 677 ("[When] a case involving a property tax assessment reaches the AL[C] in the posture of an appeal, the AL[C] is not sitting in an appellate capacity and is not restricted to a review of the decision below. Instead, the proceeding before the AL[C] is in the nature of a de novo hearing."). A trial "de novo" is new trial or retrial had in which the whole case is tried as if no trial whatsoever had been had in the first instance." *Nat'l Health Corp. v. S.C. Dep't of Health & Env't Control*, 298 S.C. 373, 379 at n. 1., 380 S.E.2d 841, 844 at n. 1 (Ct. App. 1989) (citing *Black's Law Dictionary, 5th Ed.*, (1979)).
[4] Petitioner, as the party initiating this contested case, generally has the burden of proof. *See generally DIRECTV, Inc. & Subsidiaries v. S.C. Dep't of Revenue*, 421 S.C. 59, 78, 804 S.E.2d 633, 643 (Ct. App. 2017), *reh'g denied* (Jan. 11, 2018)("In general, the party asserting the affirmative issue in an adjudicatory administrative proceeding has the burden of proof."); *Cloyd v. Mabry*, 295 S.C. 86, 88, 367 S.E.2d 171, 173 (Ct. App. 1988) ("A taxpayer contesting an assessment has the burden of showing that the valuation of the taxing authority is incorrect.").

Order for Prehearing Statements. Respondent filed a prehearing statement on March 11, 2025. Petitioner never filed a Prehearing Statement.[5]

On July 23, 2025, the Court issued a notice for a hearing to be held on September 9, 2025.[6] Petitioner filed a motion for continuance on September 4, 2025.[7] That same day, Respondent informed the Court it was filing a response to Petitioner's motion and filing a Motion for Summary Judgement and/or Dismissal and emailed courtesy copies to the Court and Petitioner. On September 9, 2025, the Court issued an Order of Continuance. While Petitioner had already missed the deadline to retain counsel contained in the Notice of Hearing, the Court elected to grant the requested continuance for two reasons. First, continuing the matter afforded Petitioner some grace in his efforts to retain counsel. Second, the motion filed by Respondent could, if decided in Respondent's favor, eliminate the need for a merits hearing. In a further effort to accommodate Petitioner's attempts to obtain counsel, the Court extended the deadline for Petitioner's response to the Respondent's motion from ten days to thirty days, or October 9, 2025. The Court's Order specifically noted that until or unless an attorney filed a Notice of Appearance, Petitioner was proceeding *pro se* and was therefore responsible for compliance with the Court orders and rules. On September 11, 2025, Respondent filed an Addendum to Respondent Beaufort County Assessor's Motion. On September 16, 2025, the Respondent's original motion was received and filed. As of the date of this Order, the Court has not received a response from Petitioner to the Department's motion.[8]

UNDISPUTED FACTS[9]

Beaufort County notified Petitioner by letter dated March 23, 2018 that it had discovered that Petitioner was simultaneously receiving an owner occupancy credit on real property in Ohio and a residential special assessment ratio of 4% on property 4 McIntosh Rd., Hilton Head Island,

[5] On July 3, 2025, Petitioner indicated in an email to the Court that he might be represented by an attorney and he was reminded that an attorney representing him would need to file a Notice of Appearance.

[6] The Notice of Hearing noted "[a]n attorney representing a party must file a Notice of Appearance within ten (10) days of service of this Notice, unless previously filed with the Court. *See* SCALC Rule 8(B)."

[7] While Petitioner's Motion did not directly specify grounds for a continuance, Petitioner previously contacted the Court by email on August 19, 2025, with counsel for the Department copied, stating that (1) Petitioner had found an attorney who agreed to represent him in this matter, but (2) the attorney's representation was contingent on Petitioner being granted a continuance.

[8] It is not totally clear if Respondent served Petitioner with the motion on September 5 or September 16. In either instance, the default period of ten days for filing a response under SCALC Rule 19(A) has passed and, in fact, over thirty days have passed since September 16. Additionally, the October 9, 2025 deadline has also passed.

[9] This summary of relevant facts is derived from Petitioner's Request for a Contested Case, the order from which Petitioner appeals, and the documentary evidence submitted by Respondent in support of its motion

South Carolina [hereinafter the "Property] in Beaufort County, and, as a result, the 4% special assessment ratio was removed effective 2013. The County also enclosed a revised real property tax bill for the years 2013 to 2016 and informed Petitioner it had changed the tax ratio on his Beaufort County property from 4% to 6% for tax year 2017. There is no indication in the record that Petitioner attempted to appeal or otherwise directly contest these changes.

On August 1, 2018, Petitioner filed an application to receive the 4% special assessment ratio on the Property. The Office of Assessor reviewed the application and contacted Petitioner by email the next day in order to obtain copies of Petitioner's 2017 South Carolina Individual income tax returns, vehicle registrations, driver's licenses, which were necessary to complete the application. The parties exchanged emails and Petitioner was able to provide some of the requested information. On August 6, 2018, the Assessor contacted Petitioner by letter to inform him that the application was pending, but still incomplete. The Assessor required a copy of Petitioner's 2017 South Carolina Individual income tax returns and vehicle registrations. The letter from the Assessor stated that failure to provide these materials within thirty days would result in disapproval of the application.

The record does not reflect further communication or filings between the parties until June 2, 2022, when Petitioner filed a written request for a property tax refund for tax years 2020 and 2021.[10] The request indicated that Petitioner had sold the property and relocated to Florida. Correspondence between the parties refers to meetings held after the date of the refund request. Petitioner's request was denied by letter dated October 27, 2022. The stated reason for denial was "Please submit a letter from your electric company verifying service for tax years 2020 and 2021 and both owners 2019 & 2020 SC state taxes."

The County Assessor next met with Petitioner more than a year later, on October 30, 2023. Another meeting occurred on March 20, 2024, at which time Petitioner submitted a request for an extension of time to file for a refund for tax years 2018 through 2021.[11] The Assessor then submitted Petitioner's refund request to the committee[12] on April 1, 2024. On April 17, 2024, the Committee notified Petitioner in writing that the request for a special tax assessment ratio for the

[10] The disposition of the 2018 application – whether complete or incomplete – as argued in part by the parties is irrelevant in this contested case because only the 2022 refund request for 2017 and 2018 is before the Court.

[11] Petitioner's email correspondence suggest additional meetings were held during this time period but there is no documentary evidence of such meetings.

[12] The committee consisted of the Assessor, the Auditor, and the Treasurer.

Property for the years 2019, 2020, and 2021 had been approved. It separately notified Petitioner the same day that the request for the special tax assessment ratio for the years 2017 and 2018 had been denied.

Petitioner then requested a hearing before the Board of Assessment Appeals, which was set for September 24, 2024. The parties exchanged certain information in advance of the hearing. The Board issued a decision on December 19, 2024. It noted that the refund request had been grad for tax years 2019, 2020, and 2021, but it ruled that a request for a refund for tax years 2017 and 2018 was untimely. The Board also noted that Petitioner expanded his request before it to include 2022 but the Board did not make a determination with respect to tax year 2022 because that year "was not part of [the] original request for a refund for 2017 and 2018."

DISCUSSION

I. Summary Judgment Standard

The South Carolina Rules of Civil Procedure may be applied in the Administrative Law Court at the discretion of the Administrative Law Judge. SCALC Rule 68. The South Carolina Rules of Civil Procedure in turn authorize the entry of summary judgment pursuant to Rule 56. The purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder. *Singleton v. Sherer,* 377 S.C. 185, 198, 659 S.E.2d 196, 203 (Ct. App. 2008).

Summary judgment is a drastic remedy which should be cautiously invoked so that a litigant is not improperly deprived of a trial on disputed factual issues. *Madison ex rel. Bryant v. Babcock Center, Inc.,* 371 S.C. 123, 134, 638 S.E.2d 650, 655 (2006), *rehearing denied*. Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. *Middleborough Horizontal Prop. Regime Council of Co–Owners v. Montedison S.p.A.,* 320 S.C. 470, 479, 465 S.E.2d 765, 771 (Ct.App.1995) (citing *Baugus v. Wessinger,* 303 S.C. 412, 401 S.E.2d 169 (1991)). "Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied." *Nelson v. Charleston County Parks & Recreation Comm'n,* 362 S.C. 1, 4, 605 S.E.2d 744, 746 (Ct.App.2004).

However, when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. *USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 653, 661 S.E.2d 791, 796 (2008). The existence of a mere scintilla of evidence in support

of the nonmoving party's position is not sufficient to overcome a motion for summary judgment. *Kitchen Planners, LLC v. Freeman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023). Summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRCP. The evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. *Knight v. Austin*, 396 S.C. 518, 522, 722 S.E.2d 802, 804 (2012).

Furthermore, a motion for summary judgement, once made, imposes upon the non-moving party an obligation to actively advance their case beyond mere allegations. As summarized by the Court of Appeals:

> When a party makes a motion for summary judgment, "an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or as otherwise provided in this Rule, must set forth specific facts showing that there is a genuine issue for trial." *S.C. Elec. & Gas Co. v. Combustion Eng'g, Inc.,* 283 S.C. 182, 188–89, 322 S.E.2d 453, 457 (Ct.App.1984). If the adverse party does not respond accordingly, the trial court shall enter summary judgment against him if appropriate. *Id.* at 189, 322 S.E.2d at 457. When a party makes no factual showing in opposition to a motion for summary judgment, the trial "court must grant summary judgment to the moving party if, under the facts presented, the latter is entitled to summary judgment as matter of law." *Id.*

Coker v. Cummings, 381 S.C. 45, 54-55, 671 S.E.2d 383, 388 (Ct. App. 2008); *see also Humana Hospital-Bayside v. Lightle*, 305 S.C. 214, 216, 407 S.E.2d 637, 638 (1991) ("Where the plaintiff relies solely upon the pleadings, files no counter-affidavits, and makes no factual showing in opposition to a motion for summary judgment, the lower court is required under Rule 56, to grant summary judgment, if, under the facts presented by the defendant, he was entitled to judgment as a matter of law").

II. Respondent's Motion for Summary Judgment[13]

[13] The Court acknowledges that Respondent's motion includes a claim that this matter should be dismissed with prejudice pursuant to SCALC Rule 23 because Petitioner failed to comply with the Court's Order requiring the submission of a prehearing statement. Respondent is correct that the February 18, 2025 Order did command Petitioner to file a prehearing statement and Petitioner did not file one thus violating the Order and SCALC Rule 14. However, dismissal of a contested case under Rule 23 is left to the discretion of the Court and given the disposition of this case as provided herein, the Court need not exercise that discretion in this instance and hereby denies the Respondent's motion for dismissal based on SCALC Rule 23.

Respondent argues that statutory deadlines for seeking a tax refund preclude Petitioner from obtaining refunds for 2017 and 2018 when the request was made in 2022. Petitioner has not filed a response to Respondent's motion.

In support of its position, Respondent directs the Court to the following statutory provisions that establish the framework by which a taxpayer may seek a tax refund.

> **SECTION 12-43-220.Classifications shall be equal and uniform; particular classifications and assessment ratios; procedures for claiming certain classifications; roll-back taxes.**
> (c)(2)(iv) In addition to the certification, the burden of proof for eligibility for the four percent assessment ratio is on the owner-occupant and the applicant must provide proof the assessor requires including, but not limited to:
>
> (A) a copy of the owner-occupant's most recently filed South Carolina individual income tax return;
>
> (B) copies of South Carolina motor vehicle registrations for all motor vehicles registered in the name of the owner-occupant and registered at the same address of the four percent domicile;
>
> (C) other proof required by the assessor necessary to determine eligibility for the assessment ratio allowed by this item.
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> ***
>
> (c)(3) Notwithstanding any other provision of law, a taxpayer may apply for a refund of property taxes overpaid because the property was eligible for the legal residence assessment ratio. The application must be made in accordance with Section 12-60-2560. The taxpayer must establish that the property in question was in fact his legal residence and where he was domiciled. A county council, by ordinance, may allow refunds for the county government portion of property taxes for such additional past years as it determines advisable.
>
> ***
>
> **SECTION 12-60-2560.Filing claim for refund; contents.**
>
> (A) Subject to the limitations in Section 12-60-1750, and within the time limitation of Section 12-54-85(F), a property taxpayer may seek a refund of real property taxes assessed by the county assessor and paid, other than taxes paid on property the taxpayer claims is exempt, by filing a claim for refund with the county assessor who

made the property tax assessment for the property for which the tax refund is sought.

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SECTION 12-60-1750.Refund of property taxes; exceptions.

Notwithstanding any other provision of law, no refund of property taxes must be given:

(1) for a property tax exemption requiring an application, unless the application was timely filed; or

(2) for errors in valuation, unless the assessment was appealed in accordance with Section 12-60-2110, 12-60-2510, or 12-60-2910, as appropriate. For the purposes of this item, the taxation of exempt property is not an error in valuation.

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SECTION 12-54-85.Time limitation for assessment of taxes or fees; exceptions.

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(F)(1) Except as provided in subsection (D),[14] claims for credit or refund must be filed within three years from the time the return was filed, or two years from the date the tax was paid, whichever is later. If no return was filed, a claim for credit or refund must be filed within two years from the date the tax was paid. A credit or refund may not be made after the expiration of the period of limitation prescribed in this item for the filing of a claim for credit or refund, unless the claim for credit or refund is filed by the taxpayer or determined to be due by the department within that period.

These authorities make it clear that: (1) a request for a refund must be denied if it is untimely, and (2) the deadline for filing a request for a refund is three years from the date the return was filed or two years from the date the tax was paid, whichever is later. Accordingly, assuming a return was filed, Petitioner had to file a request for a refund for tax year 2017 no later than 2020, and a request for a refund for tax year 2018 no later than 2021. The evidence submitted by Respondent indicates that no request for a refund for tax years 2017 and 2018 was submitted within that time frame. The refund request which is the source of this appeal was submitted in 2022 and

[14] Subsection D makes limited exceptions for filing claims for a refund based upon circumstances which are not present here.

did not include tax years 2017 and 2018. It was not until March of 2024 that Petitioner sought an extension of time to claim a refund for these tax years.

Petitioner did not file a prehearing statement, as he was ordered to do. Petitioner also failed to respond to Respondent's motion. Accordingly, he has failed to demonstrate that a genuine issue of material fact exists which would preclude summary judgment.

ORDER

IT IS THEREFORE ORDERED that the Respondent's motion for summary judgment is **GRANTED** with respect to Petitioner's tax refund request for the Property for 2017 and 2018.

IT IS FURTHER ORDERED that any claim by Petitioner for a refund for a tax refund request for the Property for 2022 is **DISMISSED WITHOUT PREJUDICE** pursuant to section 12-60-2560(C).[15]

AND IT IS SO ORDERED.

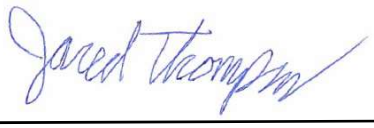
The Honorable Robert L. Reibold
Administrative Law Judge

October 27, 2025
Columbia, South Carolina

[15] Although the Court is statutorily required to dismiss without prejudice, this disposition is no reflection on the viability of initiating or maintaining a refund claim for 2022.

CERTIFICATE OF SERVICE

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



Jared Thompson
Judicial Law Clerk

October 27, 2025
Columbia, South Carolina