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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable Robert L. Reibold, Administrative Law Judge
Docket No. 25-ALJ-17-0156-CC

Appellate Case No. 2026-001190

Matthew DeNapoli and Lindsay DeNapoli……………………………..Appellants,

v.

Charleston County Assessor, ...……………………………………...Respondent.

BRIEF OF APPELLANTS

Wednesday, July 22, 2026

Matthew DeNapoli
Lindsay DeNapoli
918 Casseque Province,
Mount Pleasant, SC 29464
Phone: (703) 930-6473
Pro Se Appellants

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For the convenience of the Court, Appellants provide the following abbreviated definitions of terms and entities that appear throughout this Brief:

TABLE OF DEFINITIONS

ALC – South Carolina Administrative Law Court

Assessor – Charleston County Assessor

BAA – Charleston County Board of Assessment Appeals

CAMA – Computer Assisted Mass Appraisal system (the Assessor's internal property-tax database)

ESI – Electronically Stored Information

FOIA – South Carolina Freedom of Information Act

RPA – South Carolina Revenue Procedures Act (S.C. Code Ann. §§ 12-60-10 et seq.)

TRC – Charleston County Tax Refund Committee

4% Ratio / Legal Residence Ratio – The special four-percent assessment ratio for owner-occupied legal residences under S.C. Const. art. X and S.C. Code Ann. § 12-43-220(c)

STATEMENT OF ISSUES ON APPEAL

I. The Mandatory Statutory Presumption (S.C. Code § 12-43-220(c)): Did the Administrative Law Court err by failing to enforce the mandatory statutory command of S.C. Code § 12-43-220(c), under which a signed, completed application deems the owner to have met the burden of proof and allows the four percent (4%) legal residence ratio as a matter of law?

II. The Statute of Limitations & Void Administrative Acts: Did the Administrative Law Court err by holding that a statute of limitations could run to bar Appellants' claims where Respondent's underlying reassessment and revocation actions were taken without statutory notice and were therefore void ab initio?

III. Ultra Vires "Provisional" Schemes: Did the Administrative Law Court err by sanctioning an unauthorized, ultra vires "provisional/auto-expire" classification scheme invented by the Assessor, which directly violates the strict statutory mode of procedure required by South Carolina law?

IV. Rule 56 Standard & Evidence Inferences: Did the Administrative Law Court err by failing to apply the mandatory SCRCP Rule 56 standard, which required the Court to draw all reasonable inferences in favor of Appellants as the non-moving parties?

V. Did the Administrative Law Court err by narrowing the case to a procedural timeliness defense while refusing to adjudicate threshold jurisdictional and due process issues?

VI. Extrinsic Fraud & Misleading of the Tribunal (Chewning): Did the Administrative Law Court err by failing to apply the doctrine of *Chewning v. Ford Motor Co.* where Respondent committed extrinsic fraud by concealing the absence of required statutory notice, manufacturing post-hoc evidence, and filing a premature motion for summary judgment to bypass discovery and mislead the tribunal?

STATEMENT OF THE CASE

This administrative matter is an appeal from a final decision of the South Carolina Administrative Law Court ("ALC") concerning the unauthorized, silent revocation of Appellants' 4% legal residence assessment ratio and the resulting inflation of their property tax liability.

The matter commenced on April 26, 2024, when Appellants Matthew and Lindsay DeNapoli filed a formal administrative protest challenging the erroneous 6% assessment ratio, together with a separate refund claim, as directed by the Charleston County Assessor's Office. Although the Assessor has attempted to characterize this case as a routine, time-barred refund claim under S.C. Code Ann. § 12-54-85(F), the core dispute is not merely about the timing of a refund. It is a challenge to the underlying validity of the Assessor's 2016 actions—specifically, whether those actions were void ab initio for failure to make any determination of ineligibility and failure to provide the statutory notice required by Chapter 60 of Title 12.

Following a formal denial of the protest and refund claim by the Charleston County Tax Refund Committee ("TRC") on September 17, 2024, Appellants timely appealed to the Charleston County Board of Assessment Appeals ("BAA"). A hearing was held before the BAA on April 23, 2025. On April 29, 2025, the BAA issued a decision upholding the Assessor's denial.

In May 2025, Appellants filed a Request for a Contested Case Hearing in the Administrative Law Court. While the matter was pending and discovery was ongoing, the Assessor filed a Motion for Summary Judgment on December 19, 2025. The ALC granted that motion on April 3, 2026. Appellants timely filed a motion to alter or amend under Rule 29(D), SCALCR, on April 11, 2026. On April 29, 2026, the Honorable Robert L. Reibold issued the final order denying reconsideration.

Appellants timely served and filed their Notice of Appeal on May 20, 2026. The amount in controversy is the compounding tax differential resulting from the unauthorized application of the 6% assessment ratio to Appellants' real property. There have been no changes in the parties by death, substitution, or otherwise since the inception of this matter.

FACTS

In August 2013, Appellants Matthew and Lindsay DeNapoli purchased a foreclosed property located at 918 Casseque Province in Mount Pleasant, South Carolina. The residence was uninhabitable and required extensive structural renovation. During the multi-year construction period, Appellants simultaneously managed estate litigation concerning Mr. DeNapoli's late father, a mechanic's lien action involving the homebuilder, and international arbitration proceedings.

In July 2014, Appellants listed their Virginia residence for sale and relocated to South Carolina. While awaiting issuance of a Certificate of Occupancy from the Town of Mount Pleasant, the family resided in temporary lodging, including local hotels and campgrounds. The Virginia property sale closed on October 31, 2014. The Certificate of Occupancy was issued on November 5, 2014 (CHAS. CNTY. ASSESSOR_00039 / 00145). On November 14, 2014, Appellants filed a formal change-of-address notification with the Charleston County Auditor, designating 918 Casseque Province as their permanent mailing address (CHAS. CNTY. ASSESSOR_00035).

On September 1, 2015, Appellants submitted a completed Legal Residence Application containing the sworn certification required by S.C. Code Ann. § 12-43-220(c)(2)(ii), together with all supporting proof of domicile required by the statute and the Assessor (CHAS. CNTY. ASSESSOR_00036). On September 8, 2015, Assessor staff marked the internal checklist "Complete" and checked the printed "Approved: Yes" box on the application form itself (CHAS. CNTY. ASSESSOR_00037). At that moment, by operation of law, Appellants were "deemed to have met the burden of proof and [were] allowed the four percent assessment ratio." § 12-43-220(c)(2)(iv). The statute further provides that "No further applications are necessary from the current owner while the property for which the initial application was made continues to meet the eligibility requirements." § 12-43-220(c)(2)(vi).

The later internal Computer Assisted Mass Appraisal ("CAMA") notations of September 16 and 23, 2015 that labeled the approval "PROVISIONAL" and set a modifier to expire if tax returns were not submitted (CHAS. CNTY. ASSESSOR_00012–00013), together with any handwritten notations and the September 23, 2015 letter purporting to condition the already-granted approval, were ultra vires acts that appear nowhere in the statute or on the face of the application form. Those internal characterizations cannot defeat a vesting that had already occurred. After a September 24, 2015 reassessment notice that continued to list the property as "OTHER REAL PROPERTY" at the 6% ratio with the reason "New Building Completed," the Assessor issued a 2015 tax bill on October 1, 2015 assessing the property at the 4% legal residence ratio (QR4) on an appraisal of $936,000 (CHAS. CNTY. ASSESSOR_01420 / 01032). Appellants paid that bill in full on February 1, 2016 (CHAS. CNTY. ASSESSOR_01044).

During the 2016 tax year, Mr. DeNapoli was unlawfully detained in Afghanistan by the Afghanistan Telecom Regulatory Authority after being arrested and stripped of his passport while supporting the U.S. Mission to Afghanistan. He remained detained as a political prisoner from May 2016 into 2017 (Affidavit of Matthew DeNapoli, Pet.12-29-2025 MTC-

00254). Mrs. DeNapoli remained in South Carolina with their young children, managing the household and the family's affairs without him.

It was during this period that the Assessor silently removed the 4% legal residence ratio. No determination of ineligibility was made. No Code 30 revocation notice was issued. No notice of any kind required by Chapter 60 was ever sent. The only document generated was a routine 2016 reassessment notice that listed the reason for change solely as "New Improvement Completed" (CHAS. CNTY. ASSESSOR_01567) and never disclosed that the vested 4% classification had been stripped.

Discovery has revealed that the Assessor's defense rests on an internal characterization of the 2015 approval as "provisional" and subject to automatic expiration at the end of 2015 without a formal determination of ineligibility or the notice required by Chapter 60. Despite testimony before the Board of Assessment Appeals (Pet.12-29-2025 MTC-00103 through 00143; also in DENEEE BoAA Hearing Transcript and excerpts at 031026_DENOPO Ex. A-2, A-3, A-4), the PowerPoint presentation used at that hearing (CHAS. CNTY. ASSESSOR_01392–01417; also 031026_DENOPO Ex. S pp. 314–339), and the Assessor's Prehearing Statement filed in the Administrative Law Court (September 23, 2025)—all of which declared that the 4% ratio was revoked after Petitioners failed to submit 2015 tax returns in 2016.

The Assessor's own CAMA records— which were produced in a non-Electronically Stored Information (non-ESI) compliant format — labeled the 2015 approval "PROVISIONAL" and set a modifier to expire at the end of 2015 (CHAS. CNTY. ASSESSOR_00012–00013). The Assessor's ordinary practice refutes the legality of that approach. When the Assessor intends to terminate a taxpayer's 4% legal residence classification, the agency issues a dedicated, standalone CAMA Code 30 Revocation Notice. As demonstrated by the 2012 Unger revocation notice issued for this same parcel (CHAS. CNTY. ASSESSOR_00025; Pet.12-29-2025 MTC-00051; also included as Exhibit E-5 in Petitioners' March 10, 2026 Opposition to Summary Judgment), that notice expressly cites S.C. Code Ann. § 12-43-220(c), informs the taxpayer of the right to appeal under Chapter 60, and starts a 90-day period in which to object. No such Code 30 notice was ever issued to Appellants.

Instead of issuing a Code 30 revocation notice, the Assessor used a routine 2016 reassessment notice that listed the reason for change as "New Improvement Completed" (CHAS. CNTY. ASSESSOR_01567). That stated reason referred to the legitimate construction of a backyard swimming pool for which a building permit had been issued (CHAS. CNTY. ASSESSOR_00092). The notice did not inform Appellants that their 4% legal residence classification had been removed, nor did it cite S.C. Code Ann. § 12-43-220(c) or provide any Chapter 60 appeal rights. No separate determination of ineligibility or standalone revocation notice was ever issued.

By the time Mr. DeNapoli returned to the United States, Appellants had no reason to believe their legal residence classification had been altered. The substantial increase in the tax bill was consistent with the extensive structural renovations the family had completed, which raised the property's appraised value from the original purchase price of approximately $540,000 to more than $1.3 million. The change therefore appeared to be the ordinary consequence of the known improvements rather than a reclassification of the property's assessment ratio.

The change in assessment ratio remained undiscovered during the 2017, 2018, and 2019 gap years of the county's quadrennial reassessment cycle, during which no new classification or assessment notices were issued. In early 2024, amid economic difficulties affecting Appellants' company, SpaceCom (which had provided airspace communications services related to operations in Afghanistan), the family conducted a detailed internal review of corporate and personal financial records.

It was during that review that Appellants first discovered the 2016 reclassification. In their initial pleadings commencing this contested case, Appellants alleged fraud, official misconduct, and fraudulent concealment of material evidence, and formally requested application of the doctrine of equitable tolling. Those allegations were based in part on documents first obtained through a 2024 Freedom of Information Act request.

The internal communications that constitute direct evidence of scienter were produced only after discovery (obtained January 9, 2026 through a motion to compel and included as Exhibit D-2 in Petitioners' March 10, 2026 Opposition to Summary Judgment). On March 4, 2026, Appellants promptly notified the Court of an internal email exchange dated March 25, 2025—approximately one month before the Board of Assessment Appeals hearing—in which the Assessor's agents discussed the absence of any revocation notice:

From: Bobby Cale
Sent: Tuesday, March 25, 2025 4:33 PM

"I am putting our exchange together for the DeNapoli's refund committee conference at the BAA. We did not send them a letter advising that we were revoking Legal Residence for 2016, correct?..."

~Charleston County Assessor, Bobby Cale

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From: Wanda A. Query
Sent: Tuesday, March 25, 2025 4:46 PM

"The letter sent in 2015 stated to retain the 4% they would need to submit their tax returns. We did not send a letter revoking the 4% and we did not back tax."

~Charleston County Assessor, Classification Specialist (Wanda Query)

Despite the internal confirmation that no revocation letter had been sent, the Assessor proceeded to the Board of Assessment Appeals hearing on April 23, 2025, and presented a timeline and PowerPoint asserting that the 4% ratio had been revoked in 2016 for failure to submit 2015 tax returns. That narrative was accepted by the Board and formed the basis of its April 29, 2025 decision. The same “revocation for missing tax returns” theory was then carried forward into the Administrative Law Court through the Assessor’s Prehearing Statement.

After the March 25, 2025 emails were compelled in discovery and Appellants brought that direct evidence of scienter to the Court’s attention on March 4, 2026, counsel for the Assessor filed a formal Response the following day (March 5, 2026) in which the Assessor judicially admitted that “no separate, independent notice of ‘revocation’ was sent to Petitioners in 2016.” In the same filing the Assessor abandoned the substantive revocation theory and shifted to the position that the 2015 provisional letter and the 2016 tax bill themselves constituted “sufficient notice,” while simultaneously advancing a purely procedural defense under the two-year refund limitation of S.C. Code Ann. § 12-54-85(F).

These admissions are consistent with the County’s December 17, 2025 FOIA Determination Letters. When asked to produce any document reflecting a final determination of ineligibility or any 2016 revocation notice, the County responded that it is "not in possession of any additional responsive documents" beyond the September 23, 2015 letter (FOIA-2025-01535 Determination Letter, Dec. 17, 2025).

Notwithstanding that admission, the Administrative Law Court granted summary judgment on April 3, 2026. In that Order the Court expressly declined to decide whether the underlying reclassification was ultra vires or void for lack of notice, characterizing those threshold questions as "civil matters" outside its authority. Appellants timely moved to alter or amend under Rule 29(D), SCALCR, requesting express rulings on whether a lawful revocation had ever occurred. In its final Order of April 29, 2026, the ALC denied the motion, again characterizing the case as a narrow refund proceeding and stating that, because the claims fell outside the two-year lookback window of S.C. Code Ann. § 12-54-85(F), the question whether the underlying reclassification was unauthorized and void ab initio was "immaterial" and "largely irrelevant."

This case is not a routine, time-barred refund claim. It is a challenge to an administrative reclassification effected without a determination of ineligibility and without the notice required by Chapter 60 — a reclassification that has continued to inflate Appellants' property tax liability and place a cloud on title to their home. By declining to adjudicate whether that reclassification was void ab initio while simultaneously applying the statute of limitations, the decision below refuses to determine the parties' legal rights and privileges as required by S.C. Code Ann. §§ 1-23-310 and 1-23-600, insulates an admitted failure of statutory process from judicial review, and renders the due-process guarantees of Article I, § 22 of the South Carolina Constitution and the mandatory notice provisions of Chapter 60 effectively unenforceable for any taxpayer who does not discover a silent revocation within two years.

ARGUMENTS

Standard of Review (Issues I - IV)

The issues presented in Arguments I through IV are pure questions of law. The proper interpretation of S.C. Code Ann. § 12-43-220(c), the question of whether an administrative act is void ab initio, the limits of an agency's statutory authority, and the correct application of Rule 56, SCRCP, are all reviewed de novo. *CFRE, LLC v. Greenville Cnty. Assessor*, 395 S.C. 67, 716 S.E.2d 877 (2011); *Knight v. Austin*, 396 S.C. 518, 722 S.E.2d 802 (2012); *Massenberg v. Clarendon County Treasurer*, 443 S.C. 546, 905 S.E.2d 399 (2024).

On review of a grant of summary judgment, this Court applies the same standard that governed the Administrative Law Court. *Gary v. Askew*, 423 S.C. 47, 813 S.E.2d 717 (2018); *Fairfield Waverly, LLC v. Dorchester Cnty. Assessor*, 432 S.C. 287, 852 S.E.2d 739 (Ct. App. 2020). Summary judgment is appropriate only when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. The Court must view the evidence and draw all reasonable inferences in the light most favorable to the non-moving party. *Gary v. Askew*, 423 S.C. 47, 813 S.E.2d 717 (2018); *Knight v. Austin*, 396 S.C. 518, 722 S.E.2d 802 (2012).

Administrative agencies are creatures of statute and possess only the authority granted to them by the General Assembly. *Southeast-Kusan, Inc. v. S.C. Tax Comm'n*, 276 S.C. 487, 280 S.E.2d 57 (1981). Where an agency fails to follow the mandatory statutory mode of procedure, its actions are void ab initio. *Forfeited Land Comm'n of Bamberg Cty. v. Beard*, Op. No. 5570 (S.C. Ct. App. filed June 20, 2018); *Massenberg v. Clarendon County*

Treasurer, 443 S.C. 546, 905 S.E.2d 399 (2024). This Court owes no deference to the Administrative Law Court's legal conclusions on these issues.

I. THE ADMINISTRATIVE LAW COURT ERRED BY FAILING TO ENFORCE THE MANDATORY STATUTORY COMMAND OF S.C. CODE ANN. § 12-43-220(c)

Once a property owner submits a proper certification under the statute, the owner "is deemed to have met the burden of proof and is allowed the four percent assessment ratio." S.C. Code Ann. § 12-43-220(c)(2)(iv). The Administrative Law Court acknowledged that Appellants submitted a completed application in 2015, yet never gave legal effect to that submission. Instead, the Court treated the case solely as a question of whether a refund claim was timely, thereby placing the burden back on the taxpayers after the statute had already shifted it to the Assessor. That was legal error.

Section 12-43-220(c)(2)(iv) provides that if the owner or the owner's agent has made a proper certificate as required by the statute and the owner is otherwise eligible, "the owner is deemed to have met the burden of proof and is allowed the four percent assessment ratio allowed by this item." This is not precatory language. It is a legislative command. The General Assembly could have said the owner "may be allowed" the ratio or that the Assessor "may grant" the ratio. It did not. It declared that the owner "is deemed to have met the burden" and "is allowed" the four percent ratio.

The record establishes that Appellants strictly complied with the statute. On September 1, 2015, they submitted a completed Legal Residence Application containing the required sworn certification under penalty of perjury (CHAS. CNTY. ASSESSOR_00036). On September 8, 2015, Assessor staff marked the application and supporting domicile documents "Complete" (CHAS. CNTY. ASSESSOR_00037). The application form itself contains no provisional checkbox, no retain-condition language, and only two options: Approved or Denied. The subsequent 2015 tax bill was issued and paid at the four-percent ratio (CHAS. CNTY. ASSESSOR_01420 / _01032; payment receipt CHAS. CNTY. ASSESSOR_01044).

Once that statutory sequence was completed, the burden shifted permanently to the Assessor. The Assessor could remove the four-percent ratio only by making an affirmative determination of ineligibility and providing the notice required by Chapter 60. The Administrative Law Court never enforced this statutory sequence. Although the Court noted the existence of the 2015 application, it proceeded as if the burden had never shifted. By doing so, the Court rendered the mandatory language of § 12-43-220(c) surplusage—an approach forbidden by settled rules of statutory construction. CFRE, LLC v. Greenville Cnty. Assessor, 395 S.C. 67, 716 S.E.2d 877 (2011); Southeast-Kusan, Inc. v. S.C. Tax Comm'n, 276 S.C. 487, 280 S.E.2d 57 (1981).

South Carolina law requires strict compliance with the statutory mode of procedure in tax matters. Massenberg v. Clarendon County Treasurer, 443 S.C. 546, 905 S.E.2d 399 (2024). When the Assessor failed to follow the only procedure, the statute provides for removing the four-percent ratio, and when the Administrative Law Court thereafter refused to give effect to the statute's burden-shifting command, both the agency and the Court erred as a matter of law. The order granting summary judgment must be reversed.

II. THE ADMINISTRATIVE LAW COURT ERRED BY HOLDING THAT A STATUTE OF LIMITATIONS COULD RUN AGAINST A VOID AB INITIO ADMINISTRATIVE ACT

The Administrative Law Court erred as a matter of law when it held that the statute of limitations barred Appellants' claims. A statute of limitations cannot run against an administrative act that is void ab initio. Because the Assessor never made a formal determination of ineligibility and never provided the statutory notice required to remove the four percent legal residence ratio, the 2016 change to a six percent assessment ratio was void from its inception. The limitations period in S.C. Code Ann. § 12-54-85(F) therefore never began to run.

It is settled law in South Carolina that an administrative act taken without compliance with mandatory statutory procedures is void ab initio. *Forfeited Land Comm'n of Bamberg Cty. v. Beard*, Op. No. 5570 (S.C. Ct. App. filed June 20, 2018); *Massenberg v. Clarendon County Treasurer*, 443 S.C. 546, 905 S.E.2d 399 (2024). A void act is a legal nullity. It has no force or effect and cannot be insulated by the passage of time.

The record establishes that the Assessor failed to follow the only procedure the law provides for removing the four percent ratio. S.C. Code Ann. § 12-43-220(c)(2)(iv) permits the six percent ratio to apply only after the assessor "determines the owner-occupant ineligible." That determination must be followed by the written notice required under Chapter 60. No such determination was ever made. No such notice was ever sent. On March 5, 2026, the Assessor judicially admitted that "no separate, independent notice of 'revocation' was sent to Petitioners in 2016" (03.05.26 Respondents' Response to Motion for Extension). This admission is consistent with the Assessor's own internal emails of March 25, 2025, in which Classification Specialist Wanda Query stated: "We did not send a letter revoking the 4% and we did not back tax" (031026_DENOPO, Direct Evidence of Scienter, at 177–193). It is further confirmed by the County's December 17, 2025 FOIA Determination Letters, in which the County stated it is "not in possession of any additional responsive documents" when asked for any determination of ineligibility or any 2016 revocation notice (FOIA-2025-01535 Determination Letter).

The only document the Assessor later pointed to as purported notice was the 2016 reassessment notice that listed "New Improvement Completed" as the reason for change (CHAS. CNTY. ASSESSOR_01567). That document does not state that the four percent ratio was being revoked, does not cite § 12-43-220(c), does not explain any basis for ineligibility, and does not inform the taxpayer of Chapter 60 appeal rights. Across the Revenue Procedures Act, the

General Assembly consistently requires that any adverse determination affecting a taxpayer's rights be in writing, explain the basis for the action, and advise the taxpayer of the right to appeal. The 2016 notice satisfies none of those requirements. It is a valuation notice, not a notice of revocation.

When an agency acts without the authority or procedure required by statute, its action is void. *Southeast-Kusan, Inc. v. S.C. Tax Comm'n*, 276 S.C. 487, 280 S.E.2d 57 (1981); *Massenberg*, 443 S.C. 546, 905 S.E.2d 399 (2024). Because the Assessor's silent reclassification of Appellants' property was void ab initio, the statute of limitations never commenced. The Administrative Law Court therefore erred in applying § 12-54-85(F) to bar claims that challenge a legal nullity.

The order granting summary judgment must be reversed

III. THE ADMINISTRATIVE LAW COURT ERRED BY SANCTIONING AN UNAUTHORIZED ULTRA VIRES "PROVISIONAL/AUTO-EXPIRE" SCHEME

The Administrative Law Court further erred by sanctioning the Assessor's creation and use of an unauthorized "provisional/auto-expire" classification scheme. No provision of South Carolina law authorizes an assessor to grant the four percent legal residence ratio on a temporary or provisional basis that automatically expires without a formal determination of ineligibility and without statutory notice. By upholding the Assessor's extra-statutory invention, the Court permitted an ultra vires administrative scheme in direct violation of the requirement of strict compliance with the statutory mode of procedure.

Administrative agencies are creatures of statute and possess only those powers expressly granted by the General Assembly. *Southeast-Kusan, Inc. v. S.C. Tax Comm'n*, 276 S.C. 487, 280

S.E.2d 57 (1981). They may not invent procedures or conditions that the legislature did not authorize. *Massenberg v. Clarendon County Treasurer*, 443 S.C. 546, 905 S.E.2d 399 (2024). Section 12-43-220(c) contains no language permitting a "provisional" approval, an automatic expiration date, or a silent reversion to the six percent ratio. Once a proper certification is made, the owner "is deemed to have met the burden of proof and is allowed the four percent assessment ratio." § 12-43-220(c)(2)(iv).

The Assessor's internal CAMA notes recording the approval as "TY15 4% APPRVD ON PAPER (PROVISIONAL)" and setting a modifier to expire if tax returns were not submitted (CHAS. CNTY. ASSESSOR_00012–00013) are pure administrative creations with no statutory foundation. The application form itself contains no provisional checkbox or retain-condition language. That scheme is also factually impossible on its own terms: the Assessor set the vested 2015 approval to expire on December 31, 2015 — the very last day of the tax year that was still open. This invention is the antithesis of the legislative intent expressed in S.C. Code Ann. § 12-60-20, which states that the General Assembly intended "to provide the people of this State with a straightforward procedure to determine a dispute with the Department of Revenue and a dispute concerning property taxes." It is likewise incompatible with the uniformity and equity requirements of § 12-43-210.

The Assessor's ordinary practice further refutes the legality of the provisional scheme. When the Assessor intends to terminate a taxpayer's 4% legal residence classification, the agency issues a dedicated, standalone CAMA Code 30 Revocation Notice. As demonstrated by the 2012 Unger revocation notice issued for this same parcel (CHAS. CNTY. ASSESSOR_00025; Pet.12-29-2025 MTC-00051), that notice expressly cites S.C. Code Ann. §

12-43-220(c), informs the taxpayer of the right to appeal under Chapter 60, and starts a 90-day period in which to object. No such Code 30 notice was ever issued to Appellants.

The statute provides only one lawful method for removing the four percent ratio: a formal determination of ineligibility followed by the notice required under Chapter 60. The Assessor followed neither step. Because the "provisional/auto-expire" scheme is ultra vires, any reclassification premised upon it is void.

The order granting summary judgment must be reversed.

IV. THE ADMINISTRATIVE LAW COURT ERRED BY FAILING TO APPLY THE MANDATORY RULE 56 STANDARD

Even if the Court were to reach the statute of limitations defense, the Administrative Law Court erred by failing to apply the mandatory standard governing summary judgment. Under Rule 56, SCRCP, the Court was required to view the evidence and draw all reasonable inferences in the light most favorable to Appellants as the non-moving parties. It did not do so.

Summary judgment is a drastic remedy. *Gary v. Askew*, 423 S.C. 47, 813 S.E.2d 717 (2018). It is appropriate only when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. The non-moving party is entitled to the benefit of every reasonable inference. *Knight v. Austin*, 396 S.C. 518, 722 S.E.2d 802 (2012).

The record contained multiple genuine issues of material fact, including: (1) whether any official determination of ineligibility or statutory notice of revocation was ever made or sent; (2)

whether the 2015 application had already been marked “Approved” by Assessor staff on September 8, 2015 (CHAS. CNTY. ASSESSOR_00036–00037); (3) whether the Assessor’s internal “provisional/auto-expire” notations had any legal effect under the statute (CHAS. CNTY. ASSESSOR_00012–00013); and (4) whether the March 25, 2025 internal emails and March 5, 2026 judicial admission established the absence of notice (031026_DENOPO, Direct Evidence of Scienter, at 177–193; 03.05.26 Respondents’ Response to Motion for Extension). Appellants submitted affidavits and documentary evidence supporting their position on each of these points. The Administrative Law Court nevertheless granted summary judgment without viewing that evidence in the light most favorable to Appellants and without drawing the reasonable inferences to which they were entitled.

> By failing to view the evidence in the light most favorable to Appellants and by disregarding evidence that created genuine issues of material fact, the Administrative Law Court failed to apply the mandatory Rule 56 standard.

That failure constitutes reversible error.

—END OF ISSUES I – IV—

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Standard of Review - Issues V and VI

Standard of Review (Issues V and VI)

Pure questions of constitutional law, including claims arising under the Due Process Clauses of the United States and South Carolina Constitutions, are reviewed de novo. *Knight v. Austin*, 396 S.C. 518, 722 S.E.2d 802 (2012). The Administrative Law Court's decisions regarding the scope of the issues it will decide and its management of the contested case are reviewed for abuse of discretion. *Hooper v. Ebenezer Senior Services & Rehabilitation Center*, 386 S.C. 108, 687 S.E.2d 29 (2009).

Issue VI concerns the application of the doctrine of extrinsic fraud. The legal question of what constitutes extrinsic fraud is reviewed de novo, while the decision whether to grant relief on that basis is reviewed for abuse of discretion. *Chewning v. Ford Motor Co.*, 354 S.C. 72, 579 S.E.2d 605 (2003); *Hilton Head Ctr. of South Carolina v. Public Serv. Comm'n*, 294 S.C. 9, 362 S.E.2d 176 (1987). Extrinsic fraud is fraud that induces a person not to present a case or deprives a person of the opportunity to be heard. *Hilton Head Ctr. of South Carolina v. Public Serv. Comm'n*, 294 S.C. 9, 362 S.E.2d 176 (1987).

V. THE ADMINISTRATIVE LAW COURT ERRED BY NARROWING THE CASE TO A PROCEDURAL TIMELINESS DEFENSE WHILE REFUSING TO ADJUDICATE THRESHOLD JURISDICTIONAL AND DUE PROCESS ISSUES

The Administrative Law Court compounded its errors by deliberately narrowing the case to a single procedural question—the timeliness of the refund claims—while refusing to decide the threshold issues that controlled the outcome of the entire dispute. Those threshold issues included whether Appellants had a vested right to the four percent ratio, whether the Assessor's 2016 actions were void ab initio, and whether Appellants were denied due process under the

South Carolina and United States Constitutions. The Court's refusal to adjudicate these dispositive questions was legal error and an abuse of discretion.

S.C. Const. art. I, § 22 provides that no person shall be finally deprived of property by an administrative agency without notice and an opportunity to be heard. The Due Process Clause of the Fourteenth Amendment imposes the same requirement. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950). Once Appellants submitted a statutorily compliant, certified four-percent application in 2015 that was marked "Complete" and "Approved" by Assessor staff (CHAS. CNTY. ASSESSOR_00036–00037), they possessed a protected property interest in the four percent legal residence ratio. The Assessor could not strip that interest without providing the notice and process required by statute and the Constitution.

The Administrative Law Court was presented with these issues and declined to decide them, declaring them "immaterial" and characterizing them as "civil matters" outside its authority. That approach put the cart before the horse. If the underlying reclassification was void or unconstitutional, the limitations defense never arose. By refusing to address the threshold questions required by S.C. Code Ann. §§ 1-23-310 and 1-23-600, the Court insulated an allegedly void administrative act from judicial review and denied Appellants any decision on the merits of their constitutional and statutory claims.

This refusal to adjudicate properly preserved, dispositive issues constitutes both an error of law and an abuse of discretion. *Hooper v. Ebenezer Senior Services & Rehabilitation Center*, 386 S.C. 108, 687 S.E.2d 29 (2009); *Knight v. Austin*, 396 S.C. 518, 722 S.E.2d 802 (2012).

The order granting summary judgment must be,reversed.

VI. THE ADMINISTRATIVE LAW COURT ERRED BY FAILING TO APPLY THE DOCTRINE OF *CHEWNING V. FORD MOTOR CO.*

Finally, the Administrative Law Court erred by refusing to apply the doctrine of extrinsic fraud recognized in *Chewning v. Ford Motor Co.*, 354 S.C. 72, 579 S.E.2d 605 (2003). The record contains clear evidence that the Assessor concealed the absence of any statutory notice of revocation, presented a knowingly false narrative to the Board of Assessment Appeals, and filed a premature motion for summary judgment while discovery was still incomplete. These actions prevented a full and fair determination of the merits and corrupted the judicial process.

Extrinsic fraud is fraud that induces a person not to present a case or deprives a person of the opportunity to be heard. *Hilton Head Ctr. of South Carolina v. Public Serv. Comm'n*, 294 S.C. 9, 362 S.E.2d 176 (1987). It includes conduct that subverts the integrity of the judicial machinery itself. *Chewning v. Ford Motor Co.*, 354 S.C. 72, 579 S.E.2d 605 (2003). When such fraud is shown, the court has the inherent power to set aside the resulting judgment or order.

Here, the Assessor's own internal emails of March 25, 2025, reveal that agency officials knew no revocation notice had ever been sent (031026_DENOPO, Direct Evidence of Scienter, at 177–193). Classification Specialist Wanda Query wrote: "We did not send a letter revoking the 4% and we did not back tax." Nevertheless, less than thirty days later the Assessor walked into the Board of Assessment Appeals and presented a PowerPoint and testimony asserting that the four percent ratio had been revoked in 2016 for failure to submit tax returns (CHAS. CNTY. ASSESSOR_01392–01417; BAA Hearing Transcript, Pet.12-29-2025 MTC-00103 to 00143). That presentation was knowingly false.

The same pattern continued in this Court. The Assessor filed a Motion for Summary Judgment on December 19, 2025—before producing any meaningful discovery—and only later, after being compelled to produce documents, admitted that no separate revocation notice existed (03.05.26 Respondents' Response to Motion for Extension). By that time the Assessor had already attempted to shut down the case on a pure limitations defense before the full evidentiary record could be developed.

The Administrative Law Court declined to treat this conduct as extrinsic fraud. That was error. The fraud infected the very proceeding in which the limitations defense was being adjudicated. By concealing critical facts, presenting a false narrative to the BAA, and then shifting theories once those facts emerged, the Assessor prevented a true contest on the merits. Under *Chewning*, the Court had both the authority and the duty to address that corruption of the process. Its failure to do so was an abuse of discretion and an error of law.

The order granting summary judgment must be reversed.

CONCLUSION

The Administrative Law Court committed multiple reversible errors of law. It failed to enforce the mandatory burden-shifting command of S.C. Code Ann. § 12-43-220(c). It allowed a statute of limitations to run against an administrative act that was void ab initio for lack of statutory notice. It sanctioned an ultra vires "provisional/auto-expire" scheme that appears nowhere in the Code. It failed to apply the mandatory Rule 56 standard. It deliberately narrowed the case to a single procedural question while refusing to decide the threshold jurisdictional and due-process issues that controlled the outcome. And it declined to address clear evidence of extrinsic fraud under *Chewning v. Ford Motor Co.*

Each of these errors independently requires reversal. Taken together, they demonstrate that the order granting summary judgment cannot stand.

Appellants respectfully request that this Court:

1. Reverse the Administrative Law Court's April 3, 2026 Order Granting Motion for Summary Judgment and its April 29, 2026 Order Denying Motion to Reconsider;

2. Declare that Appellants have been continuously entitled to the four percent legal residence assessment ratio from tax year 2015 forward;

3. Declare that the 2016 reclassification to the six percent ratio was void ab initio and that any cloud on title arising from that unauthorized action is removed;

4. Remand the matter solely for the limited, ministerial purpose of calculating and ordering payment of all refunds due for the years in dispute, together with interest as required by S.C. Code Ann. § 12-54-25; and

5. Order that interest also be paid on the 2022 and 2023 refunds already issued, in accordance with § 12-54-25.

Respectfully submitted,

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