

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

M3995

APPEAL FROM
Administrative Law Court

The Honorable Deborah Brooks Durden, Administrative Law Judge

Case No.: 12-ALJ-17-0126-CC

Mitul Enterprises, L.P.....Petitioner

-vs-

Beaufort County Assessor.....Respondent

PETITION FOR REHEARING

J. Ashley Twombly
Twenge + Twombly Law Firm
S.C. Bar #72916
311 Carteret Street
Beaufort, SC 29902
Telephone: (843) 982-0100
Facsimile: (843) 982-0103
www.twlawfirm.com
Attorney for Petitioner

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OCT 29 2014

SC Court of Appeals

Pursuant to Rule 221(a), SCACR, Petitioner Mitul Enterprises petitions the Court for a rehearing to address the following points overlooked or misapprehended.

I. The Court of Appeals misapprehended what “omitted property” is under property tax law.

The Court concluded that Petitioner’s property was “omitted property” and therefore falls within South Carolina’s omitted property statute. Petitioner’s property was not omitted from the tax rolls but was simply improperly capped by Beaufort County’s computer program. Therefore, South Carolina’s omitted property statute is simply not applicable to correct this type of mistake by Beaufort County.

Petitioner’s property was on the tax roll and had been assigned tax map numbers. (R. 40). It was not “omitted” from the tax rolls. In addition, the new hotel was known to and considered by Beaufort County, and was given a value of \$11,775,674. (R. 40). It was not “omitted” from the tax rolls. The value of the new hotel was included by Beaufort County in the Assessment Notice it sent Petitioner dated October 15, 2009. (R. 18, lines 1-14; R. 40). It was not “omitted” from the tax rolls. In addition, the Notice of Action – Value Change also includes the value of the new hotel building. (R. 18, lines 15-24; R. 44). Accordingly, Petitioner’s property, including the value of the new hotel, were known to Beaufort County and were not “omitted” from the tax rolls.

In Long Cove Home Owners’ Association, Inc., v. Beaufort County Tax Equalization Board, 327 S.C. 135, 488 S.E.2d 857 (1997), the Beaufort County Assessor attempted to use the omitted property statute to impose taxes on the common areas of a planned unit development. The common areas had been on the tax roll for prior years but had been assessed with a market value of \$0.00. The Supreme Court found that the

common areas in the planned unit development were not “omitted” from the tax rolls because Beaufort County knew about them and had assigned a value to them:

this property was not omitted property as Beaufort County contends. Because the parcels were assigned tax map numbers and had been assessed a market value of zero or near zero in prior tax years, the Department found the properties were listed on the tax rolls and were not omitted property. Substantial evidence supports this finding of fact. The Department further found the power to assess omitted property does not carry with it the power to revalue property already assessed. Further, there was no change in condition of these properties warranting a reassessment. Therefore, the Tax Assessor lacked the authority to reassess these properties.

Id. at 140, 488 S.E.2d at 860 (internal citation omitted).

Just as the value of the common area property in Long Cove was not “omitted” from the tax rolls, the value to the new hotel at issue here was not “omitted” from the tax rolls. In both cases, Beaufort County knew about the particular item at issue (common property and a new hotel building) and had placed a value on the particular item. In both cases, there was no change in the common property from the time of the assessment at issue until the time of the new assessment, just as there was no change in the new hotel building in between the time of the October 15, 2009 assessment notice and Beaufort County’s attempt to collect additional tax on June 23, 2010.

On the contrary, Beaufort County concedes that it knew about the property and had properly valued it, but a computer error caused the value of the new hotel to be improperly capped. This is simply not a case of omitted property, and, the Court should grant the Petition for Rehearing and issue an Opinion reversing the Administrative Law Court’s decision.

II. The Court overlooked and misapprehended In re: United AG Services, Inc., when determining that Petitioner's property was omitted property.

There is very little case law in South Carolina discussing or addressing the procedure for collecting property taxes under an "omitted property" statute. However, most states have such a statute, and some states have well-developed case law addressing the same. Therefore, Petitioner believes it is important for the Court to examine how other states handle this issue.

The opinion in In re: United AG Services, Inc., 159 P.3d 1050 (Kan. 2007), provides a detailed analysis of a situation almost identical to the instant case and provides a more thorough explanation of what, and what does not, constitute omitted property. This analysis was overlooked by the Court during the instant case.

In United AG Services, the taxpayer replaced two concrete grain elevators on his property. In 2000, three years after the grain elevators were replaced, the county appraiser discovered that the value of the grain elevators had not been added to the property valuation. The county then sent out an additional tax bill for 1998 and 1999 to tax the value of the grain elevators. In doing so, the county relied on the Kansas omitted property statute (K.S.A. 79-1475). Id. at 1053. Kansas' statute is substantively the same as South Carolina's statute. The taxpayer challenged the additional tax, arguing that the property at issue was not "omitted" from the tax rolls.

In its opinion, the Kansas Supreme Court noted that "whether or not property has truly escaped taxation" has been the subject of "considerable litigation." In concluding that the parcel at issue did not "escape" taxation and was not "omitted from the tax rolls," the Kansas Supreme Court explained as follows:

The county suggests that the property was subject to escaped taxation pursuant to [the Kansas omitted property statute], which

provides: ‘Whenever the county appraiser discovers that any real property subject to taxation has been omitted from the tax rolls, such property shall immediately be listed and valued by the appraiser, and returned to the county clerk.’ Whether or not property has truly ‘escaped’ taxation, however, has been a subject of considerable litigation in Kansas. Suffice it to say that these cases focus on the phrase ‘omitted from the tax rolls’ in construing and applying the escaped tax statute.

The current version of [the Kansas omitted property statute] was interpreted by this court in In re Application of TV Realty. There, this court declined to apply the statute to allow belated ‘escaped’ taxation from the owner of realty where the county failed to change the name and address of the owner of recently acquired realty so that the prior owner timely received the tax bill, but the new owner did not. In refusing to apply [the Kansas omitted property statute], the court reasoned: ‘[the Kansas omitted property statute] is limited in its application to property that has been omitted from the tax rolls. Both parcels purchased by TV Realty were listed on the tax rolls; the tax statement for the one in question simply was not mailed to the new owner. We agree with BOTA that this was not ‘escaped’ property within the meaning of the statute.’

We believe that the analysis and result in TV Realty is sound, and we follow it here. **Because some improvements of UAS were assigned a parcel number, listed on the tax rolls and assessed for the tax years in question, the parcel of realty itself did not “escape” taxation within the meaning of [the Kansas omitted property statute] despite the absence of any value attributable to the new grain elevators.** See also In re Harry Turner and Associates, Inc., 153 B.R. 573 (Bankr.D.Kan.1993) (property on the rolls as exempt not subject to belated “escaped” taxation); Bd. of Equalization v. Nupetco Assoc., 779 P.2d 1138 (Utah 1989) (mistake in acreage within assessed parcel of realty did not “escape” taxation but rather mere undervaluation not subject to retroactive correction).

Id. at 1057-1058 (emphasis added)(internal citations removed)

Just as in United AG Services, Petitioner’s property was assigned a parcel number, listed on the tax rolls and assessed for the tax years in question. Petitioner also paid the taxes owed in full. Therefore, the parcel of realty itself did not “escape” taxation and was not “omitted” from the tax rolls. In addition, while in United AG Services no

value at all was attributable to the new grain elevators, in this case, the value of the new hotel was known to and considered by Beaufort County and was included in the Assessment Notice sent Petitioner dated October 15, 2009. (R. 18, lines 1-14; R. 40). This simply was not omitted property, but rather a computer program error.

The South Carolina Supreme Court and the Kansas Supreme Court agree that properties that are assigned tax map numbers and some improvements are assessed a value, with no change in condition to the property in between the first assessment and the would-be new assessment, are not omitted properties under each state's omitted property statutes. Accordingly, the Court should grant the Petition for Rehearing and issue an Opinion reversing the Administrative Law Court's decision.

III. The Court's Opinion will open the flood gates for South Carolina Assessors

If a South Carolina assessor can classify any "omitted value" as "omitted property" and use the omitted property statute to collect taxes on the omitted value, there would be no end or limit to an assessor's tax net. As the Kansas Supreme Court warned:

If [the Kansas omitted property statute applies here] where would one stop? If a county appraiser learns that an income producing property was valued using the income approach to value assuming rents of \$15 per square foot and the property is actually leased at \$16 per square foot, should the court find an 'escaped' valuation and allow the appraiser to issue an escaped assessment? What if a home is valued at \$150,000 and sells for \$175,000, should the court find an 'escaped' valuation and allow the appraiser to issue an escaped assessment? **Clearly, the answer is no as any other answer would lead to all kinds of mischief, uncertainty and chaos.**

Id. at 1058 (emphasis added).

This Court's Opinion, if allowed to stand, paves the way for the "mischief, uncertainty and chaos" that the Kansas Supreme Court warned of because there would be

no limitations as to what type of improvements could be considered omitted property. For example, what if a homeowner added a garage to his house and the garage was not included in the property taxes? Would the garage be omitted property? What if a homeowner added a fireplace in his house and the fireplace was not included in the calculation of the property taxes? Would the fireplace be omitted property? What about a new ceiling fan?

Even worse, the Court's Opinion allows South Carolina assessors to use the omitted property statute as a catch all provision to correct any number of mistakes that might be made during the assessment process. Presumably, so long as the "value" of an improvement was missed, the omitted property statute would apply. Nothing suggests the South Carolina Legislature intended for S.C. Code Ann. § 12-39-220 to be used so generously to fix such problems, particularly in light of the fact that other statutes outline appropriate channels for the taxing authorities to follow to correct mistakes.¹

The Court's Opinion in the instant case opens Pandora's box and allows any county assessor to reassess a parcel or property under a myriad of circumstances using the omitted property statute. For these reasons, the Court should grant the Petition for Rehearing and issue an Opinion reversing the Administrative Law Court's decision.

¹ Pursuant to the statutory scheme governing the South Carolina Department of Revenue (hereinafter the "Department"), the problem could have been reported by the Assessor to the Department who had the power to direct the assessor to reassess real property because of an error of law. S.C.Code § 12-4-520(3) (Supp.1995) (directing the Department "to take any action necessary to insure the proper assessment, equalization, and taxation" of property in each county in South Carolina); see also S.C.Code Ann. § 12-4-510(3) (Supp.1995) (granting Department power to order reassessment to insure property is assessed in compliance with the law). These statutes provide the Department with the power to order spot reassessments in non-reassessment years. County auditors also have authority to correct assessments and other errors pursuant to S.C. Code § 12-39-250.

IV. The Court of Appeals overlooked or misapprehended the long standing rule that taxpayers should be given the benefit of the doubt in the enforcement of tax statutes and improperly limited application of the rule to cases determining whether the taxpayer is subject to the tax.

This Court limited the long standing rule that taxpayers should be given the benefit of the doubt in the enforcement of tax statutes only to cases determining whether the tax payer is subject to the tax. In doing so, the Court of Appeals overlooked or misapprehended cases applying this rule.

First, this rule has been applied to cases deciding issues other than whether a taxpayer is subject to a tax. For example, in Atlantic Coast Lumber Corp. v. Query, 171 S.C. 441, 172 S.E. 432 (1934), the Supreme Court was asked to determine if an agreement between Atlantic Coast Lumber Corporation and Internal Revenue Service to waive a time limit relating to payment of taxes should also apply to the South Carolina Tax Commission. The Court's analysis had nothing to do with whether or not Atlantic Coast Lumber Corporation was "subject to" a tax. The Supreme Court held that the waiver did not apply to the South Carolina Tax Commission, stating that "[n]umerous cases hold that the taxpayer should receive the benefit in cases of doubt in the enforcement of tax statutes, and this is a typical case for the application of that rule." Id. at 444, 172 S.E. at 433 (emphasis added). Therefore, the rule that requires that the tax payer be given the benefit of the doubt applies any time a tax statute is being "enforced" and is not limited to analyzing whether a taxpayer is subject to a tax.

Additionally, the Supreme Court has applied this rule of statutory construction to determine whether S.C. Code Ann. § 12-54-80(2) may be applied retroactively to validate an assessment which was untimely under S.C. Code Ann. § 12-35-1370. South Carolina

National Bank v. S.C. Tax Commission, 297 S.C. 279, 376 S.E.2d 512 (1989). In its analysis of whether the statute of limitations should have retroactive or prospective application, the Supreme Court stated that “[i]n the **enforcement** of tax statutes, the taxpayer should receive the benefit in cases of doubt.” Id. at 281, 376 S.E.2d at 513 (emphasis added).

Second, even when addressing whether a taxpayer is subject to a tax, the Supreme Court has not limited application of the rule the way the Court did here. For example, in Alltel Communications, Inc., v. S.C. Dept. of Revenue, 399 S.C. 313, 731 S.E.2d 869 (2012), the Supreme Court did not limit the application of the rule solely to whether a taxpayer is subject to the tax, even though the question before the Court was whether Alltel Communications was a telephone company for purposes of tax law. In this 2012 case, the court noted that “[h]ere, the ALC referenced the settled principle that any substantial doubt in the **application** of a tax statute must be resolved in favor of the taxpayer.” Id. at 318; 379 S.E.2d at 872 (emphasis added). Moreover, the court stated the issue and its result as follows: “[i]n this regard, Petitioners contend the court of appeals erred in failing to construe **any** ambiguity in the tax statute against DOR. It necessarily follows, according to Petitioners, that **such ambiguity must** be construed in the taxpayers' favor. We agree.” Id. at 321, 379 S.E.2d at 873 (emphasis added).

Finally, this Court stated here that a “strict construction” of the statutes may result in Petitioner avoiding the tax at issue. Whether or not Petitioner might avoid the tax is of no importance and should not influence this Court’s decision or analysis. As the South Carolina Supreme Court noted in Hadden v. S. Carolina Tax Comm'n, 190 S.E. 249, 251-52 (1937), “if the crown, seeking to recover the tax, cannot bring the subject within the letter of the law, the subject is free, however apparently within the spirit of the law the

case might otherwise appear to be.” Id. at 251-52 (internal citations and quotations omitted). In the instant case, Petitioner does not fall within the letter of the law and thus should be free from the tax. Accordingly, the Court should grant the Petition for Rehearing and issue an Opinion reversing the Administrative Law Court’s decision.

V. The Court of Appeal extended the authority given to county auditors to county assessors by implication, in direct contravention to the South Carolina Supreme Court’s directive.

In Cooper River Bridge, Inc. v. S.C. Tax Commission, 182 S.C. 72, 188 S.E. 508 (1936), the South Carolina Supreme Court instructed that “the taxpayer must receive the benefits in cases of doubt in the enforcement of tax statutes” and “the literal meaning of the words employed is most important, for such statutes are not to be extended by implication beyond the clear import of the language used, and if the words are doubtful, the doubt must be resolved against the government and in favor of the tax payer.” Id. at 76, 188 S.E. at 509-10.

The statute at issue gives authority to the County Auditor. The Assessor is not even mentioned. Because “the literal meaning of the words employed is most important” and because tax “statutes are not to be extended by implication beyond the clear import of the language used, and if the words are doubtful, the doubt must be resolved against the government and in favor of the tax payer,” the Court should grant the Petition for Rehearing and issue an Opinion reversing the Administrative Law Court’s decision.

VI. The Court of Appeals improperly relied on Columbia Developers, Inc v. Elliott when deciding that the improvements to Petitioner’s property are omitted property.

Rather than relying on Long Cove, the Court improperly relied on Columbia Developers, 269 S.C. at 486, 238 S.E.2d at 169. There are several reasons why Columbia Developers should not be relied upon to decide this case. First, the question decided in

Columbia Developers was simply whether the taxpayer was able to file a lawsuit to challenge a property tax assessment without exhausting administrative remedies. Second, as noted in the Opinion in the instant case, the court in Columbia Developers stated in dictum that “the trial judge reached a conclusion of which the evidence is susceptible. . . .” Id. at 491, 238 S.E.2d at 171. However, the court in Columbia Developers does not analyze or discuss any rationale or support for this conclusory dictum, and the opinion does not indicate what “evidence” the Supreme Court was even considering. Finally, there are multiple factual differences between Columbia Developers and the instant case so that reliance is misplaced. For example, a) the arguments made by Petitioner here were not even raised by the taxpayer in Columbia Developers, much less considered and resolved by the Court, b) the Richland County’s Assessor’s office was not even a party to the Columbia Developers lawsuit, and c) it is unclear from the Court’s opinion who in Richland County government discovered the error, corrected the error, **or how the error was corrected by Richland County.**

Instead of relying upon dictum in the 1977 opinion in Columbia Developers, this Court should have relied upon the clear directive found in Long Cove and determined that Petitioner’s property was not omitted property. For these reasons, the Court should grant the Petition for Rehearing and issue an Opinion reversing the Administrative Law Court’s decision.

VII. The Court of Appeals erred in finding that Issues II, VI, and VII were not preserved for review

Petitioner’s Issues II, V, and VI are all preserved for review and were properly before this Court. In order to be preserved for review by an appellate court, an issue must be raised to and ruled upon by the lower court. E.g. Gause v. Smithers, 403 S.C. 140,

742 S.E.2d 644 (2013); Regions Bank v. Owens, 402 S.C. 642, 741 S.E.2d 51 (Ct. App. 2013). However, a party does not have to phrase an issue in the exact same terms at trial and on appeal. As long it is clear that an issue was raised to the trial judge, then it is preserved for review. See Herron v. Century BMW, 395 S.C. 461, 719 S.E.2d 640 (2011); S.C. Dep't of Transp. v. First Carolina Corp. of S.C., 372 S.C. 295, 641 S.E.2d 903 (2007); State v. Russell, 345 S.C. 128, 546 S.E.2d 202 (Ct. App. 2001).

(a) Issue II

Petitioner's Issue II addresses whether the Administrative Law Court erred in using the omitted property statute (S.C. Code Ann. § 12-39-220) to correct a mistake on Petitioner's Assessment and 2009 tax bill caused by a computer error. In its Brief, Petitioner contends that at any time prior to the payment of the tax, S.C. Code Ann. § 12-39-250 could have been used to correct the computer error and that once the tax was paid, no one had the ability to assess additional 2009 property taxes based on the computer error.

At the hearing, Petitioner raised this issue in closing arguments:

Your Honor, there is a statute that not only -- I pointed it out to you that this statute deals with auditors, but **there's another statute, and that is 12-39-250**. And I've got a -- it deals with the circumstances under which -- there's one for you -- under **which the auditor can correct errors**. And if you see, the title of this statute - - first of all, it's under Chapter 39 that deals with county auditors, and it says the duty to correct assessments and other errors. And so this statute deals with the circumstances under which a county auditor could go back and apply the omitted tax statute. And if you read this statute, **every one of the exceptions say at any time before the tax is paid. At any time before the tax is paid. Every one of these deal with situations before the tax is paid**. And here, the respondent concedes we had already paid these taxes, **we paid the full amount that they wanted us to pay, and, you know, we heard from them six months later that they wanted \$100,000 more**.

(R. 37, line 5-R. 38, line 2) (emphasis added).

In the Order, the Administrative Law Court framed the issue as “[w]hether the Assessor properly imposed taxes on the value of a newly constructed inn on the subject property for the 2009 tax year via a tax notice correction issued after the original tax bill was paid.” (R. 2). The Administrative Law Court then concluded that Respondent had the authority to levy \$105,282.48 in additional taxes. (R. 8). Accordingly, Petitioner’s Issue II was raised to and ruled upon by the Administrative Law Court and is preserved for review.

(b) Issue V

Petitioner’s Issue V is also preserved for review. In Issue V, Petitioner argues that if the Beaufort County Assessor can exercise the authority of S.C. Code Ann. § 12-39-220, such authority cannot be exercised when the Beaufort County Assessor testified that there is no duplicate as required by S.C. Code Ann. § 12-39-220.

Ed Hughes, the Beaufort County Assessor, testified Beaufort County does not maintain a duplicate and that the Beaufort County tax roll is now produced electronically. (R. 21, lines 17-22). Mr. Hughes also testified that he believes the reference to a duplicate is obsolete. (R. 32, line 24-R. 34, line 3). During closing arguments, Petitioner stated that S.C. Code Ann. § 12-39-220, a statute that should be strictly construed against the taxing authority, states “if the county auditor discovers that any real estate or new structure, then they shall immediately charge it on the duplicate.” (R. 35, lines 11-14). Petitioner also argued that the statute is antiquated and does not make sense given today’s technology and that it therefore cannot be applied under these circumstances. (R. 35, line 1-R. 36, line 3).

In the Order, the Administrative Law Court determined that Respondent no longer had a duplicate. (R. 6). The Administrative Law Court then held that the Assessor had the authority to impose additional taxes under S.C. Code Ann. § 12-39-220: “Therefore, I must conclude that the Assessor had the authority under Section 220 to discover that property was omitted, to appraise the omitted property, and to assess the tax on any omitted property.” (R. 7). Therefore, Petitioner’s Issue V was raised to and ruled upon by the Administrative Law Court and is preserved for review.

(c) Issue VI

Finally, Petitioner’s Issue VI is also preserved for review. Petitioner argues in Issue VI that the Administrative Law Court erred in allowing Respondent to collect additional taxes from Petitioner when Petitioner never received a proper and correct Assessment Notice for those taxes as required by S.C. Code Ann. § 12-60-2510(A)(1).

In its closing argument, Petitioner raised this issue to the Administrative Law Court:

And as you would suspect, there's a statute that says before you go collect tax on property you've got to do certain things. And one of the things they have to do, and they have to mail it prior to October 1st, is they have to mail the tax holder an assessment notice, which they did that here. That included the assessment that was \$64,190. They were required to do that under the law. **That assessment notice was required under 12-60-2510**, it was required to state what the property tax assessment was, and it did, 69,000 -- or 65,190. And the assessment notice under this section, it must be in writing and it must include those things. **There is not a single -- there is no assessment notice in the record anywhere, and that's because one doesn't exist, that includes an assessment of the \$540,000.** If you go back and look through all the evidence that were admitted in, all the documents that were admitted into evidence, in June of 2010 when they found this out, Mr. Hughes sent a little one-page letter, and he attached to that one-page letter a property tax bill, but **he never sent and [sic] assessment.** And under 12-60-2510, the notice must include the property tax assessment. So what we've got here, Your Honor, and what it boils

down to is they're trying to collect -- **they're trying to assess this property for an assessment of \$540,000 with no assessment notice, none whatsoever. They absolutely cannot do that. You have -- you are required to send this out to a taxpayer before you go collect the taxes on it, and there's not even one here today.** (R. 38, line 9- R. 39, line 19) (emphasis added).

In its Order, the Administrative Law Court specifically held that the Assessor for Respondent had the ability to assess the tax any omitted property: “Therefore, I must conclude that the Assessor had the authority under Section 220 . . . to assess the tax on any omitted property.” (R. 7) (emphasis added). Thus, Petitioner’s Issue VI was raised to and ruled upon by the Administrative Law Court and is preserved for review.


In addition, for the reasons contained in Petitioner’s Final Brief, a consideration of the merits of these issues establishes that the Administrative Law Court erred in its ruling. For these reasons, the Court should grant the Petition for Rehearing and issue an Opinion reversing the Administrative Law Court’s decision.

CONCLUSION

For the reasons contained herein, the Petition for Rehearing should be granted and this Court should issue an Opinion reversing the Administrative Law Court’s decision.

TWENGE + TWOMBLEY LAW FIRM

BY:



J. ASHLEY TWOMBLEY

S.C. Bar #72916

311 Carteret Street

Beaufort, SC 29902

Telephone: (843) 982-0100

Facsimile: (843) 982-0103

www.twlawfirm.com

Attorneys for Appellant

Beaufort, South Carolina

October 28, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM
Administrative Law Court

The Honorable Deborah Brooks Durden, Administrative Law Judge

Case No.: 12-ALJ-17-0126-CC

Mitul Enterprises, L.P.....Petitioner

-vs-

Beaufort County Assessor.....Respondent

CERTIFICATE OF SERVICE

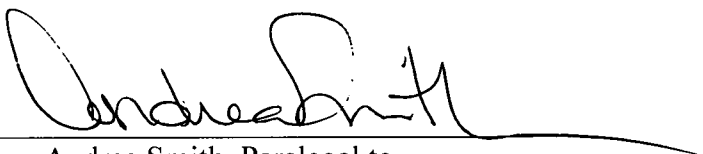
The undersigned, Andrea Smith, hereby avers that she is a Paralegal with TWENGE + TWOMBLEY LAW FIRM, Attorneys for Appellant, and that on the 28th day of October 2014 a true and accurate copy of the attached Appellant's Petition for Rehearing was sent via U.S. mail to the following:

William Thomas Young, III, Esquire
Stephen P. Hughes, Esquire
Howell Gibson & Hughes, PA
P.O. Box 40
Beaufort, SC 29901
Telephone: (843) 522-2400
Facsimile: (843) 522-2429
hgpa@islc.net
Attorney for Respondent

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OCT 29 2014

SC Court of Appeals

BY: 
Andrea Smith, Paralegal to
TWENGE + TWOMBLEY LAW FIRM

TWENGE + TWOMBLEY LAW FIRM LLC

311 CARTERET STREET
BEAUFORT, SOUTH CAROLINA 29902
PH.: 843.982.0100 + FX.: 843.982.0103

WEB.: TWLAWFIRM.COM

J. ASHLEY TWOMBLEY
KARL D. TWENGE
JENNIFER I. CAMPBELL

**: LICENSED IN SC + GA
**: OF COUNSEL

October 28, 2014

Via Overnight Mail

Ms. Jenny Abbott Kitchings
Clerk of Court
Deputy Clerk of Court
S.C. Court of Appeals
1015 Sumter Street
Columbia, SC 29211

**RE: Mitul Enterprises, L.P. v. Beaufort County Assessor
Appellate Case No.: 2013-000106**

Dear Ms. Kitchings:

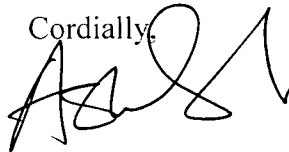
Please find enclosed the original and seven (7) copies of Appellant's Petition for Rehearing in the referenced matter. I would appreciate it if you would file the original and return a clocked copy to me in the enclosed self-addressed stamped envelope.

By copy of this letter, I am serving the same upon all counsel of record.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

With kindest regards, I remain,

Cordially,



J. Ashley Twombley

cc: William Thomas Young, III, Esquire
Stephen P. Hughes, Esquire
Mitul Enterprises, Inc.

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SC Court of Appeals

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Twenge + Twombly Law Firm

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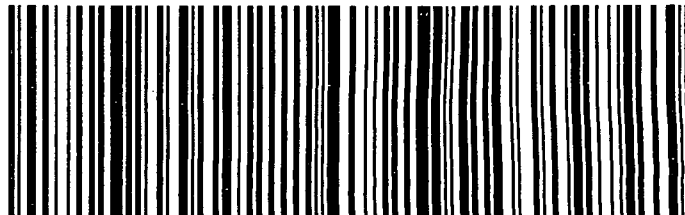
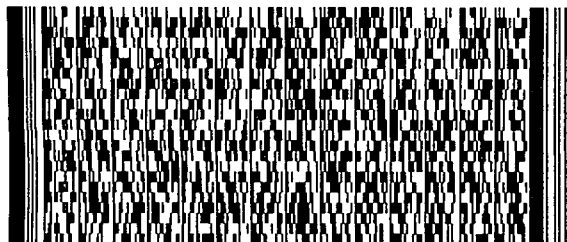
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