

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

RECEIVED

James F. Early Trust,)
)
Petitioner,)
)
v.)
)
Charleston County Assessor,)
)
Respondent.)
_____)

Docket No. 15-ALJ-17-0184-00 DEC 22 2015

SC Court of Appeals

ORDER ON RECONSIDERATION

FILED

November 13, 2015

SC ADMIN. LAW COURT

This matter comes before the South Carolina Administrative Law Court (Court or ALC) pursuant to Petitioner James F. Early Trust's (Petitioner) Motion to Reconsider this Court's dismissal of the action challenging the Charleston County Board of Assessment Appeals' (Board) decision affirming Respondent Charleston County Assessor's (Assessor) denial of Petitioner's application for the 4% special tax assessment ratio provided in S.C. Code Ann. § 12-43-220(c)(2)(ii) (2014 & Supp. 2014).¹ The Court dismissed Petitioner's case based on a lack of subject matter jurisdiction, because Petitioner brought a facial challenge to the constitutionality of Section 12-43-220(c)(2)(ii)(A), (iii)(A) (2014).²

DISCUSSION

Petitioner argues that this case should not have been dismissed, because pursuant to S.C. Code Ann. § 12-60-2540 (2014), the General Assembly established the ALC as the only venue to address an appeal from a county board of assessment appeals. Petitioner also cites to S.C. Code Ann. § 12-60-3310, et seq. (2014) as establishing that these matters are to be heard before this Court as contested cases. Petitioner argues that by ruling that this Court had no jurisdiction to hear this matter, it deprived Petitioner of an administrative remedy and the procedure by which to obtain review of the Board's decision, a right which the General Assembly has guaranteed.

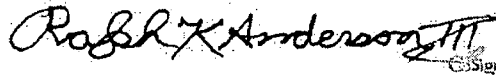
¹ The Assessor declined to file a response to Petitioner's Motion to Reconsider.

² Petitioner appears to request that the Court hear oral argument in this case, and Petitioner states that its "Motion will be supported by all memoranda, briefs, and other documentation to be submitted to the Court prior to the hearing." However, this Court usually does not hear oral argument on Motions to Reconsider. Pursuant to Rule 39 of the Rules of Procedure for the Administrative Law Court (ALC Rules), "[i]n the discretion of the administrative law judge, oral argument may not be required." The Court finds that oral argument is not necessary to resolve the issue in this case.

The Court agrees with Petitioner that the General Assembly has established this Court as the venue to hear as contested cases appeals from county boards of assessment appeals. The Court also has no desire to deprive any party of an administrative remedy or any procedural rights guaranteed by the General Assembly. However, in order to invoke its remedy or rights, Petitioner must make arguments that this Court can consider. Petitioner instead made a facial constitutional challenge to Section 12-43-220(c)(2)(ii)(A), (iii)(A) (2014), the type of argument that this Court is without jurisdiction to decide. See *Travelscape, LLC v. S.C. Dep't of Revenue*, 391 S.C. 89, 109, 705 S.E.2d 28, 38-39 (2011) (holding that the ALC can rule on as-applied challenges to statutes or regulations but not on facial challenges to the constitutionality of the statutes or regulations themselves).³ Therefore, the Court had no choice but to dismiss Petitioner's case.

ORDER

IT IS THEREFORE ORDERED that Petitioner's Motion to Reconsider is **DENIED**.
AND IT IS SO ORDERED.

A handwritten signature in black ink that reads "Ralph King Anderson, III". The signature is written in a cursive style. To the right of the signature, there is a small, faint logo that says "eSign".

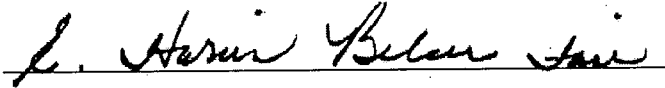
Ralph King Anderson, III
Chief Administrative Law Judge

November 13, 2015
Columbia, South Carolina

³ It is noteworthy that Petitioner failed to address the Court's basis for dismissal in its Motion to Reconsider.

CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



E. Harvin Belser Fair
Judicial Law Clerk

November 13, 2015
Columbia, South Carolina