

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

**RECEIVED**  
DEC 29 2015  
**SC Court of Appeals**

Brett Gries, )  
)  
Petitioner, )  
)  
vs. )  
)  
Aiken County Assessor, )  
)  
Respondent. )

Docket No.: 15-ALJ-17-0050-CC

**FINAL ORDER AND DECISION**

**APPEARANCES:** For Petitioner: *Pro se*  
For Respondent: Mr. James M. Holly, Esq.

**STATEMENT OF THE CASE**

This matter is before the South Carolina Administrative Law Court (court) on a request for a contested case hearing filed by Brett Gries (Petitioner) pursuant to Section 12-60-2540. S.C. Code Ann. § 12-60-2540 (2014). The Petitioner seeks review of the Aiken County Board of Assessment Appeals' (Board) determination of the fair market value of his property at 680 Implement Road, Aiken, South Carolina, identified as Parcel # 138-15-01-005. The Respondent determined the fair market value of the Petitioner's property to be \$598,037.00 for the 2014 tax year. Thereafter, The Petitioner made a timely appeal to the Board. The Board held a hearing on January 29, 2015, and on February 2, 2015, issued a decision affirming the taxable value of \$598,037.00.

The Petitioner filed a request for contested case hearing with this court on February 9, 2015. This court conducted a contested case hearing on May 26, 2015. The issue to be decided by the court is the property's taxable value as of December 31, 2014. For the reasons discussed herein, this court finds that the Respondent's valuation is in accord with the relevant statutes, and affirms the Assessor's valuation of \$598,037.00.

**FILED**

**DEC 04 2015**

SC ADMIN. LAW COURT

## FINDINGS OF FACT

Having carefully considered all testimony, exhibits, and arguments presented at the hearing, this court makes the following findings of facts as established by a preponderance of the evidence:

1. The Petitioner was the record owner of the real property located at 680 Implement Road, Aiken, South Carolina, and identified as Parcel # 138-15-01-005 during the 2014 tax year. He purchased the property on April 3, 2013, from the previous owner for a purchase price of \$475,000.00. The previous owner never actually resided in the home, and used it as a second residence. The previous owner sold the home in 2010 after the death of his wife.

2. The Petitioner presented no witnesses, other than offering his own testimony. He testified his property consists of 16.13 acres of land, along with a residence, a horse stable and an outbuilding. The Petitioner testified that he is only protesting the market value per acre listed on the 2014 Aiken County Public Property Record Card for 680 Implement Road, the subject property. The Petitioner testified that it is very easy to isolate the acreage, and that he believes that a fair price for the acreage is \$10,041 per acre.

3. The Petitioner did not offer testimony or evidence from an independent appraiser regarding the fair market value of the subject property. The Petitioner protested the Assessor's valuation of the land only, and not the Assessor's valuation of the residence or the barn. He repeatedly testified that he was not protesting the whole value, but was solely protesting one component of the valuation of the subject property. He also testified during cross-examination that location, quality, condition and use should all be considered when buying a property. The Petitioner testified that his wife was the person who contacted the realtor when he and his wife were contemplating purchasing the property, and therefore, he was unaware how the property had been advertised.

4. The Respondent presented the testimony of Mark Sapp, who has been employed as an assessor in Aiken County for over twelve (12) years. He is licensed as a certified residential and mass appraiser in South Carolina. Without objection, this qualified him as an expert witness in residential real estate appraisal. Prior to working as an appraiser, he worked in construction as a carpenter and in the banking industry lending money in residential real estate.

5. Mr. Sapp testified that he is responsible for appraising over 14,000 parcels located in the geographical Area 3 of Aiken County, which encompasses most properties on the south side

of Aiken County. Area 3 includes a considerable amount of equine property located on the outskirts of the county. Area 3 includes the neighborhood known as Hopeland Farm, where Petitioner's property is located.

6. Mr. Sapp testified that Hopeland Farm is a community with paved streets and residential homes, as well as homes with equine property and gravel roads. The acreage in Hopeland Farm ranges from five (5) to twenty-four (24) acre lots in the equine section. Hopeland Farm is centrally located to downtown Aiken, as well as the south side of town, where all the newer stores and a shopping mall are located, and is within five (5) to seven (7) minutes' drive in either direction. Property values in the area tend to be high. Mr. Sapp testified that the property originally listed for sale at \$590,000. He testified that the location of the property is very desirable, and that was the central selling point in the listing. He testified that in the remarks section of the listing, it read: "Location! Location! Location! ...Vista views out every window of gently rolling pasture....Fenced yards-6 stall barn, fenced pasture, Hopeland Farm Amenities include pond recreation area, tails (sic), and presently a x-country course!" (Respondent's Exhibit 23).

7. The Petitioner's purchase of the property for \$475,000 on April 3, 2013, triggered a reassessment pursuant to Section 12-37-3150. S.C. Code Ann. § 12-37-3150 (Supp. 2013). The Respondent undertook this reassessment and used a comparable sales approach to determine the fair market value of the subject parcel as of December 31, 2013, the date required by application of the provisions of Section 12-37-3140. S.C. Code Ann. § 12-37-3140 (2014). The Assessor uses a mass appraisal method initially, and the new property owner has a ninety (90) day window within which to appeal the value of the property if he disagrees with the amount of the appraised value.

8. The subject property initially appraised for approximately \$656,000 using the mass appraisal method. Mr. Sapp testified that the Petitioner's property was built in the year 2007, and consists of 16.13 acres of land, with a 3,278 square foot home consisting of four (4) bedrooms and four (4) bathrooms, and an attached two car garage. The property also has a horse stable. In his individual assessment, the assessor opined that the Petitioner "got a good deal" on the property and that the price he paid for it was below the market value.

9. Mr. Sapp testified that after he initially spoke with the Petitioner, he performed an individual lot analysis of the subject property. He compared the Petitioner's residential property to five (5) substantially similar properties with a residence and a barn, and suited for equine

activities, purchased under market conditions during the year 2013. He testified that he adjusted for the differences in the location, size, condition, acreage and square footage. The parcels were all located within fifteen (15) miles of the subject property. He testified that three (3) of the comparable properties were those that the Petitioner originally provided to him. All five properties had sale prices that ranged from \$425,000 to \$590,000. (Respondent's Exhibit 5-10). Mr. Sapp used these properties because they were most comparable to the subject property as a whole.

10. The values of the five comparable properties were as follows: Comparable 1 was valued at \$577,566; Comparable 2 was valued at \$599,723; Comparable 3 was valued at \$732,851; Comparable 4 was valued at \$565,233; and Comparable 5 was valued at \$590,476. Mr. Sapp's appraisal reflected the additions and deductions he made for the various differences on Respondent's Exhibit 5.

11. In addition, to further determine the *land* value for the subject property, Mr. Sapp testified that he appraised the land as if it were vacant land, which is prescribed by the General Standards of Appraisal published by South Carolina Labor, Licensing and Regulation, and is also standard procedure in this type of appraisal. He prepared a land sales sheet to depict the location, the sale date and price, and the numbers of acres and the price per acre of each sale (Respondent's Exhibit 17). The top section of Exhibit 17 depicted a grid consisting of four (4) sales of vacant land that sold between March 2012 and March 2013, with an average price per acre of \$17,375. The first of those properties was 11.01 acres on Implement Road that sold for \$25,000 per acre. That lot was already cleared and had fruit trees, so it sold for a little more than normal. The next parcel of vacant land was located on Lewis Lane, and it consisted of 20 acres located adjacent to Implement Road that sold for \$10,705 per acre. The third property, located on Hollow Creek Road, was 7.71 acres that sold for \$17,509 per acre. The last parcel of vacant land at the top of the grid was on Bridle Creek Road, and that land sold for about \$16,285 per acre.

12. The second group of comparable properties, listed on Exhibit 17, depicted all the sales of vacant land in the *Hopeland Farm* community, where the Petitioner's property is located. All of these properties had to be cleared and fenced. Mr. Sapp did not consider the two (2) 2014 sales, though he listed both on the exhibit. He testified the purchase price per acre of the vacant tracts in Hopeland Farm ranged from a low of \$19,500 per acre to a high of \$25,000 per acre.

13. Lastly, Mr. Sapp also testified that he did an analysis of Hopeland Farm that included all equestrian properties that had a residence with a horse stable. He testified that he

analyzed and considered this, along with the location of the neighborhood and its amenities, and the price per square footage of the residence, plus the number of acres. Though he initially valued each acre of the Petitioner's property at \$22,000 per acre, he testified that after he spoke with the Petitioner and conducted an individualized appraisal, he adjusted only the land value downward. This downward adjustment resulted in a new valuation of \$598,037, which the assessor testified was a fair and reasonable value of the property, given the sales in Hopeland Farm neighborhood itself.

14. The Aiken County Assessor (Assessor), Mr. Richard W. Jantzen, Jr., also testified at the hearing. He has been the Assessor for three (3) years, and is a Certified General Mass Appraiser for South Carolina and has been appraising properties for twenty (20) years. He holds a Bachelor's of Science in Business Administration and Economics, and is a member of the County Assessors of South Carolina and the South Carolina Association of Assessing Officials. He was recognized as an expert in residential real estate appraising without objection.

15. The Assessor testified that he reviewed Mr. Sapp's techniques and the basis for his analysis of the subject property, and found that it was an appropriate and fair appraisal. He also testified that Mr. Sapp used the appropriate method to arrive at a fair market value in this circumstance, which was the comparable sales approach. The Assessor testified that the county's appraisal evaluated the property *as a whole*, and arrived at a fair market value. The Assessor further testified that he had reviewed the materials the Petitioner submitted and noted that the Petitioner wanted to argue about the land value only, however, this was not the proper approach, since the all components of the property must be evaluated together. The Assessor testified that the Petitioner's submissions did not change his opinion. He further testified that it is proper to use vacant land to arrive at a base land value, and that is what occurred in this case. Lastly, the Assessor explained that the components are a matter of cost or opinion that merely assist the appraiser in arriving at a total market value, however, the property must be viewed as a whole.

### CONCLUSIONS OF LAW

Article III, Section 29 of the South Carolina Constitution establishes the government's ability to levy taxes on real and personal property (S.C. Const. art. III, § 29). According to this section, such taxes "must be ascertained by . . . methods provided by the General Assembly." Section 12-37-930 establishes the method for determining the value of property:

All property must be valued for taxation at its true value in money which in all cases is the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed of the uses and purposes for which it is adapted and for which it is capable of being used. *See S.C. Code Ann. § 12-37-930 (2014).*

Fair market value is the proper measure of value of real property for *ad valorem* taxation purposes. *Lindsey v. S.C. Tax Comm'n*, 302 S.C. 504, 507, 397 S.E.2d 95, 97 (1990). To determine a fair market price for the subject property, the court may consider the purchase price of the property as some evidence of the fair market value, but the purchase price, alone, is not conclusive. *See Belk Dep't Stores v. Taylor*, 259 S.C. 174, 179, 191 S.E. 2d 144, 146 (1972). "Generally, the proper valuation of realty for taxation is a question of fact, to be ascertained in each individual case in the manner prescribed by statute." 84 C.J.S. *Taxation* § 579 (2015).

In addition to considering the purchase price of the subject property, the value of the property "may be determined using one or more of three generally accepted approaches: the cost approach, the income approach, and the comparable sales approach." *Id.* It is the assessor's duty to utilize all of those techniques and facts which accurately reflect the full and true value of the subject property. The assessor may reasonably use one or more of the generally accepted approaches to arrive at the fair market value of the property, however, the assessor's duty is to "maximize the likelihood that the valuation accurately reflects the real property's fair market value." *Id.*

If the taxpayer disagrees with the assessor's valuation of his property, he may ultimately appeal the final agency decision by requesting a contested case hearing before this court. The Administrative Law Court has jurisdiction over this matter pursuant to S.C. Code Ann. § 12-60-2540 (2014), S.C. Code Ann. § 1-23-600 (Supp. 2010), and S.C. Code Ann. §§ 1-23-310 (2005 & Supp. 2010).

While this matter reaches this court somewhat in the posture of an appeal, the proceeding before the court is a *de novo* contested case hearing to determine the appropriate value of the subject property based upon the evidence presented at the hearing. *See Smith v. Newberry County Assessor*, 350 S.C. 572, 577, 567 S.E.2d 501, 504 (Ct. App. 2002) ("When a tax assessment case reaches the ALJ in this posture, the proceeding in front of the ALJ is a *de novo* hearing."); *see also Reliance Ins. Co. v. Smith*, 327 S.C. 528, 535, 489 S.E.2d 674, 677 (Ct. App. 1997).

There is a presumption that an assessor's valuation of a piece of property is correct. *See S.C. Tax Comm'n v. S.C. Tax Bd. of Review*, 278 S.C. 556, 562, 299 S.E.2d 489, 492-93 (1983). In a challenge to such valuation, the taxpayer bears the burden of proof by a preponderance of the evidence to demonstrate that the assessor's valuation is incorrect. *See Anonymous v. State Bd. of Med. Exam'rs*, 329 S.C. 371, 496 S.E.2d 17 (1998) and *Newberry Mills, Inc., v. Dawkins*, 259 S.C. 7, 15-16, 190 S.E. 2d 503, 507 (1972).

In this case, two expert witnesses testified that the subject property should be valued at \$598,037.00. Specifically, the Assessor testified that he had twenty (20) years of experience in assessing properties, and had been the Assessor for three (3) years. He testified that he thoroughly understood and recognized all the proper methods of appraisal, and that he independently reviewed the materials Mr. Sapp used to value the subject property. He testified it was proper to conduct an individual analysis of the Petitioner's property, and that it was proper to utilize a market sales comparison approach. The Assessor testified that Mr. Sapp properly took the comparable properties and made fair and reasonable adjustments to compensate for the differences in the land and the structures. The Assessor also testified that Mr. Sapp was correct to use price per acre of sales of vacant land in the Hopeland Farm subdivision and surrounding area to arrive at a value for the Petitioner's land.

The Petitioner argued that the Assessor's valuation over-stated the value of the property and that the Assessor made "fatal errors" in his assessment, thus overvaluing the subject property by approximately \$135,000. He argued, among other things, that the Assessor was incorrect in utilizing comparable sales for *vacant* land in the Hopeland Farm community, and that the property card (the assessed value) for his property, along with the other properties, should be compared and examined. The Petitioner stated that his only objection was to the Assessor's valuation of the price per acre he calculated for the property. The Petitioner did not obtain an independent appraisal of his property, nor did he offer any other evidence to support his unorthodox method of valuation.

The Petitioner bears the burden of proving that the Assessor's valuation of the subject property is incorrect, either by demonstrating fatal errors in the Assessor's valuation or by establishing the actual value of the property. The Petitioner, as a landowner who is familiar with the value of his property, may give an estimate as to the value of the land even though he is not an expert. *Gauld v. O'Shaughnessy Realty Co.*, 380 S.C. 548, 560, 671 S.E.2d 79, 86 (Ct. App. 2008). While the purchase price of the property is some evidence of the fair market value, it is not

conclusive. See *Smith v. Newberry County Assessor*, 350 S.C. 572, 567 S.E. 2d 501 (2002). After considering the facts in this case, and assessing the evidence presented at the hearing, this court finds that the Petitioner has failed to meet his burden.

The Petitioner testified that the value of his property should have been assessed at or below the purchase price, and argued that the county overvalued his land. Though the Petitioner testified that the property was worth somewhat less than the purchase price of \$475,000, he offered no credible evidence to support this argument, either through the testimony of an expert witness, or by other means adduced. The Petitioner merely posited that his property should not be assessed as a whole, but rather, each component part should be assessed individually. The Petitioner used the property card for the subject property, and that listed the following three categories: 1) land; 2) buildings; and 3) miscellaneous. The Petitioner presented no evidence or testimony that his method of valuation was an approved or recognized method of valuation. In fact, both expert witnesses testified that the Petitioner's method of valuation was unorthodox and completely unsupported. Contrarily, the Respondent presented evidence that the Petitioner got a "good deal" on the property and that the purchase price was below market value.

The Petitioner's sought to prove, by a preponderance of the evidence, that the Assessor's method of valuation of his property was incorrect, and that the Assessor made "numerous fatal errors" in his valuation of the subject property. Though the Petitioner strenuously argued that the property should not be valued as a whole, he presented no evidence that any his proposed unorthodox method of valuation of segregating components of real property is an accepted method of valuation. Both experts, testified that the Petitioner's entire property must be appraised as a whole. The Petitioner conceded, during cross-examination, that location, quality, condition and use should all be considered when evaluating a property. The expert testimony established that the subject property is located in a highly desirable location that is close to downtown Aiken, as well as close to the newer shops and the shopping mall.

The Petitioner did not present credible evidence to discredit either the individualized appraisal conducted by the Assessor or the testimony by the expert witnesses. Although the court took into account the Petitioner's opinion of the fair market value of the subject property, this court finds no credible evidence was introduced supporting the Respondent's contention that the subject property value was less than the fair market value and taxable value determined by the Assessor.


The Assessor properly appraised and assigned value to the subject property pursuant to S.C. Code Ann. § 12-43-217, §12-37-930, and §12-37-3140(B). Giving deference to the Assessor's determination of fair market and taxable value of the subject property, absent any credible evidence discrediting it, this court upholds the Assessor's determination.

**ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law,

**IT IS HEREBY ORDERED** that the Aiken County Assessor's determination of fair market value of \$598,037.00 and taxable value of \$598,037.00 for the subject property for the 2014 tax year is affirmed.

**AND IT IS SO ORDERED.**

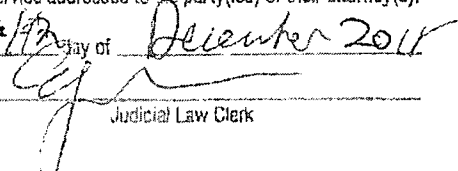


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S. Phillip Lenski  
Administrative Law Judge

December 4, 2015  
Columbia, South Carolina

Clerk of Court  
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 6th day of December 2015  
By:   
Judicial Law Clerk