

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Deborah Brooks Durden, Administrative Law Judge

Appellate Case No. 2013-002697

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JAN 19 2016

SC Court of Appeals

William J. Montgomery, Respondent,

v.

Spartanburg County Assessor, Appellant

**RESPONDENT’S RETURN TO
MOTION TO POSTPONE ORAL ARGUMENT**

Respondent Taxpayer Will Montgomery opposes the Assessor’s Motion to Postpone Oral Argument. The lawyer for the Spartanburg County Assessor also represents the York County Assessor in a similar case at the Administrative Law Court. ALC Ralph King Anderson III stayed the York County case, waiting for a ruling by this Court. Even though no court has made any findings of fact in the York County case, the York County Assessor moved the Supreme Court under Rule 204 to take the York County case in original jurisdiction, which the taxpayer opposed. (The Spartanburg County Assessor did **not** make a motion under Rule 204 in **this** case.)

As a practical matter, the Supreme Court might not rule on the York County motion for some time, because only four Supreme Court justices are in office, and the Court might wait to rule until the fifth justice is seated. The Taxpayer respectfully suggests that this Court should proceed with his case and not wait for the speculative motion in the York County case.

As a matter of perspective, four different Administrative Law Judges have ruled on this issue, all finding for the taxpayers. Dotsy, LLC v. Greenwood County Assessor, No. 13-ALJ-17-0061-CC (S.C. Admin. Law Ct. 2014); Montgomery v. Spartanburg County Assessor, No. 13 ALJ-17-0104-CC (S.C. Admin. Law Ct. 2013); Smith et al. v. Clarendon County Assessor, No.: 11-ALJ-17-0191-CC, 2011 WL 7119293 (S.C. Admin. Law Ct. 2011); and Rabbit Point Farm Limited v. Charleston County Assessor, No: 97-ALJ-17-0501-CC, 1998 WL 85460 (S.C. Admin. Law Ct. 1998). Counsel for the Assessor has represented several of the assessors in these previous cases, but ***three of the losing Assessors did not appeal.***

Furthermore, the Board of Assessment Appeals for York County **ruled for the Taxpayer**, following the legal rulings of the four prior Administrative Law Court decisions.

The issues in this case have been thoroughly briefed for more than a year. The Assessor submitted his Final Brief and Final Reply Brief July 23, 2014. The taxpayer submitted his Final Brief on August 1, 2014.

In addition, several *amici* have filed briefs. On June 27, 2014 *amicus curiae* South Carolina Department of Revenue filed a brief. On August 1, 2014, the *amicus curiae*, South Carolina Association of Counties filed a brief. On September 25, 2014, *amicus curiae* South Carolina Farm Bureau Federation filed a brief. On September 18, 2014, the Taxpayer filed a brief in opposition to the *amicus* briefs of the Department of Revenue and the Association of Counties. On December 31, 2014, the Assessor filed a brief in opposition to the South Carolina Farm Bureau Federation's *amicus* brief.

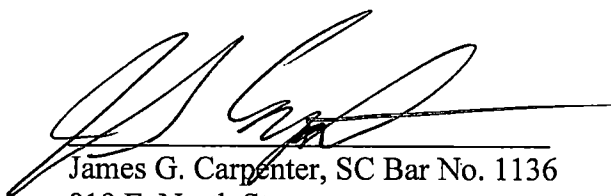
Oral argument is scheduled for February 1, 2016.

CONCLUSION

Because four different ALJ's have decided the issues for the taxpayers (and three were not appealed), because the issues have been thoroughly briefed in this case by the parties and by *amicus curiae*, because oral argument is scheduled for February 1, 2016, and because the Supreme Court might not entertain the motion in the York County case until after the fifth justice is seated, this Court should deny this Motion to Postpone Oral Argument, and hold oral argument as scheduled on February 1, 2016.

January 13, 2016

Respectfully submitted,
THE CARPENTER LAW FIRM, P.C.



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Proof of Service

The undersigned attorney hereby certifies that he served a copy of the Respondent's Return to Motion to Postpone Oral Argument upon counsel for the Appellants by US Mail, postage prepaid this Wednesday, January 13, 2016, addressed as follows:

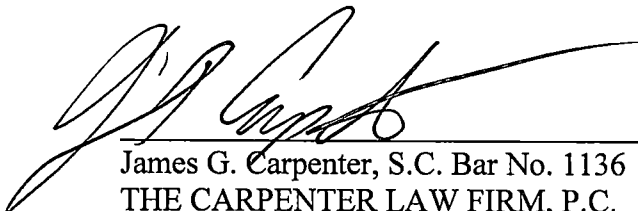
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January 13, 2016

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SC Court of Appeals

Re: *William J. Montgomery vs. Spartanburg County Assessor*
Appellate Case No. 2013-002697

Dear Ms. Kitchens:

We enclose an original and seven copies of the Respondent's Return to Motion to Postpone Oral Argument. Please return the extra copy, file stamped, in the enclosed envelope.

If you have any questions, please telephone me.

Sincerely yours,
THE CARPENTER LAW FIRM, PC

James G. Carpenter

Enclosures

CC w/ enclosure: Ray N. Stevens
Michael E. Kozlarek
Walter H. Cartin

Lisa R. Claxton
John H. Harris
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