

FORM 13

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BRIEF OF APPELLANT

JAN 21 2016

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Case No. 2015-002255

Tommy J Bellamy-----, Appellant

v.

Horry County Assessor-----, Respondent

Tommy J. Bellamy Attorney Pro se
3658 Sea Mountain Highway,
Little River, South Carolina 29566
843 457-3625

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STATEMENT OF ISSUES ON APPEAL

- 1. Was the increase in taxes due to a countywide reassessment in 2007?**

- 2. What was the date of valuation of property?**

- 3. Was the reassessment increased as the result to property being improved?**

- 4. Was an Assessable Transfer of Interest (ATI) due to increase in taxes?**

- 5. Was the County Assessor's fair market value of my property reasonable?**

- 6. Was my property entitled to any cap limiting an increase in its taxable value?**

- 7. Was my property entitled to any exemptions?**

FACTS

1. This claim was based on the fact that there was a gross error in tax assessment of five times as much as the usual Tax assessment. The Assessor's Office increased the taxes by grossly reassessing the property with more value than worth and made it impossible for Tommy Bellamy to pay the taxes (**Exhibit 4 government tax information, see current fair market value 683,000.00**)
2. Tommy Bellamy, TMS# 130-00-01-220 in tax year 2008 and 2009. (**Exhibit 5 Delinquent tax record**)
3. Property was appealed by Tommy Bellamy in March of 2010. (**Exhibit 7 Tommy Bellamy's Request for appeal March 2010**) The property was appealed by Tommy Bellamy's, Attorney Mark Brunty in March 2010. (**Exhibit 8 Attorney Mark Brunty's Tax Appeal March 2010**)
4. Horry County Government & Justice Center received email confirming request for an appeal. (**Exhibit 9, see Respondent's exhibit list number 21, Email from Mark Brunty to Horry County Tax Assessor, Arrigo Carotti dated October 20, 2010**)
5. Horry County Tax Assessor continued to deny the appeals. Tax Assessor finally approved reassessment of property (**Exhibit 10, Real Estate Notice of reassessment of property October 2010**) Tax Assessor denied refund.
6. Tommy Bellamy redeemed the property at auction (**Exhibit 11, Delinquent tax department and redemption form see cashier's check from Tommy Bellamy for \$30,754.53 paid on December 2010**)
7. Final appeal to Horry County Board of Assessment Appeals on May 12 2015 (**Exhibit 12 final appeal**)

8. **Horry county Property Tax Penalty Appeals Board:** Ordered, date of hearing March 31, 2015. Taxpayer's request is denied. **(Exhibit 1 denied appeal)**

9. **Horry County Board of Assessment Appeals:** After deliberation the Board voted to uphold the Penalty Appeals Board. September 4, 2015 **(Exhibit 2 second denial of appeal)**

10. The decision of that Appeal was received by Tommy J. Bellamy in US Mail on September 8, 2015. The Appeal was mailed within 30 days to the Administrative Law Judge. The Administrative Law Judge denied the appeal due to failure to meet 30 day time limit.

Argument

1. Because there was a countywide reassessment in which property values were reassessed in December 31, 2007. The first year the new assessed value could be implemented would be for 2008 taxes, which would likely be due on or around January 15, 2009. During the five years between assessments, all valuations are based upon the last reassessment date. **Therefore, if you are trying to appeal your 2011 property taxes, you must use December 31, 2007 as your assessment date.**

2. Because the South Carolina General Assembly introduced: Assessable Transfer of interest (ATI) this concept enacted the South Carolina Real Property Valuation Reform Act in 2006 (the "2006 Act"). ATI occurred when the property was transferred by Tommy Bellamy for \$5.00 to a LLC on October 7, 2007 and transferred back from LLC to Tommy Bellamy for \$5.00 on February 2010. When an ATI occurs, the date of valuation shall be December 31st of the year of the ATI (however, in accordance with state law, the property will not be reassessed until the year following the ATI). **The date of valuation would become December 31, 2007 and would remain at this date until the next county-wide reassessment. The property was allegedly transferred into a new LLC owned by Tommy Bellamy. LLC was never established however, there is an established LLC with similar name that is held by Assessor's Office.**

3. Because another date of valuation concept from the 2006 Act is that if an improvement occurs to real property, then the date of valuation shall be December 31st of the year in which

such improvement occurs. In order to be taxable, an improvement must be completed and fit for the use for which it is intended. **No improvements were started on the property.**

4. Because after examining of the public tax records, determined that the property was not being taxed at a rate similar to comparable properties. **The property was not fairly reassessed.**

5. Because the 2006 Act placed a 15% limit on the amount a county assessor may increase the taxable value of real property upon performing a countywide reassessment. **No record of ATI or improvement recorded in county records.**

6. Because the property was assessed on an agricultural exemption in prior years before countywide reassessment with a significantly lower tax liability. **The property was not reassessed in countywide assessment as agricultural commercial.**

7. Because the taxes prior to countywide reassessment were at the lowest possible ratio and should reduce the tax liability. Assessment ratios are set by the General Assembly, so only an amendment to such ratio by the General Assembly, can effect a change. In general, assessment ratios are as follows:


4% - Residential primary residence and privately owned agricultural properties.

Conclusion

The Horry County Tax Assessor's office is in violation of section S.C. Code Ann. § 12-39-250 (1962). Duty to correct assessments and other errors; duplicates; manner of effecting corrections; adjustments in valuation and section S.C. Code Ann. § 12-54-85 (1995)

Time limitation for assessment of taxes or fees exceptions(c) Taxes may be determined after the thirty six month limitation if: (1) there is fraudulent intent to evade taxes.

I pray that the honorable, S.C. Appellant Court review this case, correct this injustice and refund the amount due to me as a result of error in assessment of my property.


Tommy J. Bellamy Attorney Pro se
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December 14, 2015
Paginated on January 19 2016

I, Taneisha Gore, notary public, witnessed the signature of Tommy J. Bellamy on January 19th 2016



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Certificate of Service

I Tommy J. Bellamy signs this true statement in front of notary to serve a copy of this Brief of Appellant to each party and the affected agency or county official as addressed below, in accordance with rule 5, proof of service, certified by United States Postal Service or serve in person this date: December 14, 2015

I Tommy J Bellamy signs this true statement in front of notary that a copy of this original Brief of Appellant was served as stated on December 14, 2015 that this same document has been paginated and served to Respondent's attorney and the affected agency or county official as addressed below, in accordance with rule 5, proof of service, certified by United States Postal Service or serve in person on this date January 19, 2016.

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I, Taneisha Gore, notary public witnessed the signature of Tommy J. Bellamy on January 19th 2016.

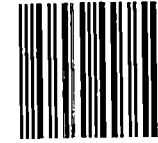
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