

FORM 13

FINAL BRIEF OF APPELLANT

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

RECEIVED

JUN 07 2016

SC Court of Appeals

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, May 12, 2015**) 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 7 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 **(Exhibit 2 appeal denied).**

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.

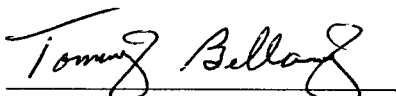
Conclusion

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.

This signature certify that this Final Brief is true and correct and is in compliance to rule 211(b), 15 copies will be filed with the clerk of the appellate court and 3 copies to the respondent.


Tommy J. Bellamy Attorney Pro se
3684 Sea Mountain Highway
Little River, S.C. 29566
843 457-3625

June 4, 2016

State of South Carolina
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, S.C. 29201

Tommy Bellamy
3684 Sea Mountain Highway
Little River, S.C. 29566

Docket No. 15-ALJ-17-0462-CC

Re: Order of Dismissal

Dear: Honorable H.W. Funderburk Jr.

Please reconsider the Order of Dismissal of my case; the law gives the tax payer thirty days after the county board's decision that was on September 4, 2015. That decision was mailed or delivered to the tax payer, Tommy Bellamy on September 8, 2015. Tommy Bellamy requested the hearing on October 7, 2015 within the 30 day period. (Please see copy of envelope from Horry County Board of Assessment Appeals)

Upon remand the county board has thirty days, or a longer period ordered by the Administrative Law Judge, to consider the new facts and issues and amend its decision. The county board shall issue its amended decision in the same manner as the original. The taxpayer has **thirty days after the date the county board's decision was mailed or delivered to the taxpayer to again request a contested case hearing.**

Requests for a hearing before the Administrative Law Judge Division must be made in accordance with its rules. If the county board fails to issue its amended decision within thirty days of the date of the remand, or a longer period ordered by the Administrative Law Judge, the taxpayer can again request a contested case hearing. At the new hearing the facts, law, and other authority presented at the original hearing must be deemed to have been presented in a timely manner for purposes of exhausting the taxpayer's prehearing remedy. The statute of limitations remains suspended by **Section 12-54-85(G) during this process.**

The decision of the board was September 4, the board failed to send the decision to the tax payer in a timely manner.

Thank you

Tommy Bellamy, Pro se

" the court will not hold a layman to any lesser standard than is applied to an attorney".



**Horry County Board of
Assessment Appeals**
1301 Second Avenue, Suite 1C08
Conway, SC 29526

D/S AUTH 530
CHARLOTTE NC

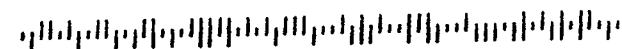
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Tommy J. Bellamy
3684 Sea Mountain Highway
Little River, SC 29566

670306689 33 HNV-NMP 29566



STATE OF SOUTH CAROLINA

QUITCLAIM DEED

COUNTY OF HORRY

KNOW ALL MEN BY THESE PRESENTS, THAT, I/we Tommy J. Bellamy, the Grantor(s), for and in consideration of the sum of Five and No/100 Dollars (\$5.00) and no other consideration to the Grantor(s) in hand paid at and before the sealing of these presents by BCFUND LLC, the Grantees, in the state aforesaid, the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by BCFUND LLC, his heirs and assigns, forever, in fee simple, together with every contingent remainder and right of reversion, the following described property, to wit

ALL THAT CERTAIN piece, parcel, or tract of land situate, lying and being in Little River Township, County of Horry, State of South Carolina, being more particularly shown an designated on the west side of Sea Mountain Highway near Nixon's Crossroads, containing 3.39 acres more or less. Stating at a stake on the corner of sea Mountain Highway and bounded on the south by Tract A owned by Shiela B. Golf, on the West by North Pointe Development, on the North by Tract C owned by BCFUND LLC, on the east by Sea Mountain Highway.

This is a portion of property conveyed to Charles Bellamy by Floyd and Essie Bellamy by deed 2/1/58, recorded in Deed Book 201 at page 362 and then later conveyed from Lela Bellamy estate to heirs in deed book 3207, page 2080 in the office of the Register of Mesne Conveyances for Horry County. This property is shown as Tract B on a map of the Bellamy Family estate lands, dated August 14th 2006 by JWH engineering.

Tax Map # 130-00-01-042

Grantee's Address 401 Broadway Suit 101
Myrtle Beach SC 29577

Grantor's Address Tommy J. Bellamy
3684 Sea Mountain Highway
Little River, S.C 29566

TOGETHER WITH all and singular the rights, members hereditaments and appurtenances to the
said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the said premises before mentioned unto the said
BCFUND LLC, his heirs and assigns, nor any other person or persons, claiming under him, shall at any
time hereafter, by and way or means, have, claim or demand any right or title to the aforesaid premises or
appurtenances, or any part of parcel thereof, forever.

WITNESS their hands and seals this 4 day of October, 2007

Signed, Sealed and Delivered
In the presence of

[Signature]
1st Witness

[Signature]
2nd Witness / NOTARY

[Signature]

STAR L. STUBBS
Notary Public

State of South Carolina

Commission Expires Aug. 27, 2012

I the undersigned, and Notary Public for South Carolina hereby certify that Carlos Cooper
personally appeared before me this day and acknowledged the due execution of the foregoing instrument,

Witness my hand and official seal this me this 4 day of October, 2007

STATE OF SOUTH CAROLINA
COUNTY OF HORRY)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is located in the county of Horry as shown on a plat of a division of lands of Bellamy Estate.

Bearing Horry County Tax Map Number 103-00-01-042

was transferred by Tommy J. Bellamy on _____

3. Check one of the following: The deed is

(a) X subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.

(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.

(c) _____ exempt from the deed recording fee because (See Information section of affidavit);

(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ or No _____

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):

(a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of _____.

(b) _____ The fee is computed on the fair market value of the realty which is _____.

(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes _____ or No _____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here: 5.00

(b) Place the amount listed in item 5 above here: 5.00
(If no amount is listed, place zero here.)

(c) Subtract line 6(b) from Line 6(a) and place result here: 5.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: _____.

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: _____

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

[Signature]
Responsible Person Connected with the Transaction

William J. Smith
Print or type the above name here

SWORN to before me this 4

day of October, year of 2007

Notary Public for S.C.

My Commission Expires: 8/27/2012

Star A. Stubbs

STATE OF SOUTH CAROLINA
HORRY COUNTY

HORRY COUNTY BOARD OF ASSESSMENT APPEALS

REQUEST FOR AN APPEAL

Tommy J Bellamy
3684 Sea Mountain Highway
Little River S.C. 29566

TMS# 130-00-01-220
Tax Year 2008 & 2009

RECEIVED
MAY 12 2015
29

Pursuant to Code Section 12-60-2560(B) Tommy J Bellamy request appeal of decision by Horry County Property Tax Penalty Appeals Board to be heard by the County board of Assessment appeals as provided in Section 1260-2530 within the 30 days. The Property Tax Penalty Board found no error by the County Assessor's office for tax year 2008 & 2009

Tommy Bellamy appeals their decision on the following grounds:

Section 12-54-85 Time limitation for assessment of taxes or fees; exceptions © Taxes may be determined and assessed after the thirty six month limitation if:

There was fraudulent intent to evade the taxes.

1. The tax department allowed BC Fund LLC to change the name and address from Tommy J Bellamy to BC Fund LLC Myrtle Beach, S.C. without authorization and without Tommy Bellamy approval as required by law.
2. Tommy Bellamy was not mailed 2008 & 2009 tax notice from the tax department, provided proper authorization for change in name and address of his property to BC Fund LLC or mailed a certified delinquent tax notice for 2008 & 2009 taxes as required by law.
3. BC Fund LLC fraudulently planned to evade the taxes in order to buy Tommy Bellamy's property in tax auction and was allowed by the tax department to purchase the property at auction.
4. The Assessor office error of assessment of Tommy Bellamy property from the 2008 & 2009 taxes were over \$8,000 for each tax year, when the current year 2015 is less than \$500.00.
5. That error in property tax assessment allowed BC Fund LLC to benefit from the error by placing a financial burden on Tommy Bellamy. That error leads to Tommy J Bellamy inability to pay the tax.
6. BC Fund LLC brought the property on tax auction and profited at Tommy Bellamy's expense by the tax department allowing additional costs and penalties of over \$30,000 to redeem property.

Section 12-39-250 Duty to correct assessments and other errors; duplicate; manner of effecting corrections; adjustments in valuations as follows:

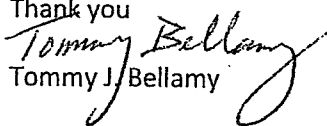
1. At any time before the tax is paid and upon order of the assessor or Board of Appeals, the county auditors shall correct upon the duplicate for any tax year the assessment of real property on which the valuation of the real property was so excessive as to constitute an invalid assessment.
2. At any time prior to payment of the tax the auditor shall also correct upon the duplicate for any tax year any errors that may be discovered that were made by county or state officers.
3. At any time before the tax is paid the auditor shall also correct other errors in the duplicate when such errors invalidate or make void the collection of the tax reflected by reason of such error.
4. If the correction results in a reduction or withdrawal of the taxes assessed or levied, the correction shall be in the form of abatement and a record of such correction and the reasons therefor shall be maintained in an abatement book.
5. Any corrections made in the duplicate by the auditor shall be entered on both the auditor's and treasurer's duplicate, except that, in the case of a reduction of any assessment or tax, the auditor may furnish the treasurer with a certificate of reduction

The incorrect assessment of property caused Tommy J. Bellamy a financial hardship by the Horry County Assessor's office in redeeming his property and wishes this appeal to be heard by the Administrative Law Judge if not substantiated by the Horry County Board of Assessment Appeals for the following:

1. The assessor office allowed the error of assessment to Tommy Bellamy property in 2008 to duplicate in 2009 without correction as required by law.
2. The assessor office must have known that there was an error of assessment of Tommy Bellamy property due to the property was more than 8 times more than the original assessment.
3. The assessor office changed the error in 2010 but failed to correct in the form of abatement and such correction was not maintained in an abatement book. There was no reduction of any assessment or tax to the tax payer for their error after an appeal was made by Tommy Bellamy as required by law.
4. The auditor did not furnish the treasurer with a certificate of reduction as required by law.

This appeal is true statements as known by Tommy J. Bellamy

Thank you


Tommy J. Bellamy

APPEAL FROM Horry COUNTY

Case No. 2015-002255

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SC Court of Appeals

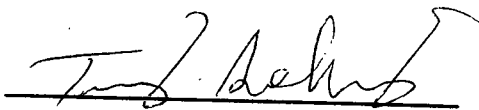
Tommy J. Bellamy-----Appellant

v

Horry County Assessor -----Respondent

PROOF OF SERVICE

I Tommy Bellamy certify in front of Notary that I will serve this Final Initial Brief to the Respondent addressed below by depositing a copy in US Mail with return receipt this date 14th of May 2016


Tommy Bellamy, Attorney Pro se

Thomas & Brittain, P.A.
Attorney at Law
1314 Professional Drive
Myrtle Beach, South Carolina, 29577



Taneisha Gore,
acknowledged before me on
May 14th, 2016