

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

RECEIVED

JUL 06 2016

SC Court of Appeals

Case No. 15-ALJ-17-0050-CC

Appellate Case No. 2015-002637

Brett Gries, Appellant,

v.

Aiken County Assessor, Respondent.

MEMORANDUM IN SUPPORT OF MOTION TO DISMISS APPEAL, TO STRIKE
OR FOR OTHER RELIEF BY RESPONDENT

Brett Gries, Pro Se
680 Implement Road
Aiken, SC 29803
(815)-342-2628
Appellant

James M. Holly
S.C. Bar No. 02572
P. O. Box 5925
Aiken, SC 29804
(803)-221-4276
Attorney for Respondent

History of Appeal

Respondent respectfully submits the legal authorities, facts and arguments set forth hereinafter in support of its Motion to Dismiss Appeal, to Strike or for Other Relief. Respondent also incorporates by reference herein the records and documents on this appeal that are on file with the Court.

This matter involves the appeal of an order by the Administrative Law Court that affirmed the Respondent's determination of the fair market value and taxable value of Appellant's real property for purposes of ad valorem taxation. Therefore, the appeal to this Court is made pursuant to S.C. Code Ann. Section 1-23-610 (Supp. 2015).

The Notice of Appeal in this matter was filed December 29, 2015. Appellant filed his Initial Brief and other materials with the Court on March 7, 2016. He did not file a separate designation of matter at that time. On March 25, 2016, Respondent filed a Motion to Dismiss Appeal or For Other Relief or Sanctions asserting in part, that Appellant's Initial Brief and other materials contained new exhibits, arguments and alleged facts that were not presented to the Administrative Law Court or in the record before that court. On April 18, 2016, Appellant filed a First Amended Initial Brief and a Designation of Matter out of time without obtaining the permission of the Court to do so. The Designation of Record filed by Appellant listed 25 new exhibits. After considering the aforementioned motion and record, this Court issued its Order filed May 20, 2016, striking Appellant's initial brief and directing Appellant to:

...serve and file an amended initial brief that excludes all references to the "new exhibits." Appellant shall also serve a designation of matter within thirty days of this order, which lists the documents Appellant intends to include in the record on

appeal. *See* Rule 209, SCACR. Appellant is reminded that his designation of matter shall not include any documents that were not presented to the Administrative Law Court. *See* Rule 210(c), SCARC.

Appellant's Second Amended Initial Brief and Related Filings

On June 13, 2016, Counsel for Respondent filed his Second Amended Initial Brief; Designation of Matter to be Included in the Record on Appeal; and a document entitled "Cases, Statutes and Other Authorities Cited." Respondent's counsel received those filings on June 14, 2016. Appellant's Second Amended Initial Brief and Cases, Statutes and Other Authorities Cited include copies of and refer to some of the same "new exhibits" that were the subject of Respondent's first Motion to Dismiss Appeal or for Other Relief or Sanctions and this Court's Order filed May 20, 2016. The Second Amended Initial Brief repeatedly refers to alleged facts and documents that Appellant has admitted were not presented to the Administrative Law Court or on their face were created after the hearing before that court. In addition to continuing to violate Rules 209 and 210, SCACR, Appellant has violated the Order of this Court.

In Appellant's Initial Brief filed March 7, 2016, he included references to and presented arguments referring to Exhibits P, "Real Estate Appraisal"; Exhibit O, "Real Estate Appraisal: Chapter 9 Sales Comparison Approach to Value"; and Exhibit T, "Columbia, South Carolina Police Report Number T16000354". Respondent's counsel submits that these exhibits are the same ones listed with many other new exhibits as New Exhibits NO, NP and NT, respectively, in the Designation of Matter filed by Appellant with the Court on April 18, 2016. Appellant served Respondent's counsel with copies of

the New Exhibits on or about April 18, 2016. As established in the aforementioned Order on Respondent's first Motion to Dismiss Appeal or For Other Relief or Sanctions, these new exhibits were not before the Administrative Law Court.

On page 2 of Appellant's Cases, Statutes and Other Authorities Cited filed with his Second Amended Initial Brief on June 13, 2016, he lists and attaches thereto a Columbia, South Carolina Police Report that is the same, it is submitted, as New Exhibit NT discussed in the preceding paragraph but in a different format. Included herewith as Attachment 1 is the report attached to Appellant's Cases, Statutes and Other Authorities Cited. Attachment 2 hereto is New Exhibit NT from Appellant's Designation of Matter filed April 18, 2016. This report is dated about two months after Appellant filed his Notice of Appeal. In Cases, Statutes, and Other Authorities Cited, Appellant states that this report is discussed at pages 4, 5, 6, 10, 41 47 and 48 of his Second Amended Initial Brief. A review of the Second Amended Initial Brief shows that the document and its contents are repeatedly discussed. The aforementioned Order directed that Appellant exclude all references to such new exhibits from his initial brief. Instead of excluding it, Appellant referred to it at least seven times.

On page 2 of Appellant's Cases, Statutes and Other Authorities Cited, he lists and also attaches thereto documents entitled "Real Estate Appraisal" which is 19 pages and "Real Estate Appraisal: Chapter 9 Sales Comparison Approach to Value" which is 51 pages. These are the same exhibits previously referred to by Appellant as New Exhibit NP and New Exhibit NO as explained above. Due to their length, Respondent's counsel has not attached hereto full copies of New Exhibits NP and NO, but has included herewith Attachment 3 which contains a copy of the first page of each exhibit and the

very same documents that were attached to Appellant's Cases, Statutes and Other Authorities Cited. Appellant states in his Cases, Statutes and Other Authorities cited that "Real Estate Appraisal" (New Exhibit NP) is discussed in Second Amended Initial Brief on ten pages and "Real Estate Appraisal: Chapter 9 Sales Comparison Approach to Value" (New Exhibit NO) is discussed on nine pages. Again, the aforementioned Order directed Appellant to exclude all references to these new exhibits from his initial brief. The purpose of these documents is factual as supporting Appellant's valuation of his real property or weakening the credibility of the valuation presented by Respondent.

In addition to the foregoing violations, Appellant's Second Amended Initial Brief contains other improper contents. On page 7, he lists his personal credentials and experience to support his valuation of his real property; Respondent's counsel submits that this information was not presented to the Administrative Law Court and is not in the record of the proceedings in that court. On pages 16 and 17, Appellant includes what appears to be a new analysis on spreadsheets which he explains on page 15. On page 15, he states:

Now to my analysis on pages 16 and 17. The following Analysis takes the information from ...Exhibit F...and Exhibit H...and reconfigures the information [Underlining added.]

Following the spreadsheets on page 17 are sixteen more pages of analysis that appear to relate to the reconfigured information. This presentation was not before the Administrative Law Court.

The undersigned counsel has not been able yet to spend the hours necessary to determine if the many other pages in the Second Amended Initial Brief containing numbers and calculations include alleged facts that were not presented to the

Administrative Law Court or directly or indirectly refer to the other new exhibits that were listed in Appellant's Designation of Matter filed April 18, 2016, and excluded by the Order of this Court.

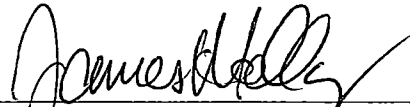
Appellant has again presented alleged facts, arguments and exhibits that are not in the record before the Administrative Law Court. From his Second Amended Initial Brief, it is clear that Appellant expects this Court to conduct a de novo review of his challenge of Respondent County Tax Assessor's valuation of his real property for purposes of taxation. The review of an order of the administrative law court in such matters on appeal is confined to the record before that court. S.C. Code Ann. Section 1-23-610(B) (Supp. 2015).

Pro se litigants such as Appellant who chose to represent themselves must comply with the procedural requirements of the law. Lack of familiarity with legal proceedings is not an excuse to allow lesser standards to be applied to them than would be applied to an attorney. State v. Policao, 402 S.C. 547, 558, 741 S.E.2d 774, 779-780 (Ct. App. 2013); State v. Burton, 356 S.C. 259, 265, n.5, 589 S.E.2d 6, 9 n. 5 (2003); Goodson v. American Bankers Ins. Co., 295 S.C. 400, 403, 369 S.E.2d 687, 689 (Ct. App. 1988).

Conclusion

Appellant's has violated the applicable rules and Order of this Court. Respondent's counsel has expended many hours and incurred additional expenses in dealing with Appellant's actions. It has been six months since Appellant filed his Notice of Appeal. Despite multiple filings by the parties and the time expended by the Court,

Appellant still has not filed a proper initial brief. Based on the foregoing, Respondent respectfully moves the Court to dismiss the above-captioned appeal, strike the Appellant's Second Amended Initial Brief and the document entitled Cases, Statutes and Other Authorities Cited, and/or issue such other orders as it deems proper.



James M. Holly, SC Bar No. 02572

P. O. Box 5925

Aiken, SC 29804

(803)-221-4276

Attorney for Respondent

July 5, 2016

ATTACHMENT 1

From Appellant's Cases, Statutes and Other Authorities Filed June 13, 2016

COLUMBIA POLICE DEPARTMENT SUMMARY INCIDENT REPORT



REPORT NUMBER: 160070189

INCIDENT INFORMATION							
INCIDENT CODE 90Z	INCIDENT TYPE Information Report	INITIAL SUPP <input checked="" type="checkbox"/>	DATE/TIME STARTED 05/26/2015 10:10 AM	DATE/TIME ENDED 05/26/2015 02:25 PM	DATE/TIME REPORTED 02/20/2016 08:10 AM		
REPORT FILED FROM ***	TRACKING NUMBER T16000354	LOCATION OF OCCURRENCE 1205 Pendleton Street, , Columbia, SC			APPROVED BY: 21268/Melanie Smith		
LOCATION TYPE	THEFT TYPE	METHOD OF ENTRY	METHOD OF EXIT	PT OF ENTRY	PT OF EXIT	ENTRY LOC	

PERSON LISTINGS										
1	TYPE	LAST NAME	FIRST NAME	MIDDLE NAME	DOB	RACE	SEX	DRIVER LIC NO	LIC ST	
	COMPL	Gries	Brett		***	***	*			
	SSN	ETHNICITY	RESIDENT	EYE COLOR	HAIR COLOR	AGE	HEIGHT	WEIGHT	CELL PHONE	
		***	***	***	***	67	601	185	***	
	EMAIL	RESIDENCE ADDRESS			HOME PHONE					
	brettgries@aol.com	***								
	EMPLOYER NAME	BUSINESS ADDRESS			WORK PHONE					

NARRATIVE

On February 19, 2016 at approximately 02:30PM, Brett Gries met with Investigator Pugh, to discuss possible Felony Perjury charges against Mr. Mark Sapp, Staff Assessor for Aiken County. The evidence provided included EXHIBIT F: South Carolina Law, Section 16-9-10, MR. SAPP APPRAISAL: Including Cover Letter dated January 14, 2015, with the key document being Document #9, which picture was dated 02.06.2014, EXHIBIT D: With Comparable #4 address of 3042 Farmer Road, EXHIBIT B-4:Property Card for 3042 Farmer Road, showing the pool was assessed to the property at 12.31.2014, 2015 PROPERTY CARD: Property Card for 3042 Farmer Road, showing the pool was assessed to the property at 12.31.2014, EXHIBIT J-4: Picture of pool at 3042 Farmer Road, taken January 13, 2016, TRANSCRIPT: Pages 152 and 153, where Mr. Sapp stated that "when I looked at the property for the date of sale, which was 2013, there was no pool attached to the property.", EXHIBIT Q: Case of Pryzbyl vs. Edgefield County Assessor, which Case cites on page 3, provide the motive for Mr. Sapp to lie in front of Judge Lenski.

While the evidence met the requirements of the law for Felony Perjury, Investigator Pugh declined to pursue charges, as Mr. Sapp could simply state that he did not do his job, and the charges would not stick.

MR. SAPP
Perjury Supporting Documentation
Draft 2016.02.01

PERJURY SUPPORTING DOCUMENTS

EXHIBIT F: South Carolina Law, Section 16-9-10

MR. SAPP APPRAISAL: Cover letter dated January 14, 2015 & Doc's #1, #5 & #9

- Key Document = Document #9, front photo of Comparable #4 dated 02.06.2014

EXHIBIT D: Mr. Sapp's Appraisal Document #5, with Comparable #4 address of 3042 Farmer Road

EXHIBIT B-4: 2014 Property Card for 3042 Farmer Road, showing the pool was assessed to the property at 12.31.2013

2015 PRPERTY CARD: For 3042 Farmer Road, shpwng the pool was assessed to the property at 12.31.2014

EXHIBIT J-4: Picture of Comp #4 Swimming Pool taken on January 13, 2016.

TRANSCRIPT: Pages 152 and 153, where Mr. Sapp stated that "When I looked at the property for the date of sale, which was 2013, there was no pool attached to the property."

EXHIBIT Q: Case of Przybyl vs Edgefield County Assessor, which cites on Page 3, provided the motive for Mr. Sapp to lie in front of Judge Lenski.

From: ScColumbiaPd <ScColumbiaPd@coplogic.com>
To: brettgries <brettgries@aol.com>
Subject: Your Online Police Report 160070189 Has Been Approved
Date: Thu, Mar 10, 2016 9:55 pm
Attachments: report-160070189-0.pdf (15K)

Your online report has been approved and the permanent case number is 160070189. Please note in the attached report that sensitive information has been replaced with *** in order to maintain privacy in emails. Thank you for using our online reporting system and please e-mail us with any suggestions you have for improving our system. Online Officer Columbia Police Department -----

The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

ATTACHMENT 2

Exhibit NT Referred to in Appellant's Designation of Matter Filed April 18, 2016



**This incident has been reported to the
Columbia Police Department
and is pending approval**

Columbia Police Department
#1 Justice Square
Columbia, SC 29201
803-545-3500

General Information

Incident Type Information Report
Tracking Number T16000354
Report Date 02/20/2016 08:10 AM

Reporting Person Information

Name Gries, Brett
Home Address 680 Implement Road, Columbia, SC 29803, US
Mobile Phone 815-342-2628
Email brettgries@aol.com
Race Caucasian
Ethnicity Non-hispanic
Resident Status State
Sex Male
DOB 02/26/1948
Age 67
Height 601
Weight 185
Eye Color Brown
Hair Color Grey/Partially Grey

Incident Information

Incident Location 1205 Pendleton Street, , Columbia, SC 29201
Incident Time (start) 05/26/2015 10:10 AM
Incident Time (end) 05/26/2015 02:25 PM

Narrative

Incident Description On February 19, 2016 at approximately 02:30PM, Brett Gries met with Investigator Pugh, to discuss possible Felony Perjury charges against Mr. Mark Sapp, Staff Assessor for Aiken County. The evidence provided included EXHIBIT F: South Carolina Law, Section 16-9-10, MR. SAPP APPRAISAL: Including Cover Letter dated January 14, 2015, with the key document being Document #9, which picture was dated 02.06.2014, EXHIBIT D: With Comparable #4 address of 3042 Farmer Road, EXHIBIT B-4: Property Card for 3042 Farmer Road, showing the pool was assessed to the property at 12.31.2014, 2015 PROPERTY CARD: Property Card for 3042 Farmer Road, showing the pool was assessed to the property at 12.31.2014, EXHIBIT J-4: Picture of pool at 3042 Farmer Road, taken January 13, 2016, TRANSCRIPT: Pages 152 and 153, where Mr. Sapp stated that "when I looked at the property for the date of sale, which was 2013, there was no pool attached to the property.", EXHIBIT Q: Case of Pryzbyl vs. Edgefield County Assessor, which Case cites on page 3, provide the motive for Mr. Sapp to lie in front of Judge Lenski.
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Print This Report

MR. SAPP
Perjury Supporting Documentation
Draft 2016.02.01

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ATTACHMENT 3

First Pages of New Exhibits NP and NO from Appellant's Designation of Record Filed April 18, 2016 and First Pages of Same Documents Attached to Appellant's Cases, Statutes and Other Authorities Filed June 13, 2016

Real estate appraisal

From Wikipedia, the free encyclopedia

Real estate appraisal, **property valuation** or **land valuation** is the process of developing an opinion of value for real property (usually market value). Real estate transactions often require appraisals because they occur infrequently and every property is unique (especially their location, a key factor in valuation), unlike corporate stocks, which are traded daily and are identical (thus a centralized Walrasian auction like a stock exchange is unrealistic). Appraisal reports form the basis for mortgage loans, settling estates and divorces, taxation, and so on. Sometimes an appraisal report is used to set the sale price of a property.

Most, but not all, countries require appraisers to be licensed or certified. Appraisers are often known as "property valuers" or "land valuers"; in British English they are "valuation surveyors". If the appraiser's opinion is based on market value, then it must also be based on the highest and best use of the real property. In the United States, mortgage valuations of improved residential properties are generally reported on a standardized form like the Uniform Residential Appraisal Report.^[1] Appraisals of more complex properties (e.g., income-producing, raw land) are often reported in narrative format.

Contents

- 1 Types of value
 - 1.1 Price versus value
 - 1.2 Market value definitions in the United States
- 2 Three approaches to value
 - 2.1 The cost approach
 - 2.2 The sales comparison approach
 - 2.3 The income capitalization approach
 - 2.4 UK valuation methods
- 3 Further considerations
 - 3.1 Scope of work
 - 3.2 Types of ownership interest
 - 3.3 Home inspection
 - 3.4 Real estate appraisal data entry
- 4 Mass appraisal and automated valuation models
- 5 Governing authorities and professional organizations
 - 5.1 International
 - 5.2 Germany
 - 5.2.1 Governing authorities
 - 5.2.2 Federal regulations
 - 5.2.3 Comments on German GAVP
 - 5.2.4 Criticism
 - 5.2.5 Professional organizations

NEW EXHIBIT NP

Quizlet

Real Estate Appraisal: Chapter 9 Sales Comparison Approach to Value

40 items by Kelly Adams

Like this study set? Create a free account to save it.

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Home » Real Estate Appraisal » Chapter 9 Sales Comparison Approach to Value » Study Set

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AUTHORITIES

Quizlet

Real Estate Appraisal: Chapter 9 Sales Comparison Approach to Value

Set containing 40 terms by JeffreyAdamos

Like this study set? Create a free account to save it.

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