

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

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

Appellate Case No. 2015-002637

Brett Gries, Appellant,

v.

Aiken County Assessor, Respondent.

**THIRD AMENDED INITIAL BRIEF**

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**RECEIVED**

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SC Court of Appeals

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NOTE: These Uniform Standards are embraced by the South Carolina Real Estate

Appraisers Board, of the South Carolina Department of Labor, Licensing and Regulation

See Website: [http://www.llr.sc.gov/pol/reab/index.asp?file=USPAP\\_Online.htm](http://www.llr.sc.gov/pol/reab/index.asp?file=USPAP_Online.htm)

#### STATEMENT OF ISSUES ON APPEAL

**ISSUE NUMBER ONE:** During the Hearing in front of Judge Lenski, Mr. Sapp did lie in front of Judge Lenski, and the evidence met the requirements of Felony Perjury (**South Carolina Law, Section 16-9-10**). In doing so, Mr. Sapp Impeached his Testimony and his Work Product, including his Appraisal.

**ISSUE NUMBER TWO:** During the Hearing on May 26, 2015, Mr. Sapp and Mr. Jansen made certain statements about the Appraisal Process. Based on **South Carolina Law SECTION 12-60-**

**450** and **Uniform Standards Of Professional Appraisal Practice**, Mr. Sapp did NOT follow the Uniform Standards Of Professional Appraisal Practice in developing his purported Appraisal of 680 Implement Road at December 31, 2013. Those flaws include the following;

FIRST, Lack of required Record Keeping

SECOND, Vacant Land is NOT an appropriate Comparable to the Residential Equestrian Property at 680 Implement Road

THIRD, The Assessor is NOT required to Appraise the whole parcel, when the only portion protested was Land Value.

FOURTH, The Assessor had multiple errors in his use of the Marshall & Swift Cost Tables

**ISSUE NUMBER THREE:** Mr. Sapp's purported Appraisal of the property at 680 Implement Road had a total of \$598,037, of which \$395,745 related to Improvements and \$194,876 related to Land. As the taxpayer had previously agreed to the Appraised Value of all Improvements at 680 implement Road, the only issue protested was Land Value. While Mr. Sapp's purported appraisal indicated a Land Value of \$194,876, Mr. Sapp, for some unknown reason, increased the Assessed Land Value from \$194,876 to \$287,296, an unexplained increase of \$92,420.

**ISSUE NUMBER FOUR:** As I have expressed from day 1, my Property Tax Protest is for Land Market Value ONLY. I have accepted the Assessed Market Value for ALL Improvements AND the Land Acres. However, I have been told by the Assessor, and the Assessor testified in Court, that he MUST Appraise the WHOLE Property at 680 Implement Road. They can NOT Appraise the Land Market Value of my Equestrian Property at 680 Implement Road by itself. Based on the facts and other evidence available, the Assessor's stance is incorrect.

## STATEMENT OF THE CASE

The Nature of this action, is that the Appellant protested his 2013 Property Taxes. The Appellant protested the Assessors December 31, 2013 Assessed Market Value per Acre ONLY. The Appellant accepted the Assessor's December 31, 2013 Assessed Market Value for all Improvements, which included a House and a Barn with a Canopy, AND the Assessors December 31, 2013 Assessed Acres, which totaled 16.13. Appellant's Protest is for Land Market Value per Acre ONLY.

Appellant filled his Request for Conference with the Aiken County Assessor on August, 22 2014. Subsequently the Conference with the Aiken County Assessor was held, and a Request for a Hearing by the Aiken County Board of Assessment Appeals, was Signed & Filed on November 5, 2014. The Case was heard by the Aiken County Board of Assessment Appeals on January 29, 2015. The Aiken County Board of Assessment Appeals ruled in favor of the Aiken County Assessor on the same day, for an Appraised Value of \$598,037, which was for the Whole Property, NOT for Land Market Value per Acre ONLY. Appellant filed a Request for a Contested Case Hearing on February 5, 2015. The ALC Hearing was on May 26, 2015. Judge Lenski ruled in favor of the Aiken County Assessor on December 4, 2015, for an Appraised Value of \$598,037, which was for the Whole Property, NOT for Land Market Value per Acre ONLY.

Subsequent to the May 26, 2015 ALC Hearing, I reviewed documents which indicate that Mr. Sapp did NOT properly conduct his Appraisal, in accordance with the required 5 Basic Steps. As a result, Mr. Sapp's Appraised Market Value of \$598,037 is now suspect.

Further, subsequent to the May 26, 2015 ALC Hearing, I collected documents which indicate that Mr. Sapp perjured himself in front of Judge Lenski. Again, on February 19, 2016, I met with Investigator Pugh at the Columbia Police Department, where based on the evidence provided, Investigator Pugh reached the conclusion that Mr. Sapp did lie in front of Judge Lenski, and that the evidence met the requirements of Felony Perjury (South Carolina Law, Section 16-9-10). However, 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. (Columbia, SC Police Report # 160070189). As a result, Mr. Sapp Impeached his Testimony & Work Product (including Appraisal), and all are now suspect.

Appellant then filed a Notice Of Appeal on December 18, 2015.

#### **ISSUE NUMBER ONE**

During the Hearing in front of Judge Lenski, Mr. Sapp did lie in front of Judge Lenski, and the evidence met the requirements of Felony Perjury (South Carolina Law, Section 16-9-10). In doing so, Mr. Sapp Impeached his Testimony and his Work Product, including his Appraisal.

#### **ISSUE NUMBER ONE - FACTS**

During the Hearing in front of Judge Lenski, Mr. Sapp provided his Appraisal (ALC PETITIONERS EXHIBIT H) which included 29 Specific Adjustments. However, Mr. Sapp provided NO documentation in support of those 29 Specific Adjustments. Under Cross Examination, numerous requests were made for the supporting documentation for Mr. Sapp's 29 Specific Adjustments, and for the supporting documentation for the 21 (greater than \$5,000) Downward Adjustments, which Mr. Sapp did NOT record on his Appraisal. Again, Mr. Sapp

provided NO documentation in support of his 29 Specific Adjustments or these 21 (greater than \$5,000) Downward Adjustments he did NOT record on his Appraisal. (Transcript: Page 121 Line 02 through Page 123 Line 01, AND Page 132 Lines 06 through 11)

Later in my Cross Examination of Mr. Sapp, I asked why there was no Downward Adjustment for the Swimming Pool at Mr. Sapp's Comparable #4. While I did not know this at that time, Mr. Sapp, with his response, appeared to perjure himself in front of Judge Lenski. I have since pulled together the evidence, which includes the following;

FIRST, 2014 Property Card, which Includes a pool built in 2006 (ALC PETITIONERS EXHIBIT F)

SECOND, Mr. Sapp's Comparable #4 photo, dated 02/06/2014 (ALC RESPONDENTS EXHIBIT 9)

THIRD, 2015 Property Card, which includes a pool built in 2006

FOURTH, Mr. Sapp's Testimony (Transcript: Page 152 Line 03 through Page 153 Line 19)

On February 19, 1916, I met with Investigator Pugh at the Columbia Police Department, where based on the evidence provided, Investigator Pugh reached the conclusion, that Mr. Sapp did lie in front of Judge Lenski, and that the evidence met the requirements of Felony Perjury (South Carolina Law, Section 16-9-10). However, 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. (Columbia, SC Police Report # 160070189).

During the Hearing, Mr. Sapp testified that the information on Comparable #4's Property Card was in the System that he used at work (Transcript: Page 113 Line 08 through Page 113 Line 16). Further, Mr. Sapp stated that he accessed this information for each Comparable

Property in the preparation of his purported Appraisal (Transcript: Page 118 Line 18 through Page 119 Line 25).

#### ISSUE NUMBER ONE – ARGUMENT

Mr. Sapp testified that his purported Appraisal was prepared in accordance with the Uniform Standards Of Professional Appraisal Practice. The Ethics Rule of the Uniform Standards Of Professional Appraisal Practice states as follows;

“An appraiser must not engage in criminal conduct.”

“An appraiser must not communicate assignment results in a misleading or fraudulent manner.”

Mr. Sapp’s testimony regarding Comparable #4’s pool, breaches the Ethics Rule of the Uniform Standards Of Professional Appraisal Practice. In accordance with Mr. Sapp’s testimony (Transcript: Page 113 Line 08 through Page 113 Line 16), the information about Comparable #4’s pool was in the system to which Mr. Sapp had access. In accordance with Mr. Sapp’s testimony (Transcript: Page 118 Line 18 through Page 119 Line 25), he accessed Comparable #4’s information in the system when he was preparing his purported Appraisal. Based on the facts, the information concerning this pool, which was constructed in 2006, was in the system Mr. Sapp accessed when he was preparing his purported Appraisal. Mr. Sapp then lied in front of Judge Lenski about this pool (Columbia, SC Police Report # 160070189), stating that there was no pool on this parcel.

Based on Mr. Sapp’s actions, Mr. Sapp testimony breached The Ethics Rule of the Uniform Standards Of Professional Appraisal Practice.

#### ISSUE NUMBER ONE - REQUEST OF THE COURT

Based on Mr. Sapp's actions, where based on the evidence provided, Investigator Pugh reached the conclusion that Mr. Sapp did lie in front of Judge Lenski, and that the evidence met the requirements of Felony Perjury (**South Carolina Law, Section 16-9-10**), Mr. Sapp Impeached his Testimony & Work Produce (including Appraisal) and the credibility and correctness of Mr. Sapp's 29 Specific Adjustments (**ACL PETITIONERS EXHIBIT H**), and the 21 (greater than \$5,000) Downward Adjustments that Mr. Sapp did NOT record on his Appraisal, are all now in question. Therefore, it is hereby requested, that Mr. Sapp be required to provide detailed supporting documentation, in support of each of his 29 Specific Adjustments (**ALC PETITIONERS EXHIBIT H**) AND the 21 (greater than \$5,000) Downward Adjustments (see NOTE following), which Mr. Sapp did NOT record on his Appraisal.

Further, based on Mr. Sapp's actions, order Mr. Sapp to reimburse Mr. Gries, for the cost of this Appeal (\$100.00) and the cost of the Transcript (\$1,196.50) from the May 26, 2015 ALC Hearing.

NOTE: The 21 greater than \$5,000 Downward Adjustments include the following;

Comparable #1:

Framing/Siding \$17,847 Downward Adj.

**ALC PETITIONERS EXHIBIT M** Line 81, Column J

Living Area Square Footage \$11,133 Downward Adj.

Mr. Sapp's Gross Living Area, Market Value per Sq. Ft. used, AFTER adjustments for Room Count, Garage/Carport and Porch/Patio/Deck = \$89.50/sq. ft.

**ALC PETITIONERS EXHIBIT H** Line 17, Column B, Less Line 17, Column C = 483 sq. ft.

Line 17, Column D = \$43,226/483 sq. ft. = \$89.50/sq. ft.

680 Implement Road's Market Value per Sq. Ft. AFTER adjustments for Bath's/Plumbing Fixtures, Porch/Patio/Deck, and Garage/Carport = \$66.44/sq. ft.

**ALC PETITIONERS EXHIBIT M** Line 98, Column E = \$285,236

Less: Line 127, Column E (Plumbing Fixtures) = - 27,824

Less: Line 117, Column E (Porch) = - 21,020

Less: Line 125, Column E (Attached Garage)	= - 18,588
Sum	\$217,804
Total Area	3,278 Sq. Ft.
Remainder Market Value per Square foot	\$66.44
Stables/Barns	\$23,754 Downward Adj.
<b>ALC PETITIONERS EXHIBIT M</b> Line 48, Column J	
Miscellaneous	\$6,261 Downward Adj.
<b>ALC PETITIONERS EXHIBIT M</b> Line 54, Column J	

Comparable #2:

Stables/Barns	\$48,650 Downward Adj.
<b>ALC PETITIONERS EXHIBIT N</b> Line 48, Column J	

Comparable #3:

Hardwood Flooring	\$7,303 Downward Adj.
<b>ALC PETITIONERS EXHIBIT O</b> Line 76, Column J	
Framing/Siding	\$18,207 Downward Adj.
<b>ALC PETITIONERS EXHIBIT O</b> Line 81, Column J	
Living Area Square Footage	\$24,110 Downward Adj.

Mr. Sapp's Gross Living Area, Market Value per Sq. Ft. used, AFTER adjustments for Room Count, Garage/Carport and Porch/Patio/Deck = \$89.50/sq. ft.

**ALC PETITIONERS EXHIBIT H** Line 17, Column B, Less Line 17, Column G = 1,046 sq. ft.

Line 17, Column H = \$93,611/1,046 sq. ft. = \$89.50/sq. ft.

680 Implement Road's Market Value per Sq. Ft. AFTER adjustments for Bath's/Plumbing Fixtures, Porch/Patio/Deck, and Garage/Carport = \$66.44/sq.ft.

**ALC PETITIONERS EXHIBIT O** Line 98, Column E = \$285,236

Less: Line 127, Column E (Plumbing Fixtures) = - 27,824

Less: Line 117, Column E (Porch) = - 21,020

Less: Line 125, Column E (Attached Garage) = - 18,588

Sum	\$217,804
Total Area	3,278 Sq. Ft.
Remainder Market Value per Square foot	\$66.44
Stables/Barns	\$63,879 Downward Adj.
<b>ALC PETITIONERS EXHIBIT O</b> Line 48, Column J	
Other Outbuildings	\$6,780 Downward Adj.
<b>ALC PETITIONERS EXHIBIT O</b> Line 51, Column J	

Comparable #4:

Hardwood Flooring \$34,020 Downward Adj.  
**ALC PETITIONERS EXHIBIT P** Line 76, Column J

Framing/Siding \$45,362 Downward Adj.  
**ALC PETITIONERS EXHIBIT P** Line 81, Column J

Age \$52,500 Downward Adj.  
**ALC PETITIONERS EXHIBIT P** Mr. Sapp Market Value after Adj's = Line 43, Column G  
**ALC PETITIONERS EXHIBIT P** 680 Implement Road Market Value = Line 40, Column D

Stables/Barns \$11,422 Downward Adj.  
**ALC PETITIONERS EXHIBIT P** Line 48, Column J

Other Outbuildings \$7,493 Downward Adj.  
**ALC PETITIONERS EXHIBIT P** Line 51, Column J

Miscellaneous \$19,344 Downward Adj.  
**ALC PETITIONERS EXHIBIT P** Line 54, Column J

Comparable #5:

Framing/Siding \$23,044 Downward Adj.  
**ALC PETITIONERS EXHIBIT Q** Line 81, Column J

Living Area Square Footage \$21,851 Downward Adj.  
Mr. Sapp's Gross Living Area, Market Value per Sq. Ft. used, AFTER adjustments for  
Room Count, Garage/Carport and Porch/Patio/Deck = \$89.50/sq. ft.  
**ALC PETITIONERS EXHIBIT H** Line 17, Column B, Less Line 17, Column K = 948 sq.  
ft.  
Line 17, Column H = \$84,836/948 sq. ft. = \$89.50/sq. ft.

680 Implement Road's Market Value per Sq. Ft. AFTER adjustments for  
Bath's/Plumbing Fixtures, Porch/Patio/Deck, and Garage/Carport = \$66.44/sq.ft.  
**ALC PETITIONERS EXHIBIT Q** Line 98, Column E = \$285,236  
Less: Line 127, Column E (Plumbing Fixtures) = - 27,824  
Less: Line 117, Column E (Porch) = - 21,020  
Less: Line 125, Column E (Attached Garage) = - 18,588  
Sum \$217,804  
Total Area 3,278 Sq. Ft.  
Remainder Market Value per Square foot \$66.44

Age \$13,500 Downward Adj.  
**ALC PETITIONERS EXHIBIT Q** Mr. Sapp Market Value after Adj's = Line 43, Column G  
**ALC PETITIONERS EXHIBIT Q** 680 Implement Road Market Value = Line 40, Column D

Stables/Barns \$21,545 Downward Adj.  
**ALC PETITIONERS EXHIBIT Q** Line 48, Column J

Other Outbuildings

\$6,300 Downward Adj.

**ALC PETITIONERS EXHIBIT Q** Line 51, Column J

### ISSUE NUMBER TWO

During the Hearing on May 26, 2015, Mr. Sapp and Mr. Jansen made certain statements about the Appraisal Process. Based on **South Carolina Law SECTION 12-60-450** and the **Uniform Standards Of Professional Appraisal Practice**, Mr. Sapp did NOT follow the Uniform Standards Of Professional Appraisal Practice in developing his purported Appraisal of 680 Implement Road at December 31, 2013. Those flaws include the following;

FIRST, Lack of required Record Keeping

SECOND, Vacant Land is NOT an appropriate Comparable to the Residential Equestrian Property at 680 Implement Road

THIRD, The Assessor is NOT required to Appraise the whole parcel, when the only portion protested was land value.

FOURTH, Multiple errors in the use of the Marshall & Swift Cost Tables

### ISSUE NUMBER TWO - FACTS

**FIRST: LACK OF REQUIRED RECORD KEEPING.** Numerous times I asked Mr. Sapp about his documentation in support of his 29 adjustments he made on his purported Appraisal of the Residential Equestrian Parcel at 680 Implement Road, including **Transcript: Page 121 Line 2 through Line 10**. His response to each such request was that he had NO such documentation. Further, Mr. Sapp on many occasions, including **Transcript: Page 106 Line 16 through 20**, stated that his purported Appraisal was prepared in accordance with the **Uniform Standards Of Professional Appraisal Practice**, to which SC.GOV.LLR has a direct link.

In regards to Record Keeping, the **Uniform Standards Of Professional Appraisal Practice** state as follows (**Record Keeping under Ethics Rule**) "The workfile must include: all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation."

**SECOND: VACANT LAND IS NOT AN APPROPRIATE COMPARABLE TO THE RESIDENTIAL EQUESTRIAN PARCEL AT 680 IMPLEMENT ROAD.** Numerous times, including **Transcript: Page 106 Line 16 through 20**, Mr. Sapp stated that he was required to use Vacant Land comparable's to value the land at the Residential Equestrian Parcel at 680 Implement Road. Further, Mr. Sapp on many occasions, including **Transcript: Page 106 Line 16 through 20**, stated that his purported Appraisal was prepared in accordance with the **Uniform Standards Of Professional Appraisal Practice**, to which SC.GOV.LLR has a direct link.

In regards to this issue, the **Uniform Standards Of Professional Appraisal Practice** state as follows (**Standards Rule 6-5 (a) (iv)**) "an appraiser must: (a) (iii) value of the property by sales of comparable properties". The **State of South Carolina**, in its **Law SECTION 31-6-30**, states the same, "'Vacant Land' means any parcel or combination of parcels of real property without industrial, commercial and residential buildings"

**THIRD: THE ASSESSOR IS NOT REQUIRED TO APPRAISE THE WHOLE PARCEL, WHEN THE ONLY PORTION PROTESTED WAS LAND VALUE.** Numerous times, including **Transcript: Page 110 Line 11 through 13**, Mr. Sapp stated that he was required to Appraise the whole Residential Equestrian Parcel at 680 Implement Road, as opposed to just the Land Value, which was the

only piece protested. Further, Mr. Jansen stated that under 12.60.25.10 (**Transcript: Page 191 Line 24 through Page 192, Line 13**), we are protesting the Market Value of the whole parcel.

In regards to this issue, there is NO 12.60.25.10. As you look at **Title 12, Taxation**, you have **Section 12.60.20 and then 12.60.30**. There is NO Section 12.60.25.

**FOURTH: MULTIPLE ERRORS IN THE USE OF THE MARSHALL & SWIFT COST TABLES.** Mr. Sapp, on numerous occasions, including **Transcript: Page 120 Line 1 through Line 9**, has claimed that his 24 Improvements Adjustments were all based on the Marshall & Swift Cost Tables, AND that he used these Cost Tables in a proper manner.

When you compare Mr. Sapp's end results, you end up with many questions. For instance, the Market Value per Square Foot for the residence at 680 Implement Road is \$87.02 which is \$285,236 Residence Market Value/3,278 Sq. Ft. (**ALC PETITIONERS EXHIBIT F**). When you look at Mr. Sapp's Comparable Properties, their Market Value per Square Foot AFTER Mr. Sapp's adjustments are as follows;

Comparable #1: 301 Boyd Pond Road

Property Card Market Value @ 12.31.2013	\$243,744
<b>ALC PETITIONERS EXHIBIT F</b> , Building ID: 2, Market	
Mr. Sapp's Appraisal Residence Adjustments (4)	\$77,556
<b>ALC PETITIONERS EXHIBIT H</b> , Column D, Sum of Lines 16, 17, 18 & 19	
Mr. Sapp's Market Value	\$321,310
<b>ALC PETITIONERS EXHIBIT M</b> , Column G, Line 43	
680 implement Road Square Feet	3,278
Mr. Sapp's Market Value Per Square Foot	\$98.02/sq. ft.
<b>ALC PETITIONERS EXHIBIT M</b> , Column H, Line 45	
Mr. Sapp's Over Valued Amount vs \$285,236	\$36,074
<b>ALC PETITIONERS EXHIBIT M</b> , Column J, Line 45	

Comparable #3: 484 Coleman Bridge Road

Property Card Market Value @ 12.31.2013	\$207,606
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**ALC PETITIONERS EXHIBIT F**, Building ID: 2, Market  
 Mr. Sapp's Appraisal Residence Adjustments (4) \$119,451  
**ALC PETITIONERS EXHIBIT H**, Column H, Sum of Lines 16, 17, 18 & 19  
 Mr. Sapp's Market Value \$327,057  
**ALC PETITIONERS EXHIBIT O**, Column G, Line 43  
 680 implement Road Square Feet 3,278  
 Mr. Sapp's Market Value Per Square Foot \$99.77/sq. ft.  
**ALC PETITIONERS EXHIBIT O**, Column H, Line 45  
 Mr. Sapp's Over Valued Amount vs \$285,236 \$41,821  
**ALC PETITIONERS EXHIBIT O**, Column J, Line 45

Comparable #4: 3042 Farmer Road

Property Card Market Value @ 12.31.2013 \$352,255  
**ALC PETITIONERS EXHIBIT F**, Building ID: 60599, Market  
 Mr. Sapp's Appraisal Residence Adjustments (5) \$35,233  
**ALC PETITIONERS EXHIBIT H**, Column J, Sum of Lines 14, 16, 17, 18 & 19  
 Mr. Sapp's Market Value \$387,488  
**ALC PETITIONERS EXHIBIT P**, Column G, Line 43  
 680 implement Road Square Feet 3,278  
 Mr. Sapp's Market Value Per Square Foot \$118.21/sq. ft.  
**ALC PETITIONERS EXHIBIT P**, Column H, Line 45  
 Mr. Sapp's Over Valued Amount vs \$285,236 \$102,252  
**ALC PETITIONERS EXHIBIT P**, Column J, Line 45

Comparable #5: 1874 Joyner Pond Road

Property Card Market Value @ 12.31.2013 \$210,556  
**ALC PETITIONERS EXHIBIT F**, Building ID: 1, Market  
 Mr. Sapp's Appraisal Residence Adjustments (5) \$117,176  
**ALC PETITIONERS EXHIBIT H**, Column L, Sum of Lines 14, 16, 17, 18 & 19  
 Mr. Sapp's Market Value \$327,732  
**ALC PETITIONERS EXHIBIT Q**, Column G, Line 43  
 680 implement Road Square Feet 3,278  
 Mr. Sapp's Market Value Per Square Foot \$99.98/sq. ft.  
**ALC PETITIONERS EXHIBIT Q**, Column H, Line 45  
 Mr. Sapp's Over Valued Amount vs \$285,236 \$42,496  
**ALC PETITIONERS EXHIBIT Q**, Column J, Line 45

We have the same situation when it comes to Barns/Stables. Again, the Market Value per Square Foot for the barn at 680 Implement Road is \$20.59 which is \$24,710 Barn/Stable Market Value/1,200 Sq. Ft. (ALC PETITIONERS EXHIBIT F). When you look at Mr. Sapp's Comparable Properties, their Market Value per Square Foot AFTER Mr. Sapp's adjustments are as follows;

Comparable #1: 301 Boyd Pond Road

Property Card Market Value @ 12.31.2013	\$48,464
<b>ALC PETITIONERS EXHIBIT F</b> , Building ID: 1, Market	
Mr. Sapp's Appraisal Stable/Barn Adjustments	NONE
<b>ALC PETITIONERS EXHIBIT H</b> , Column D, Lines 20	
Mr. Sapp's Market Value	\$48,464
<b>ALC PETITIONERS EXHIBIT M</b> , Column G, Line 48	
680 Implement Road Square Feet	1,200
Mr. Sapp's Market Value Per Square Foot	\$40.38/sq. ft.
Mr. Sapp's Over Valued Amount	\$23,754
<b>ALC PETITIONERS EXHIBIT M</b> , Column J, Line 48	

Comparable #2: 217 Boyd Pond Road

Property Card Market Value @ 12.31.2013	\$73,360
<b>ALC PETITIONERS EXHIBIT F</b> , Building ID: 2, Market	
Mr. Sapp's Appraisal Stable/Barn Adjustments	NONE
<b>ALC PETITIONERS EXHIBIT H</b> , Column F, Lines 20	
Mr. Sapp's Market Value	\$73,360
<b>ALC PETITIONERS EXHIBIT N</b> , Column G, Line 48	
680 implement Road Square Feet	1,200
Mr. Sapp's Market Value Per Square Foot	\$61.13/sq. ft.
Mr. Sapp's Over Valued Amount	\$48,650
<b>ALC PETITIONERS EXHIBIT N</b> , Column J, Line 48	

Comparable #3: 484 Coleman Bridge Road

Property Card Market Value @ 12.31.2013	\$128,589
<b>ALC PETITIONERS EXHIBIT F</b> , Building ID: 1, Market	
Mr. Sapp's Appraisal Stable/Barn Adjustments (1)	-\$40,000
<b>ALC PETITIONERS EXHIBIT H</b> , Column H, Lines 20	
Mr. Sapp's Market Value	\$88,589
<b>ALC PETITIONERS EXHIBIT O</b> , Column G, Line 48	

680 implement Road Square Feet	1,200
Mr. Sapp's Market Value Per Square Foot	\$73.82/sq. ft.
Mr. Sapp's Over Valued Amount	\$63,879
<b>ALC PETITIONERS EXHIBIT O</b> , Column J, Line 48	

Comparable #4: 3042 Farmer Road

Property Card Market Value @ 12.31.2013	\$36,132
<b>ALC PETITIONERS EXHIBIT F</b> , Building ID: 2, Market	
Mr. Sapp's Appraisal Stable/Barn Adjustments	NONE
<b>ALC PETITIONERS EXHIBIT H</b> , Column J, Lines 20	
Mr. Sapp's Market Value	\$36,132
<b>ALC PETITIONERS EXHIBIT P</b> , Column G, Line 48	
680 implement Road Square Feet	1,200
Mr. Sapp's Market Value Per Square Foot	\$30.11/sq. ft.
Mr. Sapp's Over Valued Amount	\$11,422
<b>ALC PETITIONERS EXHIBIT P</b> , Column J, Line 48	

Comparable #5: 1874 Joyner Pond Road

Property Card Market Value @ 12.31.2013	\$48,755
<b>ALC PETITIONERS EXHIBIT F</b> , Building ID: 2, Market	
Mr. Sapp's Appraisal Stable/Barn Adjustments (1)	-\$2,500
<b>ALC PETITIONERS EXHIBIT H</b> , Column L, Lines 20	
Mr. Sapp's Market Value	\$46,255
<b>ALC PETITIONERS EXHIBIT Q</b> , Column G, Line 48	
680 implement Road Square Feet	1,200
Mr. Sapp's Market Value Per Square Foot	\$38.54/sq. ft.
Mr. Sapp's Over Valued Amount	\$21,545
<b>ALC PETITIONERS EXHIBIT Q</b> , Column J, Line 48	

**ISSUE NUMBER TWO - ARGUMENT**

Mr. Sapp's purported Appraisal of 680 Implement Road was NOT prepared in accordance with the Uniform Standards Of Professional Appraisal Practice.

Mr. Sapp's lack of documentation in support of his 29 adjustments breaches the Record Keeping provision (**under Ethics Rule**) of the **Uniform Standards Of Professional Appraisal Practice**, which states as follows. "The workfile must include: all other data, information, and

documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation." Based on Mr. Sapp's testimony, his workfile contained NO documentation in support of his 29 adjustments.

Numerous times, including **Transcript: Page 106 Line 16 through 20**, Mr. Sapp stated that he was required to use Vacant Land comparables to value the land at the Residential Equestrian Parcel at 680 Implement Road. Further, Mr. Sapp on many occasions including **Transcript: Page 106 Line 16 through 20**, stated that his purported Appraisal was prepared in accordance with the **Uniform Standards Of Professional Appraisal Practice**. In regards to this issue, the **Uniform Standards Of Professional Appraisal Practice** state as follows **(Standards Rule 6-5 (a) (iv))** "an appraiser must: (a) (iii) value of the property by sales of comparable properties". The **State of South Carolina**, in its **Law SECTION 31-6-30**, states the same, "Vacant Land' means any parcel or combination of parcels of real property without industrial, commercial and residential buildings". Thus, Mr. Sapp's use of Vacant Land, to value the Land at the Residential Equestrian Parcel at 680 Implement Road, is NOT in accordance with **Uniform Standards Of Professional Appraisal Practice, Standards Rule 6-5 (a) (iv))** OR **State of South Carolina Law, SECTION 31-6-30**.

Numerous times, including **Transcript: Page 110 Line 11 through 13**, Mr. Sapp stated that he was required to Appraise the whole Residential Equestrian Parcel at 680 Implement Road, as opposed to just the Land Value, which was the only piece protested. Further, Mr. Jansen stated that under 12.60.25.10 (**Transcript: Page 191 Line 24 through Page 192, Line 13**), we are protesting the Market Value of the whole parcel. However, Mr. Jansen's cite, 12.60.25.10 does

not exist. As you look at **Title 12, Taxation**, you have **Section 12.60.20 and then 12.60.30**. There is NO Section 12.60.25. Therefore, as the Taxpayer protested Land Value ONLY, Mr. Sapp has NO legal support to justify appraising the Whole Parcel, as opposed to the Land Value ONLY, which the Taxpayer specifically protested.

The objective of an Appraisal is to form an opinion of market value (**Uniform Standards Of Professional Appraisal Practice, Definition of Market Value**). In accordance with **Article 25, South Carolina Real Property Valuation Reform Act SECTION 12-37-3140**, for an ATI sale in a given year, its assessed Market Value at December 31 of that year, is to reflect its true and correct Market Value at that date. Thus when reviewing the reasonableness of Mr. Sapp's 24 improvements adjustments, which Mr. Sapp claims were based on Marshall & Swift Cost Tables (**Transcript: Page 120 Line 01 through Page 120 Line 09**), it is appropriate to start with the December 31, 2013 assessed Market Value on the Property Cards (**ALC PETITIONERS EXHIBIT F**). When reviewing the reasonableness of Mr. Sapp's adjustments to his Comparable Properties Residences and his adjustments to his Comparable Properties Barns/Stables, we have some huge disparities as follows;

Comparable	Per Mr. Sapp Market Value Per Sq. Ft.	680 Implement Road Market Value Per Sq. Ft.	Mr. Sapp Over Value Total
Number 1 Residence	\$98.02/sq. ft.	\$87.02/sq. ft.	\$36,074
Number 3 Residence	\$99.77/sq. ft.	\$87.02/sq. ft.	\$41,821
Number 4 Residence	\$118.21/sq. ft.	\$87.02/sq. ft.	\$102,252
Number 5 Residence	\$99.98/sq. ft.	\$87.02/sq. ft.	\$42,496
Number 1 Barn	\$40.38/sq. ft.	\$20.59/sq. ft.	\$23,754

Number 2 Barn	\$61.13/sq. ft.	\$20.59/sq. ft.	\$48,650
Number 3 Barn	\$73.82/sq. ft.	\$20.59/sq. ft.	\$63,879
Number 5 Barn	\$38.54/sq. ft.	\$20.59/sq. ft.	\$21,545

When you see over valued amounts like these, which range from an overvalued % of 13% to 258%, you must question whether Mr. Sapp used the appropriate Marshall & Swift Cost Tables to determine the amount of his 24 Improvements adjustments. And as Mr. Sapp has provided NO documentation to support these Adjustments, his adjustments are NOT in accordance with the Record Keeping provisions of the Uniform Standards Of Professional Appraisal Practice.

**ISSUE NUMBER TWO – REQUEST OF THE COURT**

Based on the evidence presented, confirm that Mr. Sapp’s Appraisal of 680 Implement Road was NOT prepared in accordance with the Uniform Standards Of Professional Appraisal Practice, and that said Appraisal is Disallowed.

Further, confirm that the Correct Market Value of the Land at 680 Implement Road, is the amount the Appellant requested at the ALC Hearing, which was \$161,961 calculated as follows;

**Claimed Market Land Value of \$10,041 per ACRE, is derived as follows;**

- Purchase Price April 3, 2013 **\$10,183 per Acre**
  - Purchase Price \$475,000
  - Improvements Assessed Value at 12.31.2013 \$310,741
  - Remainder \$164,289
  - Acres 16.13
  - Purchase Price Per Acre \$10,183
  
  - Average Assessed Value of Nine Comparable 2013 Residential Equestrian Parcel, ATI Sales **\$9,899 per Acre**
- ALC PETITIONERS EXHIBIT E, Column M, Line 39

**AVERAGE OF THESE TWO NUMBERS (\$10,183 & \$9,899) \$10,041 per Acre**



Average Room Count Adjustments			
Line 16		\$6,500	\$6,500
Average Gross Living Area Adjustments			
Line 17		\$35,098	\$35,098
Average Garage/Carport Adjustments			
Line 18		\$17,472	\$17,472
Average Porch/Patio/Deck Adjustments			
Line 19		\$0	\$0
Average Stable Adjustments			
Line 20		-\$8,500	-\$8,500
TOTAL Market Value at 12.31.2016 INCLUDING Mark Sapp			
Adjustments	\$194,876	\$395,745	\$590,621
Assessed Market Value			
By Mark Sapp	\$287,296	\$310,741	\$598,037

**ISSUE NUMBER THREE - ARGUMENT**

The objective of an Appraisal is to form an opinion of market value (Uniform Standards Of Professional Appraisal Practice, Definition of Market Value). In accordance with Article 25, South Carolina Real Property Valuation Reform Act SECTION 12-37-3140, for an ATI sale in a given year, its assessed Market Value at December 31 of that year, is to reflect its true and correct Market Value at that date. Thus when reviewing the reasonableness of Mr. Sapp's Land Value, it is appropriate to start with the December 31, 2013 assessed Market Value on the 2014 Property Cards (ALC PETITIONERS EXHIBIT F). Based on the facts, when reviewing the reasonableness of Mr. Sapp's Land Value of \$287,286, you have an unaccounted for difference of \$92,420.

Based on the Market Value information in the 2014 Property Cards and Mr. Sapp's 29 adjustments, the answer is very simple. Mr. Sapp took \$92,420 of his Improvements Adjustments and assigned them to Land Value, increasing the Land Value from Mr. Sapp's determined Market Value of \$194,876, to an unsupported inflated value of \$287,286.

**ISSUE NUMBER THREE – REQUEST OF THE COURT**

Based on the evidence presented, confirm that Mr. Sapp's reported Appraised Value of Land at \$287,296 is overstated by an amount greater than \$92,000, and based on this confirmation, find that Mr. Sapp's Appraisal has **Fatal Errors**, and confirm that the Correct Market Value of the Land at 680 Implement Road, is the amount the Appellant requested at the ALC Hearing, which was \$161,961, calculated as follows;

**Claimed Market Land Value of \$10,041 per ACRE, is derived as follows;**

▪ Purchase Price April 3, 2013	<b>\$10,183 per Acre</b>
Purchase Price	\$475,000
Improvements Assessed Value at 12.31.2013	\$310,741
Remainder	\$164,289
Acres	16.13
Purchase Price Per Acre	\$10,183

- Average Assessed Value of Nine Comparable 2013 Residential Equestrian Parcel, ATI Sales **\$9,899 per Acre**

ALC PETITIONERS EXHIBIT E, Column M, Line 39

**AVERAGE OF THESE TWO NUMBERS (\$10,183 & \$9,899) \$10,041 per Acre**

**LAND MARKET VALUE    16.13 Acres X \$10,041 per acre \$161,961**

Further, based on Mr. Sapp's actions, order Mr. Sapp to reimburse Mr. Gries, for the cost of the Appeal (\$100) and the cost of the Transcript (\$1,196.50).

**ISSUE NUMBER FOUR**

As I have expressed from day 1, my Property Tax Protest is for Land Market Value per Acre ONLY. I have accepted the Assessed Market Value for ALL Improvements AND the Land Acres. However, I have been told by the Assessor, and the Assessor testified in Court, that he MUST Appraise the WHOLE Property at 680 Implement Road. They can NOT Appraise the Land Market Value of my Equestrian Property at 680 Implement Road by itself. Based on the facts and other evidence available, the Assessor's stance is incorrect.

**ISSUE NUMBER FOUR – FACTS**

**Title 12 – Taxation states as follows per SECTION 12-60-450;**

SECTION 12-60-450. Appeal of proposed assessment, contents of written protest.

(B) The written protest must contain:

(4) If relevant, the nature and kind of tax in dispute

**TAXPAYERS PROTEST/APPEAL: Property Tax for Land Market Value ONLY**

The Land Market Value ONLY for Mr. Sapp's 5 Comparable Properties is calculated as follows, using the following sources

**ALC Petitioners EXHIBIT F** for Parcel #, Location and Land Assessed Market Value

**ALC Petitioners EXHIBIT H** for Sale Date and Location Adjustment

**ALC Respondents EXHIBIT 17** for the Format

<u>Parcel#</u>	<u>Location</u>	<u>Sale Date</u>	<u>Land Assessed Mkt Value</u>	<u>Land Acres</u>	<u>Land Assessed Value Per Acre</u>
073-07-02-001	301 Boyd Pond Rd	03/22/2013	219,840	18.32	12,000
073-06-01-014	217 Boyd Pond Rd	05/21/2013	119,850	7.99	15,000
188-00-12-009	484 Coleman Bridge	06/21/2013	226,800	12.96	17,500

205-00-06-005	3042 Farmer Rd	11/20/2013	92,550	17.17	5,390
	Location Adjustment		5,000		291
191-00-09-029	1874 Joyner Pond Rd	10/10/2013	58,338	15.09	3,866
	Location Adjustment		5,000		331
TOTAL			727,378	71.53	
Average Assessed Value Per Acre (\$727,378/71.53 acres)					10,169
Taxpayers Acres					16.13
Land Market Value					\$164,026

#### ISSUE NUMBER FOUR – ARGUMENT

As Appellant/Taxpayer has stated from the beginning, Appellant/Taxpayer is protesting Land Value ONLY. Appellant/Taxpayer has accepted the assessed value for all Improvements, of \$309,946 for Total Building Value and \$795 for Total Misc. Value, which totals \$310,741 (ALC PETITIONERS EXHIBIT F). Judge Lenski fully understood this fact. This understanding is evidenced, based on his question during my Cross Examination of Mr. Sapp, which was “Before we go any further, are you objecting to the valuation of the building and miscellaneous property items? I thought the issue was just about the land” (Transcript: Page 125 Line 16 through Line 19).

In accordance with Title 12 – Taxation, SECTION 12-60-450, Appellant/Taxpayer’s protest of Land Value ONLY has met the requirements of SECTION 12-60-450. SECTION 12-60-450 (4) states as follows;

“If relevant, the nature and kind of tax in dispute”

Appellant/Taxpayer has protested Land Value ONLY, and has reiterated this fact at each level of this process. In front of Judge Lenski, Appellant/Taxpayer stated that “on the 680 Implement Road’s 2014 property card, 22,000 market value per acre on Page two is the one

and only item I am protesting. Okay. I'm not protesting acreage, I'm not protesting buildings, I'm not protesting barn, residence, other (Transcript: Page 09 Line 14 through Line 20).

Thus, based on Title 12 – Taxation, SECTION 12-60-450 and Appellant/Taxpayers continued declaration that Appellant/Taxpayer is protesting Land Value ONLY, Mr. Sapp's Appraisal should have been limited to Land Value ONLY, which Mr. Sapp did NOT do.

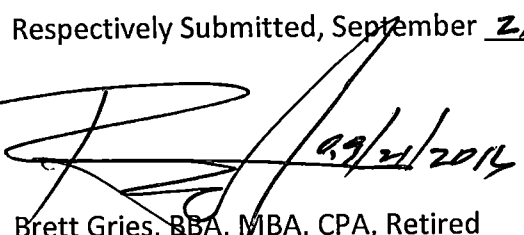
#### ISSUE NUMBER FOUR – REQUEST OF THE COURT

Based on the evidence presented, confirm that there was NO South Carolina State Law or other South Carolina State Directive, which required Mr. Sapp to assess the Whole Property at 680 Implement Road, as opposed to only the item protested, which was Land Value ONLY.

Further, confirm that Mr. Sapp's Appraisal should have been on Land Value ONLY, using his 5 Comparable Residential Equestrian Properties, which were all 2013 ATI Sales, and that the correct Land Value is \$164,026, as calculated above.

Finally, based on Mr. Sapp's actions, order Mr. Sapp to reimburse Mr. Gries, for the cost of the Appeal (\$100) and the cost of the Transcript (\$1,196.50).

Respectively Submitted, September 21, 2016

  
Brett Gries, BBA, MBA, CPA, Retired  
680 Implement Road  
Aiken, SC 29803  
(815) 342-2628  
Appellant (pro se)

Other Counsel of Record:  
Mr. James Holly  
Aiken County Attorney  
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Aiken, SC 29801  
(803) 642-3628  
Attorney for Respondent (Aiken County Assessor)

**PROOF OF SERVICE OF THIRD AMENDED INITIAL BRIEF**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM COLUMBIA COUNTY  
Administrative Law Court

S. Phillip Lenski, Administrative Law Judge

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

Aiken County Assessor,  
v.  
Brett Gries, Appellant.

PROOF OF SERVICE

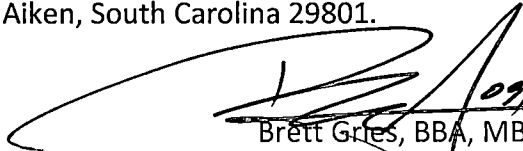
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SEP 23 2016

SC Court of Appeals

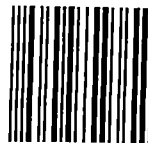
I certify that I have served the Third Amended Initial Brief, and the Third Amended Initial Brief Designation Of Matter To Be Included In The Record On Appeal in accordance with RULE 209, on the Aiken County Attorney, by depositing a copy of it in the United States Mail, postage prepaid, on September 21, 2016, addressed to Mr. James Holly, Aiken County Attorney, 1930 University Parkway, Suite 3600, Aiken, South Carolina 29801.

September 21, 2016

  
09/21/2016  
Brett Gries, BBA, MBA, CPA Retired  
680 Implement Road  
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SC Court of Appeals

SOUTH CAROLINA COURT OF APPEALS

1220 SENATE STREET

COLUMBIA, SC 29201