

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

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

Appellate Case No. 2015-002637

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SC Court of Appeals

Brett Gries, Appellant,

v.

Aiken County Assessor, Respondent.

REPLY OF RESPONDENT WITH RESPECT TO MOTION BY RESPONDENT
TO DISMISS APPEAL, TO STRIKE THIRD AMENDED INITIAL
BRIEF AND/OR FOR OTHER RELIEF

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

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

On or about October 20, 2016, Respondent filed its Motion to Dismiss Appeal, to Strike Third Amended Initial Brief and/or for Other Relief with a Supporting Memorandum. On or about October 31, 2016, Appellant filed his Response (Return) to the aforesaid Motion. Respondent respectfully refers the Court to the past two motions it filed in this appeal and the Court's orders thereon.

In his Response, Appellant discusses his position concerning the truthfulness or accuracy of the testimony of witness, Mark Sapp, an appraiser with Respondent's office, on whether a pool existed on a residential property on a certain date. This property was one of a number of comparable properties Mr. Sapp used in determining his opinion of the value of Appellant's residential property for ad valorem taxation for a certain tax year.

Appellant has alleged with his submissions to this Court that after the filing of the appeal in this matter, he consulted a law enforcement officer concerning whether Mr. Sapp's testimony about the pool constituted perjury. Despite the prior Orders of this Court directing otherwise on the several Initial Briefs and Designations of Record Appellant has filed, Appellant continues to include in this appeal documents and information he alleges were obtained from the law enforcement officer after the filing of the appeal in this matter.

The testimony of Mr. Sapp to which Appellant refers is attached to this Reply as Exhibit A. This is the same portion of the transcript of the hearing conducted before the Administrative Law Court on May 26, 2015, that Appellant cites directly or indirectly in his filings with this Court, including his recent Response. In this testimony, Mr. Sapp testified he does not recall a pool existing on one of the comparable properties even

though a document identified as a property card indicated that a pool was located on that comparable property. That document was one of the exhibits before the court below and is listed as one of the items (3042 Frammer Road) in Petitioner's Exhibit F which is included in Appellant's most recent Designation of Record. Appellant sought to discredit Mr. Sapp's testimony by this questioning on the pool during the hearing and has included this testimony and the related exhibit in his Designation of Record. Therefore, the Administrative Law Judge had the opportunity to decide and weigh how this testimony affected Mr. Sapp's credibility and the facts related thereto. South Carolina Code Ann. Section 1-23-610 (B).

The repeated attempts by Appellant to include the after-acquired information in his appeal concerning this testimony using one approach on another, it is respectfully submitted, evidences his bad faith and disregard of the Orders of this Court.

November 4, 2016

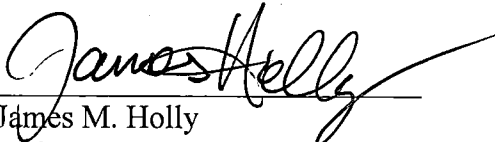

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Attorney for Respondent

EXHIBIT A

1 question here.

2 **THE COURT:** Yes, sir.

3 **MR. GRIES:** This is for miscellaneous. And this one
4 is sort of like a real flagrant question. This
5 is -- do I -- okay, I'll just hand it to you.

6 **Q:** And here's the question. On comparable number
7 four, there was a miscellaneous -- on the
8 property card, it shows 20,139 and that's for
9 a pool and there's no negative adjustment on
10 that comparable to eliminate the pool. Can you
11 explain that?

12 **THE COURT:** Which comp has the pool, sir? I'm just
13 trying to follow you, Mr. Gries.

14 **A:** I am, too.

15 **MR. GRIES:** Comparable number four, Your Honor.

16 **THE COURT:** The 3042 Farmer Road property?

17 **MR. GRIES:** Yes, Your Honor.

18 **THE COURT:** Has a pool?

19 **MR. GRIES:** That's what the property card described
20 it as.

21 **THE COURT:** Okay.

22 **A:** I'm -- I'm not sure on that one, Mr. Gries, to
23 be honest with you. When I looked at the
24 property for the date of the sale, which was
25 2013, there was no pool attached to the



1 property.

2 Q: Well, on the property card ---

3 A: And that shows ---

4 Q: --- under miscellaneous, pool, because I was
5 interested in that. What was that big number?

6 It said pool.

7 A: And that's based on the sale of the property.

8 At the date of the sale of the property, there
9 was no pool attached to that particular
10 property.

11 Q: So ---

12 **THE COURT:** That property sold on November the 20th
13 of 2013; is that right?

14 A: Yeah. Yeah. Yeah, to my recollection.

15 **THE COURT:** And you don't recall there being a pool,
16 sir?

17 A: No.

18 **THE COURT:** All right.

19 A: I don't. Not to that property.

20 Q: And I do want to ask a couple questions on the
21 buildings portion, the residence. I'm going to
22 go to comparable number four again. And I'll
23 hand this out. And this has to do with the
24 residence only. And you've made a number of
25 adjustments but for the residence -- and, Your



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CERTIFICATE OF SERVICE

I certify that I served Respondent's Reply with respect to Respondent's previously filed Motion to Dismiss Appeal, Strike Third Amended Initial Brief and/or for Other Relief on Appellant by depositing a copy thereof in the United States Mail, postage prepaid, on November 4, 2016, addressed to Appellant Brett Gries, 680 Implement Road, Aiken, SC 29803.

November 4, 2016



James M. Holly, Esquire

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Attorney for Respondent



Aiken County
County Attorney

Remembering the Past, Preparing for the Future

James M. Holly
County Attorney

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SC Court of Appeals

November 4, 2016

The Honorable Jenny Abbott Kitchings
Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: Brett Gries vs. Aiken County Assessor
SC Court of Appeals: Appellate Case No. 2015-002637

Dear Clerk Kitchings:

Please find enclosed for filing one original and six copies of the Respondent's Return with respect to its previously filed Motion to Dismiss Appeal, to Strike or for Other Relief and one copy of the Certificate of Service on Appellant.

Thank you for your assistance.

Yours very truly,

A handwritten signature in black ink, appearing to be "James M. Holly", written over a horizontal line.

James M. Holly
Attorney for Respondent

cc: Mr. Brett Gries, Appellant Pro Se

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THE HONORABLE JENNY ABBOTT KITCHINGS
CLERK
SOUTH CAROLINA COURT OF APPEALS
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