THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM ADMINISTRATIVE LAW COURT
Honorable John D. McLeod

Order (S.C. Ct. App. filed December 21, 2016)
Court of Appeals Appellate Case No. 2014-002355

FRANK R. MEAD, III ..... Respondent,

v.

BEAUFORT COUNTY ASSESSOR ..... Petitioner.

PETITION FOR A WRIT OF CERTIORARI

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CERTIFICATION OF COUNSEL

I, Stephen P. Hughes, Esquire, as counsel for the Petitioner, certify that a Petition for Rehearing was filed with the South Carolina Court of Appeals on January 19, 2017. I additionally certify that the Court of Appeals denied the Petition for Rehearing on February 23, 2017.

QUESTIONS PRESENTED

I. DID THE SOUTH CAROLINA COURT OF APPEALS ERR IN ITS FINDING THAT CHAPTER 37 IS THE SOLE DETERMINANT OF ELIGIBILITY FOR THE HOMESTEAD EXEMPTION, AND IN ITS FAILURE TO ACKNOWLEDGE THAT SECTION 12-43-220(c) OF THE SOUTH CAROLINA CODE IMPOSES ADDITIONAL REQUIREMENTS FOR ELIGIBILITY FOR THE HOMESTEAD EXEMPTION?

II. DID THE SOUTH CAROLINA COURT OF APPEALS ERR IN ITS IMPLICIT DETERMINATION THAT THE SOUTH CAROLINA DEPARTMENT OF REVENUE NO LONGER CONSIDERS ELIGIBILITY FOR THE 4% RESIDENTIAL ASSESSMENT RATIO, AVAILABLE UNDER SECTION 12-43-220(c) OF THE SOUTH CAROLINA CODE, AS A NECESSARY CRITERION FOR ELIGIBILITY FOR THE HOMESTEAD EXEMPTION UNDER CHAPTER 37 OF TITLE 12?

III. DID THE SOUTH CAROLINA COURT OF APPEALS ERR IN FINDING THAT SECTION 12-43-220(c)(2) OF THE SOUTH CAROLINA CODE IS MERELY A PRO-RATION STATUTE?

IV. DID THE SOUTH CAROLINA COURT OF APPEALS ERR IN FINDING THAT THE RELEVANT STATUTES WERE NOT AMBIGUOUS, AND, THEREAFTER, IN FAILING TO CONSTRUE THE AMBIGUITIES AGAINST THE TAXPAYER?

And now comes the Petitioner, Beaufort County Assessor, and files the following Petition for Writ of Certiorari. For the reasons that follow, the Assessor hereby requests that this Supreme Court grant a Writ of Certiorari, pursuant to Rule 242 of the South Carolina Appellate Court Rules, in order to review and then reverse the recent decision of the South Carolina Court of Appeals in the above captioned matter.

STATEMENT OF THE CASE

Respondent, Frank R. Mead, III, a resident of Hilton Head Island, rented his residence for no fewer than 138 days during the 2011 tax year. (Record On Appeal p.200, lines 7-8; Record On Appeal p.219, lines 8-10). As a result, the

Appellant, Beaufort County Assessor determined Respondent was no longer eligible for the homestead exemption because the subject property failed to satisfy the legislatively-imposed criteria governing the availability of the homestead exemption. (Record On Appeal p. 199, line 24- p.200, line 7). Following the Assessor's action, Respondent appealed the Assessor's determination to the Beaufort County Tax Equalization Board, which denied Respondent relief by letter dated November 25, 2013. (Record On Appeal p.15). On December 9, 2013 Respondent requested a contested case hearing before the South Carolina Administrative Law Court (ALC) and a Notice of Assignment was filed by the ALC on December 12, 2014, assigning the case to the Honorable John D. McLeod. (Record On Appeal p.16).

Before the ALC, both parties filed Motions for Summary Judgment and agreed that the sole issue before the ALC was whether the homestead exemption is available only to property that also qualifies for the preferential residential assessment ratio found in S.C. Code Ann. § 12-43-220(c). (Record On Appeal p.199, lines 4-19). Following oral argument on the issue, Judge McLeod adopted Respondent's proposed order reversing the determination of the Assessor and the Board. (Record On Appeal p.2).

In his Order, Judge McLeod determined Respondent met the requirements of the homestead exemption because he had been a resident of South Carolina for at least one year, was over the age of sixty-five, and did not do anything that would amount to a "change affecting eligibility." (Record On Appeal 5). Judge McLeod further held that the homestead exemption applies to

a person's dwelling place and found that, despite Respondent's practice of renting his home and living in a temporary apartment for various periods of the year, Respondent does not hold out any other property as his primary residence, thus the subject property is his "dwelling place." (Record On Appeal 5). In so ruling, the ALC rejected the arguments of the Petitioner, who contended that Chapters 37 and 43 of Title 12 clearly reference and rely on one another as parts of an overall statutory scheme involving taxation of real property, and that any determination of eligibility for the homestead exemption must thus consider the relevant provisions of both chapters. Petitioner also argued that the language of Chapter 37 of Title 12 is, at the very least, ambiguous and should be resolved in favor of the Petitioner. Following the denial of Petitioner's motion for reconsideration, Petitioner filed a Notice of Intent to Appeal on October 27, 2014, and sought review of the ALC's Order. Through Opinion No. 5460, dated December 21, 2016, the South Carolina Court of Appeals affirmed the ALC's Order, as modified. Following the decision, the Petitioner filed a Petition for Rehearing on January 19, 2017, which was subsequently denied by Order dated February 23, 2017.

ARGUMENT

This appeal involves issues of statutory interpretation, specifically, a determination of those criteria which must be satisfied in order to qualify for the homestead exemption available under South Carolina law. It is the contention of the Petitioner that property, to **qualify** for the homestead exemption, must satisfy not only (a) those criteria imposed by Section 12-37-250 of the South Carolina

Code, but also (b) those additional criteria imposed by section 12-43-220(c)(2)(i) – i.e. that the property must first be a **qualified** legal residence under Section 12-43-220(c)(2)(i) [1]. It is the further contention of the Petitioner that the Court of Appeals was in error in its determination that Section 12-37-250 sets forth the sole criteria for eligibility for the homestead exemption, and in its corresponding determination that property which satisfies only those criteria is to be classified and taxed as residential on an assessment equal to 4% of the property's fair market value.

The exemption is initially addressed within Chapter 37, in Code Section 12-37-220(A)(9), which provides for "a **homestead exemption**" in an amount to be determined by the General Assembly, "of the fair market value of the **homestead** ... ". (emphasis added).

The exemption at issue here is addressed further at South Carolina Code Ann. Section 12-37-250, which provides, in relevant part, as follows:

> (A)(1) "The first fifty thousand dollars of the fair market value of the **dwelling place** of a person is exempt from county, municipal, school, and special assessment real estate property taxes when the person:
>
> (i) has been a resident of this State for at least one year and has reached the age of sixty five years on or before December 31st;
>
> (ii) has been classified as totally and permanently disabled by a state or federal agency having the function of classifying persons; or
>
> (iii) is legally blind as defined in Section 43-25-20 preceding the tax year in which the exemption is claimed and holds complete fee simple title to or a life estate to the dwelling place. A person claiming to be totally and permanently

[1] A legal residence is "qualified" for the 4% residential assessment ratio only when the property, among other criteria, is not rented for a period in excess of the rental period allowed by statute. Ford v. Beaufort County Assessor, 398 S.C. 508, 730 S.E.2d 335 (2012)

> disabled, but who has not been classified by one of the agencies, may apply to the state agency of Vocational Rehabilitation. The agency shall make an evaluation of the person using its own standards.
>
> (A)(5) **"Dwelling place"** means the permanent home and legal residence of the applicant.

The exemption is also addressed within Chapter 43, at Code Section 12-43-220(c)(2)(i), which states, in relevant part

> A residence which has been qualified as a **legal residence** for any part of the year is entitled to ... the homestead exemption under Section 12-37-250, if otherwise eligible, for the entire year.

The statutory definition of **"dwelling place"** as "the **permanent home** and **legal residence** of the applicant", as set forth in Section 12-37-250(A)(5), is critical to an appropriate determination of legislative intent. It is the contention of the Petitioner that this definition of "**dwelling place**", when read in conjunction with the specific provisions of Section 12-43-220(c)(2)(i), renders clear the intent that the homestead exemption apply only to that property owned by and utilized by the taxpayer as his primary residence, and only where that property "... has been qualified as a legal residence ..." under the provisions of Seciton 12-43-220(c)(1).

The ruling of the Court of Appeals, in failing to impose any requirement for even limited residence by the taxpayer at the subject property (to say nothing of ignoring the specific criteria set forth in Section 12-43-220(c)(2)(i)) is inconsistent with the provisions of the aforesaid statutes, which, by their specific terms (a) apply to the **"homestead"** or the "**permanent home and legal residence**" of the taxpayer (Section 12-37-250), and (b) only where the property has "**qualified as**

a legal residence" (by satisfaction of those criteria set forth in Section 12-43-220(c)(1)).

Under the ruling as issued by the Court of Appeals, the homestead exemption would be available to any property where that property is represented to be the "legal residence" of a taxpayer who satisfies the limited criteria set forth in Section 12-37-250. The ruling would render eligible any purported legal residence (owned by a taxpayer satisfying any of those limited requirements), notwithstanding that the property might be rented by the taxpayer for an extended period, up to and including 365 days per year. As is demonstrated hereinafter, the ruling of the Court of Appeals, and the corresponding expansion of eligibility for the homestead exemption, which that ruling allows, is clearly inconsistent with the legislative intent in authorizing a homestead exemption.

The statutes, as set forth in the respective provisions of Chapters 37 and 43, (a) are clearly inter-related, (b) are addressed to the availability of the homestead exemption, and (c) must be interpreted in tandem in order to determine the legislative intent. The statutory provisions are clear in imposing limitations upon the availability of the homestead exemption, including requirements that the applicant satisfy criteria set forth in both Chapters 37 **and** 43.

However, in the event that this Court should disagree with the Petitioner's aforesaid arguments, based upon those considerations more thoroughly detailed hereinafter, the statutes at issue are, at the very least, ambiguous. Any such

ambiguity, under clearly established precedent, should be resolved in favor of the Petitioner.

The Assessor respectfully requests that the Supreme Court grant this Petitioner for Writ of Certiorari, and consider arguments on reversing the decision of the South Carolina Court of Appeals, dated December 21, 2016.

I. The Court of Appeals erred in its determination that Chapter 37 is the sole determinant of eligibility for the homestead exemption, and in its failure to acknowledge that section 12-43-220(c) of the South Carolina Code imposes an additional requirement for eligibility for the homestead exemption.

The Court of Appeals determined that the availability of the homestead exemption is governed exclusively by the provisions of section 12-37-250 of the South Carolina Code. The Court of Appeals also determined that a taxpayer, who satisfies the limited criteria as set forth within section 12-37-250, qualifies not only for the homestead exemption, but also, pursuant to section 12-37-252(A), for the 4% assessment ratio upon his subject property, a rate ordinarily reserved for those residences meeting the requirements of Section 12-43-220(c). This ruling is not supported by substantial evidence or by a plain reading of the relevant statutes.

As noted by the Court of Appeals, the cardinal rule of statutory interpretation is to ascertain and effectuate the intent of the legislature. Chem Nuclear Systems, LLC v. South Carolina Board of Health and Environmental Control, 374 S.C. 201, 205, 648 S.E.2d 601, 603 (2007). If legislative intent can be reasonably determined in the language used, then that language must be construed in light of the intended purpose of the statute. McClanahan v.

Richland County Council, 350 S.C. 433, 437, 567 S.E. 2d 240, 242 (2002). Moreover, the language of a statute must be read in a sense which harmonizes with its subject matter and accords with its general purpose. Chem Nuclear Systems, LLC v. South Carolina Board of Health and Environmental Control, 374 S.C. 205, 648 S.E.2d 603 (2007).

Equally importantly, a statute must be read as a whole, and sections which are part of the same general statutory law must be construed together and each one given effect. Duval v. S.C. Budget and Control Board, 377 S.C. 36, 42, 649 S.E.2d 125, 127 (2008). Additionally, the real purpose and intent of the law makers will prevail over the literal import of particular words. Floyd v. Nationwide Mutual Insurance Co., 367 S.C. 253, 260, 626 S.E.2d 6, 10 (2006).

Appropriate application of the foregoing rules of construction, to the statutory provisions at issue here, clearly renders the homestead exemption unavailable to the taxpayer, Mead.

The provisions of section 12-37-250 set forth limited requirements for qualification for the homestead exemption. Contrary, however, to the determination of the Court of Appeals, Chapter 37, of Title 12, does not contain the only statutory provisions relating to the homestead exemption, and Chapter 37 is not the sole determinant of eligibility for that exemption. The homestead exemption is addressed not only within Chapter 37, but is also specifically addressed by Chapter 43, at section 12-43-220(c)(2)(i), which imposes additional requirements for eligibility for the homestead exemption. Specifically, section 12-43-220(c)(2) requires that the homestead exemption be available only

where a residence has first **qualified** as a legal residence by satisfying the criteria set forth in 12-43-220(c).

Both Chapters 37 and 43 of Title 12 clearly reference and rely on one another as part of an overall statutory scheme encompassing taxation of real property. Each chapter contains extensive cross-references to the other respective chapter, including, among others, the following:

(a) Section 12-37-252(B), which provides in relevant part, that "when a person qualifies for a refund pursuant to sections 12-60-2560 and 12-43-220(c) for prior years' eligibility for the 4% owner-occupied residential assessment ratio, the person also **may** be certified for a homestead tax exemption pursuant to section 12-37-250." (emphasis added);

(b) Section 12-37-252(C), which provides in relevant part, that "... if a deceased taxpayer failed to claim the assessment ratio allowed pursuant to section 12-43-220(c) ... before the date of the taxpayer's death, then the personal representative of the deceased taxpayer's estate is deemed the agent of the deceased taxpayer for purposes of the applications required pursuant to these sections and any claim for refund arising pursuant to resulting over payments."

(c) Section 12-37-220(B)(1)(e)(iv), which defines "house" to mean "a dwelling and the lot on which it is situated classified in the

hands of the current owner for property tax purposes pursuant to section 12-43-220(c)."

(d) Section 12-43-220(d)(6), which provides that "any property which becomes exempt from property taxes under section 12-37-220(A)(1) or any economic development property which becomes exempt under section 12-37-220(B) is not subject to roll back taxes.".

Moreover, and most notably, both Chapters 37 (at section 12-37-220(A)(9), 12-37-250(A), and 12-37-252(A)), and 43 (at section 12-43-220(c)(2)(i)) also set forth specific provisions governing the availability of the homestead exemption.

In light of the demonstrated inter-relationship of the statutory provisions, any inquiry into eligibility for the homestead exemption does not end solely with consideration of the provisions of section 12-37-250. Equal consideration must be given to other statutory provisions which also address the availability of the homestead exemption, and any analysis is incomplete without due consideration of section 12-43-220(c)(2)(i), which, as noted above, by its specific terms, imposes additional conditions and restrictions upon persons seeking eligibility for the homestead exemption.

Section 12-43-220(c)(2)(i) states, in relevant part, that "a residence which has been qualified as a legal residence for any part of the year is entitled to ... the homestead exemption under section 12-37-250, **if otherwise eligible**, for the entire year." The use of the term "otherwise eligible" clearly contemplates that

qualification under 12-43-220 is a criterion of eligibility which must be met **in conjunction** with those found elsewhere, i.e. in Chapter 12 Title 37.

Section 12-43-220(c)(2)(i) thus sets forth:

(1.) A specific reference to the homestead exemption under section 12-37-250;

(2.) A specific recitation of a prerequisite for eligibility for the homestead exemption under section 12-37-250 and;

(3.) A specific statement of legislative intent that the homestead exemption be available only to those properties **qualified** for the preferential 4% residence assessment ratio as set forth in section 12-43-220(c)(1).

Therefore, by the specific terms of section 12-43-220(c)(2)(i), **qualification** for the preferential 4% residential assessment ratio, provided by section 12-43-220(c), is a pre-requisite to eligibility for the homestead exemption under section 12-37-250. It follows that a failure of the property to qualify for the residential assessment ratio provided by section 12-43-220(c) **disqualifies** the property for the homestead exemption under section 12-37-250.

Similar considerations apply to the availability of a 4% assessment ratio under section 12-37-252. The Court of Appeals, in its order, erroneously determined that, pursuant to section 12-37-252(A), any property which satisfies the limited criteria set forth in section 12-37-250(A) is entitled to be taxed on an assessment equal to 4% of the property's fair market value.

A careful reading of section 12-37-252(A) reveals clearly that it is **only** where a legal residence actually **qualifies** for the homestead exemption that such residence will be assessed at 4% of its fair market value. As noted hereinabove, property which fails to satisfy the criteria for residential assessment, as set forth within section 12-43-220(c)(1), is not **qualified** as a legal residence, and therefore does not qualify for the homestead exemption.

By the specific language of section 12-43-220(c)(2)(i), the initial qualification for the residential assessment ratio provided by section 12-43-220(c) is a pre-requisite to eligibility for the homestead exemption under section 12-37-250. As previously determined by the Court of Appeals in Ford v. Beaufort County Assessor, the "legal residence" is "qualified" for the 4% residential assessment ratio **only** where the property, among other criteria, is not rented for a period in excess of the rental period allowed by statute. Ford v. Beaufort County Assessor, 398 S.C. 508, 730 S.E.2d 335 (2012).

The specific provisions of section 12-43-220(c)(2)(i) clearly provide that it is **only** such a "qualified" legal residence (one which satisfies the criteria for eligibility for the residential assessment ratio under section 12-43-220(c)) which is, in turn, eligible for the homestead exemption under section 12-37-250.

That contention is reinforced by a careful review of Section 12-37-252(B), which states, in relevant part:

> "When a person qualifies for a refund pursuant to Section 12-60-2560 and Section 12-43-220(c) for prior years eligibility for the 4% owner-occupied residential assessment ratio, the person may also be certified for the homestead tax exemption pursuant to Section 12-37-250."

This section, as does Section 12-43-220(c)(2)(ii), evidences the inter-relationship between the statues addressing the homestead exemption, and the 4% residential assessment ratio available under Section 12-43-220(c). It also reiterates the additional criteria (that a residence must first "qualify" as a "legal residence" under Section 12-43-220(c)), for eligibility for the homestead exemption.

The Court of Appeals, in its failure to consider the statutory requirements, as specifically set forth within section 12-43-220(c)(2)(i), in its determination of eligibility for the homestead exemption, and in its determination of assessment under section 12-37-252(A), was in error.

As noted hereinafter, such parallel references, within the respective chapters of Title 12, clearly demonstrate the inter-relationship between Chapters 37 and 43, and evidence the intention of the legislature that eligibility for the homestead exemption be conditioned upon corresponding eligibility for the 4% residential assessment ratio.

II. The Court of Appeals was in error in its implicit determination that the South Carolina Department of Revenue no longer considers eligibility for the 4% residential assessment ratio, available under section 12-43-220(c) of the South Carolina Code, as a necessary criterion for eligibility for the homestead exemption under section 12-37-220.

The Court of Appeals, within its Order, noted that the Department of Revenue, by Revenue Ruling No 97-18, had previously adopted the perspective urged by the Petitioner – i.e., that the availability of the homestead exemption is dependent, in the first instance, upon satisfaction of the criteria for the residential

assessment ratio under section 12-43-220(c) of the South Carolina Code. The Court of Appeals further noted that the Revenue Ruling had been withdrawn by the Department's Information Letter No. 99-4. The Court of Appeals then implicitly determined that the Department's position as set forth within the referenced Revenue Ruling had been abandoned.

Neither the Revenue Ruling nor the Information Letter was before the Court of Appeals for review or consideration, and the court's determination was thus unsupported by substantial evidence and was conclusory. Baldwin v. James River Corporation, 304 S.C. 485, 405 S.E.2d 421 (Court of Appeals 1991).

Moreover, as demonstrated by the accompanying Affidavit of Meredith Cleland[2], the court's determination is also contrary to the continuing practice of the Department of Revenue, which practice and interpretation are entitled to deference by the court. The Court of Appeals was in error both in its implicit factual determination, and in its failure to provide appropriate deference to the agency (Department of Revenue), charged with enforcement of relevant statutes. Brown v. S.C. Department of Health and Environmental Control, 348 S.C. 506, 566 S.E.2d 410 (2002).

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[2] The affidavit was filed and submitted to the SC Court of Appeals with Petitioner's Petition for Rehearing pursuant to Rule 240(c)(3) SCACR. The affidavit can be found attached to "Appellant's Petition for Rehearing."

III. The Court of Appeals was in error in its determination that section 12-43-220(c)(2) of the South Carolina Code was merely a pro-ration statute.

As demonstrated hereinabove, both Chapters 37 and 43 of Title 12 contain provisions specifically relating to the availability of the homestead exemption, and due consideration of the relevant provisions of both chapters is essential to a determination of eligibility for the homestead exemption. Section 12-43-220(c)(2)(i) of the South Carolina Code, by its specific provisions, sets forth additional criteria for eligibility for the homestead exemption. The statute specifically mandates, as an additional requirement for qualification for the homestead exemption, that property, in the first instance, also satisfy the statutory criteria for eligibility for the 4% residential assessment ratio, as set forth in section 12-43-220(c)(1).

Although section 12-43-220(c)(2)(i) may encompass pro-ration, it nonetheless also, by its explicit terms, imposes additional criteria (as detailed more thoroughly hereinabove), upon eligibility for the homestead exemption. It bears repeated emphasis that the criteria imposed by section 12-43-220(c)(2)(i) are explicitly reiterated in section 12-37-252(B), relating to qualifications for refund, pursuant to section 12-43-220(c), for prior years' eligibility "... for the 4% owner-occupied residential assessment ratio". Such parallel references, within the respective chapters of Title 12, clearly demonstrate the interrelationship between the respective chapters 37 and 43 of Title 12, and equally clearly evidence the legislative intent that eligibility for the homestead exemption be

conditioned upon corresponding eligibility for the 4% residential assessment ratio, under section 12-43-220(c)(1).

IV. THE SOUTH CAROLINA COURT OF APPEALS ERRED IN FINDING THAT THE RELEVANT STATUTES WERE NOT AMBIGUOUS, AND, THEREAFTER, IN FAILING TO CONSTRUE THE AMBIGUITIES AGAINST THE TAXPAYER.

As demonstrated hereinabove, it is the contention of the Petitioner that the relevant statutory provisions are unambiguous in their imposition of specific requirements for qualification for the homestead exemption, including those requirements as set forth, respectively, in sections 12-37-250 and 12-43-220(c)(2)(i) of the South Carolina Code. However, even in the absence of such legislative clarity, the provisions, as set forth within the legislative scheme encompassed by Chapters 37 and 43 of Title 12, are, at the very least, ambiguous. Under established rules of construction, ambiguities in statutory language creating exemptions or deductions from taxation are to be strictly construed against the taxpayer, who must clearly bring himself within the constitutional or statutory language upon which he relies. State vs. Life Insurance Company of Georgia, 254 S.C. 286, 292, 175 S.E.2d 203, 206 (1970). Established rules, which require construction of exemption/deduction statutes against the taxpayer, are plainly applicable to the statutes addressing the homestead exemption, whether within section 12-37-250, or within section 12-43-220(c). CFRE, LLC v. Greenville County Assessor, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011). Chapters 37 and 43 are parts of an overall statutory scheme encompassing taxation of real property, and therefore, under established rules of

statutory interpretation, must be construed together. Each chapter contains cross-references to the provisions of the other, and each contains provisions specifically addressing, and imposing conditions upon, eligibility for the homestead exemption. The provisions of Chapters 37 and 43 both arguably impose mandatory requirements for eligibility for the homestead exemption. The differing criteria imposed by the respective Chapters would alone constitute such ambiguity as to warrant the application of these rules of construction. However, the additional failure of either Chapter adequately to define the "dwelling place" ("the permanent home and legal residence") compels such a course.

The demonstrated ambiguities in the statutes at issue before the Court require construction against the taxpayer, and in favor of the Assessor. The Court of Appeals, in its failure so to construe the statutes, was in error.

CONCLUSION

Based upon the foregoing considerations, it is respectfully submitted that the Court of Appeals was in error in its failure to consider the relevant provisions of both Chapters 37 and 43 of Title 12 in its determination of eligibility for the homestead exemption. The court was in further error in its determination that section 12-37-250 of the South Carolina Code sets forth the sole criteria for eligibility for the homestead exemption, in its determination that property satisfying the limited criteria in section 12-37-250 is entitled to a 4% assessment ratio pursuant to section 12-37-252(A), and in its failure to consider the additional criteria for eligibility as imposed by section 12-43-220(c)(2)(i). The Court of Appeals was also in error in its implicit determination, against the position

asserted by the Petitioner, that the Department of Revenue no longer considers eligibility for the 4% residential assessment ratio under 12-43-220(c), as a necessary criterion for eligibility for the homestead exemption under section 12-37-220, a finding which was without substantial evidence. The court was also in error in its determination that section 12-43-220(c)(2)(i) was merely a pro-ration statute, and in its failure to consider the additional criteria, imposed by such statute, for eligibility for the homestead exemption. The court was also in error in its failure to find, at the least, ambiguity in the statutes under consideration, and in its failure to resolve such ambiguity against the taxpayer, and in favor of the Petitioner.

For the foregoing reasons, the Petitioner, Beaufort County Assessor, respectfully requests that this Honorable Court grant its petition for Writ of Certiorari, reverse the South Carolina Court of Appeals opinion, and render judgment in favor of the Petitioner.

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March 24, 2017

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APPEAL FROM ADMINISTRATIVE LAW COURT
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vs.

BEAUFORT COUNTY ASSESSOR ..... Petitioner.

PROOF OF SERVICE

I certify that I served the Petition for a Writ of Certiorari, together with the Appendix, on Frank R. Mead, III, by depositing a copy of it in the United States Mail, postage prepaid, on this 24th day of March, 2016, addressed to his attorneys of record, Burnet R. Maybank, III, Esquire, Nexsen Pruet, PLLP, Post Office Drawer 2426, Columbia, SC 29202

BY

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