

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE STATE OF SOUTH CAROLINA
Administrative Law Court

S. Phillip Lenski, Administrative Law Judge

Appellate Case No. 2015-002637

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SC Court of Appeals

Brett Gries Appellant

v.

Aiken County Assessor..... Respondent

FINAL REPLY BRIEF OF APPELLANT

Brett Gries, BBA, MBA, CPA, Retired
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Aiken, SC 29803
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Appellant (pro se)

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TABLE OF AUTHORITIES

Cases

Statutes

South Carolina Article 25 of the South Carolina Real Property Valuation Act

Where Cited:

South Carolina Law SECTION 12-60

Where Cited:

South Carolina Law SECTION 12-60-450

Where Cited: 4, 8

South Carolina Law SECTION 16-9-10

Where Cited: 4, 7, 9, 10, 12

South Carolina Law SECTION 31-6-30

Where Cited: 9, 12

Other Authorities

Aiken County, South Carolina Public Property Record Card, For Roll Year 2014

Where Cited:

Transcript from ALC Case No. 15-ALJ-0050-CC

Where Cited: 8, 9, 10, 11, 12

Uniform Standards Of Professional Appraisal Practice

Where Cited: 4, 8, 9, 10, 11, 12, 13, 14

STATEMENT OF ISSUES ON APPEAL

ISSUE NUMBER ONE: During the Hearing on May 26, 2015 in front of Judge Lenski, Mr. Sapp did intentionally lie in front of Judge Lenski, and the evidence meets 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 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 Market 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 Market Value, and \$194,876 related to Land Market Value. As the taxpayer had previously agreed to the Appraised Market Value of all Improvements at 680 implement Road, the only issue protested was Land Market Value. While Mr. Sapp's purported appraisal indicated a Land Market Value of

\$194,876, Mr. Sapp, for some unknown reason, increased the Assessed Land Market 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. 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 collected, the Assessor's stance is incorrect.

STATEMENT OF THE CASE

The Nature of this action, is that the Appellant protested his 2013 Property Taxes, related to Land Market Value. The Appellant protested the Assessors December 31, 2013 Assessed Land Market Value 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. Appellant's Protest is for Land Market Value 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 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 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 Uniform Standards Of Professional Appraisal Practice. 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. Based on the evidence collected, Mr.

Sapp did intentionally lie in front of Judge Lenski, and that the collected evidence meets the requirements of Felony Perjury (**South Carolina Law, Section 16-9-10**). As a result, Mr. Sapp Impeached his Testimony & Work Product, including his Appraisal, and all are now suspect.

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

STATEMENT OF FACTS

Prior to the Testimony of each witness on May 26, 2015, each and every witness pledged to tell "The Truth, The Whole Truth and Nothing But The Truth". Had Respondents conducted their Testimony in accordance with this Pledge, Mr. Holly's Initial Brief would be absolutely correct. However, there were 4 statements made by Mr. Sapp and Mr. Jansen, which were NOT the Truth, The Whole Truth and Nothing But The Truth. These 4 statements were critical to this Case, and were very misleading to Judge Lenski.

FIRST, Appellant protested his Property Tax on Land Value only. From the start of the process, Appellant had agreed to the Assessed Value for ALL Improvements. Judge Lenski was fully aware of this (Transcript: Page 125 Lines 16 through 19/R. p. 81, lines 16-19). In accordance with **SECTION 12-60-450**,

(B) the Written Protest must contain

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

Appellants Protest/Appeal was for Property Tax for Land Market Value ONLY. This was reinforced by Judge Lenski's comments (Transcript: Page 125 Lines 16 through 19/R. p. 81, lines 16-19).

In accordance with **Uniform Standards Of Professional Appraisal Practice (Standards Rule 1.2(e))**, "an appraiser is not required to value the whole when the subject of the appraisal is a fraction interest, a physical segment, or a partial holding."

Mr. Jansen, in his Testimony (Transcript: Page 191, Lines 14 through 20/R. p. 121, lines 14-20), stated "And typically, according to the statutes, it says that you're appealing the market value, not the value of a building in my back yard or improvement."

SECOND, Appellants parcel is a Residential Equestrian Property, with a House, Barn, Pasture fences and Pasture land. The Uniform Standards Of Professional Appraisal Practice (Standards Rule 6-5 (iv)) states that an appraiser must “value the property by sales of comparable properties”

This Uniform Standards Of Professional Appraisal Practice (Standards Rule 6-5 (iv)), is reinforced by South Carolina Law, Section 31-6-30 (10)/R. pp. 133-137, which states “Vacant Land” means any parcel or combination of parcels of real property without industrial, commercial, and residential buildings.”

Mr. Sapp, in his Testimony (Transcript: Page 106, Lines 16 through 20/R. p. 68, lines 16-20), stated “Yeah, the General Standards of Appraising. You always look at land as if it’s vacant to determine the fair market value of it.”

Mr. Jansen, in his Testimony (Transcript: Page 182, Lines 19 through 21/R. p. 118, lines 19-21), stated “Typically, we use land that is vacant, you know, to value – to arrive at a base land value.”

THIRD, Based on the facts and evidence, Mr. Sapp intentionality lied in front of Judge Linski, which according to South Caroline Law, Section 16-9-10, constitutes Felony Perjury.

Mr. Sapp, in his Testimony (Transcript: Page 153, Lines 07 through 10/ R. p. 100, lines 7-10), intentionally lied in front of Judge Lenski about the gunite pool at his Comparable #4 (3042 Farmer Road), when he stated that “And that’s based on the sale of the property. At the date of the sale of the property, there was no pool attached to that particular property.” It should be noted, that the Assessors System continues to show a Gunite Pool at 3042 Farmer road, with a construction date of 2006.

FOURTH, Mr. Sapp's alleged Appraisal was NOT prepared in accordance with **Uniform Standards Of Professional Appraisal Practice**.

In accordance with the **Conduct Section, under the Ethics Rule of the Uniform Standards Of Professional Appraisal Practice**, "an appraiser must not engage in criminal conduct". And "An appraiser must not communicate assignment results in a misleading or fraudulent manner."

Mr. Sapp, in his Testimony (**Transcript: Page 153, Lines 07 through 10/R. p. 100, lines 7-10**), intentionally lied in front of Judge Lenski about the gunite pool at his Comparable #4 (3042 Farmer Road), when he stated that "And that's based on the sale of the property. At the date of the sale of the property, there was no pool attached to that particular property." It should be noted that the Assessors System continues to show a Gunite Pool at 3042 Farmer Road, with a construction date of 2006. Mr. Sapp actions, in accordance with **South Carolina Law, Section 16-9-10**, constitutes Felony Perjury.

In accordance with the **Record Keeping Section, under the Ethics Rule of the Uniform Standards Of Professional Appraisal Practice**, An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. The workfile must include:

- All other data information, and documentation necessary to support the appraisers opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the locations(s) of such other documentation.

Mr. Sapp, in his Testimony (**Transcript: Page 121, Lines 02 through 10/R. p. 78, lines 2-10**), answered Documentation questions as follows;

Q (Appellant): Do you have documentation in support of that? Do you have any documentation that documents why you did or didn't make as adjustment?

A (Mr. Sapp): Based on my experience as a professional appraiser.

Q (Appellant): So you have no documentation in support of your calculations?

A (Mr. Sapp): I have an appraiser license that says I'm qualified to do it.

ARGUMENT

Prior to the Testimony of each witness on May 26, 2015, each and every witness pledged to tell "The Truth, The Whole Truth and Nothing But The Truth". Had Respondents conducted their testimony in accordance with this Pledge, Mr. Holly's Initial Brief would be absolutely correct. However, there were 4 statements made by Mr. Sapp and Mr. Jansen, which were NOT the Truth, The Whole Truth and Nothing But The Truth. These 4 statements were critical to this Case and were misleading to Judge Lenski ESPECIALLY when Mr. Sapp & Mr. Jansen had been accepted as "Experts".

FIRST, Appellant protested his Property Tax on Land Value only.

Mr. Jansen, in his Testimony (**Transcript: Page 191, Lines 14 through 20/R. p. 121, lines 14-20**), stated "And typically, according to the statutes, it says that you're appealing the market value, not the value of a building in my back yard or improvement."

Mr. Jensen's statement is NOT in accordance with the **Uniform Standards Of Professional Appraisal Practice (Standards Rule 1.2 (e))**, which states "an appraiser is not required to value the whole when the subject of the appraisal is a fraction interest, a physical segment, or a partial holding."

Thus, Mr. Jensen's Statement was incorrect AND very misleading for Judge Lenski.

SECOND, Appellants parcel is a Residential Equestrian Property, with a House, Barn, Pasture fences and Pasture land.

Mr. Sapp, in his Testimony (Transcript: Page 106, Lines 16 through 20/R. p. 68, lines 16-20), stated "Yeah, the General Standards of Appraising. You always look at land as if it's vacant to determine the fair market value of it."

Mr. Jansen, in his Testimony (Transcript: Page 182, Lines 19 through 21/R. p. 118, lines 19-21), stated "Typically, we use land that is vacant, you know, to value – to arrive at a base land value."

Both Mr. Sapp's statement and Mr. Jensen's statement ARE NOT in accordance the Uniform Standards Of Professional Appraisal Practice (Standards Rule 6-5 (iv)), which states that an appraiser must "value the property by sales of comparable properties"

Both Mr. Sapp's statement and Mr. Jensen's statement ARE NOT in accordance South Carolina Law, Section 31-6-30 (10)/R. pp. 133-137, which states "'Vacant Land" means any parcel or combination of parcels of real property without industrial, commercial, and residential buildings."

Thus, both Mr. Sapp's Statement and Mr. Jensen's Statement were incorrect, AND were very misleading for Judge Lenski.

THIRD, Based on the facts and evidence, Mr. Sapp intentionality lied in front of Judge Lenski, which according to South Carolina Law, Section 16-9-10, constitutes Felony Perjury.

As Mr. Sapp was willing to intentionally lie in front of Judge Lenski on a pool with a market value of \$20, 139, we MUST ask ourselves the question, what other adjustments included in Mr. Sapp's Appraisal and NOT included in Mr. Sapp's Appraisal are now questionable.

As Mr. Sapp had been designated as an Expert, his Testimony regarding the gunite pool was incorrect and very misleading for Judge Lenski.

FOURTH, South Carolina requires its County Assessors to prepare their Appraisals in accordance with the **Uniform Standards Of Professional Appraisal Practice**.

Mr. Sapp's in his Testimony, claimed that his Appraisal prepared in accordance with **Uniform Standards Of Professional Appraisal Practice**. However, based on the facts and evidence, Mr. Sapp's alleged Appraisal was NOT prepared in accordance with the **Uniform Standards Of Professional Appraisal Practice**.

Mr. Sapp's Testimony regarding the gunite pool at his Comparable #4 (3042 Farmer Road), breached the **Conduct Section, under the Ethics Rule of the Uniform Standards Of Professional Appraisal Practice**, which states "an appraiser must not engage in criminal conduct". And "An appraiser must not communicate assignment results in a misleading or fraudulent manner."

Mr. Sapp's Testimony regarding his lack of supporting documentation, breached the **Record Keeping Section, under the Ethics Rule of the Uniform Standards Of Professional Appraisal Practice**, which states;

An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. The workfile must include:

- All other data information, and documentation necessary to support the appraisers opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the locations(s) of such other documentation.

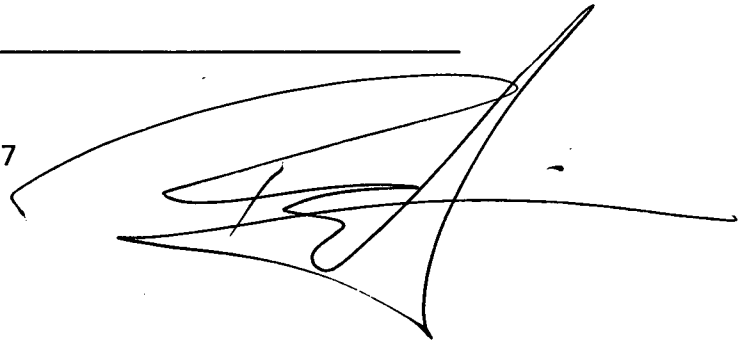
Both Mr. Sapp and Mr. Jansen failed to adhere to their pledge “The Truth, The Whole Truth and Nothing But The Truth” with their Testimony. Thus you have two individuals, designated as “Experts”, who have made statements in front of Judge Lenski, which are NOT in accordance with the Uniform Standards Of Professional Appraisal Practice, and/or are NOT in accordance with South Carolina Law.

Under the circumstances, these incorrect statements by designated “Experts” Mr. Jansen and Mr. Sapp, were very misleading for Judge Lenski.

CONCLUSION

What we have is an alleged Appraisal, which was NOT prepared in accordance with the Uniform Standards Of Professional Appraisal Practice, and which was NOT prepared in accordance with South Carolina Law. In order to send a message to the Assessor’s Community, that Appraisals must be prepared in accordance with Uniform Standards Of Professional Appraisal Practice, and that Appraisals must be prepared in accordance with South Carolina Law, this appraisal needs to be declared Noll and Void.

Respectively Submitted, July 01, 2017

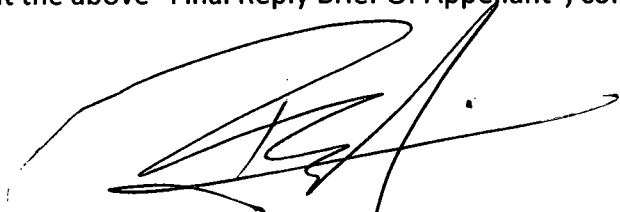
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CERTIFICATION

I Brett Gries, Appellant, certify that the above "Final Reply Brief Of Appellant", complies with Rule 211(b).

A handwritten signature in black ink, appearing to read 'Brett Gries', is written over the printed name and contact information.

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