THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Appellate Case No. 2017-002369

Charleston County Assessor, ... Petitioner-Respondent,

v.

University Ventures, LLC, ... Respondent-Petitioner.

BRIEF OF PETITIONER-RESPONDENT CHARLESTON COUNTY ASSESSOR

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STATEMENT OF ISSUES ON APPEAL

Whether the Court of Appeals erred when it found that the Assessor used a six-year reassessment cycle instead of a five-year reassessment cycle pursuant to S.C. Code Ann. § 12-43-217.

STATEMENT OF THE CASE

The Charleston County Assessor (the "Assessor" or "Charleston County" or the "County") filed a contested case hearing on March 17, 2014, before the South Carolina Administrative Law Court (the "ALC") challenging the decision of the Charleston County Board of Assessment Appeals (the "Board") on the grounds that the Board erred in construing and applying an improper methodology of the valuation of real property owned by University Ventures, LLC ("University Ventures"). The Assessor valued a Hampton Inn and Suites (the "Property") at $9,500,000 for the County's 2010 countywide quadrennial reassessment (hereinafter "2010 Reassessment"). University Ventures opined that the Property should be valued as vacant land at $628,439, with no value for the improvements. The Board agreed with University Ventures' approach and excluded the value of the improvements on the Property, and assigned a value of $628,439 for the 2010 Reassessment.

The ALC held a contested case hearing on January 21, 2015, to determine the correct valuation of the Property. Although neither party filed a contested case hearing for the ALC to determine the proper reassessment cycle, the ALC found that the 2010 Reassessment should have been implemented in 2009. A 2009 quadrennial reassessment implementation would conflict with the previous cycles since the first program was first conducted in 1999. The ALC filed its Final Order and Decision on April

23, 2015, (the "Order"), concluding, as a matter of law, that the 2010 Reassessment included the years 2005 to 2009.[1] The County filed its Notice of Appeal on May 19, 2015, challenging the ALC's Order.

The Court of Appeals heard oral arguments on January 25, 2017, and filed its decision on September 14, 2017. The Court of Appeals reversed the ALC, finding that the proper valuation of the Property should include the improvements but affirmed the ALC's finding that the 2010 Reassessment should have been implemented in 2009. Both the County and University Ventures filed cross petitions for rehearing, both of which the Court of Appeals denied on October 19, 2017.

Charleston County asks this Court to vacate the portion of the Court of Appeals' decision that alters the Assessor's five-year reassessment implementation cycle from 2010 to 2009 because the Court of Appeals' decision is at odds with the South Carolina Department of Revenue's ("SCDOR") approval pursuant to S.C. Code Ann. § 12-4-510(3) of the Assessor's 2000, 2005, and 2010 reassessment cycles.

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[1] The Order also ordered the Assessor to value the Property at $860,537 which represents only the land as vacant without the completed hotel improvements.

ARGUMENT

I. THE COURT OF APPEALS ERRED WHEN IT FOUND THAT THE CHARLESTON COUNTY ASSESSOR USED A SIX-YEAR REASSESSMENT CYCLE INSTEAD OF A FIVE-YEAR REASSESSMENT CYCLE PURSUANT TO S.C. CODE ANN. § 12-43-217.

This Court should vacate the Charleston County Assessor v. Univ. Ventures, LLC decision to the extent it is inconsistent with SCDOR's order approving the County's first reassessment cycle in 1999. 421 S.C. 194, 203-206, 805 S.E.2d 216, 221-223 (Ct. App.2017). The Court of Appeals in University Ventures overlooked the parties' stipulation to a date of value of December 31, 2008. Moreover, in University Ventures' the Court ignored the County's duly adopted 2010 Reassessment Delay Ordinance, as evidence of the fact that 2009 was the fourth year (i.e., the year the County conducted the countywide appraisal and equalization program) of the reassessment cycle and that 2010 was the statutorily prescribed fifth year (i.e., the year to implement reassessment), which was delayed until 2011.

Furthermore, the Court of Appeals in University Ventures incorrectly found that Mr. Ziegler testified, "the previous cycle ended in 2004." University Ventures at 205, 222; (see also App. p. 0092, lines 13-17; App. p. 0093, lines 8-14; App. p. 0095, lines 18-21). Although Ziegler testified "I said we delayed implementation for 2004, 2005[,]" he was in fact referencing a Reassessment Cap Delay Ordinance[2] not a Quadrennial

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[2] Charleston County did not adopt a Reassessment Postponement Ordinance to delay the 2005 Quadrennial Reassessment. Instead, University Ventures is confusing the County's 2004 Ordinance delaying implementation of the 15% Reassessment Cap pursuant to S.C. Code Ann. § 12-37-223A (Supp. 2004) with the Quadrennial Reassessment for 2005. Charleston County adopted a reassessment cap Ordinance in 2002 for owner-occupied property in Charleston County which was struck down in Riverwoods, LLC v. County of Charleston, 349 S.C. 378, 563 S.E.2d 651 (2002), because it exceeded the authority granted to the County in S.C. Code Ann. § 12-37-223A (Supp. 2004). Thereafter, the County adopted another ordinance tracking the language of S.C. Code Ann. § 12-37-223A, eliminating the owner-occupied

Reassessment Delay Ordinance. (App. p. 0095, lines 18-19). The fact that the County completed its Reassessment in 2004 and implemented it in 2005 is supported by the Court of Appeals decision in Charleston Cnty. Assessor v. LMP Props., Inc., 403 S.C. 194, 200, 743 S.E.2d 88, 91 (Ct.App.2013).

Therefore, this Court should vacate the Court of Appeals decision to the extent it holds that the Assessor incorrectly calculated its five-year reassessment cycle because (1) the lower courts' rulings on the proper reassessment cycle is contrary to SCDOR's reassessment order for Charleston County and (2) the Assessor's application of the statutes and dates of value have proceeded in five-year increments since it was first completed in 1999 and implemented in tax year 2000 (delayed to 2001).

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preference.

The City of North Charleston challenged that ordinance in a case styled City of N. Charleston v. County of Charleston, 363 S.C. 527, 611 S.E.2d 920 (2005). During the pendency of that case, the County delayed the implementation of the Reassessment Cap Ordinance twice (in 2004 and 2005). In 2005, the South Carolina Supreme Court in City of N. Charleston found that S.C. Const. art. X, § 3 mandated statewide uniformity in property tax exemptions enacted by the general assembly. Where the South Carolina Constitution required statewide uniformity, a local option law was not valid. S.C. Code Ann. § 12-37-223A (Supp. 2004) was patently invalid since it enacted an exemption that was not uniform throughout the state; therefore, the court declared S.C. Code Ann. § 12-37-223A unconstitutional and held that the county's ordinance was therefore invalid. City of N. Charleston v. County of Charleston, 363 S.C. 527, 528, 611 S.E.2d 920, 921 (2005).

A. The Assessor Conducted the County's 2000 Countywide Appraisal and Equalization Program Pursuant to the South Carolina Department of Revenue's Order and Each Time Thereafter In Five-Year Increments.

The Court of Appeals misconstrued South Carolina law and ignored the substantial evidence on the whole record when it found that "[t]he Assessor's repeated pattern of delaying the implementation year for reassessment has resulted in confusion and inconsistency because it has caused a six-year cycle." Charleston Cnty. Assessor v. University Ventures, LLC, Opinion No. 5516 (Ct.App.2017). The Court reasoned that "[t]he confusion over which value to use for the hotel seems to have arisen in part from the Assessor delaying the 1999 reassessment to 2001, instead of 2000." Id. There is no evidence in the record to support a finding that the Assessor's delay in implementing the appraised and equalized values generated in 1999 caused a six-year cycle or that the implementation of the revised values in 2001 was improper.[3] Rather, the evidence and case law support the fact that the County complied with an order issued by the SCDOR and conducted the Appraisal and Equalization Program in 1999. The fact that the values were delayed does not affect the schedule of values in the Appraisal and Equalization Program. See S.C. Code Ann. § 12-43-217(B); see also Footnote 5. The Quadrennial Reassessment Statute provides in pertinent part that:

> Notwithstanding any other provision of law, **once every fifth year** each county or the State shall appraise and equalize those properties under its jurisdiction. Property valuation must be complete **at the end of December**

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[3] The proper construction of the Quadrennial Reassessment Statute is to implement the reassessment program and assess all property. The purpose of the reassessment statute is to provide "some stabilization to the property taxes owed on a piece of property." Charleston Cnty. Assessor v. LMP Props., Inc., 403 S.C. 194, 200, 743 S.E.2d 88, 91 (Ct.App.2013). A reassessment and equalization of property values gives property owners stability in terms of taxes by assigning a property's fair market value based on a standard date of value. Once the new values are determined in Year 4 of a reassessment cycle and implemented in Year 5 of a cycle, those values are the basis for property owners' property tax liability until the next reassessment cycle's implementation, typically five years later.

> **of the fourth year** and the county or State shall notify every taxpayer of any change in value or classification if the change is one thousand dollars or more. **In the fifth year**, the county or State **shall implement the program and assess all property on the newly appraised values**.

S.C. Code Ann. § 12-43-217 (Emphasis added).

"The words of the statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation." Buist v. Huggins, 367 S.C. 268, 276, 625 S.E.2d 636, 640 (2006).

The genesis of the Court's misapprehension regarding the 2010 Reassessment program is its reference to the "1999 reassessment." The Court of Appeals *sua sponte* cites to Northbridge as a basis to establish 1999 was a reassessment year. 2004 S.C. Tax LEXIS 225.[4] Northbridge sets forth the history of the quadrennial reassessment statute since the adoption of S.C. Code Ann. § 12-43-217 in 1995 and its subsequent implementation in Charleston County. Interestingly, Northbridge involved a similar challenge to Charleston County's Quadrennial Reassessment Program. The Court of

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[4] Respondent-Petitioner takes exception to the Assessor's reference to Northbridge and the SCDOR 1999 Order because these matters were not before the ALC. As a threshold matter, the Court of Appeals raised the Northbridge decision on its own as the basis for finding the reassessment program was off cycle. In response to this decision, the Assessor, pursuant to the Appellate Court Rules filed a Petition for Rehearing stating the reasons why the Court misapprehended the facts and law in this case. The Court of Appeals and this Court may take judicial notice of the Northbridge decision and its supporting Administrative Orders, which are not in dispute. See Wise v. Wise, 294 S.C. 591, 600, 716 S.E.2d 117, 122 (Ct.App.2011). As set forth in Wise:

> Notice may be taken of judicially cognizable 'facts' in administrative cases. Appellate courts are generally reluctant to notice adjudicative facts even when those facts may be absolutely reliable. Notice of 'facts' for the first time on appeal may deny the adverse party the opportunity to contest the matters noticed; it may also violate the general principle that appellate review should be limited to the record. Finally, appellate courts, limited to the 'cold' record, cannot be as sensitive to the appropriateness of judicial notice as the trial judge. For the foregoing reasons we hold that original judicial notice of adjudicative facts at the appellate level should be limited to matters which are indisputable.

Id. (citations omitted).

Appeals correctly noted that the Charleston County Assessor was a party to a reassessment challenge where the ALC found that 1999 was a reassessment year. Id. Counsel for the Respondent-Petitioner represented the taxpayer in that case and questioned, as he did here, whether the Assessor was correctly calculating the five-year reassessment cycle. The taxpayer argued that the Assessor should have conducted the reassessment in 1998 and implemented the values from the reassessment in 1999. Conversely, the Assessor argued that the reassessment should be completed by December 31, 1999, and the values should be implemented in 2000.

In Northbridge, the ALC agreed with the Assessor and found that:

> On February 3, 1997, the Director of the South Carolina Department of Revenue, pursuant to general authority contained in S.C. Code Ann. § 12-4-510(3), issued an Order to Charleston County which postponed the implementation of the annual reassessment in Charleston County and directed the county to complete its countywide reassessment program by December 31, 1999. Further, the Order directed the county to implement the program in tax year 2000 and directed the Assessor to mail assessment notices to all taxpayers by February 1, 2000.

Id. (App. p. 0870; App. p. 0851).

Therefore, 1999 was the fourth year (i.e. the year the County conducted the countywide appraisal and equalization program) and 2000 the fifth year of the cycle, i.e., the year of implementation of the newly revised values.

Northbridge also set forth the correct application of the procedure for implementing a one-year delay. The South Carolina General Assembly passed Act No. 93 in 1999, which became effective on July 1, 1999. This Act amended S.C. Code Ann. § 12-43-217 by adding paragraph (B), authorizing a county by ordinance to postpone for not more than one property tax year the implementation of revised values resulting from its equalization

program (which § 12-43-217 required to be implemented every five years). Id. Accordingly, during the first reassessment cycle, the County properly implemented a one-year delay:

> On December 14, 1999, pursuant to authority contained in Act 93, Charleston County adopted Ordinance No. 1125 ("Ordinance") which postponed the implementation of the revised assessed values resulting from the 1999 countywide appraisal and equalization program from **implementation in the tax year 2000 (as ordered by the Department) to tax year 2001.**

Id. (Emphasis added).

These conclusions of law are consistent with the Assessor's application of the quadrennial reassessment statute since its adoption and when the first valuations were conducted in 1999, a "reassessment year," *not* the start of the reassessment cycle, i.e. 2000. See Northbridge. The reference to 1999 as a "reassessment year" is consistent with the Assessor's application of the reassessment statute because implementation of these values was scheduled for 2000 as directed by SCDOR, but was permissibly delayed to 2001 pursuant to S.C. Code Ann. § 12-43-217, as amended in 1999.

Carrying these five-year cycles forward and consistent with the Assessor's application, the next reassessment was *conducted* in 2004 and implemented in 2005; followed by the next reassessment *conducted* in 2009 due to be implemented in 2010 (which was permissibly delayed to 2011); and most recently followed by reassessment *conducted* in 2014 and implemented in 2015. Based on the Court of Appeals reliance on Northbridge, the Assessor asks this Court to vacate or modify Section I of the Court of Appeals decision to conform to the Northbridge decision and the SCDOR's 1999 Order.

B. Charleston County's Quadrennial Reassessment Cycle Has Been Conducted On a Five-Year Cycle, Not a Six-Year Cycle.

The Assessor's delay of previous reassessments has not resulted in a six-year cycle. In completing a reassessment, assessors must appraise properties in their jurisdiction in Year 4, which cannot occur during the same year as the implementation of these values in Year 5 of the reassessment cycle. A delay does not change the number of years in a quadrennial reassessment cycle to six years. Pursuant to S.C. Code Ann. §12-43-217(B), "The postponement allowed pursuant to this subsection does not affect the schedule of the appraisal and equalization program required pursuant to subsection (A) of this section." Therefore, the appraisal valuation process occurs in Year 4 of the cycle, the "reassessment year," and implementation of these values occurs in Year 5. The values determined in the "reassessment year" are based on December 31 of the preceding year (Year 3), in accordance with Lindsey v. S.C. Tax Comm'n, 302 S.C. 274, 275, 395 S.E.2d 184, 185 (1990)(citing S.C. Code Ann. § 12-37-900 (1976)("[t]he pertinent date to determine the value of property for a given tax year is December 31st of the preceding year")). Here, 2009 (Year 4) is the "reassessment year," and the values determined were implemented in 2010 (Year 5), albeit the implementation was delayed to 2011.[5] By example, the last three reassessment cycles proceeded as follows:

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[5] Although State law requires that the implementation be completed in Year 5 of the reassessment cycle, counties have the ability to delay implementation for one year by ordinance. If there is a delayed implementation pursuant to a County ordinance and as authorized by State law, the values from the previous reassessment cycle would apply for six years (See Table No. 2: 2010 Reassessment, Applicable Values for Tax Years 2005 to 2010), and the values that are intended to be implemented in Year 5 of the cycle will not be implemented until the following year or Year 1 of the next reassessment cycle (pursuant to the delay), will apply for four years (See Table No. 3: 2015 Reassessment, Applicable Values for Tax Years 2011 to 2014), unless there is a delay in the next reassessment cycle. However, this postponement does not change the amount of years in the reassessment cycle, but only delays its Year 5 implementation. A delay does not excuse the Assessor from completing a reassessment pursuant to S.C. Code Ann. § 12-43-217 or move the basis for the reassessment years back by one year. Instead, it adds another year for counties to tax

TABLE No. 1: 2005 Reassessment

Tax Year	2005 Reassessment Cycle	Applicable Values
2001	Year 1	Tax liability based on 12/31/1998 valuations conducted in 1999
2002	Year 2	Tax liability based on 12/31/1998 valuations conducted in 1999
2003	Year 3 – Date of value is December 31, 2003 (utilized by assessors to value properties for the next reassessment)	Tax liability based on 12/31/1998 valuations conducted in 1999
2004	Year 4 – Valuation of properties by assessors ("reassessment year")	Tax liability based on 12/31/1998 valuations conducted in 1999
2005	Year 5 – Implementation of Values	Tax liability based on 12/31/2003 valuations conducted in 2004

TABLE No. 2: 2010 Reassessment

Tax Year	2010 Reassessment Cycle	Applicable Values
2006	Year 1	Tax liability based on 12/31/2003 valuations conducted in 2004
2007	Year 2	Tax liability based on 12/31/2003 valuations conducted in 2004
2008	Year 3 – Date of value is December 31, 2008 (utilized by assessors to value properties for the next reassessment)	Tax liability based on 12/31/2003 valuations conducted in 2004
2009	Year 4 – Valuation of properties by assessors ("reassessment year")	Tax liability based on 12/31/2003 valuations conducted in 2004
2010	Year 5 – Implementation of Values* *Implementation delayed to 2011	Tax liability based on 12/31/2003 valuations conducted in 2004*

property at the previous date of value. Here, it is undisputed that Charleston County's notices indicated 2010 was the year of implementation, as delayed to 2011 by a reassessment postponement ordinance.

TABLE No. 3: 2015 Reassessment[6]

Tax Year	2015 Reassessment Cycle	Applicable Values
2011	Year 1	Tax liability based on 12/31/2008 valuations conducted in 2009
2012	Year 2	Tax liability based on 12/31/2008 valuations conducted in 2009
2013	Year 3 – Date of value is December 31, 2013 (utilized by assessors to value properties for the next reassessment)	Tax liability based on 12/31/2008 valuations conducted in 2009
2014	Year 4 – Valuation of properties by assessors ("reassessment year")	Tax liability based on 12/31/2008 valuations conducted in 2009
2015	Year 5 – Implementation of Values	Tax liability based on 12/31/2013 valuations conducted in 2014

The Tables illustrate "[t]he Assessor's repeated pattern of delaying the implementation year for reassessment" has not caused a six-year cycle. Rather, the year the County conducted its appraisal and equalization program (the fourth year) has systematically occurred in five-year increments. This pattern is unchanged, even when the County enacted a delay ordinance as illustrated in Table No. 2 and Table No. 4. In fact, even the Tables clearly show that the dates of value for each reassessment remain on a five-year cycle. The only cycle that varies is the year of implementation if the County adopts a delay ordinance. The Court of Appeals correctly noted that "any delay should have no impact on the five-year reassessment cycle." See S.C. Code Ann. 12-43-217(B). Charleston County's delays have not impacted the five-year cycle, as illustrated in Tables

[6] Respondent-Petitioner objects to the Assessor's reference to the most recently completed reassessment depicted in Table 3. As stated in Footnote 3, this Court is not precluded from taking judicial notice of this undisputed fact.

1 through 4. Nevertheless, the Court of Appeals based its conclusion of law on the fact that the 1999 reassessment was delayed to 2001, instead of 2000. But the reference to 1999 as the "reassessment year" does not mean the year 2001 implementation date delayed the reassessment by two years, it simply means 1999 was Year 4 of the cycle when values were determined, which by statute were due to be implemented in 2000 (Year 5) but were subsequently delayed to 2001.

Accordingly, Northbridge, discussed above, and Table No. 4: 2000 Reassessment, illustrate this point as follows:

TABLE No. 4: 2000 Reassessment

Tax Year	2000 Reassessment Cycle	Applicable Values
1996	Year 1	Tax liability based on 12/31/1990 valuations**
1997	Year 2	Tax liability based on 12/31/1990 valuations**
1998	Year 3 – Date of value is December 31, 1998 (utilized by assessors to value properties for the next reassessment)	Tax liability based on 12/31/1990 valuations**
1999	Year 4 – Valuation of properties by assessors ("reassessment year")	Tax liability based on 12/31/1990 valuations**
2000	Year 5 – Implementation of Values* *Delayed implementation to 2001	Tax liability based on 12/31/1998 valuations** **Quadrennial reassessment statute adopted in 1995

This cycle is consistent with the Court's reference to Northbridge and Charleston Cnty. Assessor v. LMP Props., Inc.: "2004 was the year of the countywide reassessment." 403

S.C. 194, 199, 743 S.E.2d 88, 91. See also Table No. 1: 2005 Reassessment. As illustrated in Table No. 1: 2005 Reassessment, 2004 was the year the Assessor conducted its appraisal and equalization program (i.e., the fourth year or reassessment year), not Year 5 or 6.

Applying the Court of Appeals findings, if 2009 is Year 5 (year of implementation) of the cycle, then 2008 would be the end of Year 4, and that would result in December 31, 2007 as the date of value (end of Year 3) for the reassessment, instead of December 31, 2008, as utilized by the lower courts, University Ventures, and the Assessor. The Court of Appeals construction of the statute is problematic. It ignores South Carolina law and SCDOR's finding that the five-year reassessment and equalization cycle was conducted in 1999 and implemented in 2000; it is not supported by the stipulated date of value of December 31, 2008; and it does not comport with a practical application of the quadrennial reassessment cycles in Charleston County. (App. p. 0870; App. p. 0851).

C. The Court of Appeals Erred When It Found that December 31, 2008, Was the End of the Fourth Year of the 2010 Reassessment Instead of December 31, 2009.

Even if Northbridge and the SCDOR's 1999 Order do not support this Court vacating Section 1 of the Court of Appeals decision, this Court should consider the lower courts misapplication of S.C. Code Ann. § 12-43-217 and the County's Reassessment Notice to the taxpayer as its basis for vacating Section 1 of the Court of Appeals decision. (App. p. 6, ¶ 9; App. p. 10. ¶ 11; App. p. 11, ¶ 12). South Carolina law provides that "[p]roperty valuation must be complete at the **end of December of the fourth year**, and the county or State shall notify every taxpayer of any change in value or classification if

the change is one thousand dollars or more." S.C. Code Ann. § 12-43-217(Emphasis added). "The words of the statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation." Buist v. Huggins, 367 S.C. 268, 276, 625 S.E.2d 636, 640 (2006). It is undisputed in the record that on June 30, 2011, the Assessor sent a notice to University Ventures titled, "Notice of Classification, Appraisal, & Assessment of Real Estate 2011 Tax Year" notifying it that the Property's fair market value for the 2010 Reassessment cycle is $9,630,000 based on a date of value of December 31, 2008. (App. p. 347). The 2010 Reassessment Notice states:

> CHARLESTON COUNTY IS REQUIRED BY STATE LAW TO **IMPLEMENT** A REASSESSMENT IN 2011. FOR THIS REASSESSMENT, BY LAW, PROPERTIES MUST BE VALUED AS OF 12/31/08. THIS NOTICE ADVISES YOU OF THE NEW APPRAISED VALUE AND ASSESSMENT. PLEASE EXAMINE THE NOTICE CAREFULLY. . . .

(App. p. 347)(Emphasis added).

Moreover, the record shows that University Ventures sent a written notice of objection on September 19, 2011, objecting to the 2010 Reassessment Notice. (App. p. 348).

The proper construction of the Quadrennial Reassessment Statute is to implement the reassessment program and assess all property using the new values every fifth year. It is undisputed that the County's notices indicated 2010 was the year of implementation, as delayed by the Reassessment Postponement Ordinance. The delay in implementation does not excuse the Assessor from completing a reassessment pursuant to S.C. Code Ann. § 12-43-217. The reassessment must be complete by the end of the fourth year, but counties have the ability to delay implementation for one year by ordinance. That is precisely what Charleston County did in adopting the Reassessment Postponement

Ordinance. In order to accomplish a reassessment, assessors must appraise properties in their jurisdiction, which cannot occur simultaneously with the implementation in the fifth year. Therefore, the appraisal process must occur in the preceding (*fourth*) year of the implementation (fifth) year. As stated above, "[t]he pertinent date to determine the value of property for a given tax year is December 31st of the preceding year." Lindsey v. S.C. Tax Comm'n, 302 S.C. 274, 275, 395 S.E.2d 184, 185 (1990) citing S.C. Code Ann. § 12-37-900 (1976); Atkinson Dredging Co. v. Thomas, 266 S.C. 361, 223 S.E.2d 592 (1976). Since the tax year being appraised (fourth year) is 2009, with those values to be implemented in 2010 (the fifth year), then the date of value must be December 31, 2008 (the end of the third year).

The parties stipulated at trial that the date of value for this reassessment was December 31, 2008. University Ventures' own expert utilized December 31, 2008, as his date of value for his report. (App. p. 473; App. p. 5). The Court of Appeals acknowledged that the parties stipulated that December 31, 2008, was the uniform date of value for the reassessment cycle at issue. (App. p. 5, ¶ 6). Given these uncontroverted facts, the Assessor advanced its statutory construction of the reassessment process before the lower courts (i.e., 2010-fifth year implementation delayed until 2011, 2009 end of fourth year, December 31, 2008, date of value). (App. p. 277, line 1- p. 278, line 16). "The construction of a statute by an agency charged with its administration will be accorded the most respectful deference and will not be overruled absent compelling reasons." Buist v. Huggins, 367 S.C. 268, 625 S.E.2d 636 (2006). "[W]here an agency is charged with the execution of a statute, the agency's interpretation should not be overruled without cogent reason." Id. at 276, 625 S.E.2d at 640. Nevertheless, the lower courts rejected the

Assessor's statutory construction of the Quadrennial Reassessment Statute. However, the Court of Appeals failed to find a compelling or cogent reason for overruling the Assessor's application of the Quadrennial Reassessment Statute; therefore, this Court should vacate Section 1 of the Court of Appeals decision.

CONCLUSION

For the foregoing reasons, this Court should vacate the Court of Appeals decision to the extent it holds that the Assessor incorrectly calculated its five-year reassessment cycle because (1) the lower courts' rulings on the proper reassessment cycle is contrary to SCDOR's reassessment order for Charleston County and (2) the Assessor's application of the statutes and dates of value have proceeded in five-year increments since the first implementation in tax year 2000 (delayed to 2001).

Respectfully submitted,

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Charleston, South Carolina
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PROOF OF SERVICE

I certify that I have served the original and fifteen (15) copies of the **Brief of Petitioner-Respondent Charleston County Assessor** and fourteen (14) copies of the **Appendix to Petitioner-Respondent's Writ of Certiorari**, upon the Clerk of the Supreme Court and on all counsel of record by depositing a copy of the same in the United States Mail, postage prepaid, on July 27, 2018, addressed as follows:

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