

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
H. W. Funderburk, Jr., Administrative Law Judge

Appellate Case No. 2018-0186
Case No. 17-ALJ-17-0001-CC

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SC Court of Appeals

Emad Tadros, M.D.,.....Respondent,

v.

Richland County Assessor,.....Appellant.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Emad Tadros, M.D.,

Petitioner,

vs.

Richland County Assessor,

Respondent.

Docket No. 17-ALJ-17-0001-CC

ORDER DENYING RESPONDENT'S MOTION FOR RECONSIDERATION

This matter comes before the Administrative Law Court ("ALC" or "Court") on a Motion for Reconsideration filed by Richland County Assessor ("Respondent"). Tadros ("Petitioner") has responded to the motion, and Respondent has replied to the response.

Respondent's motion challenges the Court's decision that Petitioner's appeal was timely. Although Respondent presents four grounds in support of its motion, the grounds fall into two categories. The first three challenge the timeliness of the appeal by addressing when the Assessment Notices were delivered to Petitioner and when the statutory appeal period began and ended. The fourth ground challenges the Court's determination of when the appeal was lodged with Respondent.

Respondent claims that the Notices were correctly addressed and placed in the mail on July 17, 2015. The ninety (90) days allowed by statute, S.C. Code Ann. § 12-60-2510(A)(3) (2014), began to run on the date of this mailing. Respondent contracted with a third party, SI Solutions, to mail its notices. It introduced documentary evidence that SI Solutions deposited the Notices with the United States Postal Service ("USPS") on July 17, 2015. It further contends that the tracking documents provided by SI Solutions show the Notices reached a postal facility in San Diego, California (zip code 92199) on July 19, 2015. Respondent admits that this is not the Petitioner's address nor is it final destination of the Notice. Respondent argues that South Carolina law does not require it to contract to track the document to its final destination.

The Court agrees to the extent that South Carolina law does not contemplate the use of a third party to mail documents. Section 12-60-2510(A)(3) provides that the taxpayer must give the

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assessor written notice of objection "within ninety days after the assessor mails the property tax assessment notice." In this case, the assessor has never mailed the assessment notice.

Respondent, in its argument contesting the Court's factual finding on this issue, claims that this Court misconstrued the holding of the South Carolina Supreme Court in *Southbridge Properties, Inc. v. Jones*, 292 S.C. 198, 355 S.E.2d 535 (1987). The Court's reference to *Southbridge Properties* quotes the supreme court's statement that giving notice "to a third party does not amount to service on the addressee." Respondent goes a step further and states that an appeal is perfected when "the third party actually mails the document." What the supreme court determined was that a Notice of Appeal was not deposited in the United States postal service until after the appeal period had expired. Importantly, the appeal period ran from the date "appellant received written notice of the trial court's order." That is also the rule of *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985). Furthermore, in *Hamm v. S.C. Pub. Serv. Comm'n*, 287 S.C. 180, 336 S.E.2d 470 (1985) the supreme court held that sending a copy of an order to an individual, who, as the sender knew, was no longer employed by Hamm, was invalid service. Hamm's appeal within thirty (30) days of obtaining a copy of the order from the sender's office was timely.

Petitioner's testimony that he did not receive the Notice of Assessment coupled with the irregularities of transmission support the Court's finding that the appeal period did not start until February 2016.

Respondent's contends that the Court erred by extending or enlarging the time for appeal as set by statute. However, as the supreme court stated in *Hamm*, at 182, 471, applying a statutory appeal period set at thirty (30) days, "we believe the statute must be read to allow a party thirty days after notice of a decision to bring an appeal [emphasis in original]." This Court is not extending the ninety (90) days to appeal but determining on the facts of the case when the time begins to run.

The fourth ground argued by Respondent is that the Court's interpretation of Petitioner's March 14, 2016, letter referring to a "2016 Appeal" was not accurate. The Court determined the letter to be an appeal of the 2015 tax because the 2016 tax notices had not been mailed. Respondent points out that an appeal received after the last date for appeals is considered to be an appeal for the succeeding tax year. Thus, an appeal could be made before a tax notice is sent. As authority for this rule, Respondent points to S.C. Code Ann. § 12-60-2510(A)(4) which allows appeal of fair

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market value, the special use value, the assessment ratio and the property tax assessment of a parcel at any time. Section 12-60-2510(A)(4) states as follows:

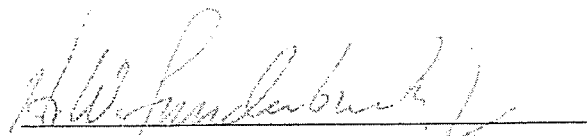
An appeal submitted before the first penalty date applies for the property tax year for which that penalty would apply. An appeal submitted on or after the first penalty date applies for the succeeding property tax year.

Respondent seeks to apply a rule statutorily limited to "years when there is no notice of property tax assessment" to a year in which a Notice of Assessment was allegedly sent. Moreover, it is clear from the letter that Petitioner has discussed the issue of the 2015 tax as well as the 2016 tax on telephone calls placed to the various individuals in the Assessor's office. Furthermore, Petitioner's April 18, 2016, letter refers to "a chance to appeal 2015" and to conversations in which he was told that nothing could be done "about the 2015 overpayment same as the penalty applied for 2015." Petitioner finally "request[s a] 2015 Appeal for the commercial real estate property tax numbers referenced above...." Even if Respondent is correct and the Court has misinterpreted the March 14, 2016, letter, this April 18, 2016, letter clearly asks for an appeal of the 2015 tax assessment. It also suggests that conversations between Petitioner and Respondent's employees may have resulted in further confusion about what and how Petitioner could appeal. Moreover, if Petitioner's testimony that he received his first notice of the tax and property valuation in February 2016 is interpreted as meaning February 1, 2016, the April 18, 2016, appeal is within ninety (90) days of his receipt of the notice. Hence, it is timely.

For the above reasons, Respondent's MOTION FOR RECONSIDERATION is **DENIED**.

AND IT IS SO ORDERED.

January 10, 2018
Columbia, South Carolina


H.W. Funderburk, Jr.
Administrative Law Judge

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Emad Tadros, M.D.,

Petitioner,

vs.

Richland County Assessor,

Respondent:

Docket No. 17-ALJ-17-0001-CC

FINAL ORDER

This matter comes before the Administrative Law Court ("ALC" or "Court") for a contested case hearing on November 7, 2017, pursuant to S.C. Code Ann. § 12-60-2540(A) (2014). Petitioner Emad Tadros¹ ("Petitioner" or "Tadros") requested a contested case hearing to challenge the finding of the Richland County Assessor ("Respondent" or "Assessor") that Petitioner's protest to the Board of Assessment Appeals was not timely thereby denying review of Richland County's assessment of two related parcels, tax map numbers R11395-01-01 and R11395-02-01, for tax year 2015. Respondent was prepared to and did present evidence on the valuation of the parcels for the Court to consider should the appeal be found to be timely.

After considering the testimony, exhibits, and arguments of counsel, the ALC finds the appeal to be timely and also finds that the assessments of the two parcels to be incorrect and amends their valuations.

ISSUES

- I. Was Petitioner's appeal timely?
- II. Is Respondent's valuation of the two parcels correct?

FINDINGS OF FACT

Based upon the evidence presented, I make the following findings of fact, taking into consideration the burden on the parties to establish their respective cases by a preponderance of the evidence and taking into account the credibility of the witnesses:

¹ The property in this matter is titled in the name of Grace Living Trust. Dr. Tadros is the trustee. There was no objection to his bringing this case in his name, nor any motion to amend the caption.

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Notice of the date, time, place, and nature of the hearing was timely given to all parties. Petitioner is the trustee of the Grace Living Trust, the owner of the two parcels located at 601 Main Street, Columbia, South Carolina 29201.

Petitioner purchased the two parcels in a single transaction on December 5, 2014 for \$1,850,000.00. Respondent determined that this was an "assessable transfer of interest" for tax year 2015 and that the purchase price was the best evidence for the market value of the property. The Assessor allocated the purchase price between the two parcels as follows: TMN R11395-01-01 was assessed at \$285,800 and TMN R11395-02-01 was assessed at \$1,563,000.

Respondent testified that two assessment notices dated July 17, 2015, were mailed to Tadros at the address on the deed, 13349 Caminito Mar Villa, Del Mar, CA 92014. Tax bills were also mailed to that address on October 28, 2015. After receiving a tax bill in February 2016, Tadros contacted Richland County by telephone and wrote letters. The first letter, dated March 14, 2016, requests a "2016 Appeal." Subsequent letters, dated April 18, 2016, and May 3, 2016, refer to the 2015 tax and an appeal of the 2015 tax. In the letters and in his testimony, Tadros claimed not to have received any mail or notices regarding the two parcels until February of 2016.

The Deputy Assessor asserted that the May 3rd letter, given a liberal interpretation in favor of the taxpayer, was the first hint that Petitioner was trying to appeal the 2015 tax assessment. Another letter, dated June 6, 2016, directed to the Board of Assessment Appeals was accepted as an appeal. The appeal was heard on October 11, 2016, and the Board of Assessment Appeals determined that the appeal was not timely and that Tadros was not eligible to appeal the 2015 tax assessment.

According to the Deputy Assessor, Richland County contracts with a company (SI Solutions) to mail assessment notices. The County provides the notices to the contractor which then deposits them with the United States Postal Service for regular mail delivery.² Tracking provided by the contractor showed the notices sent to Tadros were delivered to a post office in Columbia (29209) then to a second Columbia post office for processing (29201) and then to San Diego, CA (92199) which was identified as "Destination Primary" and "Destination Secondary." No information showed final delivery to Tadros in Del Mar, CA (92014). Based on this evidence and Tadros's denial that he received the notice, the Court finds that the Notice of Assessment was not delivered.

² When these notices and bills were sent out, a different company was contracted to mail the actual tax bills.

Further, the Court finds that Tadros's first actual notice of the assessment occurred when he received the tax bills in February 2016 and that his "2016 Appeal" dated March 14, 2016, must have been an attempt to appeal the 2015 tax assessment since it could not have been an appeal of 2016 tax notices that had not been sent out.

Tadros contends that his purchase of the two parcels was tainted by fraud. The purported value of the parcels was enhanced by the misrepresentation that all units were rented. As it turns out, one unit, although occupied, was not leased to a paying tenant. As soon as the sale concluded, the tenant vacated the premises, and the unit was and remained unoccupied until recently. Petitioner argues that these circumstances demonstrate a vacancy rate of 36.4% (the percentage of total rent lost from the open unit). Petitioner suggests an alternate valuation of the property of \$1,100,000, the value based on the previous sale in 2011.

Mark Cheslak ("Cheslak"), the Assessor's Commercial Appraisal Supervisor, valued the two parcels using a comparable sales method and an income capitalization approach.

The single office (R11395-01-01) is a reinforced concrete structure with 1,226 square feet ("SF") incorporated into a larger structure. Cheslak reported five comparable sales.³ The comparable sales are in the downtown area within a mile of the subject property. All are larger. The appraisal computed the following square foot values for the four sales considered by the Court: \$147.19, \$194.11, \$226.88, and \$190.58. These sales provide an average of \$189.69 per SF for a value of \$232,559.94 or \$232,560 (rounded) for the unit. The income approach for the single office as computed by Cheslak is \$245,800 (rounded).

The second parcel consists of three retail spaces, comprising 6,913 SF. Cheslak reported four comparable sales. Eliminating the sale of the subject property, which is included as the first comparable, the remaining sales reduced to a square foot value are \$208.69, \$264.46, and \$112.50. The comparable sales are in the downtown area within three quarters (0.75) of a mile from the subject property. The average is \$195.22 per SF for a value of \$1,349,555.80 or \$1,349,560 (rounded). The income approach as computed by Cheslak is \$1,543,800 (rounded). This approach includes the nonpaying tenant at what would be the "fair market" rent for the unit or what it could

³ The first sale is the sale of the combined property purchased by Tadros and should not be considered as a "comparable" sale, to which Cheslak assigned "the most weight in [his] analysis."

expect to earn in rent. However, the income method deducts 10% for "Vacancy and Loss." The Court finds this deduction to be a reasonable adjustment.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Court makes the following conclusions of law.

The Court has jurisdiction over this contested case pursuant to S.C. Code Ann. § 12-60-2540(A) (2014), S.C. Code Ann. § 1-23-600 (Supp. 2016), and S.C. Code Ann. §§ 1-23-310 *et seq.* (2005 & Supp. 2016).

Timeliness of Petitioner's Protest

When a county assessor increases the fair market value of property by one thousand dollars or more or when the first property assessment is made on the property, the assessor is required to send the taxpayer a property tax notice by the first of July, or as soon thereafter as is practical, in the year in which the property tax assessment is made. S.C. Code Ann. § 12-60-2510(A)(1) (2014). This notice must be personally served or mailed to the taxpayer at his last known place of residence. S.C. Code Ann. § 12-60-2510(A)(2). The taxpayer must give the assessor written notice of its objection to the fair market value or the property tax assessment "within ninety days after the assessor mails the property tax assessment notice." S.C. Code Ann. 12-60-2510(A)(3).

However, in this case, the assessor did not mail the assessment notice but delivered the notice to a third party for transmission and mailing. Giving a notice "to a third party for mailing does not amount to service on the addressee." *Southbridge Properties, Inc. v. Jones*, 291 S.C. 198, 355 S.E.2d 535 (1987). Furthermore, the tracking information furnished by the third party does not show delivery to the taxpayer. Petitioner did not receive the notice of assessment. Therefore, in this instance, the ninety-day appeal period, which must run "after notice of a decision" such as the assessment, did not start. *See Hamm v. S.C. Pub. Serv. Comm'n*, 287 S.C. 180, 336 S.E.2d 470 (1985) (A copy of an order addressed to an individual, who the sender knew was no longer employed by Hamm, was ineffective service. Service was accomplished when Hamm obtained a copy of the order from the sender's office.) Even after the tax bill was received and Petitioner called and wrote various individuals associated with the Assessor, no copy of the notice of assessment was provided to Petitioner. Tadros's letter of March 14, 2016, requesting an appeal and objecting to the basis of the assessment is a timely appeal.

Valuation of Subject Parcels

The ALC reviews the decision of the Assessor *de novo*. *Reliance Ins. Co. v. Smith*, 327 S.C. 528, 534, 489 S.E.2d 674, 677 (Ct. App. 1997) (explaining “although a case involving a property tax assessment reaches the ALJ in the posture of an appeal, the ALJ is not sitting in an appellate capacity and is not restricted to a review of the decision below. Instead, the proceeding before the ALJ is in the nature of a *de novo* hearing.”). The burden of proof is on the party challenging the Board’s decision. *Id.*

The South Carolina General Assembly determined that real property must be valued as follows:

All property must be valued for taxation as its true value in money which in all cases is the price which the property would bring following reasonable exposure to the market, where both the seller and buyer are willing, are not acting under compulsion, and are reasonably well informed of the uses and purposes for which it is adapted and for which it is capable of being used ...

S.C. Code Ann. § 12-37-930 (2014).

Therefore, market value is the measure of true value for *ad valorem* taxation. *Lindsey v. S.C. Tax Comm’n*, 302 S.C. 504, 397 S.E.2d 95 (1990). There is no valid distinction between market value for sales purposes and market value for taxation purposes under Section 12-37-930. *S.C. Tax Comm’n v. S.C. Tax Board of Review*, 287 S.C. 415, 399 S.E.2d 131 (Ct. App. 1985).

As an assessor’s valuation is presumed correct, in a contested case hearing before this court, the party contesting the decision of the county board of assessment appeals has the burden of proving his or her grievance. Ordinarily, this is done by proving the actual value of the property. *Cloyd v. Mabry*, 295 S.C. 86, 367 S.E.2d 171 (Ct. App. 1988); 84 C.J.S. Taxation § 837 (2017). However, “a taxing statute must be construed most favorably to the taxpayer, and ... any doubt should be resolved against the taxing authority.” *Ryder Truck Lines, Inc. v. S.C. Tax Comm’n*, 248 S.C. 148, 149 S.E.2d 435, 437 (1966).

The taxpayer may, moreover, show by other evidence that the assessing authority’s valuation is incorrect. If the taxpayer does so, the presumption of correctness is removed and the taxpayer is entitled to appropriate relief. *Cloyd, supra*. Here, Petitioner has provided uncontested testimony that the purchase price cannot be relied on as representing the actual value of the property. Furthermore, the Court has identified flaws in the appraisal methods utilized by Respondent. Given these flaws in the Respondent’s appraisal yielding an incorrect valuation of the Property, the

Petitioner is entitled to have the disputed value of the property lowered to accurately reflect its true value for purposes of *ad valorem* tax purposes.

Commercial real estate is generally valued for *ad valorem* tax purposes using three commonly accepted methods: (a) the income capitalization approach; (b) the sales comparison approach; and (c) the cost approach.

The income capitalization approach is a real estate appraisal method that is calculated based on the property's net operating income minus its expenses. The net operating income is further capitalized based on a capitalization rate. The purpose of the income approach is to ascertain the net income an informed buyer believes the property will produce during its remaining useful life. *Id.* However, the information used to determine the value of future benefits under an income approach should be based upon the average earnings for a reasonable period of time rather than the income for a single year. *Charleston County Assessor v. Nirenblatt Nirenblatt and Hoffman*, 1997 WL 436048, *6 (citing *Somers v. City of Meriden*, 174 A. 184 (Conn. 1934); 84 C.J.S. Taxation, § 411(1954)). Since the appraisal only used one year with questionable rents for the three retail units, the Court disregards the income approach.

The sales comparison approach is the process by which a market value estimate is derived by analyzing the market for similar properties that have recently been sold, are listed for sale, or are under contract for which purchase offers and a deposit have been recently submitted, and by comparing these properties to the subject property. Here, the sales comparison method, adjusted by removing the sale of the subject property, yields a rounded value of \$1,349,560.

No evidence was presented on the cost approach; therefore, the Court has no basis on which to apply this method to value the property.

Without adequate evidence to calculate value based on either the income or cost approaches, the Court finds that the most appropriate method of determining the value of the property in question is the sales comparison method corrected to exclude the sale of the subject property. Once the sale of the subject property is removed, the office parcel (R11395-01-01) is valued at \$232,560, and the retail parcels (R11395-02-01) are valued at \$1,349,560.⁴

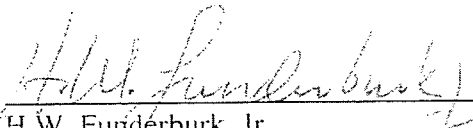
⁴ Petitioner argues that the previous sale in 2011 (\$1,100,000) should be used for valuation purposes. For the purposes of the tax year in question, 2015, the Court rejects this suggestion.

IT IS HEREBY ORDERED that the Assessor's fair market value of the Property for tax year 2015 shall be reduced to \$232,560 for tax map number R11395-01-01 and to \$1,349,800 for tax map number R11395-02-01. This reduction applies only to tax year 2015 and does not affect any reductions made for tax year 2016 and thereafter.

IT IS FURTHER ORDERED that upon entry of this Order, the Respondent promptly shall certify the adjusted value to the Richland County Auditor as the final value for tax year 2015, if the Petitioner made any overpayment of *ad valorem* and other taxes to a governing authority based on the Assessor's previous value of the Property, the governing authority shall refund to the Petitioner any such overpayment in a timely manner.

IT IS SO ORDERED.

November 30, 2017
Columbia, South Carolina



H.W. Funderburk, Jr.
Administrative Law Judge

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SC ADMIN. LAW COURT

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Emad Tadros, M.D.,

Petitioner,

vs.

Richland County Assessor,

Respondent.

Docket No.: 17-ALJ-17-0001-CC

**NOTICE OF MOTION AND MOTION
FOR RECONSIDERATION**

TO: JOSHUA SNOW KENDRICK, ESQ., ATTORNEY FOR PETITIONER

YOU WILL PLEASE TAKE NOTICE that the Respondent in the above referenced case, Richland County Assessor, does hereby move for an order altering or amending the Court's Order dated November 30, 2017. Notice of the entry of the Order and the Order itself was received by Respondent's counsel on December 1, 2017. This motion is filed pursuant to Rule 29(D) of the Rules of Procedure of the Administrative Law Court.

By this motion, the Respondent is respectfully requesting that the Court reconsider its decision with regard to the timeliness of the appeal in light of the evidence on the record and South Carolina statutory and case law. The paragraphs below explain the reasons this decision should be reconsidered/altered or amended.

I. The Order does not consider documentary evidence on the record showing that the Respondent complied with all of its statutory duties to perfect service of the

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2015 Notice of Assessments on the Petitioner (i.e. the Assessment Notices in question were correctly addressed to the Respondent and placed in the mail on July 17, 2015 as required for service pursuant to S.C. Code Ann. §12-60-2510(A)(2) (2014)). As such, the notices were properly served on the Petitioner and the ninety (90) day appeal period specified in S.C. Code Ann. §12-60-2510(A)(3) (2014) began to run as of the date of mailing.

The Respondent introduced into evidence a copy of the two Assessment Notices mailed to the Petitioner. The Petitioner admitted in cross examination that the address on these notices was his correct address.

The Respondent further introduced clear documentation from SI Solutions, its third party mailing agent, that the Assessment Notices were mailed on July 17, 2015. More specifically, this documentation showed that the Assessment Notices were placed in the mail at the postal facility located in the 29209 zip code area on July 17, 2015. The Assessment Notices were then transported by the U.S. Postal Service to a postal facility in the 29201 area for processing that same day. The Assessment Notices reached a postal facility in San Diego, California in the 92199 zip code area on July 19, 2015.

Pursuant to the testimony of Deputy Assessor, Terry Fancey, SI Solutions contracted with Richland County for the 2015 tax year to provide mailing services of Assessment Notices, to include tracking from the initial mailing date through a date near the end of the document's journey. Richland County did not contract for tracking all the way to a document's final destination nor is such required by South Carolina law.

The Court's holding that the Respondent failed to show actual delivery to the Petitioner's address, thereby negating the Petitioner's requirement to file his notice of objection within ninety (90) days of the mailing of the notice, holds the Respondent to a standard that is inconsistent with South Carolina law. S.C. Code Ann. §12-60-

2510(A)(2)(2014) reads as follows:

The notice must be served upon the taxpayer personally or by mailing it to the taxpayer at his last known place of residence which may be determined from the most recent listing in the applicable telephone directory, the Department of Motor Vehicles/ motor vehicle registration list, county treasurer's records, or official notice from the property taxpayer.

The above statute only requires that the Assessor mail the notice to the last known place of residence of the taxpayer. The documentation placed into evidence by the Respondent far exceeds what is required by South Carolina law and shows conclusively that the Assessment Notices were addressed to the Petitioner's last known address and placed in the U.S. Mail on July 17, 2015.

Because the Respondent complied with §12-60-2510(A)(2), the Petitioner is subject to the ninety (90) day time limit to file an objection to the notice with the Assessor. The ninety (90) day period expired on October 16, 2015. It is uncontroverted that the Petitioner failed to file a notice of objection during this time period. As such, the Petitioner's 2015 appeal should be found to be untimely, therefore depriving this Court of jurisdiction to hear the merits of the appeal. *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985); *Burnett v. S.C. Highway Dep't*, 252 S.C. 568, 167 S.E.2d 571 (1969); *S.C. Highway Dep't v. Spann*, 239 S.C. 437, 123 S.E.2d 648 (1962).

II. The Order misconstrues Southbridge Properties, Inc. v. Jones, 292 S.C. 198, 355 S.E. 2d 535 (1987) in that it holds that the Respondent could not perfect service of the assessment notices pursuant to S.C. Code Ann. §12-60-2510(A)(2) (2014) through the use of a third party mailing service.

The Order at page 4 reads as follows:

However, in this case, the assessor did not mail the assessment notice but

delivered the notice to a third party for transmission and mailing. Giving a notice 'to a third party for mailing does not amount to service on the addressee.'" *Southbridge Properties, Inc. v. Jones*, 291 S.C. 198, 355 S.E.2d 535 (1987).

The above paragraph as applied to this case does not accurately state the holding in the Southbridge case. The Southbridge case dealt with the issue of whether an appeal is perfected on the date one gives the document to a third party for mailing or on the date the third party actually mails the document. The Supreme Court determined that an appeal is perfected on the date the third party actually mails the document.

Where service by mail is permitted, it is complete when the document is deposited with the United States Postal Service, properly addressed with sufficient postage. *Town of Honea Path v. Wright*, 194 S.C. 461, 9 S.E.2d 924 (1940); *Walters v. Lauren Cotton Mills*, 53 S.C. 155, 31 S.E. 1 (1898).

292 S.C. at 199, 355 S.E.2d at 536.

The Supreme Court goes on to find that the third party did not mail the Notice of Appeal until thirteen days after the Appellant received written notice of the trial court's order. Thus the notice of appeal was not timely because the date on which the third party mailed it was already past the ten day appeal period in effect at that time. It is important to note that the Supreme Court gave efficacy to the mailing of the Notice of Appeal by the third party and used the date of mailing by the third party as the date of service.

Applying the Southbridge case to the case at hand, the Respondent has produced evidence showing that the third party mailing service mailed the Petitioner's Assessment Notices on July 17, 2015. Thus, the Petitioner's notice of objection had to be filed on or before October 16, 2017 in order to be timely. It is uncontroverted that the Petitioner did not appeal during this time period. Accordingly, this Court does not have jurisdiction to

hear the appeal of this matter and such should be dismissed. See *Mears v. Mears*, *supra*; *Burnett v. S.C. Highway Dep't*, *supra*; *S.C. Highway Dep't v. Spann*, *supra*.

It is important to note that most county offices utilize a mailing service when mailing out large volumes of mail, such as assessment notices. If this Court's Order is unmodified, it could have wide-ranging and costly implications for all state and local government entities who routinely perfect service of such documents through a third party mailing service. This is unwarranted in that the Court's position is contrary to the Supreme Court decision in *Southbridge*, *supra*.

III. In allowing the Petitioner to maintain his appeal, the Court is extending and/or enlarging the time period for appeal prescribed by statute. Such action is beyond the authority of the Court.

The Court's Order at page 3 states as follows:

Further, the Court finds that Tadros's first actual notice of the assessment occurred when he received the tax bills in February 2016 and that his "2016 Appeal" dated March 14, 2016, must have been an attempt to appeal the 2015 tax assessment since it could not have been an appeal of the 2016 tax notices that had not been sent out.

As amply discussed above, the Respondent met all statutory requirements in mailing the assessment notices to the Respondent and has produced documentary evidence of such. In addition, the Assessment Notices were not returned to the Respondent as undeliverable. Finally, the Petitioner has not alleged any specific errors in the Respondent's service of the Assessment Notices. Thus, the Petitioner must be held the time limitations for appeal of those notices.

With regard to the tax bills, Deputy Assessor Fancey testified that tax bills were sent to the Petitioner on October 28, 2015 at the same address as the assessment notices

were sent. He further testified that neither the Richland County Auditor nor the Richland County Treasurer send out second tax bills. Thus, October 28, 2015 would have been the only date that tax bills were mailed. There would be no further written communication with a taxpayer by the Richland County Auditor or the Richland County Treasurer unless the taxpayer did not pay the tax by the final penalty date in March of 2016.

The Petitioner testified that he did not receive the tax bills until February 2016, approximately four (4) months after such were mailed. Notably, he has never provided a specific date that he received the bills or produced a copy of the reverse side of the bills, which could show various postmark dates if they were, in fact, lost in the mail. Otherwise, there is no reasonable explanation as to why a tax bill mailed October 28, 2015 from Columbia, South Carolina would not reach Del Mar, California until some date in February 2016.

It is certainly suspect that the Petitioner claims not to have received his 2015 tax assessment notices, not to have received his 2015 tax bills until four (4) months after their mailing, and likewise, not to have received an email from his attorney notifying him of the first date for this hearing. The Respondent would respectfully submit that this appears to be a course of conduct for the Petitioner.

It is also notable that last date that the 2015 Richland County tax bills could be paid without penalty was February 16, 2016 due to the flooding in South Carolina. Thus, it is more likely that the Petitioner was confusing the date he opened the tax bill with the date of his actual receipt of the tax bill.

Even giving the Petitioner the benefit of a ninety (90) day appeal period from the

October 28, 2015 mailing date of the tax bills would require that any notice of objection be filed on or before January 26, 2016. The Petitioner's first written correspondence was not until March 14, 2016.

In ruling that this appeal is timely, based solely on the testimony of the Petitioner with no supporting documentation and contrary to the documents provided by the Respondent, the effect of this Order is to extend/enlarge the statutorily prescribed time period created in §12-60-2510(A)(3) and (4). The Court does not have the power to do such. This issue was addressed in the South Carolina Supreme Court case of Palmer v. Simons, 107 S.C. 93, 92 S.E. 23 (1917) as follows:

It is settled by numerous decisions of this court that the time prescribed by statute within which notice of appeal must be given cannot be enlarged or extended by the courts. *Davis v. Vaughan*, 7 S.C. 342, *Scott v. Pratt*, 9 S.C. 82, *Manuel v. Loveless*, 56 S.C. 426, 35 S.E.1; *Gibbes v. Beckett*, 84 S.C. 534, 66 S.E. 1000; *Lightsey v. Rentz*, 85 S.C. 401, 67 S.E. 456; *O'Rourke v. Paint Co.*, 91 S.C. 399, 74 S.E. 930. In *Gibbes v. Beckett*, the court said:

"The law requiring appeals to be taken within a fixed time may sometimes produce hardship, but it is important to the administration of justice that there be no uncertainty. There will be few, if any, cases of hardship if the time allowed is utilized without dependence on quick work at the end of the period. However that may be, the court has no power to extend the time fixed by law."

In applying the same principles used in this case to find this Petitioner's appeal to be timely to other timeliness issues, it appears that taxpayer need only state that he/she did not receive the assessment notice or tax bill in the mail in order to receive an extended appeal period. This frustrates the purpose of having statutory time frames for appeals in tax matters (i.e. to allow governmental entities to have closure with regard to their finances)

and presents constitutional issues of fairness in that statutory laws governing limitations of time to file an appeal/objection are not being applied consistently. The Respondent would respectfully request that the Court revisit its decision regarding this issue.

IV. The Court's finding that the Petitioner's March 14, 2016 letter could not have been an appeal of the 2016 tax year because 2016 tax notices had not yet been sent is not accurate in that a taxpayer did not have to have a 2016 tax notice in order to appeal the 2016 tax year.

In years in which an assessment notice has been sent to the taxpayer, a property taxpayer has the luxury of perfecting an appeal for the current tax year at any time after the first penalty date for the prior tax year and on or before the last date prescribed for appeals in S.C. Code Ann. §12-60-2510(3). If an appeal is received after that last date, it is considered to be an appeal for the succeeding tax year. Likewise, in tax years in which the taxpayer does not receive an assessment notice, the taxpayer can perfect an appeal of the current year by filing an appeal before the first penalty date (i.e. January 15 of the following year). An appeal filed after that date is an appeal for the then current year. Thus, taxpayers can, and frequently do, perfect appeals before an assessment notice or tax bill is sent out by the County. Authority for this is found in §12-60-2510(A)(4).

S.C. Code Ann. §12-60-2510(A)(4) (2014) reads as follows:

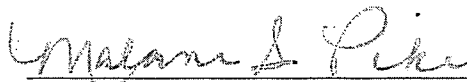
In years when there is no notice of property tax assessment, the property taxpayer may appeal the fair market value, the special use value, the assessment ratio and the property tax assessment of a parcel of property at any time. The appeal must be submitted in writing to the assessor. An appeal submitted before the first penalty date applies for the property tax year for which that penalty would apply. An appeal submitted on or after the first penalty date applies for the succeeding property tax year.

In the case at hand, the Petitioner's letter specifically stated that it was for the 2016 tax

year and it was properly treated as a timely appeal of the 2016 tax year. Further, the Respondent lowered the Petitioner's value for the 2016 tax year based upon this letter. As such, it cannot also be an appeal of the 2015 tax year as stated in the Order.

CONCLUSION

For the reasons cited above, the Respondent would respectfully request that this honorable Court reconsider its Order in this matter dated November 30, 2017.



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Columbia, South Carolina
December 11, 2017

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT
Docket No. 17-ALJ-17-0001-CC

Emad Tadros, M.D.

Petitioner,

v.

Richland County Assessor,

Respondent.

COPY

HEARING

Tuesday, November 7, 2017
9:56 a.m. - 1:07 p.m.

The hearing before the Honorable H. W. Funderburk, Jr., was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 7th day of November, 2017, before Cortney N. Glover, Court Reporter and Notary Public in and for the State of South Carolina.



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APPEARANCES

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Also Present:

Elizabeth McDonal
 Katie Mar
 Frederick Descy

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EXHIBITS

(Respondent's Exhibit Numbers 1 through 13 were marked prior to the hearing for identification purposes and introduced as follows:)

Respondent's Exhibit Number 1	5,12,39
(Tax Assessment Notices for 2015)	
Respondent's Exhibit Number 2	5,13,39
(Tax Bills for 2015)	
Respondent's Exhibit Number 3	5,14,39
(Letter Dated 3/14)	
Respondent's Exhibit Number 4	5,15,39
(Letter Dated 4/18)	
Respondent's Exhibit Number 5	5,18,19
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Respondent's Exhibit Number 6	5,19,39
(Letter Dated 6/6)	
Respondent's Exhibit Number 7	5,20,39
(Letter Dated 12/5)	
Respondent's Exhibit Number 8	5,22,39
(SI Solutions Mail Tracking)	
Respondent's Exhibit Number 9	5,24,39
(Mail Scan of Notice of Assessment)	
Respondent's Exhibit Number 10	5,24,39
(Mail Scan of Notice of Assessment)	
Respondent's Exhibit Number 11	5,24,39
(Mail Scan of Tax Bill)	



Respondent's Exhibit Number 12 . . . 5,102,154
(Appraisal for TMS: 11395-02-01)
Respondent's Exhibit Number 13 . . . 5,102,154
(Appraisal for TMS: 11395-01-01)

(The original exhibits were retained by The Court.)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the rules of the Administrative Law Court and the South Carolina Rules of Civil Procedure.



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1 (Respondent's Exhibit Numbers 1 through 13 were
2 marked prior to the hearing for identification
3 purposes.)

4 THE COURT: We're on the record this morning with
5 Case Number 17-ALJ-17-0001. Wow, the first
6 case for 2017. We're gon' get it in before the
7 end. That's great.

8 This is the case of Emad Tadros, Petitioner,
9 versus Richland County Assessor, Respondent.
10 The petitioner is represented by Joshua
11 Kendrick?

12 THE WITNESS: Yes, sir.

13 THE COURT: And Respondent represented by Melane
14 Pike.

15 MS. PIKE: Yes, your Honor.

16 THE COURT: Now, as I spoke with the parties'
17 attorneys just a minute ago, this is an issue
18 of timely objection. So we're kind of gonna
19 change the way it looks on the caption and give
20 the assessor the opportunity to show that,
21 indeed, the protest was not timely. So we'll
22 start with that.

23 We start generally -- Ms. Pike, I'm sure you're
24 familiar with this process. I'm not sure
25 whether Mr. Kendrick is, so I'll do my spiel.



1 We start with opening statements. And
2 following that, we'll present our evidence and
3 testimony subject to cross-examination. And
4 finally we'll close with closing statements.
5 Any preliminary matters or stipulations before
6 we begin?

7 MS. PIKE: No, your Honor..

8 MR. KENDRICK: No, your Honor.

9 THE COURT: All right. The petitioner in this
10 case -- not the petitioner but Respondent get
11 started. Ms. Pike?

12 OPENING STATEMENT BY MS. PIKE:

13 MS. PIKE: Your Honor, thank you. As you've already
14 indicated, this is a timeliness issue as to
15 whether or not Dr. Tadros timely appealed his
16 property tax assessment. What we intend to
17 show in this case is that Dr. Tadros purchased
18 the property in 2014. It was an ATI in 2015.
19 The assessment notice went out in July of 2015,
20 clearly stating that the final day to appeal
21 was October the 16th of 2015.
22 The assessor did not receive a -- an appeal of
23 that assessment notice by that date. As a
24 matter of fact, the assessor did not receive
25 anything that could be construed as an appeal



1 until May the 3rd of 2016. The assessor is
2 also prepared to show that the assessment
3 notice was sent out and that it can be tracked
4 all the way to San Diego. Thereafter, pursuant
5 to the Court's order on that, we are certainly
6 prepared to present the valuation issue. Thank
7 you.

8 **THE COURT:** Mr. Kendrick?

9 **OPENING STATEMENTS BY MR. KENDRICK:**

10 **MR. KENDRICK:** Thank you, your Honor. I'll be
11 brief. We simply dispute that it ever reached
12 Dr. Tadros. He bought this property in 2014.
13 There were immediate issues with the value of
14 the property, based on the tenancy occupants.
15 So he has been very involved in the management
16 of the property and concerns about its value.
17 When he received any type of tax notice, he
18 became very diligent and, pursuing his rights,
19 wrote numerous letters to the Board and has
20 followed up repeatedly. It is our position
21 that while they can trace it to San Diego, it
22 doesn't appear they can trace it to his
23 residential address. And he's, you know,
24 prepared to testify he never got this. If he
25 had, he would have immediately appealed it,



1 based on the problem that arose right after he
2 purchased the property. I think that's the
3 simple, narrow issue that we deal with first,
4 and then we'll discuss the rest of it.

5 THE COURT: All right. Ms. Pike?

6 MS. PIKE: Your Honor, I'd like to present Mr. Terry
7 Fancy as our first witness.

8 THE COURT: Before you sit down, she's gon' swear
9 you in.

10 TERRENCE L. FANCEY, having been duly sworn, testifies
11 as follows:

12 MR. FANCEY - DIRECT EXAMINATION BY MS. PIKE:

13 Q: Mr. Fancey, will you state your name for the
14 record, please?

15 A: Terrence L. Fancey.

16 Q: Okay. And, Mr. Fancey, who are you employed
17 by?

18 A: The Richland County Assessor's Office.

19 Q: And how long have you been employed with the
20 assessor's office?

21 A: Actually, as of Friday, 27 years.

22 Q: Okay. And what is your current title?

23 A: I'm the deputy assessor for appraisal.

24 Q: Okay. And how long have you held that title?

25 A: Approximately 17 years.



1 Q: Now, Mr. Fancey, are you a licensed appraiser
2 as well?

3 A: Yes, ma'am.

4 Q: And how many years have you been a licensed
5 appraiser?

6 A: Twenty-some -- whenever they started the
7 program for licensing, required licenses for
8 assessors' offices.

9 Q: Okay. Let's go back. Tell me a little bit
10 about what your duties are as the deputy
11 assessor of appraisals for Richland County.

12 A: Well, I oversee and supervise three supervisors
13 and ten appraisers, and it's our responsibility
14 to value approximately 172,000 parcels in
15 Richland County. This involves examining
16 building permits, visiting a property based on
17 those permits to see what has happened to that
18 property, new construction. We get a copy of
19 every deed filed with the Register of Deeds
20 office, reviewed those deeds, and everything
21 else that comes up, including appeals,
22 administering various tax programs like the
23 assessable transfer of interest, multiple lot
24 discount, and things of that nature.

25 Q: Okay. In your duties as the deputy assessor of



1 the appraisal section for Richland County, have
2 you had an opportunity to examine Dr. Tadros'
3 appeal with regard to whether or not he was
4 timely or not?

5 A: Yes, I have.

6 Q: Okay. And what was your conclusion with regard
7 to that?

8 A: My conclusion, after reviewing all the
9 documentation, he had, is that I see no reason
10 why the notices were not delivered to his
11 address.

12 Q: Okay.

13 A: And that they complied with the statutory
14 requirements for such matters.

15 Q: Okay. Can you go back and tell us just a
16 little bit about the background of this case?
17 How did this case get started?

18 A: I believe on March 10th ---

19 Q: Let's go back before that. Let's state how --
20 what happened in order ---

21 A: Okay.

22 Q: --- to create this situation.

23 A: As it was stated previously, he did purchase
24 these properties, these two properties on
25 December 5th of 2014. These are the two



1 commercial units of the Adesso condominium
2 project at the corner of Main and Blossom, and
3 they're the ground-floor commercial units. He
4 purchased those combined for a total of
5 \$1,850,000.

6 Q: Okay. And so what did the assessors do -- the
7 assessor's office do after that?

8 A: We examined that transaction, like we do every
9 transfer of property, to see if it complies
10 with the assessable transfer of interest laws.
11 And what I mean by that is that they do
12 spell -- the statutes do spell out what is and
13 what is not an assessable transfer of interest.
14 For example, the transfer between a parent and
15 a child is an assessable transfer of interest.
16 A transfer between husband and wife is not an
17 assessable transfer of interest. What they
18 deem an assessable transfer of interest means
19 is that we can reassess it in its fair market
20 value in the year following the sale.

21 Q: So was this an assessable transfer of interest?

22 A: Yes, it was.

23 Q: Okay. All right. Are you aware of assessment
24 notices being mailed as a result of this
25 assessable transfer of interest?



1 A: Yes, I am.

2 Q: Okay. Mr. Fancey, I'd like to give you -- ask
3 you to identify these two documents.

4 (Respondent's Exhibit Number 1 was introduced into
5 evidence at this time.)

6 A: These are the two notices of assessment. The
7 reason for change is ATI qualified point of
8 sale. This is for the 2015 tax year. And
9 there's one for each parcel for R11395-01-01
10 and then R11395-02-01. They were both mailed
11 on July 17th, 2015, and they were mailed to
12 Grace Living Trust, Emad Tadros, M.D., trustee,
13 13349 Caminito Mar Villa, Del Mar, California
14 92104. And they both have the explanation
15 notice. And if you disagree with this value,
16 you have until October 16 if -- any individual
17 would have until October 16th of 2015 to appeal
18 this notice.

19 MS. PIKE: Your Honor, if I may approach the bench,
20 I would like to provide copies of all of our
21 exhibits so that you may be able to follow
22 along.

23 THE COURT: Okay.

24 MS. PIKE: Mr. Kendrick has received those as well.

25 THE COURT: Have these been marked?



1 MS. PIKE: Yes, your Honor. I have the exhibits
2 right here. They have been marked.

3 Q: So this was Exhibit 1, was it not, Mr. Fancey?

4 A: Yes, yes.

5 Q: All right. So tell me how you determined what
6 address the assessment notice was to go to?

7 A: Well, we did several things. The first -- one
8 of the first things I do is I actually look at
9 the deed itself, and the deed had that address
10 as the mailing address -- and the grantee's
11 mailing address on the deed. We recently
12 looked into the Whitepages of the Internet, and
13 it has that address for the Dr. Tadros, the
14 Caminito Mar Villa, and then looked at its
15 correspondence. And at the headings of each of
16 his pieces of correspondence is that address as
17 well.

18 Q: Okay. All right. Mr. Fancey, I want to show
19 you Exhibit Number 2, Respondent's -- it's
20 marked as Respondent's Exhibit Number 2 and ask
21 you if you can identify that, those two
22 documents for us.

23 (Respondent's Exhibit Number 2 was introduced into
24 the record at this time.)

25 A: Yes, I can. These are the 2015 tax bills for



1 the two properties previously mentioned.

2 Q: Okay. And what address did that go to?

3 A: That went also to Grace Living Trust, Emad
4 Tadros, M.D., trustee, 13349 Caminito Mar
5 Villa, Dell Mar, California, 92014-3613.

6 Q: Mr. Fancey, have you had an opportunity to
7 examine all correspondence that came to the
8 Richland County Assessor's Office from
9 Dr. Tadros?

10 A: Yes, I have.

11 Q: Okay. I'd like to show you what is marked as
12 Respondent's Exhibit Number 3. Can you
13 identify that for me, please?

14 (Respondent's Exhibit Number 3 was introduced into
15 the record at this time.)

16 A: Okay. This is a letter dated March 14th from
17 Dr. Tadros. And at the top of the letterhead,
18 it has Emad Tadros, M.D, trustee of the Grace
19 Living Trust, 13349 Caminito Mar Villa,
20 Del Mar, California 92014. It is addressed to
21 Mr. Mark Cheslak. And in that letter, he
22 specifically requests that a 2016 appeal be
23 opened for these two properties. And then in
24 the rest of the letter, he just sort of
25 reiterates what he has said before.



1 Q: All right. Now, was 2016 the year that the ATI
2 would have been applicable for?

3 A: No. In 2015.

4 Q: Okay. So his letter of March the 14th
5 indicates a -- an appeal for what year?

6 A: 2016.

7 Q: Okay. All right. Now, had the -- had anyone
8 in Richland County heard from Dr. Tadros prior
9 to that?

10 A: No, we had not. And, in fact, we're very
11 diligent in tracking returned mail. And we
12 received nothing, to my knowledge, of any kind
13 of returned mail involving anything that had to
14 do with Dr. Tadros.

15 Q: Okay. Had Dr. Tadros communicated at all with
16 anyone in Richland prior to this March the 14th
17 letter?

18 A: March 10th with doctor -- with Keisha Bell in
19 the auditor's office. It was a phone call.

20 Q: Okay. All right. So I'd like to show you
21 Respondent's Exhibit Number 4 and ask you if
22 you are familiar with this document.

23 (Respondent's Exhibit Number 4 was introduced into
24 the record at this time.)

25 A: Yes, I am. It is a letter dated April 18th of



1 2016 sent to a Ms. Stacey Hamm, who, at that
2 time, was the deputy treasurer for Richland
3 County. Again, the letterhead has the same
4 information as previously -- as trustee and
5 then with the 13349 Caminito Mar Villa address.
6 He is basically stating in this letter that he
7 did not receive his tax bills until February
8 and basically is asking Ms. Stacey to remove
9 the penalty dates because he believes if he had
10 received the tax bills timely, he would have
11 paid the bills without the penalties.

12 My conclusion and assumption is that he
13 received it sometime after the penalty date in
14 February, which is February 15th. I think it
15 may have been the 18th that year because of the
16 15th falling on a weekend and then the Monday
17 being a holiday weekend of Martin Luther King
18 Day. But -- so he must have received it after
19 the -- that first penalty date. And he's
20 asking her to -- he sort of goes back over
21 everything, and he's asking her to remove the
22 penalties in the amount of \$5200.

23 Q: Well, Mr. Fancey, let's go back. What -- are
24 you aware of what date the tax bills were
25 mailed out for 2015?



1 A: Yes. They were mailed on October 28th of 2015.

2 Q: Would there been any reason why Dr. Tadros
3 would have received a second tax bill ---

4 A: Not to my knowledge.

5 Q: --- in February of 2016?

6 A: Not to my knowledge. In fact, if you'll look
7 at Exhibit 2, I believe, which is the actual
8 tax bills themselves, these are the original
9 copies of the original bills. He sent us
10 copies of the original bills. These are not
11 subsequent bills of any kind. This is a copy
12 of the original bill, which I'm assuming is
13 what he received in February of '16.

14 Q: Okay. Is there any reason that you can think
15 of why Dr. Tadros would not have received that
16 until February if it was mailed in October of
17 2015?

18 A: Not that I can think of, no.

19 Q: Okay. All right. So at this point, based on
20 the correspondence that you have received, has
21 there been a valid appeal of the 2015 year?

22 A: No, there has not.

23 Q: Okay. So whatever he has written thus far,
24 despite the fact that it was late, would it
25 have qualified for an appeal?



1 A: I guess I can say that even if he had received
2 the notices -- but the first time he contacted
3 anybody was in March of '16 -- it would be too
4 late to appeal that '15 year.

5 Q: Okay. All right. So I'd like to show you
6 Respondent's Exhibit Number 5 and ask you to
7 please identify this.

8 (Respondent's Exhibit Number 5 was introduced into
9 the record at this time.)

10 A: This is a May 3rd letter 2016, again, with all
11 the appropriate letterhead at the top
12 confirming address. It is addressed to me, and
13 he's going back over the history of all his
14 contacts with the assessor's office.
15 Pardon me. I had a cold a while back. I'm
16 just -- can't get over this cough.
17 This is as close as I could come to saying it's
18 an appeal, an attempt to appeal for 2015. His
19 final paragraph is, I am asking to you please
20 review my letter to Ms. Hamm where I hereby
21 appeal the actual 2015 tax bill to reduce back
22 to where it was in 2014 and to refund me the
23 difference.
24 Again, he's referring to tax bill -- the tax
25 bill taxes -- qualifying tax bills taxes. But



1 I looked at this and stated -- if I did a
2 liberal interpretation in favor of the tax
3 payer, this would be the first one that would
4 actually hint that he's actually trying to
5 appeal the 2015 year in writing. We may have
6 talked about it verbally, but it -- it's the
7 first in writing.

8 Q: Mr. Fancey, what -- do you know what the
9 statute requires with regard to how a taxpayer
10 can appeal his property?

11 A: It has to be in writing.

12 Q: Okay.

13 A: We do not accept -- the statute does not
14 provide for oral appeals.

15 Q: Can they appeal the tax bill, or what do they
16 have to appeal?

17 A: To my knowledge, they're not appealing the tax
18 bill, but they're appealing the value of the
19 property.

20 Q: Okay. All right. Mr. Fancey, I'd like to show
21 you Respondent's Exhibit Number 6 and ask if
22 you can identify this document.

23 (Respondent's Exhibit Number 6 was introduced into
24 the record at this time.)

25 A: Yes. This is a June 6th letter, again, from



1 Dr. Tadros with the 13349 Caminito Mar Villa,
2 Del Mar, California address. And this is
3 addressed to the Richland County Board of
4 Assessment Appeals.

5 And to preface this, we'd had several
6 conversations on the phone at various times.
7 Dr. Tadros just called sort of, I guess, to
8 check on things, see how, if anything, had
9 changed. And so he opens the letter with
10 Mr. Terry Fancey, Richland County Assessors'
11 supervisor referred me to contact your office,
12 the higher authority, to hopefully resolve this
13 entangled matter. He's essentially appealing
14 his inability to appeal the 2015 values. And
15 he's appealing that decision to the Board of
16 Appeals.

17 Q: Okay. And so did the Board of Appeals actually
18 hear his case?

19 A: Yes, they did. I believe it was October 11th
20 of 2016.

21 Q: Okay. And, Mr. Fancey, I'm gonna show you
22 Respondent's Exhibit Number 7, and I'd like to
23 ask if you can identify that, please.

24 (Respondent's Exhibit Number 7 was introduced into
25 the record at this time.)



- 1 A: This is a letter to Dr. Tadros at 13349
2 Caminito Mar Villa, Del Mar, California 92014
3 dated December 5th referring to the two cases
4 that were brought before the Board of Appeals.
5 And he said, While the Board has heard both
6 sides of the valuation, we're unable to -- is
7 not -- first of all, the Board of Assessor of
8 Appeals had determined that your appeal was not
9 submitted timely, and therefore he's not
10 eligible to appeal your property. And this is
11 from -- assigned Eric Grant, Chairman of the
12 Richland County Board of Assessment Appeals.
- 13 Q: Okay. Now, Mr. Fancey, how does Richland
14 County go about mailing out its assessment
15 notices?
- 16 A: We contract with a company that does this on a
17 regular basis for other large corporations, SI
18 Solutions. And they do your mailings for us of
19 our assessment notices.
- 20 Q: Okay. And what is the statutory requirement
21 for sending out an assessment notice? How is
22 it sent?
- 23 A: By regular mail.
- 24 Q: Okay. How -- do you know for a fact that
25 Dr. Tadros' assessment notices were sent out?



1 A: Yes, I do.

2 Q: Okay. Mr. Fancey, I'm gonna show you
3 Respondent's Exhibit Number 8 and ask you to
4 please discuss that with us.

5 (Respondent's Exhibit Number 8 was introduced into
6 the record at this time.)

7 A: Okay. This is the first page -- this is --
8 already have that page. This page. Okay.
9 This basically has internal information for SI
10 Solutions, their info. Basically, this is an
11 IMB query. And it's a tracking system that
12 tracks mail every time it's scanned by the US
13 Postal Service.

14 Q: Perhaps what would be helpful here is if I put
15 this up so that you can point to it.
16 Let's see. How do I go about turning this on?
17 I think you can use your screen there, I
18 believe.

19 A: Oh, I can use my screen?

20 Q: I believe. Let's see.

21 A: Yes ---

22 Q: Okay. Wait, wait, wait. Let me figure out
23 what I'm going here. Hold on just a second.
24 Okay. How do I get this to go up or down
25 or ...



1 THE COURT: Just shrink that just a little bit.

2 MS. PIKE: Yeah. Can you focus it a little bit?

3 Ah, okay. Great. Thank you. Let's see if we
4 can get just a bit -- whoops -- a hair larger.
5 Okay. That's about the best I can do.

6 Q: Okay. Go ahead.

7 A: This part up here is the internal tracking for
8 the IMB tracking (indicating). Of course, here
9 you have the state (indicating). Here's the
10 ZIP Code, which is 92014361349 -- and I'll
11 explain that a bit later (indicating). Here's
12 the job, which is Richland County (indicating).
13 And now they say assumed delivered. Again, it
14 is has been pointed out, cannot verify the
15 actual delivery, but we can track it very
16 close.

17 And if you go to the next page ---

18 Q: Okay.

19 A: Up here you see a summary of the same thing
20 (indicating). And down here is interesting
21 because you can see it was mailed on July 17th,
22 2015, at 1900 hours at a mail substate
23 submission, then in Columbia again in original
24 processing about an hour later (indicating).
25 And then you see it made it to San Diego,



1 California, which is my understanding about 20
2 miles from Del Mar, California. And you can
3 see that it was scanned at various points of
4 going through the San Diego mailing system post
5 office (indicating). And this last scan was on
6 July 19th, 2015, at almost 1900 hours
7 (indicating). It shows that after two days and
8 four hours, the mail made it to the last scan
9 destination prior to delivery to Dr. Tadros.

10 Q: Okay. Now, I know that we can see that it's
11 San Diego, but how do you know that that was
12 Dr. Tadros' assessment notice?

13 A: Well, first of all, this is what I asked for
14 when I contact SI Solutions to see if they the
15 tracking. And they did have this tracking.
16 Okay. Well, as part of our verification, I
17 downloaded a mail scanning app on my iPhone,
18 and I scanned -- at the very top up here, I
19 scanned that barcode. And it will give you the
20 results of that scan.

21 Q: Yes. I'm going to show you Respondent's
22 Exhibit 9, 10, and 11 and ask you if you can
23 identify those.

24 (Respondent's Exhibit Numbers 9, 10, and 11 were
25 introduced into the record at this time.)



1 A: Okay. First of all, I see here. Actually,
2 Exhibit 11 is a scan of the barcode that is on
3 the screen. And, of course, the mail scanning
4 company does promotion work that promote
5 themselves. So they had -- it begins on the
6 letter saying, Dear resident of 13349 Caminito
7 Mar Villa, Del Mar, California. But on the
8 second page, you can look at -- and this is the
9 contents of the barcode. And the contents
10 state 94 -- well, 92014 is your city, 3613 is
11 your neighborhood, and that 49 is your
12 resident's business. How it's exactly
13 interpreted by the US Post Office, I don't
14 know. But it has an address of 13349 Caminito
15 Mar Villa, Del Mar, California 92014. So that
16 is the result of scanning -- that's Exhibit 11.
17 That's the result of scanning the tracking
18 information sent to me from SI Solutions.
19 We also scanned in on -- I scanned the notice
20 that we sent, a copy of the notice that we
21 have. I scanned that barcode.

22 Q: I'm sorry. The assessment notice?

23 A: The assessment notice.

24 Q: Okay.

25 A: It has the exact same information: Dear



1 Resident of 13349 Caminito Mar Villa, Del Mar,
2 California. And the contents of the barcode on
3 the assessment notice that was sent -- notices
4 that were sent is 92014, your city; 3613, your
5 neighborhood; 49, your residence and business;
6 Address 1 is 13349 Caminito Mar Villa, Del Mar,
7 California 92014.

8 Then I also scanned the barcode that was on the
9 copy of the tax bill that we had that
10 Dr. Tadros had provided. And I had the same
11 results. It says, Dear resident of 13349
12 Caminito Mar Villa in Del Mar, California. And
13 then the contents of the barcode are 92014,
14 your city; 3613, your neighborhood; 49 your
15 residence/business; Address 1 is 13349 Caminito
16 Mar Villa, Del Mar, California 92014.

17 So all three scans are both the documents
18 received from SI Solutions of the actual notice
19 that was sent and of the tax bill that was sent
20 confirm the same address.

21 Q: Okay. Mr. Fancey, did the Richland County
22 Assessor's Office receive anything back
23 indicating that the assessment notice was not
24 delivered?

25 A: It's my understanding we do not receive any



1 returned mail of any kind.

2 Q: With regard to ---

3 A: With regard to these two notices.

4 Q: Okay. All right. Were there any issues noted
5 with assessment notices that were sent out in
6 July of 2015 which may indicate that Dr. Tadros
7 might not have received this?

8 A: There were no issues. In fact, this may be one
9 of the first years we did it this way, and it
10 ran smoother than when we put in our own
11 notices and sent them out.

12 Q: Okay. All right.

13 MS. PIKE: Your Honor, I don't have any further
14 questions.

15 THE COURT: Mr. Kendrick?

16 MR. KENDRICK: Thank you, Judge.

17 MR. FANCEY - CROSS-EXAMINATION BY MR. KENDRICK:

18 Q: Good morning, Mr. Fancey.

19 A: How are you doing?

20 Q: I have some brief questions for you. You
21 looked at exhibits -- you said the first
22 exhibit that you construed as an appeal
23 possibly, is that Exhibit 6?

24 A: Yes.

25 Q: But then as a follow-up question, what you



1 discussed was that you don't appeal bills; you
2 appeal values, right?

3 A: That's correct.

4 Q: And then all of Dr. Tadros' correspondence
5 with, you he is telling you that there is a
6 serious problem with the value of the land he
7 bought?

8 A: The value of the taxes.

9 Q: Right.

10 A: His issue's always been taxes.

11 Q: Right. But part of that -- but that's -- it's
12 not solely the taxes. One of them is ---

13 A: Yes. It's predicated on value.

14 Q: Right.

15 A: But at no point did he say I'm appealing a
16 value. He's always appealing his taxes. He
17 has an issue with the taxes.

18 Q: Right. And on March 14th on Exhibit 3, he
19 tells you that he bought this property for
20 \$1.85 million and that it was not -- it was
21 vacant. It had a vacant tenant. One of the
22 tenants moved out afterwards.

23 A: From my understanding, when he bought that
24 property, as of that date, it was fully leased.

25 Q: Right. And he has explained to you that he has



1 a problem with the agent that sold him the
2 property, correct?

3 A: And I understand he has several actions against
4 that agent.

5 Q: Right. And I'm not trying to argue with you.
6 I just want to make sure you understand that
7 the ---

8 A: My understanding is it was fully leased when he
9 purchased it and that circumstances changed
10 against -- not to his favor, through no fault
11 of his own. But, again, that was an action
12 that he has going with the seller of the
13 property. Our issue is the value of the
14 property. It was a valid ATI in 2000 that
15 would sell for '14 -- the ATI for 2015. And it
16 wasn't until '15 that he found out that the one
17 property was vacant. But our assessment date
18 is December 31st of every year. What's there
19 as of that date's, what's the value of the next
20 year.

21 Q: Right. When he contacted you in 2016, he
22 immediately told you or someone at your office
23 he had never received any tax notices, right?

24 A: Yes. I would say that. Yes. Because I know
25 we talked about that numerous times.



- 1 Q: And that's really the heart of this dispute,
2 right? He says he didn't get, and you say ---
3 A: Uh-huh.
4 Q: --- it -- from your standpoint ---
5 A: From all our information we have, it was -- it
6 should have been delivered to him.
7 Q: Right. And you based that on the IMB, and I
8 think this was Exhibit 8. This is some e-mails
9 between you and Ms. Catherman [ph]?
10 A: Correct.
11 Q: All right. So that IMB, all the information on
12 the IMB, those are things created on the
13 sending end, right?
14 A: That's created as it's tracked. It's scanned
15 through the US Postal Service.
16 Q: Right. And that's created where -- at the
17 point of origin?
18 A: The initial one is the point of original. But
19 then as it goes through, apparently through the
20 Postal Service policy, it's scanned at various
21 points to track its progress.
22 Q: Right. And that scanning kind of gives us an
23 idea of where -- which post offices it's going
24 though, right?
25 A: Uh-huh.



1 Q: For example ---

2 A: My understanding, yes. I'm not an expert in
3 this, so I'm just giving my opinion.

4 Q: Right. But if we look at just kind of the
5 plain -- not plain language, if you will,
6 Marker 1 and 2 show two different facilities in
7 Columbia. It starts in the 09 Facility.

8 A: Uh-huh.

9 Q: And then it goes over the 01 Facility. So it's
10 submitted in 09. In other words, that's
11 probably the post office that it got dropped in
12 the mail at, right?

13 A: That's -- I believe they pick it up at the SI
14 Solutions facility, which is on Shop Road.

15 Q: Okay.

16 A: Is it Shop Road?

17 Q: And that's the 09 ---

18 A: I believe so.

19 Q: Okay. And then it goes to 01, which is the
20 downtown post office, which is the origin
21 process?

22 A: Right.

23 Q: It's where it leaves to go to its next place?

24 A: Right.

25 Q: And then it ends up at 92199 San Diego,



1 California?

2 A: Uh-huh.

3 Q: And then it just stays there, right?

4 A: It's obviously tracked through the system in
5 the process of being prepared. My
6 understanding is that last scan could have
7 possibly just got done as it was being put on
8 the truck on the last route to go to be
9 delivered.

10 Q: But from the San Diego Post Office?

11 A: Right.

12 Q: But that is not where Dr. Tadros lives, right?

13 A: He lives about 20 miles away.

14 Q: Right. So there would be another post office -
15 --

16 A: I have no clue about that.

17 Q: Right. But it would make sense, right?

18 A: No. Not necessarily.

19 Q: Well, how far is ---

20 A: There's post offices all over the place. I
21 don't know where everybody is.

22 Q: How far is Shop Road from Downtown Columbia, a
23 mile, two miles?

24 A: 10 miles, something like that.

25 Q: Probably more like two or three, you think?



- 1 A: (Witness nods head.)
- 2 Q: Okay. But the point is there ---
- 3 A: I lived in a condo for several years.
- 4 Q: Right. But the point is there are local post
- 5 offices, and then you've got a bigger city post
- 6 office. And that's sort of how the mail
- 7 distribution works, right?
- 8 A: I'm assuming that's how it works. And, in face,
- 9 I have no personal knowledge. All I know is I
- 10 get my mail.
- 11 Q: Okay. So what we have here though is the scan
- 12 stops in San Diego, and you don't have any
- 13 proof that it ever made it past that?
- 14 A: Well, the Post Office itself acknowledges that
- 15 the IMB scanning process does not ensure proof
- 16 of delivery.
- 17 Q: Right.
- 18 A: But it tracks it. And in this case, it tracked
- 19 it within 20 miles of his address.
- 20 Q: Right. And I think that's eventually what I'm
- 21 getting to is that we can't say whether he got
- 22 it or not, right?
- 23 A: No. There's no way of definitely saying that,
- 24 yes.
- 25 Q: But we can say that once he received something,



1 he began diligently contacting your office,
2 right?

3 A: But the only thing I know that he received
4 would be the October 28th tax bills. And he
5 says he did not receive those until February.

6 Q: And do you have any anything to dispute when he
7 received those?

8 A: I have no knowledge of that.

9 Q: Okay. Do you have anything to show that he
10 should have received them earlier?

11 A: That letter got sent October 28th. And to my
12 knowledge, the treasurer -- or the auditor's
13 office had no difficulty with their mail.

14 Q: How many other pieces of mail went to
15 San Diego, California?

16 A: I can't tell you that.

17 Q: Do you have some general knowledge as to how
18 many owners of Richland County property live in
19 San Diego, California?

20 A: No, I do not.

21 Q: Is it possible that Dr. Tadros is the only one?

22 A: No.

23 Q: It's not possible?

24 A: I'm sure there's others that live around in the
25 San Diego area.



1 Q: Okay. But you're not ---

2 A: I'm not sure how you define what that area is.
3 But my assumption would be there has to be a
4 few others.

5 Q: Okay. But you don't ---

6 A: Not a large number but maybe a few.

7 Q: But you don't know that?

8 A: Right, I do not know that.

9 Q: And you don't have anything with you today to
10 tell us whether ---

11 A: No.

12 Q: --- or not there's other folks in the San Diego
13 area or, in fact, in Del Mar, California?

14 A: No.

15 Q: All right. And it looks like from the
16 correspondence that he sends you March, May,
17 and June, which are exhibits, that he's
18 proactively contacting your office on a number
19 of occasions, right?

20 A: Uh-huh.

21 Q: Those references to phone calls?

22 A: Yes.

23 Q: Okay. So he's definitely trying to get this
24 information to you?

25 A: He communicated that information to us quite



1 clearly. And I thought that I quite clearly
2 responded -- and I know Mr. Cheslak did as
3 well -- that the appealing time line for '15
4 had passed.

5 Q: Okay. Do you know why his penalty payments
6 were refunded?

7 A: I cannot speak for the treasurer's office.

8 Q: But that would be the same issue you have,
9 right? I mean ...

10 A: Yeah. My personal feeling is they shouldn't
11 have refunded it.

12 Q: But they did?

13 A: But they did.

14 MR. KENDRICK: Just one second, your Honor.

15 Q: Did you ever -- and you may have answered this
16 and I just missed it. Did you ever talk to
17 anyone about the refund of the late payment
18 penalties?

19 A: No, I did not. Other than after the fact ---

20 Q: Okay.

21 A: --- I asked for a copy of whatever information
22 they may have had about that.

23 Q: And did they tell you why they reached that
24 decision?

25 A: Not really clearly.



1 Q: Did they tell you in an unclear way? Maybe it
2 will be clearer to us.

3 A: Maybe. It's my feeling it would be within
4 reason all the offices of Richland County try
5 and help the taxpayer out and do things in
6 favor of the taxpayers. We don't want to be
7 penalized for -- penalize for no reason. All
8 that I can say is they took sympathy on
9 Dr. Tadros and refunded the penalties.

10 Q: Okay. Did they say anything about there being
11 a mail problem?

12 A: No.

13 Q: Okay. So you think it may have been just that
14 they were trying to be helpful?

15 A: Yes.

16 Q: Okay. And in this case, why is that not the
17 position of your office?

18 A: Because unlike the treasurer's office, we have
19 very specific statutory guidelines when it
20 comes to appeals, filing appeals, documentation
21 to appeals. There are certain forms required
22 that have to be done. If they're a day late,
23 it ends the appeal. We just -- we follow
24 statutes as strictly as possible. And our
25 feeling is that once we make an exception to



1 one area, as much as we have sympathy, it opens
2 the barn door and we don't know where it's
3 gonna end.

4 **MR. KENDRICK:** That's all I have, your Honor.

5 **MS. PIKE:** You honor, I have a couple of redirect
6 questions.

7 **MR. FANCEY - REDIRECT EXAMINATION BY MS. PIKE:**

8 Q: Mr. Fancey, are you aware of any situations
9 where the Richland County Assessor's Office has
10 accepted an appeal after the statutory appeal
11 period has ended?

12 A: Not to my knowledge.

13 Q: Okay. Does the Richland County Assessor's
14 Office have any authority to accept an appeal
15 after the statutory appeal period has ended?

16 A: We do not.

17 Q: Okay. Does the Treasurer's Office have
18 authority with regard to waiving penalties?

19 A: Apparently, they do.

20 Q: Okay. All right.

21 A: Yes, they do.

22 Q: So you don't know if that's discretionary?

23 A: No, I do not.

24 Q: Okay. All right. Thank you.

25 **THE COURT:** Mr. Fancey, you may return to your seat.



1 (Witness Excused.)

2 MS. PIKE: Your Honor, we have no further witnesses
3 with regard to this issue.

4 THE COURT: Okay. Just to clarify, you're offering
5 these exhibits to me?

6 MS. PIKE: Yes, you honor. I'd like to admit
7 Respondent's Exhibits 1 through I think it's
8 11. No -- yes, 11.

9 THE COURT: And do you have any objection to that?

10 MR. KENDRICK: No, your Honor.

11 THE COURT: All right. Without objection,
12 Respondent's Exhibits 1, 2, 3, 4, 5, 6, 7, 8,
13 9, 10, and 11 are admitted.

14 (Respondent's Exhibit Numbers 1, 2, 3, 4, 5, 6, 7, 8,
15 9, 10, and 11 were admitted into evidence.)

16 MS. PIKE: Yes, your Honor. Thank you.

17 THE COURT: And you have no other witnesses on this
18 issue?

19 MS. PIKE: On this issue, you Honor.

20 THE COURT: All right.

21 MS. PIKE: We do have an appraisal witness, if we
22 get to that.

23 THE COURT: I understand.

24 Mr. Kendrick?

25 MR. KENDRICK: Thank you, your honor. I call



1 Dr. Tadros to the stand, please.

2 EMAD TADROS, M.D., having been duly sworn, testifies
3 as follows:

4 DR. TADROS - DIRECT EXAMINATION BY MR. KENDRICK:

5 Q: Dr. Tadros, if you'll introduce yourself to the
6 judge, please.

7 A: My name is Emad, E-M-A-D, Tadros, T-A-D-R-O-S,
8 M.D.

9 Q: All right. And what kind of doctor are you?

10 A: I'm a psychiatrist.

11 Q: And where do you currently live?

12 A: San Diego.

13 Q: Tell me how you ended up buying property in
14 South Carolina, just very briefly.

15 A: It was a family trust. And one of my agents,
16 real estate agents encouraged me to buy it. It
17 was a very attractive thing. The neighborhood
18 was excellent and next to the school here. And
19 it was fully occupied and seemed that it was
20 very promising. So I went ahead and bought it
21 for 1.850. In fact, then it was two years
22 earlier or three years ago, it was 1.1.

23 Q: Okay. And without -- we're not gonna go too
24 far into the issues of your dispute with the
25 sale, but did you immediately find out that



1 what you had been sold was not what you thought
2 it was?

3 A: Immediately following the close of escrow until
4 current, the area was just completely vacant.
5 It just got recently leased to somebody else --
6 but it has been vacant for almost 2.7 months --
7 two years and seven months. And the tenant
8 informed me he was told that -- he was asked to
9 lie, fake tenancy until the close of escrow was
10 done. And we had that ready under penalty --
11 or I would say a notarized statement from the
12 tenant to LLR in anticipation registered to Ron
13 Alston.

14 Q: Okay. So after you closed on this property,
15 when is the first piece of correspondence you
16 received from Richland County?

17 A: Never mind that I had never been connected with
18 the county ever before, and I thought this
19 whole thing was actually impounded.

20 Q: And explain what you mean when you say you
21 thought it was impounded.

22 A: Impounded means like other property you have,
23 which simply -- with the loan I requested that
24 the taxes be paid by the tenant automatically.
25 So I never got it. It never crossed my mind



1 that this would be a problem. And I received
2 the first bill around January or February of
3 the -- after closing 2015, which is two
4 thousand -- early 2016. That's when I
5 immediately started to make phone calls out
6 there, tried to be in my shoes, trying to
7 contact San Diego to talk to them. Everybody
8 here. They expect me know, but I don't know
9 who they are. You call this one, and this
10 would send me to this one and a lot of phone
11 calls saying you're not supposed to pay this.
12 This is too much; the tenant has moved out.
13 The property is vacant. And the other tenants
14 aren't happy. I need to talk to somebody. And
15 I don't even know what the word "appeal" is
16 because I've never appealed taxes in my
17 lifetime. So I don't even know what that is.
18 So they -- so I kept hoping -- I can't remember
19 all the details from one to another and ended
20 up appealing. And then I came to the appeal
21 court. Would you allow me to go ahead and talk
22 more about the appeal hearing?

23 Q: So -- well, before we go to that, so you end up
24 at an appeal hearing here in Richland County?

25 A: Yes. I came here in October of last year.



1 Q: Okay. And that's the appeal where they decided
2 that you had not made a timely ---

3 A: Yeah. They -- we talked a lot and everybody
4 was very nice and very professional. There was
5 no aggression. It was -- that stopped and were
6 aware that -- they took care of it, regardless,
7 it was mailed to me. But the whole proof and
8 point to me, the whole proof was about sending
9 out. But I don't live 20 miles away from this.
10 And the closest mail -- major post office, it's
11 about two miles from where I live.

12 Q: And where -- what city is that?

13 A: And that's in Del Mar, in the heart of Del Mar
14 on 15th Street. Big, huge post office. And
15 the one next to it about nine miles away in
16 Carmel Mountain.

17 Q: Okay.

18 A: So there is -- in the hearing, we -- there was
19 a gentleman -- and I don't know his name -- who
20 asked me and either before and he said, here's
21 your number. And then so, which is 92014,
22 which is accurate. And that's my ZIP Code and
23 then 3613 -- or 31 -- 3616, and I don't know
24 what that is. And then it says after that
25 1349. And my address is 13349. That's on the



1 right of the form right here. So I'm just
2 guessing. I don't know. I've never been in
3 this situation before, so I don't know. Could
4 it be a mistake that they missed a three and
5 that's how it stayed 20 miles away? I don't
6 know.

7 Q: Well, let's talk about this post office. So
8 the 92199 post office in San Diego, California,
9 how far away from San Diego do you live?

10 A: No idea where 921 -- 1 -- 92 what?

11 Q: 92199, which is the San Diego, California.

12 A: I don't know.

13 Q: Okay. That is not your ZIP Code though, right?

14 A: No. Absolutely not.

15 Q: All right. And you said that there's a large
16 post office in Del Mar?

17 A: In the 92014.

18 Q: Okay. And then there's -- and that's your ZIP
19 Code?

20 A: That's my ZIP Code for many, many years.

21 Q: Okay.

22 A: I go there all the time.

23 Q: Do -- are you aware of whether mail comes from
24 that post office to your house?

25 A: As far as I know, logically speaking. Yes.



- 1 Q: All right.
- 2 A: All the certified letters that I get, I go pick
3 it up from there.
- 4 Q: Okay. So if you get a postcard for a certified
5 letter and you have to go to your post office
6 box ---
- 7 A: Yes.
- 8 Q: --- you go to the post office in Del Mar?
- 9 A: Yes.
- 10 Q: All right. Have you ever had any other
11 problems getting any mail?
- 12 A: Never.
- 13 Q: All right.
- 14 A: And if you ask me have I had mail from other
15 people on my property, the answer is yes.
16 Rarely, but it happens.
- 17 Q: Okay. You mean you've had things mistakenly
18 delivered to you?
- 19 A: Yeah. Names and addresses that are just
20 similar.
- 21 Q: All right. And if you had received this notice
22 in a timely manner, what would you have done?
- 23 A: Oh, trust me. I'm obsessive by nature. I
24 would have immediately responded to it. I
25 would have definitely done what I had to do.



1 There's one thing I wanted to mention in here,
2 which they kindly refunded me back 5200. It
3 was a lady sitting in the hearing. Understand,
4 I don't know why but they said because I paid
5 within 30 days and it was something about
6 flooding, I think. I don't know. The mail was
7 late, there was -- I don't know. So they said
8 they decided to refund me the money. I said
9 okay but it's not just that. It's about me not
10 receiving anything for 2015, and that was the
11 issue with me.

12 Q: And let me make that point too then. So this
13 is not a tax bill that you had been refusing to
14 pay? You paid the full amount?

15 A: I paid more than -- way more than what I was
16 to --- expected to do because I know this is my
17 duty, my obligation to do exactly that.

18 Q: But you did pay what the County asked you to
19 pay?

20 A: Yes.

21 Q: And now you've appealed, having fully paid it?

22 A: Yes.

23 Q: So it's not a situation you where you've said
24 I'm not gonna pay it and appealed it?

25 A: Absolutely not.



1 Q: Okay. Is there anything else about the
2 timeliness of your appeal that you think this
3 judge would like to know or needs to know?

4 A: Your Honor, if I received a tax bill, I would
5 have immediately paid it. I know that if I
6 waited, this would be a real problem. The
7 other thing is, I know this is a side issue,
8 but this whole property was inflated, and they
9 know that. And the tenant was actually -- when
10 he moved out and I kept paying while he moved
11 out in 2015, in January 2015, he moved out as
12 soon as the escrow was closed, which was the
13 end of 2014, practically beginning of 2015, I
14 got -- I received nothing. And the property
15 was vacant, and I still had to pay the higher
16 end of the taxes in 2015. And they agreed with
17 me because they became kind enough in 2016, and
18 they dropped it way down about \$20,000 less.

19 Q: Okay. Thank you, Dr. Tadros. If you'll answer
20 any questions Ms. Pike has for you.

21 **DR. TADROS - CROSS-EXAMINATION BY MS. PIKE:**

22 Q: Dr. Tadros, when you testified that you paid
23 the full bill, are you saying you paid
24 100 percent of that bill?

25 A: Yes, I did.



1 Q: Or did you pay 80 percent of it?

2 A: The checks that were sent were 100 percent, the
3 ones that you guys refund me the money back.

4 Q: Did you request that perhaps you receive an
5 80 percent bill and you paid 100 percent of
6 that 80 percent bill?

7 A: I did not argue. I just paid it. I paid the
8 whole thing.

9 Q: Okay.

10 A: I mean, I did not -- first of all, try to be in
11 my shoes. Try to pick up a phone. It's you on
12 a call with San Diego about a tax bill. It's
13 a complete loss. And I kept switching from one
14 to another, and I know I have a deadline date.
15 I don't want to lose the property. I want to
16 do the best I can to do, as a good citizen, do
17 the right thing. That's exactly what I was
18 doing. I'm not perfect, but this is what I
19 did.

20 Q: Dr. Tadros, I'd like to ask a question here.
21 I believe that you were pointing on this, which
22 I believe is exhibit number -- let's see so we
23 can be clear. Okay. On Exhibit Number 8.
24 Okay. I believe that in your testimony, you
25 were pointing to the IMB destination ZIP; is



1 that accurate?

2 A: Yes. That's actually what I mentioned. I said
3 that's the one that was pointed at me at the
4 hearing, at the appeal hearing of October last
5 year. And they brought this up. So I said,
6 okay, if I can make any assumptions, the ZIP
7 Code is accurate. I don't know about the other
8 numbers, but 1349, my address is 13349. That
9 could explain, maybe. I've never seen this
10 document before, but that could explain maybe
11 that's why I never received it. I don't know.

12 Q: The -- what is your ZIP Code?

13 A: 92014, which is accurate.

14 Q: Okay. And do you have an extension on that ZIP
15 Code?

16 A: I have no idea what the extension is.

17 Q: Okay. Dr. Tadros, I'd like to show you Exhibit
18 Number 2 with the extension on the tax bill.
19 Can you tell me what that extension is?

20 A: I want to make a comment on Exhibit Number 2.
21 That's my handwriting on it. It has no date as
22 to when exactly this was mailed from you. It
23 says it's a tax bill for 2015, but it doesn't
24 show as to when exactly this arrived to me.
25 Now, I'm sorry. What was your question again?



1 Q: The question is: Does your ZIP Code have a --
2 an extension on it?

3 A: Let me see. Address ...

4 Q: If you look up at the top where your address
5 is.

6 A: Okay. Here. 3613, yes. And it's accurate,
7 same as this one (indicating).

8 Q: So would it not stand to reason then that the
9 destination ZIP you stated that's your ZIP is
10 920143, correct?

11 A: Yes. I'm sorry. I did not understand your
12 question. I'm getting a little confused.

13 Q: I'm sorry. The -- your ZIP Code is 92014,
14 correct?

15 A: Accurate.

16 Q: And so then the 3613 is then your extension.
17 So that does not, in fact, refer to your
18 address, your specific street address, which is
19 13349 Caminito ---

20 A: Correct.

21 Q: --- Mar Villa.

22 A: But I feel like I'm playing a word puzzle here.
23 Is that the way we send mail? Because I'm a
24 little disappointed here when we're trying to
25 figure out -- look through numbers here. We're



1 trying to see how can me figure out how this
2 was mailed to me. I don't see this as proof to
3 even discuss it because these are ZIP Codes.
4 And my address was not -- and here's my
5 address. My address does not -- you don't have
6 a -- there is not a single piece of paper that
7 shows that I received this.

8 Q: So, Dr. Tadros, is that your correct address on
9 that?

10 A: Yes. Absolutely, it is.

11 Q: Okay. And so let me show you Respondent's
12 Exhibit Number 1. Is that your correct address
13 that's on that?

14 A: This one? Yes. Which I don't recall seeing
15 this, but this is accurate, yes. But this one
16 doesn't have the number that you're talking
17 about (indicating).

18 Q: It doesn't have the ZIP Code extension? Is
19 that what you're referring to?

20 A: Yeah. The ZIP Code extension, the 3613. It
21 just has the ZIP Code. This one has a ZIP Code
22 extension.

23 Q: Okay. All right.

24 A: Could it be a wrong extension and that's why?

25 Q: Dr. Tadros, I'd like to show you Respondent's



- 1 Exhibit Number 11, which Mr. Fancey has already
2 identified as a scan of the assessment notice.
- 3 A: I may not understand how the system works. A
4 scan of the ---
- 5 Q: Yes.
- 6 A: ---assessment notice.
- 7 Q: So would you read right here at the top for
8 us ---
- 9 A: Yes.
- 10 Q: --- what those numbers mean?
- 11 A: Yes, I see it.
- 12 Q: I think it explains it.
- 13 A: This is the first time I've seen this form. It
14 says the ZIP Code 92014, which is accurate.
15 ZIP plus 4, 3613, which is accurate, ZIP plus
16 2. And it says 49. I don't know what that is.
17 That's not my residence, but it says Address
18 1 ---
- 19 Q: All right.
- 20 A: --- 3349 Caminito Mar Villa.
- 21 Q: So what does it say next to this ZIP plus 2?
- 22 A: 49.
- 23 Q: And then what does it say beside that?
- 24 A: US.
- 25 Q: Okay. All right. So are those the same



1 numbers then that appear up here (indicating)?
2 We have the IMB destination ZIP as 92014, and
3 then we have 3613, which is the extension; is
4 that accurate?

5 A: Accurate.

6 Q: And then 49 then would stand for your
7 residence; is that ---

8 A: No. These numbers are compatible with IMB.

9 Q: Okay. All right.

10 MS. PIKE: No further questions, your Honor.

11 MR. KENDRICK: No redirect, your Honor.

12 THE COURT: Dr. Tadros, you may return to your seat.

13 (Witness Excused.)

14 MR. KENDRICK: That's all I have, your Honor.

15 THE COURT: Okay.

16 MS. PIKE: Your Honor, I know this is a bit out of
17 order, but would it be appropriate for me to at
18 least put Mr. Terry Fancey back up for just a
19 moment and address the tax bill issue as to
20 whether Mr. Tadros paid 100 bill or an
21 80 percent bill?

22 THE COURT: I don't know that it's necessarily
23 relevant to what we're talking about, but I'm
24 curious.

25 MS. PIKE: Okay.



1 THE COURT: Mr. Kendrick, do you have any objection
2 to that?

3 MR. KENDRICK: No, your Honor.

4 THE COURT: Okay. And, Mr. Fancey, you're still
5 under oath.

6 MR. FANCEY - FURTHER REDIRECT EXAMINATION BY MS.

7 PIKE:

8 Q: In Fancey, can you explain the South Carolina
9 law with regard to if a taxpayer files an
10 appeal that is gonna extend over December the
11 31st? How is that handled?

12 A: My understanding is by statute, the auditor is
13 required to send what's called an 80 percent
14 bill. If a property owner files an appeal,
15 say, for 2016 and before tax bills are
16 generated or sent that he would get an
17 80 percent bill for that year. If it's filed
18 after the tax bills are generated or sent, then
19 he'd get 100 percent bill for that year, he can
20 request an 80 percent bill. But if the appeal
21 is still open in the following year when the
22 taxes are generated and sent, then he'd get an
23 80 percent bill for that year.

24 Q: So if Dr. Tadros did not file an appeal, then
25 how did this 80 percent bill ---



1 A: Well, basically I was looking at the auditor's
2 system, and I noticed some 80 percent bills out
3 there -- my understanding, based on what I can
4 recall and it's strictly from my memory, which
5 is getting pretty bad in my old age, I believe
6 there's a 100 percent bill for 2015. But
7 because he didn't file with the Board of
8 Appeals in -- early on in '16 and we had the
9 board hearing in '16 -- October of '16, and the
10 tax bills are generated for '16, those are now
11 an 80 bill -- an 80 percent tax bill. And then
12 for '17, because we're still deal being this,
13 the bill that was just sent October 31st of
14 this last month will also be an 80 percent tax
15 bill.

16 And what that allows is if a tax payer is
17 appealing his property value, it just --
18 there's gonna to be a reduction and he's not
19 required to pay the full amount of the bill and
20 get a complete refund. He may owe an initial
21 amount, or he may actually get a refund based
22 on the results of the appeal. In light of what
23 the appeal value is, you pay your tax bill on
24 that. What was already paid is 80 percent of
25 the old value and you pay the leftover, the



1 difference. And it just sort of softens the
2 impact of the -- of any appeals, especially if
3 there may be a value reduction.

4 Q: Okay.

5 MS. PIKE: No further questions, your Honor.

6 THE COURT: How do we know this is an 80 percent
7 bill?

8 THE WITNESS: The '15 bill is 100 percent bill, the
9 best of my knowledge. '16 and '17 bills are
10 80 percent bills.

11 THE COURT: Okay. So I don't have a '16 or '17
12 bill? I won't ---

13 THE WITNESS: No. This is just something I happened
14 to notice while I was reviewing for this
15 preparation.

16 THE COURT: All right. So I don't need to know
17 that?

18 Q: So when it's an 80 percent bill, does it say it
19 on the tax bill?

20 A: Yes, it does say it on the tax bill.

21 Q: Okay.

22 MS. PIKE: No further questions.

23 MR. FANCEY - FURTHER RECROSS-EXAMINATION BY

24 MR. KENDRICK:

25 MR. KENDRICK: I guess just to clarify 'cause I know



1 we've kind of in irrelevance, but I don't want
2 to feel like I was misleading you. But the
3 2016 bill was an 80 percent bill?

4 A: Yes. The '15 bills that he has paid and he got
5 the refund out of the penalties for is a full
6 payment, to my knowledge.

7 Q: Right. And what's that I was asking him, if he
8 paid the amount in full?

9 A: Right. He paid the amount he was owed for '15.

10 Q: Right. And that was my question. The '16 he
11 paid, he won that appeal, right?

12 A: Yes. But because this appeal is not open for
13 '15 through the Board of Appeals appeal, he
14 has -- he received an 80 percent bill for '16.

15 Q: Right.

16 A: And depending on the outcome of this hearing
17 and wherever we end up with this, he may have
18 to pay the full 20 percent bills for '16 and
19 '17.

20 Q: Not -- and I don't want to be too far field.
21 I just want to make sure we're clear that he
22 didn't -- I ---

23 A: I understand what you're saying and I agree
24 100 percent.

25 Q: Right.



1 A: He paid what he was billed. He paid it in
2 full, and, in face, had been refunded for the
3 penalties.

4 Q: Okay.

5 MR. KENDRICK: That's all I have.

6 THE COURT: All right. Thank you, Mr. Fancey.

7 (Witness Excused.)

8 THE COURT: Okay. I guess what we would do at this
9 point is take the closing arguments on this
10 issue.

11 CLOSING ARGUMENT BY MS. PIKE:

12 MS. PIKE: Thank you, your Honor. According to
13 South Carolina statutes, specifically
14 12-60-2510, the Assessor's Office is required
15 to send assessment notices out. In years there
16 is a notice of tax -- I'm sorry -- the notice
17 must be served upon the taxpayer personally or
18 by mailing it to the taxpayer at his last known
19 place of residence, which may be determined
20 from the most recent listing in the applicable
21 telephone directory, Department of Motor
22 Vehicles, motor vehicle registration list,
23 County Treasurer's records, or official notice
24 from the property taxpayer.
25 So I think that the Assessor's Office met this



1 requirement. They sent it via US mail to his
2 last known place of residence. They, of
3 course, could not check the motor vehicle
4 listings in California, but they did, in fact,
5 have official notice, i.e., from the deed of
6 what the Dr. Tadros' official address was.
7 They also looked in the Whitepages, since
8 telephone books are almost moot at this point.
9 They looked at the Whitepages online and found
10 his address, and the County Treasurer's address
11 was the same. So at any rate, I think that the
12 Assessor's Office met its burden of proof. We
13 clearly showed that it was mailed out. It made
14 it all the way to San Diego. We know that. SI
15 Solutions does not provide tacking after that,
16 so we can't track all the way to the residence,
17 or at least at this point. In the future, we
18 may be able to do that. But at this point, it
19 only tracked through the last post office that
20 that particular notice went out of.
21 So we have tracked it all the way to San Diego.
22 It's probably highly unlikely that it didn't
23 make it to Dr. Tadros'. Perhaps Dr. Tadros
24 didn't realize what he had at that point. He
25 admit he had he never seen anything like that.



1 So at any rate, what we have is a situation
2 where the tax -- where the Assessor's Office
3 has complied with what it had to do in order to
4 establish this. What we don't know is whether
5 Dr. Tadros actually received it or not. But
6 what we do know is that it is late. And
7 pursuant to 12-60-2510, the statute says that
8 the taxpayer in years of reassessment has 90
9 days in which to appeal.

10 Case law here in South Carolina, and
11 specifically from -- some from the ALC, some
12 from others have stated that the failure to
13 timely appeal is actually jurisdictional, i.e.,
14 the Court cannot hear a valuation appeal if the
15 taxpayer is timely. And I would refer you to
16 Carl M. Allen, Petitioner, versus Dorchester
17 County Assessor, which is a -- an ALC case.
18 It's 10-ALJ-17-0234-CC. And I have copies of
19 these for you. Compliance with statutory time
20 periods for filing appeals is a prerequisite
21 for an appellant entity to have jurisdiction to
22 hear an appeal.

23 I would also refer you to Mears versus Mears,
24 which is a Supreme Court of South Carolina case
25 from 1985 holding likewise. Service of the



1 notice of intent to appeal is a jurisdictional
2 requirement, and this Court has no authority to
3 extend or expand the time in which the notice
4 of intent to appeal must be served.

5 So there's also a third case, I believe, that
6 I would refer you to, which is Stroupe [ph]
7 versus Duke Power Company, which holds
8 likewise. So by virtue of the fact that
9 Dr. Tadros did not appeal within the statutory
10 time period and clearly anything that could be
11 construed as an appeal for purposes of
12 12-60-2510 didn't come to the's Assessor's
13 Office until May the 3rd of 2016. The appeal
14 must be in writing. While he did write a few
15 other letters, none of them specifically
16 requested an appeal. So it wasn't until that
17 May the 3rd letter of 2016 that he actually
18 asked for an appeal.

19 So he clearly stated that he received it in --
20 let's say he received it in February. He
21 admits to receiving that. He may have been --
22 depending on what date that was, he may have
23 even been outside of that 90 days. Who knows?
24 But at any rate, the Assessor's Office clearly
25 mailed out the assessment notice; as they



1 should have. They followed the letter of the
2 law; and they're asking that the Court deem
3 this untimely, as it was outside of the 90-day
4 window. And that 90-day window expired on
5 October the 16th of 2015.

6 And if your Honor will allow me to approach the
7 bench, I will hand up the case law that I've
8 found.

9 THE COURT: Okay.

10 MR. KENDRICK: And before we -- can I just get the
11 cites of those?

12 MS. PIKE: Yes. I've got a copy for you. That's
13 what I handed you right there.

14 MR. KENDRICK: Oh, I didn't flip the whole way
15 through.

16 MS. PIKE: Yeah.

17 MR. KENDRICK: I thought you had only gave me the
18 first one.

19 THE COURT: Okay. Ms. Pike?

20 MS. PIKE: Yes, your Honor? I'm sorry.

21 THE COURT: I have a question.

22 MS. PIKE: Yes, sir?

23 THE COURT: And it's kind of a strange question to
24 be asking at this stage, and you may -- we may
25 want to have Mr. Fancey take the short walk



1 back up here.

2 MS. PIKE: Okay.

3 THE COURT: My understanding is this notice of
4 appraisal or notice of assessment ---

5 MS. PIKE: Yes, your Honor.

6 THE COURT: That's the document that we're talking
7 about appealing; is that correct?

8 MS. PIKE: Yes, your Honor. And it actually -- if
9 you saw the original of it, it has your rights
10 on the back of it, and it tells you exactly how
11 to appeal it.

12 THE COURT: All right. And my second question:
13 Now, when you say that he got something in
14 February -- or he says he got something in
15 February?

16 MS. PIKE: He testified that he received his tax
17 bills.

18 THE COURT: That's his tax bill?

19 MS. PIKE: That's correct, your Honor.

20 THE COURT: Is the tax bill mailed through a
21 different process or the same process?

22 MS. PIKE: Your Honor, I think that's a Mr. Fancey
23 question.

24 THE COURT: Mr. Fancey, you may come on back. Come
25 on up, as they say in the other -- we're not on



1 the Price is Right. We're in something else
2 here. Probably the Court is wrong but ...
3 Now, you say your -- the assessment notices are
4 sent out through this SI ---

5 MR. FANCEY: SI Solutions is the contractor.

6 THE COURT: Do you know how the tax bills are sent
7 out if they're sent out through SI Solutions
8 or ---

9 MR. FANCEY: Well, not through -- at that -- well,
10 actually now they do use SI Solutions. But at
11 that point in time, it was a different
12 contractor but the same process.

13 THE COURT: Okay. So the same process but a
14 different contractor?

15 MR. FANCEY: Yes.

16 THE COURT: And you don't have -- do you get the
17 same tracking information from that other
18 contractor?

19 MR. FANCEY: That, I can't say. I know that all
20 that has chanced and ---

21 THE COURT: And that doesn't come from your office
22 though? That comes from the auditor's office?

23 MR. FANCEY: No. That comes from the auditor's
24 office.

25 THE COURT: The auditor's office?



1 MR. FANCEY: Yes.

2 THE COURT: Okay. All right. Mr. Kendrick, I've
3 soft of monopolized this return to the stand.
4 Do you have -- did you your Ms. Pike have
5 questions ---

6 MR. KENDRICK: No, your Honor.

7 THE COURT: --- to clarify what I'm asking?

8 MS. PIKE: I don't have any further questions of
9 Mr. Fancey.

10 THE COURT: All right. Thank you, Mr. Fancey.
11 You'll make your step count for this -- for the
12 day.

13 Okay. Mr. Kendrick, your closing argument?

14 CLOSING ARGUMENT BY MR. KENDRICK:

15 MR. KENDRICK: Thank you, Judge. I think it's
16 fairly simple, your Honor. Understanding -- so
17 I guess there's a couple pieces to this
18 argument. It sounds like one of the arguments
19 we're making is that based on the
20 jurisdictional elements that this Court can
21 never reach a decision. But I think that's why
22 one of the things I put in my pre-hearing
23 statement is we intended to rely on the due
24 process clause of the State constitution that
25 I don't think we can get to the point where you



1 don't get to hear the appeal, especially when
2 there is something to dispute as to the service
3 of the notice.

4 So here is where I think that it's a razor-thin
5 line. But when the Board argues that mailing
6 to the taxpayer at his last known address, the
7 act of sending that out doesn't guaranty that
8 it gets to the taxpayer. And without the
9 tracking information, strangely enough, this
10 might be a better case for the other side. But
11 this tracking information clearly reflects the
12 progress of the notice that we're talking
13 about. And it stops in San Diego, California,
14 in the San Diego ZIP Code. But keep in mind
15 that if you look at the exhibit that they
16 produced, it's not the ZIP Code. In other
17 words, we're not talking about a geographic
18 area. We're talking about an actual facility,
19 which is why we draw the distinction between
20 the 09 Facility and the 01 Facility. Which I
21 know from just being around here, there's a
22 post office in the 05; there's an 04; there's
23 an 02; there's an 01. And they're all
24 different buildings.

25 So when we asked to put on the record



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1 Dr. Tadros, where he lives and he says he lives
2 20 miles away from downtown San Diego but he
3 lives two miles away from the Del Mar
4 processing facility where -- which is where his
5 mail comes from, when he has a certified letter
6 to pick up, he goes to his local post office,
7 which is Del Mar.

8 This doesn't reflect the letter ever getting to
9 Del Mar, which means all of the IMB,
10 destination ZIP, all those things -- keep in
11 mind, that's a front-end code. In other words,
12 they've correctly coded the letter on the front
13 end. But it never got to him. And we actually
14 have by a preponderance of the evidence, proof
15 that shows that it never got to him because it
16 stops in San Diego, which is not where he
17 lives. It stops in a different ZIP Code,
18 again, not where he lives.

19 So I think, again, the reason I put due process
20 in there is because I've been the victim of
21 statutory interpretation in my career, and I
22 know that sometimes statutes are harsh. But I
23 also know that almost every
24 appellate-triggering decision will come from
25 notice. So, for example, a five-day motion to



1 reopen in Magistrate's Court is not five days
2 from the date of entry of judgment. Just like
3 in -- if the judge stamps a decision but then
4 lets it sit on his desk for a few days -- not
5 that that would ever happen -- but on occasion,
6 it might not go immediately in the mail,
7 this -- the appellate time runs from the
8 receipt.

9 As a matter of fact, when I file notices of
10 appeal, I say received by counsel on this date.
11 Because otherwise, the right would be
12 meaningless. So in this particular case, we
13 know he's been diligent in his appeal rights.
14 In fact, he's won his appeal on the very
15 grounds he wants to assert in this case. The
16 reason I brought up that he had paid the whole
17 tax bill was because I think it goes to
18 Dr. Tadros' credibility. If he said, look, I
19 don't want to pay that; that's too much money,
20 then I think you could say, well, he's just
21 sort of tying up us in litigation, which, I
22 mean, he's flying here from California, so it
23 wouldn't be the most efficient way to do it.
24 But my point in saying that he paid that bill
25 is that he's doing what he's asked to do and



1 then going back.

2 So he's complying to the best of his ability
3 with this stuff. But I think it really comes
4 town to this: If they can't prove he got it,
5 I understand what the statute said, but I think
6 it -- we presume under the statute that the
7 person actually has to get the mail. If you
8 were to address it and mail it, put it in the
9 mailbox, but for example, no one ever picked it
10 up for some strange reason, then it certainly
11 wouldn't -- you wouldn't lose your rights to
12 appeal it. And it's really the same situation.
13 More extreme, but we're not talking about
14 degrees. We're talking about a yes or no.
15 It's a binary decision, not a spectrum of
16 decisions. So it's not, well, it made it out
17 so that's close enough. I mean, the intent of
18 the statute is that the taxpayer receives it.
19 And what we have here is, I think, documentary
20 evidence -- and let me take away the "I think."
21 We have documentary evidence that shows that it
22 makes it only as far as the post office, which
23 wouldn't then deliver to Dr. Tadros' house.
24 And to reiterate, the coding information is
25 front end. So I address letters all the time.



1 I address them right. They disappear. And
2 then that's statistically part of postal
3 service. But in this case, you know, it seems
4 also like there's not much prejudice to letting
5 him appeal it because they've already heard
6 this issue on one side -- and it looks like
7 whether he or your Honor would want us to go
8 forward on the rest of the case today --
9 they've done the work for the appraisal, so you
10 kind of move into a secondary. It's not a
11 simple an issue, but it's still an issue that
12 can be laid out here or on remand in front of
13 the County Board and decided. So there's no
14 prejudice either if you decide in Dr. Tadros'
15 favor. But, again, I think it comes down to
16 the fact that saying, well, it made it pretty
17 far is not the same as being able to prove it
18 got to him, especially when he's testified it
19 didn't get to him. And everything else that's
20 gotten to him has triggered action on his part.

21 THE COURT: Anything further?

22 REBUTTAL CLOSING ARGUMENT BY MS. PIKE:

23 MS. PIKE: Yes, your Honor. The Statute
24 12-60-2510(A)(3) says, In years where there is
25 a notice of property tax assessment, the



1 property taxpayer, within 90 days after the
2 assessor mails the property tax assessment
3 notice. It's not after receipt. It's after
4 the assessor mails the property tax notice --
5 must give the's assessor notice of objection to
6 one or more of the following: the fair market
7 value, the special use value, the assessment
8 ratio, and the property tax assessment.

9 While counsel may argue that that last post
10 office being within 20 miles of Dr. Tadros'
11 home is significant, we don't know that because
12 we don't know what the process of the US Postal
13 Service is. His mail may have actually been
14 delivered from that address, that last post
15 office and not from the post office closer to
16 Dr. Tadros' home. And the only way we would
17 know that is if counsel had somebody from the
18 US Postal Service to testify to that. What we
19 do know from this and what we can conclusively
20 show is that it made it all the way to
21 San Diego and it made it to the last post
22 office before it went out on delivery. That is
23 the understanding that we have of this
24 particular service. Thank you, your Honor.

25 THE COURT: Okay. We have reached the end of the



1 first stage. And the question comes back to
2 what we've talked about before we began here.
3 Where do we go from here? Is this -- and I --
4 this is the County's preference. If -- I'm not
5 sure how I'm gonna rule on this first issue.
6 I've obviously got some cases to look at. But
7 I also understand that Dr. Tadros is here from
8 California, and I don't know what -- but my
9 feeling is if I were to decide this was a
10 timely appeal, then do I -- should I deprive
11 the County of its process to have this case
12 heard by the Board of Assessment Review? I
13 don't know.

14 **MS. PIKE:** Your Honor, we will be happy to do it
15 either way. And the only reason I even
16 suggested that was because Dr. Tadros is here
17 from California and I didn't want to cause him
18 to have to buy another plane ticket to come
19 back. And I'm willing to do it any way that
20 your Honor sees fit to do this.

21 **THE COURT:** And I appreciate that. I noticed that
22 in your pre-hearing statement, that you were
23 willing to do that. And I appreciate it.
24 There's certainly a certain amount of
25 efficiency ---



1 MS. PIKE: There is a certain amount of efficiency.

2 THE COURT: --- to do it that way. I just ---

3 MS. PIKE: And we will certainly ---

4 THE COURT: I just feel a little funny about
5 stepping on the County's toes in a process that
6 hadn't been completed.

7 MS. PIKE: Your Honor, if it makes you feel any
8 better, in the past, I have waived having the
9 case remanded back to the County to make a
10 decision, especially when we've gone through as
11 much as we already have regarding this
12 appraisal. So we're fully prepared to go
13 forward.

14 THE COURT: Mr. Kendrick?

15 MR. KENDRICK: I probably would just ask for a
16 couple of minutes to explain to Dr. Tadros what
17 it is kind of maybe more in depth what you're
18 asking of us.

19 THE COURT: Sure.

20 MR. KENDRICK: If we could step outside even for a
21 brief recess?

22 THE COURT: Sure. We'll be at ease for about ten
23 minutes. Ten minutes would be enough time?

24 MR. KENDRICK: That's plenty of time, your Honor.
25 Thank you.



1 THE COURT: All right. We'll be a ease for ten
2 minutes.

3 (A recess was taken.)

4 THE COURT: Okay. Mr.~Kendrick, you have another
5 five minutes. You already back up?

6 MR. KENDRICK: Sometimes I've learned you're not
7 supposed to take all the time the judge gives
8 you. Dr. Tadros said that if -- obviously, not
9 taking for granted the ruling -- but if you
10 were to rule at that his appeal was timely,
11 then he would feel comfortable presenting his
12 evidence today. I just wanted to make sure
13 there was not some other witness or expert or
14 anything like that that I didn't have. But he
15 feels comfortable offering the testimony. So,
16 again, we know you may not rule that way, but
17 we can do it all today.

18 THE COURT: Okay. Well, I've never done something
19 purely for judicial efficiency, but this may be
20 one of those times when judicial efficiency
21 might help us out and get through it -- through
22 this case and maybe even get it through. Okay.
23 You never know. You never know.
24 Now, we'll switch back though. That brings the
25 burden back to the Petitioner.



1 Mr. Kendrick, that will be your opportunity to
2 go forward -- we're back on the record? --
3 and -- just verifying that we were back on the
4 record.

5 So opening statements, Mr. Kendrick and
6 Ms. Pike.

7 OPENING STATEMENT BY MR. KENDRICK:

8 MR. KENDRICK: Again, I'll be brief, your Honor.
9 This is essentially the problem with this
10 property. Though it was purchased in December
11 of 2014, it was purchased on the
12 representations that it was a fully rented
13 commercial property, which is why Dr. Tadros
14 bought it as an investment. It turns out, that
15 was not true. So even though during, I
16 believe, technically it would be the calendar
17 year of 2015 when tenants moved out, prior to
18 that prior to the even the purchase, those
19 tenants where not paying rent and had entered
20 into an agreement with the selling agent to not
21 disclose to Dr. Tadros that they weren't paying
22 rent and would not continue paying rent through
23 the purchase in order to fraudulently induce
24 him to buy the property at the inflated value.
25 The 2016 values have been reduced based on



1 that, but our argument is that even though the
2 tenants physically moved out in 2015, even in
3 2014 when he bought it, he didn't pay the
4 appropriate purchase price where he paid an
5 inflated purchase price because it was --
6 again, it was sort of premised on the full
7 tenancy, and that wasn't the case. So even
8 though there was someone physically present
9 there, they had entered kind of a back-door
10 agreement, let's say let's just keep it quiet
11 until the closing goes through. That is all
12 pending in another court so ...

13 THE COURT: I was gonna say, that doesn't sound like
14 anything that I have jurisdiction over.

15 Ms. Pike?

16 OPENING STATEMENT BY MS. PIKE:

17 MS. PIKE: Your Honor, thank you. What we would
18 intend to show in this particular case was that
19 this was an assessable transfer of interest as
20 of 12/31 of 2014. And as a result of that,
21 that the Assessor's Office revalued the
22 property for 2015. And regardless of the fact
23 that he may not have had tenants right there at
24 the end or the tenants were not paying rent
25 right there at the end, there was a stream of



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1 income prior to that, which is taken into
2 account.

3 And the Assessor's Office has done both a sales
4 comparable approach and an income approach and
5 has determined that the sales price was
6 reasonable and that vacancies do occur in
7 rental property. And there is actually a
8 vacancy percentage that's computed into the
9 income approach. And as such, the income
10 approach takes that into account.

11 So at any rate, we would respectfully request
12 that this Court rule in favor of the Assessor
13 with regard to the sales price and our
14 appraisals, which we have done two separate
15 appraisals, one for the retail establishments
16 and one for the office, which is consistent
17 with two tax map numbers. So two appraisals.
18 At any rate, we would respectfully request that
19 your Honor take our value into consideration
20 and all of our comps and our income approach.

21 Thank you.

22 **THE COURT:** All right. Mr. Kendrick, you may call a
23 witness.

24 **MS. PIKE:** I call Dr. Tadros.

25 **THE COURT:** All right. Since we're continuing where



1 we are, you're still under oath, sir.

2 DR. TADROS: Yes, sir.

3 DR. TADROS - DIRECT EXAMINATION BY MR. KENDRICK:

4 Q: All right. Dr. Tadros, can you tell me how you
5 came to find this property in South Carolina?

6 A: It was a family trust, and I was approached by
7 a well-trusted agent who told me that he
8 researched this property and actually came
9 over. And he really liked what he saw and that
10 the property's fully occupied and it's a very
11 nice neighborhood. So I was feeling very
12 comfortable to purchase this property.

13 Q: What do you mean by fully occupied?

14 A: That all the tenants are there; they're happy;
15 and they're paying rent.

16 Q: Okay. And you entered negotiations to buy the
17 property?

18 A: Yes.

19 Q: All right. Did you have any other property you
20 were looking at?

21 A: No. Not at that time.

22 Q: Okay. Did you have an agent represent you
23 during this sale?

24 A: Yes.

25 Q: Who was that?



- 1 A: Jamie Weeks was going to be a part of the --
2 everything, of the deal actually.
- 3 Q: And did the seller have an agent?
- 4 A: Yes. The seller was himself an agent.
- 5 Q: Okay. And did the seller tell you that the
6 property was fully rented?
- 7 A: Yes.
- 8 Q: Did you go and actually look at the property?
- 9 A: No.
- 10 Q: Okay. Did you have information about the types
11 of tenants that were there?
- 12 A: Yes. I trusted the agents -- my agent fully,
13 and I accepted everything he said.
- 14 Q: And was there a tenant physically present in
15 each of the spaces?
- 16 A: Yes.
- 17 Q: All right. And were those tenants all paying
18 rent?
- 19 A: Yes.
- 20 Q: Okay. Did ---
- 21 A: I take that back. At the time when I made the
22 purchase, that's what I was told. But the
23 discovery that had happened later on is huge.
- 24 Q: Okay. What did you discover?
- 25 A: The Hero's Sub in Unit D in that building was

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1 upstairs. He moved in August of 2014, and he
2 paid the check for \$20,000. And that check was
3 supposed to be -- we didn't know exactly what
4 that is. We discovered that later that that
5 check was actually for the 17th, 18th, 19th,
6 and the 20th of the duration of the lease. So
7 it's kind of him paying the rent later. And
8 all we know was that he was then at the time of
9 the purchase that he was paying rent. When the
10 close of escrow took place on 12/5, I received
11 no rent. I got nothing. It was a close of
12 escrow statement until the end of December.
13 And then starting January 2015, I received not
14 a single penny from that very man. And we
15 discovered that the four months was actually
16 cleverly pulled out -- 'cause it was paid in
17 advance, was pulled out right before close of
18 escrow by sending a later on the attachment in
19 an e-mail -- not an attachment, like a website
20 link -- that the agent that sold me the
21 property sent a link that I was not aware of.
22 And the link, it shows where they're actually
23 cashing the four months' rent for the 17th,
24 18th, 19th, and 20th of that lease. He's
25 cashing it early on before the purchase.



1 And then obviously so I called up the tenant to
2 find out and the tenant said that he was told
3 to lie and basically just fabricated and faked
4 it. His name is Holland, Wade Holland. I
5 provided all the information about the
6 complaint in my document. And he said that he
7 was told to simply not tell the truth until the
8 property was sold to me. And that's exactly
9 what happened. And as soon as the property was
10 sold and the close of escrow was done and the
11 taxes went out, the tenant moved out.

12 So I filed a complaint with the LLR. And the
13 complaint was actually was committed to
14 Mr. Ronald Alston, who is -- he's currently
15 before the Disciplinary Board. The agent and
16 the broker, who was also the owner, he was the
17 broker and the owner, he had presented himself,
18 who sold that property to me an estimation sale
19 for \$50,000.

20 Q: Okay. And had you known that that tenant was
21 not actually really paying rent, would you have
22 still purchased it for the price he purchased
23 it for?

24 A: Absolutely not.

25 Q: Okay. And that -- so the property appeared to



1 be worth one amount based on all of these
2 tenants, right?

3 A: Well, of course, it was worth it to pay that
4 much money. And the bank actually was very
5 happy. And I had also mentioned the bank agent
6 Jada Jordan who gave the man who gave the loan
7 at 75 percent of the value. She said that she
8 was never informed that there's an -- that it
9 was an agent that was moving out.

10 Q: Okay.

11 A: I mean, a tenant was moving out. I'm sorry.

12 Q: And to clarify what it is, is there was the
13 Hero's Subs is one of the tenants paying rent
14 there, right?

15 A: Supposed to but he never pay rent.

16 Q: Right. And they came up with a paperwork deal
17 that made it look as though he had been paying
18 the rent?

19 A: Yes. And LLR saw that, and they actually
20 deposed the tenant. They called him up and
21 wanted a notarized statement and all the
22 details. But all I know is that the attorneys
23 set up everything, and they gave it to the
24 legal department and that there's a
25 disciplinary board in an action against that



1. very agent in my order.

2 Q: But you never received any rent for ---

3 A: Not until ---

4 Q: Okay.

5 A: I never seen the tenant. He's gone.

6 Q: Right. And from what you can understand, no
7 one ever received any of that rent, right?

8 A: Nothing.

9 Q: That rent was paid in and then paid back out
10 like it was never paid, right?

11 A: There was a game there where he paid for later
12 on months and apparently was staying for free.
13 And we didn't know that. And actually
14 shockingly that the close of escrow statement,
15 the rent for the month of December was paid by
16 the owner, not by the tenant.

17 Q: That was paid by the person you were buying it
18 from?

19 A: By the owner, the person who was buying it --
20 who I was buying it from because he had no
21 paying tenant. He just had a name sitting
22 there. But as for a paying tenant, there was
23 no such thing. And that's one of the issues
24 that LLR is looking at.

25 Q: Okay. So he paid -- the seller paid the rent

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1 to himself, essentially, to make it look like
2 there was a paying tenant?

3 A: No. When you close escrow, you get the
4 credit ---

5 Q: Right.

6 A: --- from the seller to the buyer. So there was
7 credit for paying rent for that very tenant
8 through only that month of close of escrow,
9 which is 26 days or 27 days of the month of
10 December. Because escrows on the 5th of
11 December, so you don't start collecting rent
12 until January. So there was rent paid for
13 December 6th till the end of December paid by
14 the owner, the seller, not by the tenant.

15 Q: Okay. All right. Is there anything else
16 related to that situation, the value of the
17 land that you'd want the Court to know?

18 A: I wish I never bought it. This is a nightmare.

19 Q: But that's based on the fact that it was not
20 fully occupied like you were told it was,
21 right?

22 A: Yeah.

23 Q: Because if it had been, it would not have been
24 a nightmare, right?

25 A: Of course not.



1 MR. KENDRICK: That's all I have, your Honor.

2 THE COURT: Ms. Pike?

3 Dr. Tadros, push that microphone just a little
4 bit away from you. Yeah. That's may be too
5 much but try to speak -- all right. I think
6 that's gon' be a little better. We're getting
7 a little echo here.

8 All right. Ms. Pike?

9 DR. TADROS - CROSS-EXAMINATION BY MS. PIKE:

10 Q: Dr. Tadros, I want to go back for just a
11 moment. You've said that you purchased this
12 property site unseen. Did I understand that
13 right?

14 A: Site unseen?

15 Q: Meaning that you did not come to South Carolina
16 to look at the property before you purchased
17 it.

18 A: No. I had an agent whom I trusted very well.
19 And I ---

20 Q: Had that agent seen the property?

21 A: Yes. He came over here and he met everyone.

22 Q: Okay. So when was the first time you saw your
23 property?

24 A: When I came for the appeal court -- actually,
25 no. I came -- when did I first -- trying to



1 think. When I came for the appeal.

2 Q: So you did not talk to either of the two
3 tenants prior to you purchasing the property;
4 is that accurate?

5 A: I don't know if I didn't talk to anybody
6 specific or I did not know them. But I talked
7 all of them after. No, I did not talk to
8 anybody prior to purchasing the property.
9 Absolutely not. I talked to the US Marines
10 because their lease was ending before close of
11 escrow. So I did talk to the office of the US
12 Marines. And they said that they were going to
13 renew their lease. So that's the only thing.

14 Q: So when was the lease up for the Hero's Subs?

15 A: When was the lease up?

16 Q: Yes.

17 A: 2019, I think.

18 Q: 2019?

19 A: I think, yeah.

20 Q: Do you know if there were provisions for the
21 tenant to leave early?

22 A: Absolutely not. It's a solid lease. The whole
23 thing is ---

24 Q: So were there penalties in the lease if the
25 taxpayer left early?



- 1 A: Taxpayer?
- 2 Q: I'm sorry. The tenant.
- 3 A: Okay. Yeah. He's basically obligated to pay
- 4 the whole lease where he's not paying anything.
- 5 He had disappeared. I don't know where he's
- 6 at. There's another issue too that the
- 7 lawyer's looking at. I have an e-mail from the
- 8 owner who declares in an e-mail that he does
- 9 not maintain any contact data about tenants.
- 10 So apparently that tenant moved out. I'm
- 11 trying to pursue him, talk to him to see what's
- 12 going on. He would not meet me; he would not
- 13 return my phone calls. I don't know where he
- 14 lives. He completely disappeared. And the
- 15 owner or the seller that sold that property is
- 16 not helping me. So what I did is I went to the
- 17 government here to the LLR who somehow get
- 18 ahold of him to have his phone number, and they
- 19 have him testify here.
- 20 Q: The tenant? The Hero's Subs tenant?
- 21 A: The Hero's Subs tenant who said that he would
- 22 not paying rent and he was told to lie.
- 23 Q: So do you have a copy of the lease for the
- 24 Hero's Subs?
- 25 A: Yes, I do. It's someplace. It's in my



1 paperwork. I'll be happy to show it to you.

2 Q: So did you review that lease before, or did you
3 review any of the leases prior to purchasing
4 the property?

5 A: Pretty much. It's -- it looked like a solid
6 lease.

7 Q: Okay.

8 A: I mean, my agent did the homework, most of it.
9 Did you -- would you ask me had I reviewed the
10 lease and all of the details? And
11 unfortunately, I did not.

12 Q: So are you currently pursuing an action against
13 Hero's Subs for the unpaid rent?

14 A: Yes. For -- and also pursuing the buyer -- I
15 mean, the seller and I'm suing -- I'm pursuing
16 Hero's Subs. But I don't know -- and when I
17 talked to my attorney, he said, well, we can't
18 get ahold of him. We don't know where he's at.
19 We've tried to locate him. But, yes, if I can
20 let ahold of him and locate him because of his
21 father is very rich. And I ---

22 Q: So, Dr. Tadros, do you own other rental
23 properties?

24 A: Do I own other rental properties?

25 Q: Yes.



1 A: No, I do not.

2 Q: Okay. When you purchased this property, did
3 you assume that these tenants were going to
4 stay on long-term?

5 A: I assumed? Did you say that I assumed?

6 Q: Did you assume that they were ---

7 A: It's not an assumption. It's a confirmation of
8 my lease. Otherwise, I would not -- my house,
9 the down payment of that came from my house.
10 Right now I would be on the street. We are not
11 paying in poor here. But what I'm saying is I
12 paid a lot of money into that investment, my
13 hard-earned money. And when I do this, I got
14 to make sure that all angles are covered. And
15 all angles were not covered in this
16 transaction.

17 Q: So ---

18 A: I wanted to make sure that this is a solid,
19 safe transaction. It was never -- it was a
20 totally fraudulent, misleading and lying
21 transaction.

22 Q: I understand. But, Dr. Tadros, have you ever
23 heard of tenants breaking leases?

24 A: I heard of that all the time. Yes.

25 Q: Okay. So when you purchased this property, you



1 knew that was still a possibility?

2 A: Yes. Absolutely. I can also buy a car and
3 assume that is can run and become in a car
4 accident. And if I make that assumption, I'll
5 do nothing with life. So I'll get your point,
6 but the location of that property, and I looked
7 it up and asked all the questions regarding the
8 location of the property's extremely
9 attractive. So even if that tenant moved
10 out -- and because that's was a question I
11 brought. Because even Uncle Maddio's Pizza was
12 in the building. I thought even if she moves
13 out, and I've been told don't worry about it.
14 They would be replaced in a heartbeat. Except
15 for that year. And that's what the County
16 needs take into account. Have you ever gone to
17 the school? You have to go upstairs? That's
18 what happened. This place is upstairs. And on
19 the -- what's the name? I forgot the name --
20 Assembly and the name of the street. It's like
21 a highway. There's no -- it's heavy traffic.
22 Car traffic.

23 Q: Would that be perhaps Blossom Street?

24 A: Blossom, yes. Blossom, upstairs, to the right.
25 It's a nightmare because -- you're welcome to

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1 go there. It's very hard to get there because
2 it's not visible. It's upstairs. I mean, how
3 many schools do you have to go upstairs? And
4 on top of this, you cannot park your car on the
5 street. These are things that I didn't know.
6 I realized it because it took two and a half
7 years to lease at that space. And now is it
8 leased? No. It's actually on a month-to-month
9 for somebody to try at half the money, who
10 started out in June at half that amount of
11 money that Hero's Sub leased:

12 Q: But, Dr. Tadros, these are -- the fact that the
13 unit is upstairs, that was something that could
14 be readily seen if you had come to view the
15 property, isn't it? You could have known that
16 before you purchased it; is that accurate?

17 A: I have not -- I would have never thought --
18 crossed by mind.

19 Q: Okay.

20 A: It's just the thought of -- I don't know what
21 to tell you. I mean, I didn't even think what
22 this upstairs mean. I thought it has a hallway
23 because it has a -- like a place you can walk
24 through to street, but it's not visible.
25 That's the problem. As a matter of fact, he

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1 did not have a sign sideways. And the building
2 needed an exception. And now the sign is
3 sideways so it can be very seen.

4 Q: Dr. Tadros, did you obtain a loan when you
5 purchased this property?

6 A: Yes, I did. I still have ---

7 Q: And was an appraisal done of this particular
8 property at that time?

9 A: As being 1.850 to the value and was fully
10 occupied, yes.

11 Q: Okay.

12 A: The value of the loan now is 1.3, I think.
13 Higher than the actual value of the property.

14 Q: And you are basing the value of the property on
15 what?

16 A: On the fact that what that income that the
17 property was valued at 1.1 at that time. It
18 was not. That unit was not occupied. There
19 was only two units occupied.

20 Q: So how did you arrive at the value of 1.1?

21 A: Based upon what was the existing value of the
22 property back in 2011 when it was sold to me.
23 And in 2013 it was created to 1.850.
24 Because -- and now it's fully occupied by this
25 face tenant.

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1 Q: So have you had an appraiser to look at this
2 property since the vacancy occurred?

3 A: No. But I am planning to do that for the
4 lawsuit.

5 Q: Okay. So your value, if I understand you, is
6 purely based upon what the property value was
7 in 2011; is that correct?

8 A: More or less, yes. More or less. Because at
9 that time, Unit D, again, has been a problem.
10 Yes.

11 Q: Okay. Dr. Tadros, I've noticed that on your
12 deed and then on your correspondence, you are
13 Dr. Tadros as trustee for the Grace Living
14 Trust. Does Grace Living Trust own other
15 rental properties?

16 A: Yes, it does.

17 Q: It does?

18 A: Yes.

19 Q: And so you are the trustee of that?

20 A: Yes.

21 Q: So you're accustomed to vacancies then and
22 rental properties?

23 A: No, that's not true.

24 Q: So you're -- how many other rental properties
25 do you own -- or does the Grace Living Trust

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1 own?

2 A: The unit outside of --- I do not get your
3 question. You're saying all the over the
4 United States?

5 Q: That's correct.

6 A: Yes. In Texas, there are two other properties
7 by the same agent who solicited this
8 transaction. He took money out of the trust,
9 out of the -- my trust and he did these
10 transactions where actually one of them was
11 vacant at the beginning of this year.
12 Completely vacant this year.

13 Q: So then you're accustomed to having ---

14 A: I'm not accustomed. I'm not accustomed to it.
15 I will not -- I am not accustomed to be hit and
16 being, you know. I'm not. That's absolutely
17 no. If somebody punches me, I'm not accustomed
18 the being punched. No, that's not true.

19 Q: Dr. Tadros, in your capacity as the trustee of
20 the Grace Living Trust, how many -- you
21 obviously know that with rental properties
22 comes vacancies; is that accurate?

23 A: Becomes the risk of vacancies. So you minimize
24 that risk by buying into an area that's very
25 popular beside the university, high traffic,

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1 that will be immediately replaced, should not
2 approximate a problem. And that's what I
3 understood. I'm not -- this is not the same
4 where you're buying, whatever, a shack or a
5 building somewhere else in the inner cities.
6 No, that's not it. And that's how the risk is
7 tied to the loan against my credit.

8 Q: How did you go about attempting to rent this
9 particular unit when it became vacant?

10 A: Okay. There are four different agencies.
11 You're welcome to contact each and every of
12 them. And they all said that there was a
13 problem. At the end, I ended up with Scott
14 Davis, who is the chairman of the ethics
15 committee of the Bar -- of the Board of
16 Realtors here in San Diego who ---

17 Q: The board of? I'm sorry.

18 A: He was the chairman of the ethics committee,
19 Scott Davis.

20 Q: Where -- and where is he?

21 A: He's here in Columbia.

22 Q: And he is the chairman?

23 A: He was. He was the ---

24 Q: --- of the ethics board of?

25 A: The ethics committee of the Realtor Board.



1 Q: Okay.

2 A: So we sat there and we could not find -- all --
3 everybody came, and he wrote the letter to LLR
4 on file here. And he wrote the letter. He
5 said we have a problem. The problem is there's
6 a lot of traffic; it's upstairs; it's to the
7 back; it's not visible. It's a problem. So
8 the -- we -- because we could not find anybody,
9 the only way to do it is to go out of the route
10 of what our lease is all about. So I found an
11 interesting -- interested husband and wife who
12 want to run a business called JJ Tea House.
13 They're Chinese. And they said they want to
14 give it a try, but they don't have the money.
15 I said okay at the time. I gave it to them for
16 six months. And what they're doing is they're
17 simply -- they're only paying a percentage of
18 what they make. If they don't make money, I
19 make no money. If they want to leave tomorrow,
20 they can leave tomorrow. And there is no
21 lease.

22 Q: And how did you locate these people?

23 A: By Scott Davis. He -- they were inquiring
24 about the place. And he -- basically, they
25 found that the rent is extremely high to pay.



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1 So we said how can we help you. So the only
2 way to make them comfortable -- and I never
3 heard of a lease like this. But you welcome to
4 go and see them and talk to them. The lease
5 says they can leave now with no penalty. And
6 I'm trying to -- hopefully they will grow. If
7 they will grow, great. That's good news.

8 Q: Okay. All right.

9 MS. PIKE: No further questions, your Honor.

10 THE COURT: Mr. Kendrick?

11 DR. TADROS - REDIRECT EXAMINATION BY MR. KENDRICK:

12 Q: So your 2016 appeal of the value was reduced,
13 right?

14 A: Yes.

15 Q: And it was reduced based on the vacancy?

16 A: Yes.

17 Q: What was the -- do you remember what the
18 percentage vacancy would be?

19 A: I believe 36 percent.

20 Q: All right. And so we're clear, what happened
21 is the -- long before the closing, these people
22 had paid four or five months of rent. And it
23 was applied to the lease, the Hero's Subs?

24 A: Okay. Here's the answer. The tenant doesn't
25 want to talk to me.



1 Q: Right.

2 A: He's afraid of me. The seller was being
3 investigated. He would not talk to me. Hired
4 his own attorney. And then they are present
5 with LLR now, and in order for me to retrieve
6 it, I have to retrieve it by discovery process
7 for FOIA. I can retrieve it by discovery if I
8 filed a lawsuit, and I was meeting an attorney
9 yesterday regarding -- so we're moving to that
10 direction. We're gonna get that. Now, go back
11 to what we discovered and what we have
12 submitted to LLR that there was no rent paid
13 from the day he moved in.

14 Q: So that's -- and if you'll let me stop. So
15 that's what I want to get to is that you
16 understand certainly people might just run on
17 a lease and you have to enforce it. But in
18 this case, what you're telling us is they never
19 paid any rent before you looked at the
20 property, right?

21 A: Before when -- I spoke with the tenant once
22 after he moved out. Once. He said he didn't
23 pay rent. He was there for free. This whole
24 thing was fake. And but there was a check for
25 \$20,000 from the tenant. Now, it was supposed



1 to be for the later rent for the later months
2 of rent that was unethically pulled out before
3 close of escrow -- one week before the close of
4 escrow by the seller. Pulled the check out by
5 having an addendum done that was sent to me
6 with very ---

7 Q: When you say a link, do you mean like a
8 Dropbox-type thing?

9 A: A Dropbox.

10 Q: Okay.

11 A: A Dropbox that we did not -- we did not see it
12 initially, but it was added later onto the
13 Dropbox. And that addendum shows that he's
14 collecting the rent. And the four months' rent
15 and he said that was going to be for August,
16 September, October, and November.

17 Q: Which preceded you -- your purchase?

18 A: Right. And then -- but the month of December
19 because the close of escrow is December 5, the
20 months of December funds came from the seller
21 as the rent. So the seller himself was acting
22 like the tenant.

23 Q: All right. Thank you.

24 MR. KENDRICK: That's all I have.

25 THE COURT: Anything further?



1 MS. PIKE: Nothing further, your Honor.

2 MR. KENDRICK: Nothing further, your Honor.

3 THE COURT: All right. Dr. Tadros, you may return
4 to your seat.

5 THE WITNESS: Thank you.

6 (Witness Excused.)

7 THE COURT: Do you have another witness,
8 Mr. Kendrick?

9 MS. PIKE: No, your Honor.

10 THE COURT: Ms. Pike?

11 MS. PIKE: I would like to put on the witness stand
12 Mr. Mark Cheslak.

13 MARK CHESLAK, having been duly sworn, testifies as
14 follows:

15 MR. CHESLAK - DIRECT EXAMINATION BY MS. PIKE:

16 Q: Mr. Cheslak, will you state your name for the
17 record, please?

18 A: Mark Richard Cheslak.

19 Q: And would you spell your last name for the
20 court reporter?

21 A: C-H-E-S-L-A-K.

22 Q: Okay. Who are you employed by?

23 A: Richland County Assessor's Office.

24 Q: And how many years have you been there?

25 A: It would be 28 years next month.

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1 Q: Tell us what your title is.

2 A: Commercial appraisal supervisor.

3 Q: Okay. And are you also a licensed appraiser?

4 A: I am.

5 Q: All right. And how many years have you been
6 licensed?

7 A: Starting back -- probably about 30 years going
8 back to 1987 before I came here. I was a field
9 appraiser at that time.

10 Q: Okay. Tell me what your duties are as a
11 commercial appraisal supervisor.

12 A: I appraise and I supervise a fellow who
13 appraises the commercial properties in Richland
14 County on all uses and types with the exception
15 of apartments and strip centers.

16 Q: Okay. So do you appraise other office and
17 retail ---

18 A: I do.

19 Q: --- entities? Okay. And roughly how many
20 parcels do you appraise?

21 A: Approximately 13,000.

22 Q: In your job as the appraisal supervisor, have
23 you had an opportunity to appraise the
24 commercial condominiums that were purchased by
25 Dr. Tadros?



1 A: I have.

2 Q: Okay. I'm gonna show you two documents.

3 MS. PIKE: And, your Honor, I hope I handed these up
4 with the other ones. They are two appraisals
5 marked Respondent's Exhibit 12 and 13.

6 THE COURT: I don't think we've got those.

7 MS. PIKE: Okay. Let me ...

8 I know I gave them to you. All right. Got it.

9 Q: Mr. Cheslak, can you identify both of those
10 documents for us?

11 (Respondent's Exhibit Numbers 12 and 13 were
12 introduced into the record at this time.)

13 A: These are the appraisals I worked up for the
14 two units we're talking about today.

15 Q: Okay. Can you distinguish between the two
16 units for us?

17 A: 11395-01-01, which is the tax map number, is
18 the appraisal for the main court office space.

19 Q: And what exhibit number is that?

20 A: It's 13.

21 Q: Okay.

22 A: And Exhibit 12 is the appraisal for the retail
23 space, which is 11395-02-01 tax map number.

24 Q: Okay. So do you have an opinion of value for
25 both tax map numbers?

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1 A: I do.

2 Q: All right. Well, we'll get to that opinion in
3 just a moment. Take us back a little bit and
4 give us a little bit of history about these two
5 units. Explain -- give us some background
6 about the physical characteristics and things
7 of that nature.

8 A: These are commercial condominium units at the
9 bottom of the Adesso Horizontal Property
10 Regime. The Adesso has 110 residential units
11 above it. I believe it's seven floors, and
12 these are at the bottom. There's also parking
13 and garage space underneath the -- that
14 complex. One of them is the Marine Corps
15 office, which is Blossom Street. The
16 commercial retail space is up on, actually, the
17 corner. It wraps around the corner of Blossom
18 and South Main Street.

19 Q: And how many retail spaces are there within
20 that tax map number?

21 A: There's three retail spaces in the larger tax
22 map number.

23 Q: Okay.

24 A: Which is Exhibit 12.

25 Q: And how are those units currently being used?



1 A: They're all eating establishments.

2 Q: Okay. And in the other parcel, is it just the
3 office and that's it in that parcel?

4 A: That is correct.

5 Q: Okay. Are there other retail units other than
6 the two that are -- were purchased by
7 Dr. Tadros?

8 A: Not in the Adesso, no.

9 Q: Okay. All right. Please talk to us a little
10 bit about exactly where this is located and
11 what it's near.

12 A: It's at the corner of Blossom and South Main
13 Street, 601 South Main Street. It's within the
14 area of the University of South Carolina. The
15 University of South Carolina is all around this
16 place. And it's just at the feet of -- it's
17 about three blocks south of the -- where we are
18 right now, actually. Yeah.

19 Q: Okay. How would -- restaurants or offices, how
20 would they get patrons? Would it be purely by
21 automobile traffic or otherwise?

22 A: This location has limited parking. It has
23 metered parking on the street but nothing on
24 site except for 17 spaces that are underneath
25 the Adesso open to the patrons, the employees,

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1 handicapped people or just the public. There's
2 only 17. It's really limited generally to
3 serve the purpose for the restaurants and the
4 office space. So they're mostly supplied by
5 pedestrian traffic. There's a huge amount of
6 pedestrian and automobile traffic going around
7 that corner. But the people who go in there
8 are mostly walk-up type patrons.

9 Q: Okay. All right. Let's talk a bit about your
10 appraisal. I want you to take which -- well,
11 take let's take the office first.

12 A: Okay. It's a small one.

13 Q: I'm gonna just grab the ones that are marked as
14 exhibits. All right. So give us the tax map
15 number of the office.

16 A: The Marine Corps office space tax map number is
17 11395-01-01.

18 Q: Okay.

19 A: This -- you want me to go ahead with it?

20 Q: Yes.

21 A: Okay. This unit is 1226 square feet. And I'm
22 gonna go through the sales comparison chart
23 first. I did two approaches, the sales
24 comparison approach and the income approach.
25 The first page of my sales comparison approach

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1 is page 8. And if you want to flip on over
2 there. So I've got ---

3 Q: We are just -- we are looking at Respondent's
4 Exhibit Number 13. Okay. I'm sorry. Go
5 ahead.

6 A: So I have five sales here to establish the
7 value. Sale 1 is the subject itself. Of
8 course, this one and the other one we have
9 here, 11395-02-01. Those sold for \$1.85
10 million in 2014, making an ATI for 2015. That
11 value of that sale price per square foot was
12 \$227.30.

13 Sale 2 is another commercial office on Main
14 Street, 1530 Main Street. That one sold for
15 \$375,640 in 2014. It's 2,552 square feet. The
16 subject is 1226 square feet, so it's close in
17 size. Not too far off. And that sold for \$147
18 a square foot.

19 Sale 3 are two office buildings. And we had to
20 go outside of the parameters a little bit and
21 find stand-alone office buildings because of
22 the number of the sales of commercial office
23 condominiums in Columbia is very limited.
24 There's not many at all in the time frame that
25 we need.



1 So Sale 3 is -- are two office buildings on two
2 parcels, but they're connected. And they both
3 sold under the same deed of \$825,000 in June of
4 2014, which is \$194 a square foot.

5 Flip over to page 9 where we have Sales 4 and
6 5. And Sale 4 is actually the same property
7 that sold a year later, 14 months later in 2015
8 in the amount of \$164,250, which is \$226.88 a
9 square foot. Those two properties together are
10 4,250 square feet.

11 And then Sale 5 is the -- an office across --
12 actually across from Sale 4. It's right across
13 the street from it, 919 Washington Street that
14 sold in 2016 for \$657 or \$190.58 a square foot.

15 Q: Now, Mr. Cheslak, I want to go back to page 8
16 for just a minute. I see that Sale 1 is the
17 subject, as you've testified. And so it is for
18 both of those office condominiums, is it not?

19 A: Yes, it is.

20 Q: Okay. So that amounted to, if I'm looking at
21 what your -- what you've put in here, \$227.30
22 per square foot; is that accurate?

23 A: Correct.

24 Q: However, you have -- the assessor's value on
25 this is actually \$233 per square foot. So why

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1 the difference there?

2 A: When this was purchased in 2014 as an ATI of
3 2015, it was my charge to split this purchase
4 price between the two parcels for '15. So I
5 had to take some amount of this 1.85 million
6 and apply it to the -- this office and the rest
7 to the retail tax minimum. I did not spend a
8 whole lot of time in doing that, but I just
9 knew that the value was somewhere between 2-
10 and \$300,000. So I just assigned \$286,800 to
11 his office and put the rest with the other
12 parcel, just making sure that the total between
13 the two ended up with what he paid,
14 \$1.85 million. And if you add this to the
15 value that the assessors ask for the other
16 parcel, it ends up to be -- it adds up to \$1.85
17 million.

18 Q: Okay. So that is not necessarily the value
19 that you have found in this particular
20 appraisal, is it?

21 A: No. After doing the appraisal and looking at
22 it at much greater depth, the estimated value
23 was closer to \$245,200, which is pretty close
24 to what Dr. Tadros thinks it's worth.

25 Q: Okay. So go on and tell us about the -- well,



1 one other thing. I noticed that you have a
2 2016 sale in here. Can you tell us why you
3 have that 2016 sale in here?

4 A: Let's see, two thousand ---

5 Q: Which is your Sale Number 5.

6 A: It's just showing that the market is still
7 holding firm. It's improving. It's gotten
8 better. And also because of a lack of office
9 sales in Columbia.

10 Q: Okay. So which approach are you relying upon
11 in this appraisal?

12 A: I'm relying on the income approach because
13 that's -- which I want to talk about next
14 because that is the -- what an investor will
15 base their purchase on the income stream. And
16 that goes through the income stream valuation
17 for this property.

18 Q: Okay. So would you take us through your income
19 approach?

20 A: Income approach is on page 10. So we'll start
21 out with the potential gross income, which is
22 the rent for this office space, \$17 a square
23 foot, triple net, which ends up giving us
24 \$20,842 for the PGI. And then we subtract from
25 it a 10 percent vacancy and loss, which is a



1 standard thing that we do even if you have
2 property that's been 100 percent rented for ten
3 years. We still afford them some vacancy and
4 loss because we know it's not a perfect world.
5 So we do afford them that understanding.

6 And I got the 10 percent vacancy and loss rate
7 from a local Coast Guard Central Business
8 District publication. It gave some evidence of
9 vacancies, typical vacancies in Columbia in the
10 CBD area. And this says 18 percent, but we
11 feel like 10 percent is a better -- a fairer
12 number to use.

13 So I took off 10 percent off EGI, gives us
14 effective gross income of \$18,758 and
15 subtracting that management expense, which is a
16 management expense that the landlord has to do
17 in order to make -- keep the place running.
18 Even though there may not be any management
19 expense that was done by the landlord -- by the
20 owner, we still throw that into typical
21 management expense. Would be maybe 4 to
22 9 percent, from everything I've read. And I'm
23 going at the lower end because it's a
24 well-maintained property, so it's rather new.
25 So there's gonna be less management expense



1 there.

2 So taking that from the effective gross income
3 give us an NOI of 17,820, which you divide the
4 capital at a rate of 7.25 percent and get that
5 number from one of our other of our
6 publications, you know, with the Integra
7 Viewpoint publication magazine from Columbia.
8 And you also have the Pricewaterhouse Coopers
9 National CBD Loss Market publication. This cap
10 raised in between the two number are the range
11 at that those two publications suggested. So
12 it was not the highest; it's not the lowest.
13 It splits in the range. And that give us a
14 value of \$245,800 rounded. And this is where
15 I put most of my emphasis on the income
16 approach because it is -- income stream, which
17 is what I think an investor would be most
18 concerned about.

19 Q: Okay. Was this property fully leased at the
20 time that you were doing this appraisal, this
21 particular tax map number?

22 A: Yes, yes. This has always been leased since
23 I've known about it.

24 Q: Okay. All right. Is there anything else that
25 you think we should know about the office



1 space, which is Respondent's Exhibit Number 13?

2 A: No. They're just a very credit-worthy tenant.
3 They're pretty dependable.

4 Q: And tell us exactly who the tenant is.

5 A: The United States Marine Corps. It's a
6 recruiting office for officers. And it's a
7 really good spot for -- to where it is because
8 you have a lot of walk-up traffic from USC.

9 Q: Okay. And does it face onto South Main, or is
10 does it face onto Blossom?

11 A: It's on the Blossom Street side.

12 Q: Okay. All right. Would you next go to your
13 appraisal, which is Respondent's Exhibit 12 of
14 TMS Number 11395 at 02 and 01. And tell us a
15 little bit about that property.

16 A: This is the retail area of the -- of these two
17 parcels. It's -- it has the restaurants up
18 there. There's three of them. They wrap
19 around the corner.

20 Q: So let me clarify. Is this space divided into
21 three separate rental units?

22 A: Yes. You have a Maddio's Pizza, a Yoghut, and
23 right now the JJ's Tea House is the other,
24 the -- what used to be the Hero's Subs space.

25 Q: Okay. Now, you heard Dr. Tadros testify about

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1 the Hero's Subs space. Will you describe that
2 space for us, please?

3 A: That space is on the corner. It's on the
4 Blossom Street side of the three. It's, you
5 know, up right next to the Yoghut. It's 2613
6 square feet. You have to go up steps to get
7 into it, but you also have to go up steps to
8 the Yoghut too. So -- and it's right next to
9 the Yoghut on the Blossom Street side of these
10 three units.

11 Q: Is there any issue with knowing that that unit
12 is there?

13 A: I've always known it was there. I don't see
14 any problem with that. But I think that the
15 walk-up traffic would have no problem in
16 discerning that that space is there.

17 Q: Is the sign readily visible?

18 A: To me, it is. Yes.

19 Q: Would -- and I'm sorry. You said it's on the
20 Blossom Street side?

21 A: On the Blossom Street side, yes.

22 Q: So would traffic passing by there be able to
23 notice that sign and know that there's a
24 Chinese restaurant there?

25 A: In my opinion, yes. Driving traffic or walking

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1 traffic.

2 Q: Okay. Go ahead and finish describing this --
3 these particular units.

4 A: You have three units. They total 6,113 square
5 feet per the restrictive covenants on the -- or
6 the master deed on the property, and they all
7 paid fairly strong rents from 1699 a square
8 foot on up to about 20. So they have very
9 attractive rents and a triple net as well. So
10 that's about all I have to say but -- they --
11 there is some, you know, parking up underneath
12 the garage, like I said before. It's really
13 not enough to service these units.

14 Q: Okay. All right. Continue on with your
15 appraisal.

16 A: So I'll go to the sales comparison approach
17 first, which is page 8. I have four sales for
18 this. And, again, the first sale was the
19 subject itself plus the Marine Corps office,
20 which sold for \$1.85 million in 2012, 2014.
21 \$227 a square foot.

22 Sale 2 is the -- is that restaurant on Gervais
23 Street. It's sold in June 2014 for \$208 a
24 square foot, 7,068 square feet. This subject
25 is 6,913 square feet, so it's pretty

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1 comparable. That restaurant is -- has since
2 sold again actually for much more than what
3 this sold for in '14.

4 Sale 3 is also on Gervais Street a block up
5 from Sale 2. It's the Jimmy John's restaurant,
6 and it sold for \$604,030 in May of 2014 or \$264
7 a square feet -- per square foot. And it has
8 some on-site parking but not nearly enough to
9 serve the customers that come in there. And
10 I've gone there several times and people are
11 double parked because of the lack of parking.
12 And I would like to say that Sale 2 does have
13 on-site parking as well. Apparently they're
14 fond of that.

15 Q: I'm sorry. Does not have on-site parking?

16 A: Sale 2 does.

17 Q: Does have.

18 A: It has on-site parking.

19 Q: Okay.

20 A: Sale 4 is a Green Olive, which is right behind
21 us over here (indicating). That sold in March
22 2014 for \$450,000; 4,000 square feet; \$112.50
23 a square foot. That one has condition issues,
24 all the air conditioning and a leak in the
25 roof. And I think because of one -- comparison

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1 between the subject and these sales, as a
2 matter of fact, all of the sales for the office
3 and this one is that the subject's location and
4 condition is such -- it's much superior to all
5 these sales, lending to it, selling for a
6 little bit more per square foot than most of
7 these sales are or have sold for. The subject
8 sold for 227 a square foot. That's an average
9 of 208, 264, and 112. And I think that that's
10 because of the condition of the subject and the
11 location being superior to those.

12 Q: Would that be also true of the office space?

13 A: Yes, it would. Yeah.

14 Q: Okay. All right. So what was your conclusion
15 of value from the sales comparable approach?

16 A: Most of the emphasis is on the subject itself
17 again, \$212 a square foot. And in this case,
18 it's not the highest or the lowest of the sale
19 price. It's in the range of Sale 3 and Sale 4.
20 Sale 4 is 112; Sale 3 is 264. And this is in
21 between so 227. I think it's a fair estimate
22 value for this retail space, which gives us a
23 value of \$1,569,300.

24 Q: Mr. Cheslak, let me ask a question here. We've
25 heard a lot of testimony from Dr. Tadros about



1 the fact that beginning in January he did not
2 have a tenant where the Sub Hero unit is. So
3 do you take that into account in the sales
4 comparable approach?

5 A: In the sales comparable approach, I do not. I
6 look at the sales of the properties themselves.
7 I take that into consideration in the income
8 approach but not the sales comparison approach.
9 Because, for instance, Sale 2 was vacant when
10 it sold, so you can have vacant and occupied
11 stores that are selling for these amounts.

12 Q: Okay. All right. Please continue.

13 A: So that's the sales comparison approach. Now
14 I'll go to the income approach, which is page
15 10. Using the actual rents back at the end of
16 2014 when Dr. Tadros purchased it. The PGI is
17 \$106,396. I gave a 10 percent for vacancy and
18 loss for the same reason as I explained on the
19 office, giving us a effective grossing of
20 \$113,756 using the same 5 percent operating
21 expense ratio. I deduct that from the
22 effective gross income, giving us an NOI net
23 operating income of \$108,068.
24 The cap rate is another rate that I got from
25 these same publications. It's in the range of



1 these two publications, 87 percent. And this
2 gives us a value of \$1,543,800 rounded. So
3 when you add it up, these two values that I've
4 come up with, the 245, 101 on the office, and
5 the \$1.543,800 million on the other one, it
6 comes up to pretty close to what he paid, which
7 is -- I got \$1,789,600 between the two. He
8 paid 1.85 million. So I'm off by \$60,400
9 between my appraisal and what he paid.

10 Q: Mr. Cheslak, I want to go back. And I want to
11 go back to your potential gross income. Did
12 your potential gross income include income from
13 the Sub Hero shop?

14 A: It did.

15 Q: Hero's Sub?

16 A: It did.

17 Q: Okay. And is that appropriate to do even
18 though it was vacant?

19 A: It is. Because when you do the income approach
20 on a property, you -- you're -- this is a
21 potential gross income. That's what it stands
22 for, what could possibly be gotten from that
23 rental space if there were tenants in there.
24 So that is a potential gross income. It's --
25 you would include that space. The income would



1 be derived from that space. And then you take
2 off the 10 percent. Acknowledging that it's
3 not a perfect world and tenants come and go or
4 they may not pay their rents on time.

5 Q: Well, Mr. Tadros, in this case, you heard
6 Dr. Tadros -- Mr. Cheslak, sorry. Did I just
7 call you ---

8 A: Yes.

9 Q: Mr. Cheslak, you just heard Dr. Tadros testify
10 that he had a 33 percent vacancy rate since a
11 third of it was gone or even larger. He may
12 have said 36. I'm not sure. So would you not
13 have taken that rate for the vacancy and loss
14 percentage?

15 A: I would not have because what this 10 percent
16 vacancy and loss is telling us, what it stands
17 for is that within the next ten years, you can
18 say that it's gonna be vacant about one year.
19 That's what that's saying. Because you have
20 lots of things involved. You have, you know,
21 management, deficiencies. I'm not saying
22 that's what happened here. But there's a lot
23 of things that go into why there's a vacancy.
24 So you're just acknowledging that there is
25 gonna be some time away from this space where



1 it's not gonna be drawing an income. So it
2 would -- even if this space was completely
3 vacant, you would still use the PGI with a
4 10 percent vacancy and loss.

5 Q: Okay. I noticed in this particular appraisal
6 you used a 7 percent cap rate. In the
7 appraisal of the office space, you used a
8 7.25 percent cap rate. Why the difference?

9 A: Well, there's different types of property,
10 retail versus office. And there is -- you have
11 different cap rates for all kind of different
12 uses of properties. Warehouses has different
13 cap rates, retail, apartments, offices.
14 There's just different cap rates for different
15 used types of commercial properties out there.

16 Q: Okay.

17 A: Strip centers, you know.

18 Q: So what is your -- that your opinion of value
19 with regard to this particular office -- I'm
20 sorry -- the retail condominium?

21 A: In my opinion, it's worth the \$1,543,800 based
22 on the income stream, rather than the direct
23 sales comparison approach, which is 1.56. I'm
24 putting more weight on the income approach
25 versus the other two.



1 Q: Mr. Cheslak, was there an appeal, a valid
2 appeal for 2016 on either of these two units?

3 A: Both were appealed for 2016.

4 Q: Okay. And did you handle that appeal?

5 A: I did.

6 Q: And what -- how was that appeal resolved, if it
7 was resolved?

8 A: It was resolved by -- I did lower the value.
9 I don't have those numbers here since this is
10 a '15 -- '16, but we did lower it
11 significantly.

12 Q: On both of the tax map numbers?

13 A: Mainly on the retail. I did lower the office
14 a bit because there wasn't much room to work
15 with on that one. But -- so mostly we -- most
16 of the reductions are on the retail space.
17 That's the big one.

18 Q: And can you tell us why you lowered the value
19 on both of them?

20 A: Because of the high vacancy that Dr. Tadros
21 had. At that point, we -- like Mr. Fancey was
22 saying, if there's any doubt whatsoever, we try
23 to work with the taxpayer and bend over
24 backwards for them if possible. If there's any
25 doubt, we try to go with their request.



1 Q: Okay. So why did you not reduce the value in
2 the 2015s?

3 A: Because they were mostly 100 percent leased up
4 up to the time when he purchased it. Plus this
5 was -- it was -- it's been supported by the
6 income approach, market approach; the mortgage
7 that was taken out also suggested what he paid
8 was a fair amount.

9 Q: Would that be true regardless of that vacancy?

10 A: Say that again?

11 Q: Would that be true regardless of that vacancy?

12 A: Yes, yes.

13 Q: Okay. So why then would you have reduced it in
14 2016 but not in '15?

15 A: Because in '15, it's based on the condition of
16 the property at the end of the prior year. And
17 the purchase was for \$1.85 million in December
18 of 2015. Well, at least, as far as we know
19 through end of '15 -- '14, which indicates that
20 the value that he paid was a fair amount.

21 Q: Okay. So let's just say that the tenant left
22 by December the 15th of 2014. Would that have
23 any impact on your value?

24 A: No. Because the time frame between the vacancy
25 and the end of the year is only two weeks. And

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1 that's certainly not enough to counter the rest
2 of the year when it was occupied. And the year
3 before that probably, you know.

4 Q: How did you obtain your potential gross income
5 for your income approach in each of these?

6 A: I used actual numbers that were there when I --
7 when he bought the place. I got them from
8 Dr. Tadros.

9 Q: Okay.

10 MS. PIKE: I don't have any further questions, your
11 Honor.

12 THE COURT: Mr. Kendrick?

13 MR. KENDRICK: Thank you, Judge.

14 MR. CHESLAK - CROSS-EXAMINATION BY MR. KENDRICK:

15 Q: Mr. Cheslak, good afternoon.

16 A: Good afternoon.

17 Q: Let me cut to the chase here. 2015, the tax
18 year 2015, you lowered the value of this
19 property because of vacancy?

20 A: Yes, '16. 2016, right.

21 Q: So 2016's value is lowered because of vacancy?

22 A: Yeah.

23 Q: And this is -- we'll call it -- this is 2015
24 tax bill, right, 'cause we're a year behind.
25 That's what confused me. All right. So this,



1 you would not change because there's no
2 vacancy? Is that the simplest way to describe
3 what you just said?

4 A: It was abundantly occupied.

5 Q: Okay.

6 A: Yeah.

7 Q: And let's just talk about Hero's Subs. So they
8 paid \$3700 a month for the year -- the calender
9 year of 2014 ---

10 A: Yes.

11 Q: --- you were told?

12 A: Yes.

13 Q: But you don't have the bank statements or the
14 canceled checks to prove that? You just go on
15 what you're told by the taxpayer?

16 A: Yes. In this case, I did.

17 Q: You -- in this case you ---

18 A: I did.

19 Q: You did have ---

20 A: Yeah. I know I just listened to what
21 Dr. Tadros told me about it.

22 Q: Okay. If they were never paying the \$3700 a
23 month for the year, then that would be the same
24 situation you found in the next year, right?

25 A: Yeah.

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1 Q: In other words, if I tell you one thing and
2 it's not true, you would base your value on the
3 actual truth, right? Not what you would told
4 if you were told bad information?

5 A: I think so, if I understand your question.

6 Q: So when Dr. Tadros -- if Dr. Tadros told you he
7 was gonna make \$3700 a month in rent off of
8 this building, then you look at your value and
9 you say, well, that goes -- 'cause your
10 potential gross income, about 36 percent of
11 that number comes from the \$3700 a month by
12 Hero's Sub?

13 A: Appears so.

14 Q: But there's not a number you automatically
15 attribute to an empty space?

16 A: No.

17 Q: In other words, an empty space is worth space
18 zero; and a lease space is worth whatever it's
19 leased for, right?

20 A: No. Not necessarily. You just haven't go a
21 tenant there yet. It had a value.

22 Q: Right.

23 A: Yeah.

24 Q: But in this case, you went on the value that
25 you were told not -- and I guess what I mean is



1 that there may be some formula that we can say
2 that this courtroom is worth X amount of
3 dollars on the open market. And if no one
4 rents it, it still has that value. But that's
5 not how you did this. You did it on what you
6 understood the actual monthly rent payment was?

7 A: I did. And it was supported by the rents of
8 the other spaces as well. It was that range.
9 So there wasn't anything unusual.

10 Q: Okay. So what Dr. Tadros has testified to is
11 that after he closed on this property, it -- he
12 became aware that Hero's Sub had never paid any
13 rent. Do you know anything about that?

14 A: No.

15 Q: Okay.

16 A: Just what I've heard today.

17 Q: So that would make that 3700 a month number now
18 zero, right, because they're not paying it at
19 all. And it sounds like they're not paying it
20 by agreement with the landlord.

21 A: Okay.

22 Q: So would that not have a substantial effect on
23 the income approach valuation that you're
24 using?

25 A: Well, you'd like to have three years of income

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1 expense statements to see how things how things
2 grow and perform before you make a decision.

3 Q: Uh-huh. So in a situation where the seller
4 made it appear as though -- and I don't know if
5 we can go back three years or not -- but if the
6 seller made it appear as though a certain
7 amount of rent was being paid and then, in
8 fact, wasn't being paid, that's information
9 that would change your opinion of the value,
10 right?

11 A: Well, in this case, you know, we only have a
12 year to go with. You couldn't -- I doubt if
13 Dr. Tadros could gotten the prior years' income
14 expense statements from the prior owner. He
15 would have had that.

16 Q: Right.

17 A: He was out of it by that time. So I just had
18 to do a value of it like I do every other
19 property, give it a -- the 10 percent vacancy
20 loss and use the rents that he was giving me.

21 Q: And here's where I think I'm getting to. If
22 Dr. Tadros was the victim of fraud and then
23 you, in turn, use the numbers the victim gave
24 you to calculate the tax value, that's not the
25 actual value, right? You want to tax him the



1 real value.

2 A: I want to tax him -- determine the real value.

3 Q: Right. And you said that earlier. And I
4 appreciate that. So if the potential gross
5 income -- if that \$3700 a month in Hero's Super
6 Sub isn't there, then your -- this value
7 changes significantly, right?

8 A: No.

9 Q: It doesn't?

10 A: No.

11 Q: Okay. Well, when you do the income approach,
12 in the top number that says 126396, if that
13 number's not there, you're gonna minus 44,400
14 out of there, right?

15 A: Well, you used my potential gross income.

16 Q: Uh-huh.

17 A: That's potential. That's what you could get in
18 a perfect world.

19 Q: Right.

20 A: And then would just take the 10 percent off for
21 vacancy and loss.

22 Q: Right.

23 A: And then you work your way down to the value.

24 Q: But my point is, if you walked in there and
25 they said the property is fully leased; we're



1 getting zero dollars a month from Hero's Super
2 Sub, \$2300 from Yoghut, and \$4500 from the
3 pizza place, then are you telling me you'd have
4 the same income approach?

5 A: Probably would.

6 Q: Okay. So where would you have gotten the \$3700
7 from?

8 A: Well, you've got two other units there renting
9 for about the same number. You just use those
10 numbers and apply to that space. I remember
11 right, \$20 to \$18.62 a square foot so ...

12 Q: So -- and I'm not -- I don't know. I'm asking
13 you the questions. I don't know the answers.
14 So it's your -- you would actually tax him on
15 a value that wasn't there? So if it had been
16 empty for a year, then he would still get taxed
17 on what he could have made even though he
18 didn't make it?

19 A: Well, I don't tax him. I just value the
20 property. I'm the value guy.

21 Q: But you understand when you turn the value in
22 to the other guy, the other guy taxes him?

23 A: Yeah. I just come up with the value ---

24 Q: Right. So we can blame that part on the other
25 guy. But your value is based -- and what I



1 appreciate about this appraisal is you're
2 valuing it on concrete things rather than
3 something that you can't see.

4 A: This is a good one.

5 Q: And I think my question is if the concrete
6 thing disappears, then how do you replace it?
7 And I think at the end of the day when I ask
8 you where the \$3700 a month -- if that goes to
9 zero, how do you get it back up to \$3700 if
10 there's no one there because you would agree,
11 if there's no tenant, no one pays the rent.

12 A: Because it's a standard 10 percent vacancy and
13 loss that you apply to properties. It's just
14 like when you have a new construction. You
15 have a vacant property there. You have to come
16 up with a value. You just can't say it's zero
17 because there nobody in there at the start of
18 that project. Because over time, it's gonna be
19 leased up. The same thing here. In time,
20 someone's gonna get in there just like JJ Tea
21 House came back in there.

22 Q: Well, and that an interesting point because
23 property can, in fact, actually be worth
24 nothing, right?

25 A: It's worth something.



1 Q: Well, you got -- let's use ---

2 A: Unless you have a radioactive material in there
3 or something.

4 Q: Well, I don't know why. But let's say we've
5 got Calendar Year 2014. We got Hero's Subs,
6 who's not paying rent, right, for whatever
7 reason. But we assume the seller isn't just --
8 we're going to assume -- is not his friend or
9 something he's just not -- there's no rent
10 being paid. So in Calender Year 2015, no one's
11 in there, because that's the year you adjusted
12 it pretty significantly. And then Calender
13 Year '16, and finally here we are in Calender
14 Year '17, and the release that's been entered
15 is a gross percentage lease, which is
16 relatively rare -- and maybe I'm saying that
17 wrong -- net percentage, whatever the case may
18 be -- is based on the amount paid. So for --
19 and this -- as we sit here today, we have
20 evidence of one, two, three -- three years,
21 maybe more, of nothing. No rent being paid.
22 Does that go into your valuation? Because that
23 far exceeds the 10 percent.

24 A: Since I've gotten it, it's only been about a
25 month and -- a year and eight months.



1 Q: Okay.

2 A: And I don't know about the rest of that time,
3 but since I've had it, it's been that long.
4 And the tenant that's in there now is paying
5 \$5,000 a month, and he's been able to make his
6 payments.

7 DR. TADROS: That's not true.

8 Q: Well, so what Dr. Told us was that he's paying
9 a percentage of what he makes. And you're
10 saying that you have information it's a
11 \$5,000-a-month lease?

12 A: That's what he -- well, what's he told me that
13 they were paying. Yeah. That's what he told
14 me.

15 Q: Do you know if he's actually paid that or not?

16 A: He said he did, yeah.

17 Q: Okay.

18 MR. KENDRICK: One second, your Honor.

19 (Off the Record)

20 MR. KENDRICK: Your Honor, if you'll give me just a
21 second? I'm sorry.

22 Q: Okay. Just to finish up, Mr. Cheslak, how
23 could you account for rental property at that
24 doesn't get rented? Do you -- or do you
25 account for it?



1 A: Well, there's a lot of factors involved there.
2 It might be the location. It might be the
3 construction of the place, the condition.
4 There's all kinds of factors involved in there,
5 I think.

6 Q: Okay. So when you changed the value based on
7 the vacancy in 2016, right?

8 A: You mean '15 for '16?

9 Q: '15 for '16. When you changed that value, it
10 was based on vacancy?

11 A: Based on the vacancy and Dr. Tadros having such
12 a hard time.

13 Q: Right. And that's kind of you. But, I mean,
14 that hasn't changed. So my question is: Is
15 there a difference ---

16 A: Well, he's got a tenant in there. It's
17 probably a little better now than it was.

18 Q: And I trust that you guys will account for that
19 when the time's appropriate. But if we go back
20 to 2014 when it has come to light there was
21 actually not a tenant where Hero's Subs was,
22 which is the same situation as 2015 ---

23 A: Can I ask you a question about that? Did y'all
24 say he did pay the rent up through the end of
25 the year? He did but he just wasn't there?



1 Q: Sounds like what he did was paid -- there was
2 an on-paper payment of rent, which was then
3 pulled out of the closing statement. But the
4 money never went to anybody, that we can tell.

5 A: 'Cause there are vacancies out there where the
6 tenants are still paying rent. They're just
7 not in there.

8 Q: Sure. And that's -- so in this case what
9 Dr. Tadros has testified to is that the rent
10 was never paid and that -- Hero's Subs says we
11 never paid it, never intended to pay it, and we
12 had a deal with the seller that that
13 information would not come out until after the
14 closing. So if that fact is true -- and just
15 assume for the sake of my argument. I won't
16 hold you to it -- if that's true, then he's --
17 the 2014 value is similarly situated to the
18 2015 value, right?

19 A: Might have had a -- see there, again, there's
20 things involved. The tenant may have been an
21 unworthy tenant. There are tenants who don't
22 pay their rent.

23 Q: And I get that. And I think my question to you
24 though is if that's -- we know that's what
25 happened in Calendar Year 2015 when you agreed



1 to change the valuation.

2 A: We knew that he was getting -- he's getting no
3 income at that space, no.

4 Q: Right. So if in 2014, whatever income in that
5 space was used as your valuation was fraudulent
6 and never happened, then wouldn't that also
7 result in a similar adjustment of the
8 valuation?

9 A: No.

10 Q: All right. So what is the difference between
11 '14 and '15?

12 A: The difference in '15 was because Dr. Tadros
13 was very stressed. In other words, we just
14 bent over backwards for him for '16.

15 Q: All right. And understanding that -- I mean,
16 I get that and I -- so maybe I'm
17 misunderstanding that it was changed -- the
18 value under sympathy for Dr. Tadros, which I
19 might want to ask you why -- where is the
20 sympathy now? Why not make the same
21 adjustment? It's not a large amount of money.

22 A: Well, now it's a timeliness issue because
23 he's -- he just failed to appeal.

24 Q: So put that aside. Put that aside because the
25 judge will decide on timeliness. If the judge



1 decides the appeal is timely, when why wouldn't
2 the County make a similar concession to a
3 landowner, an investor in the community, for a
4 similar reason?

5 A: Because it was 100 percent occupied.

6 Q: Right. And that's my point. It's not 100
7 occupied. So does that not change?

8 A: It was, as far as we know.

9 Q: Okay. So the crux of our dispute for you is
10 that Hero's Sub was in there paying the rent,
11 and then that's what leads to the value?

12 A: Part of it, yeah.

13 Q: Okay.

14 MR. KENDRICK: That's all I have. Thank you, your
15 Honor.

16 THE COURT: Ms. Pike?

17 MS. PIKE: Yes.

18 MR. CHESLAK - REDIRECT EXAMINATION BY MS. PIKE:

19 Q: Mr. Cheslak, has Dr. Tadros provided any
20 evidence to you that Hero's Subs not paying the
21 rent?

22 A: No.

23 Q: Okay. If -- let's just say if we follow
24 Mr. Kendrick's line of thought here that if you
25 reduce the value down, you could later get it



1 back in another year when it's fully leased.
2 Is that accurate, according to South Carolina
3 law?

4 A: Only in -- when there's a reassessment. They
5 can review everything and change the value
6 again.

7 Q: And can you move it right on up to fair market
8 value as of the date of assessment?

9 A: The reassessment?

10 Q: The reassessment.

11 A: Yes.

12 Q: You can move it all the way up to fair market
13 value as of ...

14 A: For the -- like, in our reassessment?

15 Q: In a reassessment year.

16 A: Yes, we can. It's capped. You know, the
17 value's capped, but our market value can go to
18 anywhere.

19 Q: But your taxable value, what is it capped at?

20 A: 15 percent.

21 Q: So let's say that you reduced Dr. Tadros' value
22 down, and let's say you just reduced it down
23 to -- let's just say for easy figuring, a
24 million dollars. So when reassessment comes
25 along ---



1 A: I can divide that same \$2 million, but the
2 taxable number would be capped at the
3 \$1,150,000 for tax purposes.

4 Q: Okay. So that's all the that you could tax
5 Dr. Tadros on?

6 A: Yes.

7 Q: All right. So is it common for you to adjust
8 values because of vacancies? Is that a common
9 occurrence in the Assessor's Office?

10 A: Through an appeal or ---

11 Q: Through and appeal or through anything.

12 A: Yes.

13 Q: It is?

14 A: If -- yeah, it can be. If you have ---

15 Q: Under what circumstances can it be?

16 A: If you have a history of low vacancy for years
17 and years and years, then the appellant comes
18 in and tell us that they've had a problem with
19 that, you know -- that can happen.

20 Q: Okay.

21 A: But this is such a newer-type property. It's
22 not a property that you have that. You don't
23 have those years and years of history of
24 something like that going on.

25 Q: Would there be any reason why Dr. Tadros could



1 not re-rent the Hero's Subs space?

2 A: No. I don't see any reason why he could not.

3 Q: Let's go back to your sales comparable approach
4 for the retail space on page 8 and 9 of
5 Respondent's Exhibit Number 12. Once again, do
6 you take into account vacancies in the sales
7 comparable approach?

8 A: I do not.

9 Q: Okay. And what was your value under the sales
10 comparable approach?

11 A: The value is \$227 a square foot, which equates
12 to \$1,569,300.

13 Q: Okay. So even if you assume that what
14 Mr. Kendrick said was accurate about reducing
15 out the amount of rent under PGI for the income
16 approach, what does your sales comparable
17 approach tell you?

18 A: The sales comparable approach tells me that
19 even though there's a large vacancy in the
20 income approach, it's -- the value is still
21 supported by the sales comparable approach.
22 That's why we had to do one on each approach.
23 It gives us a good indication of the value.

24 Q: Were any of these comparables vacant when they
25 were sold?



1 A: Sale 4 was vacant. Sale 2 was vacant. Yes.

2 Q: Okay. Using appraisal methodology, is it
3 appropriate in the income approach under
4 potential gross income to remove income from a
5 unit that is vacant?

6 A: No.

7 Q: And why not?

8 A: Because you have to determine what that unit
9 could possibly rent for in determining the
10 value. When you take -- and then you go about
11 getting -- or getting information on the market
12 rents. What would this place possibly rent for
13 the in the market? And then you give it the
14 vacancy and all the other stuff to come up with
15 the value.

16 Q: So did you have market rents in this particular
17 circumstance?

18 A: I believe I -- I didn't know what was being
19 charged, these tenants, was market rent.

20 Q: Okay. And define "market rent" for me.

21 A: The typical rent for this type of retail space
22 in the Columbia area supported by what other
23 places are paying rent in the downtown area
24 Columbia. You know, office spaces are paying
25 \$22 a square foot. And the retail, from what

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1 I can tell, are anywhere from 16 to \$18 a
2 square foot in the CBD area.

3 Q: Mr. Cheslak, let's just assume that what
4 Dr. Tadros testified to is accurate with regard
5 to the 2014 year. And Dr. Tadros has testified
6 that he has initiated a legal action against
7 the parties involved here. So would you then
8 assume that he might be able get his income
9 back from that year?

10 A: Would he be able to get his income back from
11 that year? Would you say that question again
12 one more time?

13 Q: I'm asking if Dr. Tadros has instituted legal
14 action against parties with regard to this
15 matter ---

16 A: Oh, no. No. I'm sorry.

17 Q: --- would he not be able to recoup some of the
18 rent that was lost here from that lawsuit
19 potentially?

20 A: Potentially, yes, if he got a tenant to pay
21 what they should have paid. I guess
22 potentially he could have, yeah.

23 Q: Okay. Mr. Cheslak, when you -- do you
24 frequently reduce values based on vacancies?

25 A: Not frequently. It happens but not frequently.



1 Q: And let's go over the circumstances again in
2 which you would reduce a value based on a
3 vacancy.

4 A: If it had a history of many years of vacancy,
5 then you know you have a problem there. And
6 you would throw in a little extra vacancy into
7 the income approach to come up with the value.

8 Q: Okay. So did Dr. Tadros provide you with a
9 history of vacancy here?

10 A: No. As far as I know, it didn't become vacant
11 until after he bought it.

12 Q: So why did you reduce his value?

13 A: For '16?

14 Q: For '16.

15 A: Because he was having a hard time. We were
16 bending over backwards for the taxpayer. If
17 there's any doubt whatsoever, we just value in
18 their favor.

19 Q: Okay.

20 MS. PIKE: Okay. No further questions, your Honor.

21 MR. KENDRICK: Your Honor, if I could just ask maybe
22 two questions that are directly in response?
23 I thought a recross is in your discretion
24 so ...

25 THE COURT: Okay. You got two.

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1 MR. KENDRICK: All right.

2 MR. CHESLAK - RECROSS-EXAMINATION BY MR. KENDRICK:

3 Q: When you talked about reductions and then
4 reassessments, if you were to reassess this
5 property, you're already capped by the
6 reduction you did give, right?

7 A: Yes. The value -- the latest value that's on
8 there would be the one capped ---

9 Q: Okay.

10 A: --- for the assessment.

11 Q: And you also said that while it was common to
12 adjust based on vacancies, you then said it
13 wasn't frequent. So if you will, give me an
14 idea. Those words mean the same to me,
15 "common" and "frequent."

16 A: They're common, in that it can be done. It's
17 not out of align to do something like that.

18 Q: Okay.

19 A: Frequency is saying you're doing it every time
20 someone appeals with -- when they say there's
21 a vacancy problem.

22 Q: Fair enough.

23 MR. KENDRICK: I told the truth, Judge.

24 THE COURT: All right. Any other witnesses?

25 MS. PIKE: There are no further witnesses.



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1 THE COURT: Any rebuttal witnesses?

2 MR. KENDRICK: One second, your Honor.

3 Your Honor, I would just briefly, like, ask if
4 I could re-call Dr. Tadros. It came up in
5 Mr. Cheslak's testimony about the rent that has
6 been paid now. And I don't know if that's
7 relevant to the Court's determination, but
8 Dr. Tadros actually has the last rent check and
9 can tell you how much he has made recently off
10 this vacancy. But I'll leave it to the Court's
11 discretion if think that would go into your
12 analysis.

13 THE COURT: Ms. Pike?

14 MS. PIKE: Your Honor, I think it's going to be a
15 question of Dr. Tadros' word versus the
16 tenant's word as to what he's actually paying.
17 So I would just object to that. We feel like
18 we got the best information available directly
19 from the tenant. I would object.

20 THE COURT: Okay. And then my understanding,
21 Mr. Kendrick, is you're gon' ask him what he's
22 getting now?

23 MR. KENDRICK: Right. Well, and that's what we're
24 talking about. So the tenant told Mr. Cheslak
25 what he was paying recently and that was ---

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1 THE COURT: I'm sorry. I may have misunderstood
2 what you were asking him to testify to. I
3 thought you asking him to testify to what the
4 current tenant is paying.

5 MR. KENDRICK: That's what I thought Mr. Cheslak
6 said, the current tenant told him he was paying
7 \$5,000 a month.

8 MS. PIKE: I think the current tenant ---
9 You did say that.

10 MR. CHESLAK: That's right.

11 MR. KENDRICK: And so the best evidence would
12 actually be Mr. -- Dr. Tadros, who's here, as
13 opposed to hearsay from the tenant, if that
14 matters. And here's the thing. I'm not sure
15 whether it does matter because we're talking
16 about -- if your Honor is gonna say well, I'm
17 not gonna change the value of the tax because
18 he's certainly doing fine now, then I'd like
19 him to testimony that that's not actually the
20 case. If you're looking at it just from 2014
21 back, I mean, I think we've established that
22 the rent was paid. So maybe it's not relevant.

23 MS. PIKE: Your Honor, we are looking at 12/31 of
24 2014 for the 2015 year, and we're looking at
25 the fact that Dr. Tadros paid 1,850,000 for it.

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1 And he paid it for an income stream. And it's
2 to bad that he didn't investigate this ahead of
3 time and figure this out or at least even talk
4 to the tenants ahead of time, which he admitted
5 that he didn't. But that doesn't mean that
6 this property can't generate that income with
7 proper management. And that's where we are
8 with it.

9 MR. KENDRICK: And I'm kind of arguing against
10 myself, your Honor, because I don't think it
11 matters what's happening with the property
12 right this second.

13 THE COURT: Right. I agree.

14 MR. KENDRICK: But if you do, then I want to
15 testify -- I want to have some testimony that
16 what we heard is not quite accurate.

17 THE COURT: Right.

18 MR. KENDRICK: And we have the check. So whatever
19 the tenant said to Mr. Cheslak is fine. But I
20 got a check in Dr. Tadros' pocket that's gonna
21 show -- and he can tell you that he's only
22 recently been -- being paid that. Now, I don't
23 know that that matters because the property
24 could take off down the road and we established
25 that they can re-evaluate. So I don't need to



1 put him back up on that point if you don't
2 think ---

3 THE COURT: Yeah. And I think that's right. I
4 think what we're looking at what the
5 circumstances were 12/31/2014 for the 2015 tax
6 year. And anything that's happened after that,
7 y'all can argue about several years from now
8 and when I'm not here anymore.

9 MR. KENDRICK: Okay.

10 THE COURT: That's the condition.

11 MR. KENDRICK: Then I've explained to Dr. Tadros so
12 under those circumstance, his testimony
13 wouldn't be needed 'cause it's not gonna turn
14 the needle one way or the other.

15 THE COURT: That's not the particular teeter-totter
16 that's being pushed at this point.

17 MR. KENDRICK: Right. Okay.

18 MS. PIKE: That's correct. And just to --
19 correcting one thing that Dr. Kendrick said,
20 they cannot go back up to full fair market
21 value on this property in future years unless,
22 of course, it resells at some point. They can
23 only increase value every reassessment by
24 15 percent.

25 THE COURT: Well, market value and what they can tax



1 are -- despite statute's intention, not -- are
2 different things.

3 MS. PIKE: That's exactly right. So they can't go
4 up for tax purposes up to full fair market
5 value.

6 THE COURT: They are capped on that reassessment,
7 right?

8 MS. PIKE: They're capped. That's correct.

9 THE COURT: And that's Act 388?

10 MS. PIKE: It is Act 388.

11 THE COURT: The demon of local government.

12 MS. PIKE: That's correct.

13 MR. KENDRICK: I think my point was, your Honor,
14 that they're capped no matter what you decide
15 because there's ---

16 THE COURT: Because -- but they've already reduced
17 it to some extent. If that applies going
18 forward, then that -- whatever's ---

19 MS. PIKE: That's ---

20 THE COURT: --- reassessed is gonna be determined
21 from that value, not whatever we say here.

22 MR. KENDRICK: And that's what -- it from and
23 equitable standpoint. You're not gonna change
24 their ability to tax it. They already did
25 that ---



1 THE COURT: Right.

2 MR. KENDRICK: --- to themselves.

3 THE COURT: They've already done 2016.

4 MS. PIKE: Yes.

5 THE COURT: And whatever follows down the road from
6 that is their problem.

7 MS. PIKE: That's right.

8 THE COURT: All we're dealing with is the 2015 ---

9 MS. PIKE: That's correct.

10 THE COURT: --- payments, tax payments. Okay.
11 Closing arguments, would you like a minute or
12 two to -- or are you ready to go?

13 MS. PIKE: Go for it.

14 MR. KENDRICK: I'm not gonna be long, your Honor,
15 because I think that I -- I don't want to stand
16 up and say the same thing every time you let me
17 talk. But we've ---

18 THE COURT: Well, make sure I hear it.

19 CLOSING STATEMENT BY MR. KENDRICK:

20 Q: We have seemed to narrow it down to sort of a
21 pretty narrow issue. And your position is that
22 we have testimony that the value was, in part,
23 based on a paying tenant. We have testimony
24 that that was not a paying tenant. It was a
25 sham tenant that was fraudulent, a scheme



CREEL COURT REPORTING, INC.

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000169

1 between the tenant and the seller to inflate
2 the value of the purchase for Dr. Tadros. So
3 that is our point, that because of that
4 inflation, he has paid more taxes than he
5 should have paid for that year. Even though he
6 wasn't there, the value runs off of what this
7 tenant was paying. And what he's testified to
8 is that it -- he discovered after the closing
9 that the tenant actually never paid that. So
10 I think Mr. Cheslak is -- I've never dealt with
11 the tax board other than mailing the checks,
12 but I'm impressed with the fact that they seem
13 very kind towards the taxpayer. And I
14 appreciate that. And I don't think I knew that
15 before I walked in here, so I hate to look a
16 gift horse in the mouth.

17 But I think that Dr. Tadros' position is that
18 there isn't anything different between the 2014
19 situation and 2015 situation other than the
20 fraud. So in '15 what was apparent was not
21 apparent in 2014. And that really, I think,
22 becomes the question here. Was the property
23 valued based on accurate facts in 2014, that
24 did Dr. Tadros pay a tax bill based on a proper
25 valuation? And the answer is no. The



1 valuation was proper but it wasn't on accurate
2 facts. So when we go back and put the accurate
3 facts into play, the value changes.
4 Dr. Tadros' tax bill changes. And the same
5 thing that happened for the '16 tax bill should
6 happen for the '15 tax bill.

7 **THE COURT:** All right. Ms. Pike?

8 **CLOSING STATEMENT BY MS. PIKE:**

9 **MS. PIKE:** Your Honor, I think we'd have to go back
10 and look at the approaches to value. And when
11 you look at the sales comparable approach, it
12 supports the full purchase price. Also I think
13 there was abundant testimony that you look at
14 the potential income of this particular
15 condominium unit. You don't look at what it is
16 currently renting for. You look at the
17 potential gross income.

18 In this case, Dr. Tadros indicated he didn't go
19 interview the tenants. He didn't probably do
20 his due diligence on the front end to determine
21 what was happening with this particular
22 condominium unit. In this case, what they're
23 asking us to do is to reduce it down. Probably
24 in truth, it shouldn't have been reduced in
25 2016. I think that there was some mercy given



1 on him in 2016 that probably should not have
2 been.

3 In 2015, all we had is we have potential gross
4 income there. We have a sales comparable
5 approach that supports the value of what he
6 paid for it. And, again, there -- at any point
7 when you purchase a rental unit, management
8 skills are assumed in order to get the income
9 out of it. And so at this point, perhaps with
10 proper management, this place could have been
11 rented and there wouldn't have been a problem
12 such as this. It's very difficult to manage
13 property from all the way across the country.
14 At any rate we are charged with fair market
15 value here. That's what -- when you have an
16 ATI, we have to value based on law at fair
17 market value, regardless of what was done in
18 2016. That's what the law says. That's what
19 was that's done. So, again, we would take into
20 account potential gross income, not if there is
21 a vacancy or not. Perhaps in future years if
22 the vacancy continued, you would up the vacancy
23 and loss percentage to accommodate for that.
24 But the proper thing to do in this particular
25 circumstance is to value your potential gross

000172

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1 income and value it according to normal
2 standards, not standards perhaps that indicate
3 lack of management. Thank you, your Honor.

4 **THE COURT:** All right. Thank you, ladies and
5 gentlemen. We'll try to get my head around
6 this and get a decision out to you as quickly
7 as possible. If I decide that the appeal is
8 not timely, that is the only issue I will
9 address in the order. If I decide that the
10 appeal is timely, then I will deal with both
11 issues. And you will know when you get it
12 which -- if it's a little order, you'll know
13 it's one; if it's a big order, then you'll know
14 it's the other.

15 Unfortunately, you can count the occupancy of
16 the pages in that case, Mr. Cheslak.

17 All right. With nothing further, we're
18 adjourned.

19 (Off the Record)

20 **THE COURT:** We're back on the record in Case Number
21 17-ALJ-17-0001. We failed to make the motion
22 to have a couple things put into evidence.
23 We'll take those out.

24 **MS. PIKE:** Your Honor, I'd like to put in Exhibits,
25 I believe it's 11 and ---

000173



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1 THE COURT: It's 12 and 13.

2 MS. PIKE: 12 and 13, which are two appraisals, into
3 the record.

4 MR. KENDRICK: No objection.

5 THE COURT: All right. Without objection, 12 and 13
6 are admitted. Thank you, ladies and gentlemen.

7 (Respondent's Exhibit Numbers 12 and 13 were admitted
8 into evidence.)

9 (There being no further questions, the hearing
10 concluded at 1:07 p.m.)

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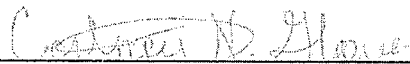
000174

CERTIFICATE

This is to certify that the within hearing consisting of one hundred fifty four (154) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenotype with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on March 23, 2018.



Cortney N. Glover
Court Reporter

Notary Public for South Carolina
My Commission Expires: December 1, 2025



CREEL COURT REPORTING, INC.
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000175



RICHLAND COUNTY ASSESSOR'S OFFICE
REAL ESTATE • (803) 576-2640
2020 HAMPTON STREET
P.O. BOX 192
COLUMBIA, S.C. 29202

THIS IS A NOTICE OF CLASSIFICATION, APPRAISAL AND ASSESSMENT OF REAL ESTATE

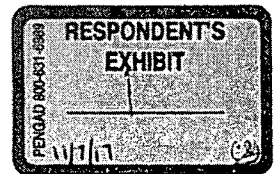
Section 12-60-2510 of the 1976 Code of Laws as amended provides for the classification and uniform assessment ratios of property. The property described herein has been appraised and assessed at the appropriate assessment ratio by the assessor.

RICHLAND COUNTY ASSESSOR'S OFFICE
(803) 576-2640
(803) 748-4999 TDD



GRACE LIVING TRUST
EMAD TADROS MD TRUSTEE
13349 CAMINITO MAR VILLA
DEL MAR CA 92014

THIS IS NOT A TAX BILL



NOTICE OF CLASSIFICATION, APPRAISAL & ASSESSMENT OF REAL ESTATE **2015** **TAX YEAR**

CLASSIFICATION	LOTS/ACRES	MARKET	X	RATIO	=	ASSESSMENT
*Owner Occupied Residential						
*Other Property		1,563,200	X	0.06	=	93,790
Market Value-Agricultural						
*Use Value-Agricultural						
TOTAL ASSESSMENT						93,790
PROPERTY LOCATION - SUBDIVISION - LEGAL DESCRIPTION						
W/S MAIN ST COMMERCIAL 1						
REASON FOR CHANGE				OWNER AS OF		
ATI- QUALIFIED POINT OF SALE				12/31/2014		

TAX MAP NUMBER
R11395-02-01

THE TOTAL MARKET VALUE ESTIMATE *
IS 1,563,200

TAXABLE VALUE *
1,563,200

* Taxes will be based on taxable value.

IF YOU WISH TO APPEAL THE ASSESSMENT ON YOUR PROPERTY

If you disagree with the assessor's appraisal of your property and wish to appeal, state law provides the following procedure in Section 12-60-2520 of the 1976 Code of Laws, as amended.

1. Within ninety (90) days after dated notice of reassessment, the property owner or his agent, who is required to comply with SC code Section 12-60-90 (C) and provide a "power of attorney", must file a written objection with the assessor.
2. The assessor will conduct a field review and notify the property owner of the results of review.
3. Within thirty (30) days of further objection, a conference will be scheduled. The assessor, in turn, will request that you provide, within thirty (30) days, additional data to help determine the value of your property.
4. After the field review has been completed, the Assessor will notify you in writing of his finding. If you still disagree with the assessment, you have thirty (30) days to file written notice of your request to appeal your assessment to the Richland County Board of Assessment Appeals, a member panel of Richland County citizens who shall serve as the final local authority in such appeals.
5. State law requires that you must pay 80% of tax generated on the proposed assessment if it appears that the appeal will not be settled by December 31 of the tax year in question. A taxpayer may pay more than 80% if it is agreed to in writing by the taxpayer.

EXPLANATION OF NOTICE ON BACK

**IF YOU DISAGREE WITH THE APPRAISAL AND ASSESSMENT, YOU MUST FILE WRITTEN
OBJECTION WITH THE ASSESSOR WITHIN 90 DAYS OR BEFORE 10/16/2015**

KEY: 02018943 NBHD: 012.23

TAX DIST	DATE OF NOTICE
1CC	07/17/2015

000176



RICHLAND COUNTY ASSESSOR'S OFFICE
 REAL ESTATE • (803) 576-2640
 2020 HAMPTON STREET
 P.O. BOX 192
 COLUMBIA, S.C. 29202

THIS IS A NOTICE OF CLASSIFICATION, APPRAISAL AND ASSESSMENT OF REAL ESTATE

Section 12-60-2510 of the 1976 Code of Laws as amended provides for the classification and uniform assessment ratios of property. The property described herein has been appraised and assessed at the appropriate assessment ratio by the assessor.

9243 1 MB 0.436

P:9243 / T:28 / S:

GRACE LIVING TRUST
 EMAD TADROS MD TRUSTEE
 13349 CAMINITO MAR VILLA
 DEL MAR CA 92014-3613

RICHLAND COUNTY ASSESSOR'S OFFICE
 (803) 576-2640
 (803) 748-4999 TDD

THIS IS NOT A TAX BILL

NOTICE OF CLASSIFICATION, APPRAISAL & ASSESSMENT OF REAL ESTATE **2015** TAX YEAR

CLASSIFICATION	LOTS/ACRES	MARKET	X	RATIO	=	ASSESSMENT
*Owner Occupied Residential						
*Other Property		286,800	X	0.06	=	17,210
Market Value-Agricultural						
*Use Value-Agricultural						
TOTAL ASSESSMENT						17,210
PROPERTY LOCATION - SUBDIVISION - LEGAL DESCRIPTION						
W/S MAIN ST COMMERCIAL 2						
REASON FOR CHANGE				OWNER AS OF		
ATI- QUALIFIED POINT OF SALE				12/31/2014		

TAX MAP NUMBER

R11395-01-01

THE TOTAL MARKET VALUE ESTIMATE *

IS **286,800**

TAXABLE VALUE *

286,800

* Taxes will be based on taxable value.

IF YOU WISH TO APPEAL THE ASSESSMENT ON YOUR PROPERTY

If you disagree with the assessor's appraisal of your property and wish to appeal, state law provides the following procedure in Section 12-60-2520 of the 1976 Code of Laws, as amended.

1. Within ninety (90) days after dated notice of reassessment, the property owner or his agent, who is required to comply with SC code Section 12-60-90 (C) and provide a "power of attorney", must file a written objection with the assessor.
2. The assessor will conduct a field review and notify the property owner of the results of review.
3. Within thirty (30) days of further objection, a conference will be scheduled. The assessor, in turn, will request that you provide, within thirty (30) days, additional data to help determine the value of your property.
4. After the field review has been completed, the Assessor will notify you in writing of his finding. If you still disagree with the assessment, you have thirty (30) days to file written notice of your request to appeal your assessment to the Richland County Board of Assessment Appeals, a member panel of Richland County citizens who shall serve as the final local authority in such appeals.
5. State law requires that you must pay 80% of tax generated on the proposed assessment if it appears that the appeal will not be settled by December 31 of the tax year in question. A taxpayer may pay more than 80% if it is agreed to in writing by the taxpayer.

EXPLANATION OF NOTICE ON BACK

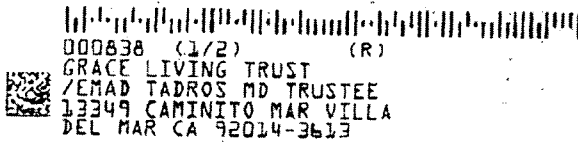
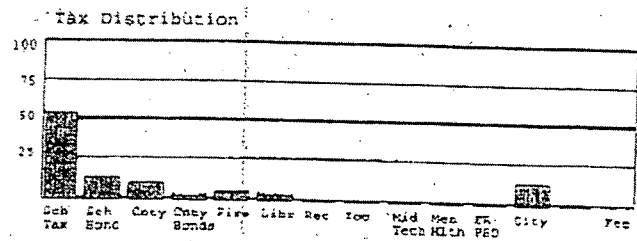
IF YOU DISAGREE WITH THE APPRAISAL AND ASSESSMENT, YOU MUST FILE WRITTEN
 OBJECTION WITH THE ASSESSOR WITHIN 90 DAYS OR BEFORE **10/16/2015**

KEY: 02018685 NBHD: 012.23

TAX DIST	DATE OF NOTICE
1CC	07/17/2015

000177

2015
TAX NOTICE
RICHLAND COUNTY
REAL PROPERTY
Paul Brawley, Auditor

[illegible]

ACRES		IMPROVED VALUE		LAND VALUE		TOTAL VALUE	
0.00		0.00		0.00		0.00	
TOTAL TAX		TOTAL TAXES SERVED BY		TOTAL TAXES		TOTAL TAXES	
0.00		0.00		0.00		0.00	
COUNTY		COUNTY		COUNTY		COUNTY	
0.00		0.00		0.00		0.00	
TOTAL TAX		TOTAL TAXES SERVED BY		TOTAL TAXES		TOTAL TAXES	
0.00		0.00		0.00		0.00	

COUNTY INCLUDES: OPERATIONS, LANDFILL, CAPITAL REPLACEMENTS, CONSERVATION COMMISSION AND NEIGHBORHOOD REDEVELOPMENT.

LOCAL OPTION SALES TAX CREDIT HAS BEEN APPLIED TO YOUR COUNTY AND CITY TAX DISTRIBUTION.

805.08

PAY THIS AMOUNT BY FEBRUARY 16, 2016	8,090.83
---	----------

IMPORTANT MESSAGES

MARINE TAX
IS SEPARATE HERE

[illegible]

AVOID STANDING IN LINE.
PLEASE RETURN THIS PORTION
WITH YOUR PAYMENT. MAKE CHECKS PAYABLE TO:
RICHLAND COUNTY TREASURER.
YOU CAN DROP OFF YOUR PAYMENT AT ANY
MIDLANDS, NBSO BANK BRANCH.

CREDIT CARD PAYMENTS AT:
WWW.RCGOV.US OR CALL 803-576-2262

GRACE LIVING TRUST
W/S MAIN ST
COMMERCIAL 2
11395-01-01

**2015
TAX NOTICE
RICHLAND COUNTY
REAL PROPERTY**

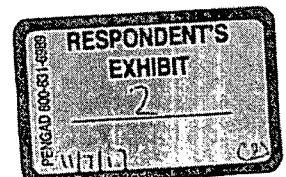
PROPERTY ADDRESS 775 MAIN ST COMMERCIAL 2 11395-01-01		RICHLAND CO REAL PROPERTY	
PAY THIS AMOUNT BY FEBRUARY 16, 2016		AMOUNT DEDUCTIBLE \$ 0.00	
- B. 090-83		AMOUNT DEDUCTIBLE \$ 0.00	
PLEASE PAY ONE OF THE AMOUNTS ACCORDING TO DATE PAYMENT IS POSTMARKED		AMOUNT DEDUCTIBLE \$ 0.00	
PLEASE PUT ANY DIFFERENT RETURN ADDRESS ON BACK OF THIS FORM		AMOUNT DEDUCTIBLE \$ 0.00	



RICHLAND COUNTY TREASURY (R)
PO BOX 8028
COLUMBIA SC 29202-8028

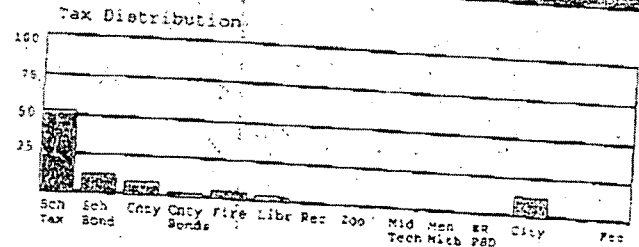
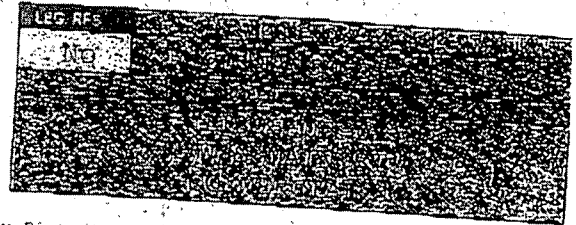
3201500069532 0008090834

000178



2015
TAX NOTICE
RICHLAND COUNTY
REAL PROPERTY
Paul Brawley, Auditor

000838 (2/2) (R)
GRACE LIVING TRUST
/EMAD TADROS MD TRUSTEE
13349 CAMINITO MAR VILLA
DEL MAR CA 92014-3613



ACRES

COUNTY INCLUDES: OPERATIONS, LANDFILL, CAPITAL REPLACEMENTS, CONSERVATION COMMISSION AND NEIGHBORHOOD REDEVELOPMENT.

LOCAL OPTION SALES TAX CREDIT HAS BEEN APPROVED TO YOUR COUNTY AND CITY TAX DISTRIBUTION.

Penalty 4409.21

PAY THIS AMOUNT
BY FEBRUARY 16, 2016
44,092.12

PAY THIS AMOUNT
44,092.12

IMPORTANT MESSAGES

Total Rate Payment
penalty 4409.21 + 809.08
= 5218.29

TAX DISTRIBUTION		
DOLLAR AMOUNT	ALLOCATION	2014
23,447.49	SCHOOL TAXES	14,745.09
5,523.61	SCHOOL BONDS	3,152.44
3,956.32		2,495.32
1,031.69		654.28
2,016.49		1,255.03
1,519.40		951.68
.00		.00
225.10		160.60
468.95		291.45
121.93		77.32
.00		.00
5,771.14		3,939.62
44,092.12		
PAY THIS AMOUNT		

AVOID STANDING IN LINE.
PLEASE RETURN THIS PORTION
WITH YOUR PAYMENT. MAKE CHECKS PAYABLE TO:
RICHLAND COUNTY TREASURER.
YOU CAN DROP OFF YOUR PAYMENT AT ANY
MIDLANDS NBSC BANK BRANCH.

GRACE LIVING TRUST
W/S MAIN ST
COMMERCIAL-1
11395-02-01

CREDIT CARD PAYMENTS AT:
WWW.RCGOV.US OR CALL 303-575-2262.

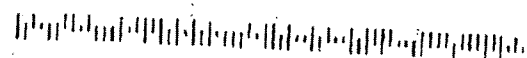
2015
TAX NOTICE
RICHLAND COUNTY
REAL PROPERTY

NOTICE NUMBER

PAY THIS AMOUNT
BY FEBRUARY 16, 2016
44,092.12

PLEASE PAY ONE OF THE AMOUNTS ACCORDING TO DATE
PAYMENT IS POSTMARKED.

PLEASE PUT ANY DIFFERENT RETURN
ADDRESS ON BACK OF THIS FORM.



RICHLAND COUNTY TREASURY (R)
PO BOX 8026
COLUMBIA SC 29202-8026

3201500069533 000449921.21

000179

Emad Tadros, MD/Trustee of the grace Living Trust.
13349 Caminito Mar Villa
Del Mar CA. 92014
858-775-2122 & tadrosmd@gmail.com

March 14, 2016

Richland County Assessor's Office

Mr. Mark Cheslak

P.O. Box 192

Columbia South Carolina 29202

Fax 803-576-1367 & Phone: 803-576-2640

RE: 601 Main Street Columbia SC 2016 APPEAL

Tax# 11395-02-01(restaurants 36.4% Vacancy)

Tax # 11395-01-01(the US Marines)

RECEIVED
2016 MAY -3 PM 3:30
RICHLAND COUNTY
ASSESSOR'S OFFICE

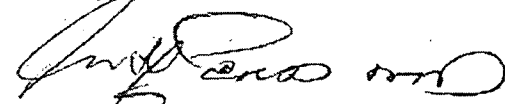
Mr. Mark Cheslak:

As per our phone conversation today, I hereby request a "2016 Appeal" for the commercial real estate property tax numbers referenced above. As I mentioned this property was purchased in December 2014 @\$1850,000 Ever since, I have not received a penny rent from the tenant Herosub 2468 sq. ft. (total sq. ft. 6778 for tax # 11395-02-01 - **netting it with vacancy at 36.4%**. That moved Herosub tenant immediately moved out as soon as escrow was closed, while, I purchased this property at \$1,850.00 after being assured that it was fully occupied and not at this 36.4 % nightmare vacancy rate. The \$1,850,000 purchase price on your records is fake, fraudulently induced and inflated with no substantive rent. A lawsuit is pending at this point.

Recently, I informed the current three tenants that taxes went up from \$34,000 to ~\$53,000, with a 55% increase. They are all angry and prepared to leave ASAP. This will inevitably result in a serious domino-action with the bank calling this property loan to short-sale this property in the near future.

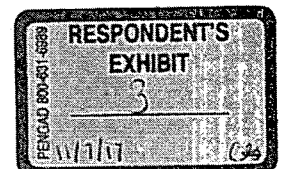
Please allow me to bring the tenants and meet with your office to rescue this financial slaughter.

Thank you,



Emad Tadros, M.D.
858-775-2122

000180



Emad Tadros, MD/Trustee of the grace Living Trust.
13349 Caminito Mar Villa
Del Mar CA. 92014
858-775-2122 & tadrosmd@gmail.com

April 18, 2016

Richland County Assessor's Office

Ms. Stacy Hamm

P.O. Box 192

Columbia South Carolina 29202

Fax: 803-576-2273 & Phone: 803-576-2269

RE: 601 Main Street Columbia SC 2015 Property Tax and Penalty APPEAL

Tax# 11395-02-01(restaurants 36.4% Vacancy)

Tax # 11395-01-01(the US Marines)

Dear Ms. Stacy Hamm:

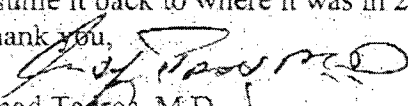
I am attaching my letter to Mr. Mark Cheslak dated March 14, 2016. I purchased the referenced property on 12-5-2014. All I thought this property tax was impounded. I never received any mail in regards to this property until February 2016.

To prove my point I even paid \$5200 penalty for late payments. If I have ever received any property tax mail in 2015, I would have had a chance to appeal 2015 and not to pay with penalty. To the fact that I was only able to speak about this property tax issue with Mr. Cheslak in 2016 and not 2015, Mr. Cheslak Could not do anything about the 2015 overpayment same as the penalty applied for 2015.

I have gone from one phone number to another at your Richland's County Assessor's office. I spoke with many and the last one informed me that you are the one who can do something about 2015 tax. The amount I paid is a totally unexpected financial slaughter to my finances. I had to borrow this money to comply with your office immediate requests and to avoid any more loss.

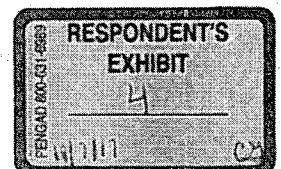
Lawsuit is pending to be filed end of April for conspiracy to commit fraud committed by both the seller and the moved out tenant. As per our phone conversation today, I hereby ask for your kind understanding and request 2015 Appeal for the commercial real estate property tax numbers referenced above to resume it back to where it was in 2014.

Thank you,


Emad Tadros, M.D.

858-775-2122

000181



Emad Tadros, MD/Trustee of the grace Living Trust.
13349 Caminito Mar Villa
Del Mar CA. 92014
858-775-2122 & tadrosmd@gmail.com

May 3, 2016
Richland County Assessor's Office
Mr. Terry Fancy
P.O. Box 192
Columbia South Carolina 29202
Fax: 803-576-2281 & Phone: 803-576-2652

RECEIVED
RICHLAND COUNTY
ASSESSOR'S OFFICE

2016 MAY -3 PM 3:30

RE: 601 Main Street Columbia SC 2015 Property Tax and Penalty APPEAL
Tax# 11395-02-01(restaurants 36.4% Vacancy)
Tax # 11395-01-01(the US Marines)

Dear Mr. Fancy:

I have made countless phone calls to your office. I am attaching my letters to 1- *Ms. Stacy Hamm* dated April 18, 2016 and 2- *Mr. Mark Cheslak* dated March 14, 2016. Ms. Hamm had kindly confirmed that I will be refunded \$5200 the penalty I paid due to me being a new 2015 owner of the referenced commercial property. However, both *Ms. Hamm* and *Mr. Cheslak* could not do anything about the actually inflated 2015 commercial property tax.

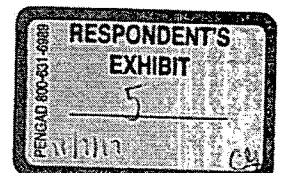
This commercial property 2014 total tax was ~\$34,500. Due to the new sale price of \$1,850,000.00 in December 2014, the property tax was increased to ~\$52,000 total with net increase of ~ \$18,000 moving from year 2014 to the year 2015.

The first tax bill for this property that I received from your office was in February 2016 **and never before**. By the time the loaner bank replied back to me that this property tax was not impounded, I ended up paying the requested additional 10% penalty due to missing the deadline date.

This commercial property purchase has been a nightmare to my retirement. I filed a formal complaint with the State Board of Realtors (attached). My South Carolina Superior Court lawsuit filing against both the seller and the moved out tenant for **conspiracy to fraud** selling this commercial property is pending to be filed in a few days.

I am asking you to please review my letter to Ms. Hamm where I hereby appeal the actual 2015 tax bill to be reduced back to where it was in 2014 and to refund me the difference. The 2014 bill was calculated when the Unit D tenant income was factored in as "rented." Now even that tenant already had moved out as soon

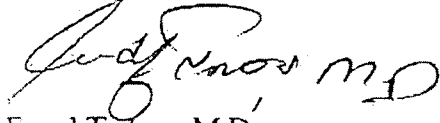
000182



as this property was sold to me in December 2014. That unit D continues to be vacant and an ongoing financial burden ever since.

I am in a severe financial crunch and your understanding of this unusual situation would be much appreciated.

Thank you,

A handwritten signature in black ink, appearing to read "Emad Tadros M.D.", written in a cursive style.

Emad Tadros, M.D.
858-775-2122

000183²

13409702-01
Emad Tadros, MD/Trustee of The Grace Living Trust.
13349 Caminito Mar Villa, Del Mar CA. 92014
858-775-2122 & tadrosmd@gmail.com

June 6, 2016
Richland County Board of Assessment Appeals
2020 Hampton Street Columbia SC. 29204
Ph: 803-929-6000
Fax: 803-576-2681

RICHLAND COUNTY
ASSESSOR'S OFFICE

2016 JUN 28 AM 8:32

RECEIVED

RE: 601 Main Street Columbia SC - 2015 Commercial Property Tax APPEAL
Tax# 11395-02-01(Restaurants 36.4% Vacancy)
Tax # 11395-01-01(the US Marines Office)

To Whom It May Concern At The Board of Assessment Appeals:

Mr. Terry Fancy, Richland County Assessor's Supervisor referred me to contact your office as the higher-up authority to hopefully resolve this entangled matter. This is in regards to the referenced commercial property that I purchased on 12-5-2014. This commercial property's 2014 total tax was ~\$34,500 (last sale price in 2011 was ~\$1,100,000). Due to the new sale price to my living trust of \$1,850,000.00 in December 2014, this commercial property tax jumped from \$34,000 to ~\$52,000 with net increase approximately \$18,000 from the year 2014 to the year 2015.

For the first time in February 2016, I received the Referenced Property 2015 Tax Notice Number R-2015-069533 for \$ 44,092.12 and Notice R-2015-069532 total of \$ 8,090.83. This 2015 Tax Notice was on a relatively short notice in early 2016, where I ended up paying the late payment penalty. I borrowed the money and paid this unexpectedly unusually inflated 2015 Property Tax Notice ASAP along with applying additional late payment penalty \$48,501.33 and \$8,899.91 (attached).

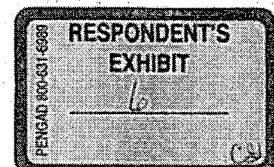
I contacted the following officers at Richland County Assessor's Office:

1- March 14, 2016 I contacted Mr. Mark Cheslak (attached) I requested 2016 Appeal which has been already approved to be decreased similar to the 2014 Property Tax Value. I indicated to Mr. Cheslak that this property commercial sale value was fake and inflated and that the sale transaction was fraudulently induced. Mr. Cheslak stated that it was too late to do anything about 2015 bec. the 2015 appeal should have been appealed in 2015 and not in 2016. I indicated that I never any tax bill prior to February 2016. I was referred to connect with Ms. Stacy Hamm.

2- April 18, 2016 I contacted Ms. Stacy Hamm and requested 2015 Appeal (attached). I was referred to connect with her Supervisor Mr. Terry Fancy.

3- May 3, 2016 I contacted Richland County Assessor's Office Supervisor, Mr. Terry Fancy (attached). Mr. Fancy apologized and informed that the next step is to contact your office.

000184



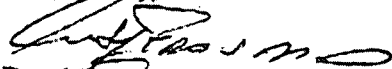
I have filed a formal complaint with the Department of Labor, Licensing and Regulation. (Attached). I am in the process of filing A Richland County Superior Court lawsuit against both the seller and commercial tenant for **Conspiracy to Commit Deceit and Inducement Fraud**.

I hereby kindly request your Assessment Appeal Board's attention to appeal my 2015 Commerical Property Tax. The logical standard is for me to be actually served with a Tax Bill. Richland County Property Tax Notice makes a claim that a Tax Bill was sent to my above address in mid 2015. However, the 2015 referenced **Property Tax Bill was only received in February 2016 and never any earlier**. I am now further punished by paying a high stake of 2015 in excess of \$18,000 for a property that was sold on the Basis of Inducement Fraud and that I ever was given a fair 2015 chance to appeal it at that year 2015.

Richland County Assessor's Office was kind enough to refund me back the 2015 penalty I paid in the amount of \$5218.29 (attached), but could not do anything about the actual 2015 and already paid fake and inflated 2015 Property Tax Value. However, the assessor's officer Mr. Mark Cheslak confirmed that the Assessor's Office had gone on site and reevaluated the property tax. Mr. Cheslak confirmed 2016 this commercial property tax will be decreased to back to \$1,100,000.00, back to where it was in 2011.

I appeal for your office understanding to be able keep-up paying the unusually high bills for this fraudulently sold property, pending both the complaint filed at the Department of Labor and the Lawsuit that will be filed at the Richland County Superior Court.

Respectfully,



Emad Tadros, M.D.
Cell: 858-775-2122

000185



Richland County Board of Assessment Appeals

PO Box 192
Columbia, SC 29202
Phone 803-576-2638
Fax 803-576-2681

Emad Tadros, MD
13349 Caminito Mar Villa
Del Mar, CA 92014

December 5, 2016

RE: Appeal

Case 2015-24
TMS 11395-01-01
601 Main St Ste A-D

Case 2015-25
TMS 11395-02-01
W/S Main St

Heard October 11, 2016

Dear Mr. Tadros,

The Board of Assessment Appeals has reviewed your recent appeal for tax year 2015 on the above referenced property.

The Board of Assessment Appeals has determined that your appeal was not submitted timely and therefore you were not eligible to appeal your property any longer.

While the board has heard both sides of the valuation we are unable to make a valuation determination due to the ineligibility of your appeal as state above.

If you should desire to appeal this decision, you may make written application to the Administrative Law Court, Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29211-1667, within thirty (30) days of the date of this letter. A copy of the appeal must also be filed with the Richland County Board of Assessment Appeals.

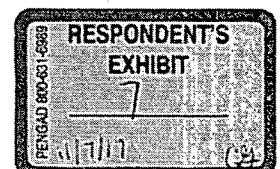
Sincerely,

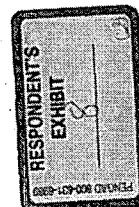
Eric Grant, Chairman
Board of Assessment Appeals

LTP

cc: Elizabeth "Liz" McDonald
Richland County Assessor

000186





From: JCappelmann@SI-Solutions.com [mailto:JCappelmann@SI-Solutions.com]
Sent: Thursday, July 21, 2016 4:21 PM
To: TERRY FANCEY (FANCEYT@rcgov.us) <FANCEYT@rcgov.us>
Cc: Joy Cappelmann; Robbie Fuller <RFuller@SI-Solutions.com>
Subject: FW: Richland Assessments

Hi Terry,
Calling you now...

From: Nash Patel [mailto:Nash@laserprintplus.com]
Sent: Thursday, July 21, 2016 4:17 PM
To: Joy Cappelmann
Subject: RE: Richland Assessments

IMb Query Result: 1 matches

Match #	Info or IMb	State	Zipcode	Job ID	Job #	Mail Status	Mail Date	Clock Stop	Scan	PARS	RTS
1	00141106620260925974	CA	92014361349	richassm	075465	Assumed Delivered	2015-07-17	2015-07-19 23:28	Y	N	N



Data Summary for IMb
00141106620260925974

IMb Data Field	Value
USPS Mailer ID	106620
IMb Serial Number	260925974
IMb Origin Tracing Number	-1
IMb Destination Zip	92014361349
IMb Mail.Dat Jobname	richassm
IMb Mail.Dat Mapped Jobname	richassm
LPP Jobtrack Number	075465
IMb Container	000028

Customer
Data for
IMb
00141106620260925974

No Data

Tracking Scans For IMb 00141106620260925974

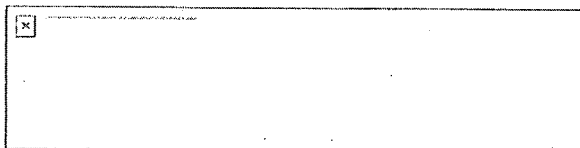
Marker	Facility	City	State	Sort Description	Timestamp	Elapsed Time
1	29209	Columbia	SC	Mail Submission	2015-07-17 19:00:00 EDT	00d 00h 00m
2	29201	Columbia	SC	Origin Processing	2015-07-17 20:53:15 EDT	00d 01h 53m
3	92199	San Diego	CA	Destination Primary	2015-07-19 12:54:47 EDT	01d 17h 54m
4	92199	San Diego	CA	Destination Secondary*	2015-07-19 22:11:57 EDT	02d 03h 11m
5	92199	San Diego	CA	Destination Secondary*	2015-07-19 22:19:57 EDT	02d 03h 19m
6	92199	San Diego	CA	Destination Secondary*	2015-07-19 23:28:06 EDT	02d 04h 28m

000188

From: Joy Cappelmann [mailto:JCappelmann@SI-Solutions.com]
Sent: Thursday, July 21, 2016 4:10 PM
To: nash@laserprintplus.com
Subject: Richland Assessments

Joy Cappelmann • Client Support Representative
SI Solutions, Inc.
901 Brookwood Drive • Columbia • SC 29201
direct: 803-720-6643 • toll free: 800-849-4814 ext 2210 •

JCappelmann@SI-Solutions.com



000189

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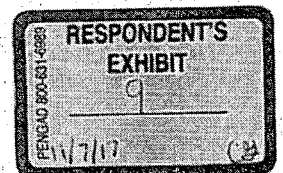


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Address 2: DEL MAR CA 92014

Mail Service: 00000000141 (FCM FS ASR FS
W/IMB)

Mailer Code: 106620

Mailing No: 260925974



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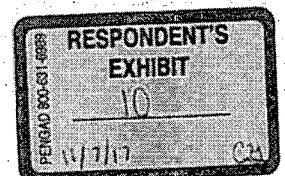


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Mail Service: 00000000270 (FCM NO ADDR
COR. FS W/ IMB)

Mailer Code: 201109

Mailing No: 718819263



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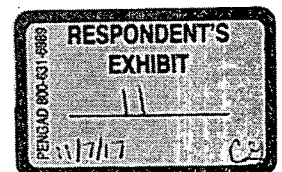
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Mail Service: 00000000141 (FCM FS ASR FS
W/ IMB)

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Mailing No: 260925974



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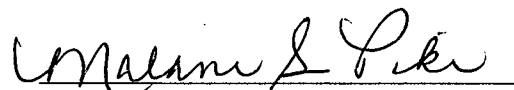
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Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



MALANE S. PIKE
SC Bar No. 4469
Post Office Box 729
White Rock, SC 29177
(803) 622-1493
Counsel for Appellant

7 / 18, 2018

RECEIVED
JUL 26 2018
SC Court of Appeals

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