

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable Ralph King Anderson, III, Chief Administrative Law Judge

Docket No. 17-ALJ-17-0451-CC

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SC Court of Appeals

Mary Cromey Appellant,

v.

South Carolina Department of Revenue Respondent.

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Mary Cromey,

Docket No. 17-ALJ-17-0451-CC

Petitioner,

v.

South Carolina Department of Revenue,

Respondent.

FINAL ORDER

APPEARANCES: For the Petitioner: Madison Felder, Esquire
For the Respondent: Nicole M. Wooten, Esquire

STATEMENT OF THE CASE

This matter comes before the South Carolina Administrative Law Court (ALC or Court) pursuant to a request for contested case hearing filed by Mary Cromey (Petitioner). Petitioner challenges the decision of the South Carolina Department of Revenue (Department) finding she is not entitled to the disabled veteran property tax exemption as a surviving spouse pursuant to section 12-37-220(B) of the South Carolina Code (2014) for tax years 2017 and 2018.

On February 23, 2018, the Department filed a motion for summary judgment. On February 28, 2018, Petitioner filed a cross motion for summary judgment. On May 24, 2018, the Court held a motion hearing in Columbia, South Carolina. Having considered the parties' arguments and reviewed the parties' submissions, I grant the Department's motion for summary judgment and deny Petitioner's motion for summary judgment.

UNDISPUTED FACTS

Petitioner is the surviving spouse of Lloyd D. Cromey (Mr. Cromey). In February 2004, the United States Veterans Administration (VA) deemed Mr. Cromey to be permanently and totally disabled. Petitioner and Mr. Cromey lived in a jointly owned home in Owing Mills, Maryland, until his death in 2005. Mr. Cromey has never been a resident of South Carolina or owned real property in South Carolina.

In 2010, several years after Mr. Cromey's death, Petitioner moved to South Carolina and purchased real property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South

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August 24, 2018

SC ADMIN. LAW COURT

Carolina. Petitioner submitted an application to the Department for the disabled veteran property tax exemption as a surviving spouse on this property beginning with tax year 2011. The Department granted Petitioner's application.

In 2016, Petitioner sold the property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina, and purchased a new property located at 1885 Carolina Towne Court (Towne Court), Mount Pleasant, South Carolina. Petitioner was, and is, the sole owner of Towne Court. Thereafter, on February 17, 2017, Petitioner applied for the disabled veteran property tax exemption as a surviving for Towne Court. The Department denied Petitioner's application. Petitioner has never remarried.

CONCLUSIONS OF LAW

The Court has jurisdiction to hear this matter pursuant to section 12-60-460(C) of the South Carolina Code (2014) and section 1-23-600 of the South Carolina Code (Supp. 2017).

The Rules of Procedure for the Administrative Law Court (SCALC Rules) provide that the South Carolina Rules of Civil Procedure (SCRCP) "may, in the discretion of the presiding administrative law judge, be applied to resolve questions not addressed by these rules." SCALC Rule 68. Rule 56(c), SCRCP, provides that summary judgment is properly granted when the "pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law." In this case, the parties agree upon the facts, leaving only a question of law. Therefore, I find summary judgment is appropriate in this case. *Wiegand v. U.S. Auto. Ass'n*, 391 S.C. 159, 705 S.E.2d 432 (2011) ("Where cross motions for summary judgment are filed, the parties concede the issue before us should be decided as a matter of law.").

Property Tax Exemption for the Surviving Spouse of a Disabled Veteran

Under South Carolina law, "[a]ll real and personal property in this State . . . shall be subject to taxation" unless expressly exempted as a matter of legislative grace. S.C. Code Ann. § 12-37-210 (2014). The General Assembly has delineated specific exemptions to ad valorem property tax in section 12-37-220 of the South Carolina Code (2014). The relevant subsection for the purpose of this case provides that the following properties are eligible for the exemption:

- (a) the house owned by an eligible owner in fee or jointly with a spouse;
- (b) the house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse. The

qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house;

S.C. Code Ann. § 12-37-220(B)(1). “Eligible owner” for the purpose of the above section means:

(A) a veteran of the armed forces of the United States who is permanently and totally disabled¹ as a result of a service-connected disability and who files with the Department of Revenue a certificate signed by the county service officer certifying this disability;

S.C. Code Ann. § 12-37-220(B)(1)(e)(i). Additionally, “qualified surviving spouse” is defined as:

the surviving spouse of an individual described in subsubitem (i) [an “eligible owner”] while remaining unmarried, who resides in the house, and who owns the house in fee or for life. Qualified surviving spouse also means the surviving spouse of a member of the armed forces of the United States who was killed in action, or the surviving spouse of a law enforcement officer or firefighter who died in the line of duty as a law enforcement officer or firefighter, as these terms are further defined in Section 23-23-10 and Chapter 80, Title 40 who at the time of death owned the house in fee or jointly with the now surviving spouse, if the surviving spouse remains unmarried, resides in the house, and has acquired ownership of the house in fee or for life”

S.C. Code Ann. § 12-37-220(B)(1)(e)(iii). Finally, the term “house” means “a dwelling and the lot on which it is situated classified in the hands of the current owner for property tax purposes pursuant to Section 12-43-220(c).” S.C. Code Ann. § 12-37-220(B)(1)(e)(iv). In other words, the house must be a primary residence located in South Carolina. *See* S.C. Code Ann. § 12-43-220(c).

Qualified Surviving Spouse

Clearly, only a qualified surviving spouse of a disabled veteran can claim the exemption on a house described in section 12-37-220(B)(1)(b). In this case, the parties disagree as to whether Petitioner is a “qualified surviving spouse.” The Department contends Petitioner does not meet the definition of a “qualified surviving spouse” because she was not the spouse of an “eligible owner.” § 12-37-220(B)(1)(e)(i); § 12-37-220(B)(1)(e)(iii). Specifically, an eligible owner is someone who, among other requirements, “files with the Department of Revenue a certificate signed by the county service officer certifying this disability.” Since Mr. Cromey never filed this certificate, the Department argues Petitioner was never the spouse of an “eligible owner” and therefore cannot satisfy the definition of “qualifying surviving spouse.”

¹ Interestingly, “permanently and totally disabled” does not refer to a disability determination made by the United States’ government, but rather is defined for the purpose of this statute to mean “the inability to perform substantial gainful employment by reason of a medically determinable impairment, either physical or mental, that has lasted or is expected to last for a continuous period of twelve months or more or result in death.” S.C. Code Ann. § 12-37-220.

Definition of “Qualified Surviving Spouse”

Petitioner contends the Department improperly read the certification requirement into the definition of “qualified surviving spouse” when the certification requirement is not actually part of the definition. However, to be a “qualified surviving spouse” under section 12-37-220(B)(1)(e)(iii), one must be: (1) “the surviving spouse of an individual described in subitem (i)”; (2) remain unmarried; (3) reside in the house; and (4) own the house in fee or for life. § 12-37-220(B)(1)(e)(iii). The first element requires a qualifying surviving spouse to be the surviving spouse of an individual described in subitem (i). Subitem (i) defines “eligible owner.” § 12-37-220(B)(1)(e)(i). Reviewing the statutory definition of “eligible owner,” the statutory definition is clear and unambiguous—an eligible owner is “a veteran of the armed forces who is permanently and totally disabled due to a service-connected disability *and who files with the Department of Revenue a certificate signed by the county service officer certifying this disability.*” *Id.* (emphasis added). Therefore, to meet the first element of the definition of qualified surviving spouse, one must show they are the surviving spouse of a permanently and totally disabled veteran of the armed forces who filed with the Department a certificate signed by the county service officer certifying the disability. § 12-37-220(B)(1)(e)(iii); § 12-37-220(B)(1)(e)(i).

Certification Requirement

Petitioner argues that the Department has misapplied the certification requirement under the statute. She claims that because neither party disputes the VA classified Mr. Cromey as a permanently and totally disabled veteran in 2004, the certification is not needed and this requirement should not be enforced to deny Petitioner the exemption.

This Court is not unsympathetic to Petitioner’s request. Indeed, I applaud the service of Petitioner and her spouse and the sacrifices they have made resulting in the ensuing disability. But though that service and sacrifice should be rewarded, the remuneration can only properly occur in keeping with our laws. Here, this Court is constrained to give effect to the plain meaning of the statute, which requires a specific type of certification.

Our courts have held that “[w]here the statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.” *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). Further, the general rule is that a strict construction is required of constitutional

and statutory provisions that grant exemptions or deductions from taxation. *Charleston Cty. Aviation Auth. v. Wasson*, 277 S.C. 480, 485–86, 289 S.E.2d 416, 419–20 (1982). However, in *CFRE, LLC v. Greenville Cty. Assessor*, 395 S.C. 67, 716 S.E.2d 877 (2011), the Supreme Court recognized that “[t]his rule of strict construction simply means that constitutional and statutory language will not be strained or liberally construed in the taxpayer's favor” and “[i]t does not mean that we will search for an interpretation in [DOR]’s favor where the plain and unambiguous language leaves no room for construction.” 395 S.C. at 74–75, 716 S.E.2d at 881 (quoting *Se.-Kusan, Inc. v. S.C. Tax Comm’n*, 276 S.C. 487, 489, 280 S.E.2d 57, 58 (1981)). “It is ‘[o]nly when the literal application of the statute produces an absurd result will we consider a different meaning.’” *Id.*

Here, we are dealing with a property exemption statute and strict construction is appropriate. *CFRE, LLC*, 395 S.C. 67, 716 S.E.2d 877. Section 12-37-220(B)(1)(e)(i) requires that “a certificate signed by the county service officer certifying this disability” be filed with the Department. Petitioner appears correct that the determination of the truth of the disability is the purpose of the requirement. However, the text is clear and unambiguous that a specific kind of certification is required. Petitioner seeks to fulfill that purpose by another means rather than following the certification requirement, e.g. the VA’s classification of Mr. Cromey as permanently and totally disabled. However, to broadly construe the definition of “eligible spouse,” as Petitioner urges, to include a permanently disabled veteran who did not certify his disability with a county officer would require the Court to ignore the plain language of section 12-37-220(B)(1)(e)(i).

Moreover, in considering the certification requirement, this court must presume “the legislature did not intend a futile act, but rather intended its statutes to accomplish something.” *TNS Mills, Inc. v. S.C. Dep’t of Revenue*, 331 S.C. 611, 620, 503 S.E.2d 471, 476 (1998); *CFRE, LLC*, 395 S.C. at 74, 716 S.E.2d at 881 (“[W]e must read the statute so ‘that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous’ for ‘[t]he General Assembly obviously intended [the statute] to have some efficacy, or the legislature would not have enacted it into law.’” (internal citations omitted)). With this principle in mind, the Court is not disposed to cast aside the specific certification required by section 12-37-220(B)(1)(e)(i) because to do so would be to find the legislature did not intend for the statute to function as it wrote it when, in fact, “[w]hat a legislature says in the text of a statute is considered the best evidence of

the legislative intent or will.” *Hock RH, LLC v. S.C. Dep’t of Revenue*, 423 S.C. 208, 214, 813 S.E.2d 540, 543 (Ct. App. 2018).

Therefore, the Court must presume the legislature had a purpose in requiring a disabled veteran to certify his disability status with a county officer to the Department or the legislature would have indicated certification by the U.S. government was sufficient.² In fact, the certification requirement does serve a factfinding purpose by allowing the Department to defer to the determination of the officials within the locality in which a veteran resides as to the veracity of the disability. Therefore, because Mr. Cromey did not “fil[e] with the Department of Revenue a certificate signed by the county service officer certifying [his] disability,” his surviving spouse, Petitioner, does not qualify for the disabled veteran property tax exemption. § 12-37-220(B)(1)(e)(i).

Section 12-37-220(B)(1)(b)

Even if the certification requirement under 12-37-220(B)(1)(e)(i) was relaxed or waived, Petitioner would not qualify for the exemption under section 12-37-220(B)(1)(b). As stated above, section 12-37-220(B)(1) provides the exemption can be claimed on the following qualifying houses:

- (a) the house owned by an eligible owner in fee or jointly with a spouse;
- (b) the house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house;

§ 12-37-220(B)(1) (emphasis added). Subsection (b) describes two houses: (1) the house owned by a qualified surviving spouse acquired from the deceased spouse and (2) a house subsequently acquired by an eligible surviving spouse. The parties disagree as to the interpretation of subsection (b).

² Petitioner argues that requiring a permanently and totally disabled veteran to certify his disability with the county officer and file it with the Department is absurd considering the statute does not contain the same requirement for permanently and totally disabled law enforcement or firefighters. However, the legislature specifically chose not to include the filing of a certification in its definition of “eligible owner” as applied to law enforcement and firefighters. § 12-37-220(B)(1)(e)(i). The text of the statute defining “eligible owner” is clear and this Court must presume the legislature had a purpose in requiring the certification only for veterans and not for law enforcement and firefighters. *TNS Mills, Inc.*, 331 S.C. at 620, 503 S.E.2d at 476 (holding courts must presume “the legislature did not intend a futile act, but rather intended its statutes to accomplish something”). Indeed, an explanation for this difference in treatment is that veterans are primarily governed by federal government whereas law enforcement and firefighters are primarily governed by local and state governments.

Petitioner argues subsections (a) and (b) are independent grants of exemptions and the event that allows the exemption to be claimed under subsection (b) is the death of the spouse. In other words, the death of the spouse is the “precipitating event” that allows the surviving spouse of a disabled veteran to apply for an exemption under section 12-37-220(B)(1)(b). Under this interpretation, Petitioner became eligible to claim the exemption on a “subsequent house” at Mr. Cromey’s death, regardless of whether Mr. Cromey ever lived in South Carolina or previously claimed the exemption.

In contrast, the Department interprets section 12-37-220(B)(1)(b) as only extending the exemption to a subsequent house if the house “acquired from the deceased spouse” previously qualified for the exemption when the veteran owned the home. The fundamental dispute is thus whether Petitioner’s eligibility for exemption of her current home as a surviving spouse is conditioned on her first establishing eligibility of a previous home in this state that was owned by or with the veteran.

In light of the parties’ disagreement as to the interpretation, the Court must determine whether the wording of the statute creates an ambiguity and whether the Department’s interpretation is entitled to deference. As the South Carolina Supreme Court noted in *Kiawah Development Partners, II v. South Carolina Department of Health & Environmental Control*, “[f]irst, a court must determine whether the language of a statute or regulation directly speaks to the issue,” and, if it does, “the court must utilize the clear meaning of the statute or regulation.” 411 S.C. 16, 766 S.E.2d 707 (2014). The Supreme Court further explained that if the statute does not directly speak to the issue, but is rather ambiguous with respect to the specific issue before the court, the court is to give deference to agency’s interpretation “because they have been entrusted with administering their statutes and regulations and because they have unique skill and expertise in administering those statutes and regulations.” *Id.* at 34, 766 S.E.2d at 718. Moreover, “the deference doctrine properly stated provides that where an agency charged with administering a statute or regulation has interpreted the statute or regulation, courts, including the ALC, will defer to the agency’s interpretation absent compelling reasons.” *Id.* at 34, 766 S.E.2d at 18. Deference, as construed in *Kiawah*, requires the court to uphold an agency’s interpretation when a statute is ambiguous unless the that interpretation is “arbitrary, capricious, or manifestly contrary to the statute.” *Id.* at 35, 766 S.E.2d at 18 (quoting *Chevron, U.S.A., Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837, 844, 104 S.Ct. 2778 (1984)).

Examining the language of the statute, if read myopically, the word “and” in the first sentence of section 12-37-220(B)(1)(b) could be read to create an ambiguity. Specifically, the word “and” could be read to connect two independent types of houses that qualify for the exemption or it could be read to connect two types of houses where the second type is dependent on the existence of the first. However, any potential ambiguity is resolved by the plain meaning of the operation of the phrase “subsequently acquired” in the second part of the sentence. When considering the meaning of this part of the sentence, the Court must ask, “a house subsequently acquired to what?” Clearly, it would be a house subsequently acquired to “the house owned by a qualified surviving spouse acquired from the deceased spouse.” § 12-37-220(B)(1)(b). The second clause is dependent upon the first clause. Thus, based upon the plain meaning of the statute that for the exemption to be claimed on a subsequent house, the surviving spouse had to first acquire an exempt house from the deceased veteran spouse. *See Hodges*, 341 S.C. at 85, 533 S.E.2d at 581 (“Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.”); *CFRE, LLC*, 395 S.C. at 74, 716 S.E.2d at 881 (“[I]nterlaced with these standard canons of statutory construction is our policy of strictly construing tax exemption statutes against the taxpayer.”).

Moreover, the language of a statute must “be read in a sense which harmonizes with its subject matter and accords with its general purpose.” *Hitachi Data Sys. Corp. v. Leatherman*, 309 S.C. 174, 178, 420 S.E.2d 843, 846 (1992). It is thus relevant to consider if there is a uniform “purpose” in granting this type of property exemption to veterans. A brief examination of other states’ veteran property tax exemptions statutes show that the exemption is not granted uniformly but varies by state. *See* Md. Code Ann. § 7-208 (2014) (requiring the “dwelling house” to be acquired by the surviving spouse within two years of the individual’s death, if the individual or the surviving spouse was domiciled in Maryland as of the date of the individual’s death); Ga. Code Ann. § 48-5-48 (2017) (a disabled veteran may receive a property tax exemption of \$60,000 or more on his primary residence if the veteran is 100 percent disabled; property in excess of this exemption remains taxable); N.C. Gen. Stat. Ann. § 105-277.1C (2010) (providing a property tax exemption to disabled veterans of up to the first \$45,000 of the appraised value of his property residence if the veteran is 100 percent disabled as a result of service). In addition, courts have recognized a state’s right to create exemptions from local property taxes for the surviving spouse

of a resident disabled veteran while denying the exemption to a surviving spouse of a nonresident disabled veteran. *See Garma v. Twp. of Lakewood*, 14 N.J. Tax 1, 1994 WL 380713 (N.J. Tax Ct., March 22, 1994).

Here, I find the purpose of South Carolina's statute is to initially grant the exemption to *resident* veterans, and any subsequent benefits/exemptions flow from that initial exemption. I come to this conclusion because, when subsection (b) is read in context with subsection (a), it is clear that the statutory scheme is set up to first grant the exemption to a veteran who owns a residence in South Carolina and then to extend the exemption upon the veteran's death to a surviving spouse who continues to reside in the house or in a subsequent house in South Carolina.³ Furthermore, subsection (B)(1)(e)(iv) defines "house" as the owner's legal residence as defined in S.C. Code Ann. § 12-43-220 (2014). In order to qualify for the exemption under section 12-37-220(B), the qualifying house owned by the eligible owner must be located within South Carolina. *See* section 12-37-220(B)(1)(e)(iv) (citing S.C. Code Ann. § 12-43-220(c)). More specifically, to qualify under section 12-43-220(c), the owner is required to certify that:

(A) the residence which is the subject of this application is my legal residence and where I am domiciled at the time of this application and that neither I, nor any member of my household, claim to be a legal resident of a jurisdiction other than South Carolina for any purpose; and

(B) that neither I, nor a member of my household, claim the special assessment ratio allowed by this section on another residence.

S.C. Code Ann. § 12-43-220 (c)(2)(i)(A) and (B).

Interpreting section 12-37-220(B)(1)(b) to require a resident veteran to qualify for the exemption as a pre-requisite to a surviving spouse qualifying for the exemption is also logical considering the second part of the definition of "qualifying surviving spouse." *See CFRE, LLC*, 395 S.C. at 74, 716 S.E.2d at 881 ("[W]e read the statute as a whole and in a manner consonant and in harmony with its purpose."). Under the plain language of the definition of "qualified surviving spouse," a qualified surviving spouse also includes whose military spouse was *killed in action* can be extended the property tax exemption *only if* "at the time of death [the military spouse] owned the house in fee or jointly with the now surviving spouse." § 12-37-220(B)(1)(e)(iii)

³ I note that the parties also disagreed with who the "current owner" is for the purposes of the definition of "house" in this case. *See* § 12-37-220(B)(1)(e)(iv). I agree with the Department that the "current owner" is initially the totally and permanently disabled veteran and who qualifies for the exemption, then the surviving spouse becomes the "current owner" after the surviving spouse acquires the house from the veteran.

(emphasis added). Thus, the exemption in this situation is contingent upon the military spouse who died in action having owned a South Carolina residence in fee or jointly with the surviving spouse. *Id.* This is consistent with this Court's interpretation of 12-37-220(B)(1), which results in a surviving spouse of a totally and permanently disabled veteran having to meet this same requirement. However, construing 12-37-220(B)(1)(b) as urged by Petitioner would allow the surviving spouse of a disabled veteran to claim the exemption regardless of whether the disabled veteran ever owned a residence in South Carolina. Accordingly, Petitioner's interpretation would place a greater burden on surviving spouse of a military spouse killed in action than on the surviving spouse of a totally and permanently disabled veteran. I find that to be an absurd result and untenable. *See Sonoco Products Co. v. S.C. Dep't of Rev.*, 378 S.C. 385, 391, 662 S.E.2d 599, 602 (2008) (holding that courts "will reject a statutory interpretation when to accept it would lead to a result so plainly absurd that it could not possibly have been intended by the legislature or would defeat the plain legislative intention.").

Here, Mr. Cromey never resided in a home in South Carolina; therefore, he never owned a qualifying house in South Carolina that Petitioner could have acquired from him upon his death such that the exemption could be extended to a "subsequent home" purchased by Petitioner in South Carolina. *See* § 12-37-220(B)(1)(a), (b). Rather, the facts show Petitioner and Mr. Cromey owned a home together in Maryland. Mr. Cromey died in Maryland, and then Petitioner moved to South Carolina and purchased a home on her own. Therefore, Petitioner cannot show she acquired a qualifying home in South Carolina from Mr. Cromey.

Conclusion

Because there is no genuine issue as to any material fact in this case, I determine summary judgment is appropriate. *See* Rule 56(c), SCRPC. Having applied the law to the undisputed facts in this case, I conclude as a matter of law that Petitioner is not entitled to the disabled veteran property tax exemption for the property located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina, for tax years 2017 and 2018. Accordingly, I grant the Department's motion for summary judgement and deny Petitioner's motion for summary judgment.

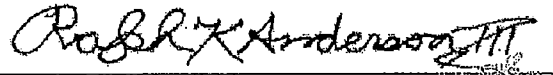
ORDER

IT IS THEREFORE ORDERED that the Department's motion for summary judgement is **GRANTED**.

IT IS FURTHER ORDERED that Petitioner's motion for summary judgment is **DENIED**.

IT IS FURTHER ORDERED that Petitioner is not entitled to the disabled veteran property tax exemption as a surviving spouse for the property located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina, for tax years 2017 and 2018.

AND IT IS SO ORDERED.

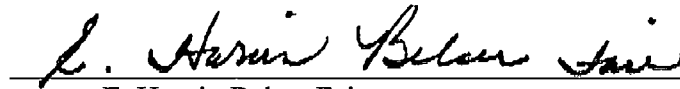
A handwritten signature in black ink, reading "Ralph King Anderson, III". The signature is written in a cursive style with a horizontal line underneath it.

Ralph King Anderson, III
Chief Administrative Law Judge

August 24, 2018
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

A handwritten signature in cursive script, reading "E. Harvin Belser Fair", is written over a horizontal line.

E. Harvin Belser Fair
Judicial Law Clerk

August 24, 2018
Columbia, South Carolina

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
OFFICE OF THE GENERAL COUNSEL

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Columbia, SC 29211-9979

January 24, 2018

The Honorable Ralph King Anderson, III
Chief Administrative Law Judge
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Ste. 224
Columbia, SC 29201

Re: Mary Cromeys vs. South Carolina Department of Revenue
Docket No. 17-ALJ-17-0451-CC

Dear Judge Anderson:

Enclosed please find the South Carolina Department of Revenue's Prehearing Statement in the above-referenced matter. Also enclosed is a Proof of Service.

Should you have any questions, please do not hesitate to contact me at 803-898-1826 or Nicole.Wooten@dor.sc.gov.

Very truly yours,

OFFICE OF GENERAL COUNSEL FOR LITIGATION

A handwritten signature in dark ink, appearing to read "Nicole M. Wooten", is written over the typed name.

Nicole M. Wooten
Counsel for Litigation

c: Mary Cromeys, Petitioner

Enclosures
NMW:tm

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Mary E. Cromeey,

Petitioner,

vs.

South Carolina Department of Revenue,

Respondent.

Docket No. 17-ALJ-17-0451-CC

**RESPONDENT'S
PREHEARING STATEMENT**

TO: The Honorable Ralph King Anderson, III, Presiding Judge:

Pursuant to ALC Rule 14 and the Order for Prehearing Statements filed January 16, 2018, the South Carolina Department of Revenue (Department) would respond as follows:

1. The nature of this proceeding:

Mary E. Cromeey (Petitioner) filed a contested case hearing to challenge the Department's determination that Petitioner is not entitled to the disabled veteran property tax exemption as a surviving spouse for the 2017 property tax year. Petitioner applied for such exemption for property located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina.

2. Statutory provisions conferring subject matter jurisdiction to the agency and other applicable statutes and regulations:

Applicable statutory provisions include:

- A. S.C. Code Ann. § 12-4-10 (2014): Creates the Department and gives it the power to administer and enforce the revenue laws of this State.
- B. S.C. Code Ann. § 12-4-710 (2014): Gives the Department the authority to determine if any property qualifies for exemption from local property taxes under S.C. Code Ann. § 12-37-220.
- C. S.C. Code Ann. § 12-60-460 (2014): Creates right for taxpayer to seek relief from the Department's final agency decision by filing a request for contested case hearing with the Administrative Law Court.
- D. S.C. Code Ann. § 1-23-600 (Supp. 2012): Confers jurisdiction upon the Administrative Law Court to hear this contested tax case.

E. S.C. Code Ann. § 12-37-210 (2014): Provides that all real and personal property in South Carolina is subject to taxation.

F. S.C. Code Ann. § 12-37-220(B)(1) (2014): Provides for exemption from ad valorem taxation for certain classes of property.

1. S.C. Code Ann. § 12-37-220(B)(1)(a): provides requirement that house must be owned by an eligible owner in fee or jointly with a spouse to qualify for exemption under section 12-37-220(B)(1)

2. S.C. Code Ann. § 12-37-220(B)(1)(b): provides that exemption granted in section 12-37-220(B)(1) may be extended to a qualified surviving spouse if certain requirements are met.

3. S.C. Code Ann. § 12-37-220(B)(1)(e)(i): provides definition of "eligible owner" for purposes of exemption under section 12-37-220(B)(1).

4. S.C. Code Ann. § 12-37-220(B)(1)(e)(iii): provides definition of "qualified surviving spouse" for purposes of exemption under section 12-37-220(B)(1).

5. S.C. Code Ann. § 12-37-220(B)(1)(e)(iv): provides definition of "house" for purposes of exemption under section 12-37-220(B)(1).

G. S.C. Code Ann. § 12-43-220(c) (2014): provides that a taxpayer's legal residence in South Carolina is taxed on an assessment equal to four percent of the fair market value of the property if certain requirements are met.

3. The issues presented for determination set forth with particularity, including any claims or defenses expected to be raised:

Issue: Is Petitioner entitled to the disabled veteran property tax exemption as a surviving spouse pursuant to S.C. Code Ann. § 12-37-220(B)(1)?

Expected Claims or Defenses:

Petitioner claims that she is entitled to the exemption for four reasons. First, Petitioner asserts that because she and her husband jointly owned a home in Maryland that qualified for the disabled veteran exemption, her subsequently acquired home in South Carolina should also qualify for the exemption. However, section 12-37-220(B) does not automatically extend the disabled veteran exemption granted in another state to a surviving spouse who subsequently purchases real property located in South Carolina. Further, the disabled veteran property tax exemption varies by state, and in some cases, by local jurisdictions.

Petitioner also asserts that she applied for and received the disabled veteran exemption as a surviving spouse for her South Carolina home purchased in 2010, and thus, the purchase of her "subsequently acquired home" in 2016 should also qualify for the exemption. The Department does not dispute that the Petitioner received the surviving spouse exemption for tax year 2011; however, Petitioner was erroneously granted such exemption as she did not meet the requirements of section 12-37-220(B)(1) when she purchased the home in 2010. *See Morgan v. S.C. Budget and Control Bd.*, 377 S.C. 313, 319-230, 659 S.E.2d 263, 266-267 (concluding "[e]stoppel will not lie against a government entity where a government employee gives erroneous information in contradiction of statute. Simply stated, equity follows the law.") (citations omitted).

Petitioner also asserts that section 12-37-220(B) does not require the disabled veteran to own property in South Carolina. Petitioner's claim is without merit. For purposes of the exemption in section 12-37-220(B)(1), "house" is defined as the owner's legal residence, and subsection (b)(1)(e)(i) defines "eligible owner" as the disabled veteran. Simply put, to qualify for the exemption, the statute requires the "house" to be the disabled veteran's legal residence.

Petitioner finally asserts that an employee in the county auditor's office advised her that the auditor's office has "never been aware of the requirement" that the disabled veteran own the property in South Carolina in order for the surviving spouse exemption to apply. Unfortunately, even if a county employee advised the Petitioner that she is entitled to the exemption, the General Assembly charged the Department with the administration of property tax exemptions such as the exemption this matter. The Department has determined that Petitioner does not meet the requirements of the statute. *See Mead v. Beaufort Cty. Assessor*, 419 S.C. 125, 796 S.E.2d 165, 171 (Ct. App. 2016), *petition for cert. filed*, (Mar. 24, 2017) ("The construction of a statute by the agency charged with its administration will be accorded the most respectful consideration and will not be overruled absent compelling reasons.") (citations omitted).

4. The action requested of the Court and a detailed statement of the law which supports the requested action, including statutory and/or case citations:

The Department requests that the Court uphold its determination as to all issues.

Please see the Department Determination issued on November 20, 2017, for a more thorough analysis of the issues presented herein.

5. A brief summary of the facts to be presented at the hearing:

- A. Petitioner is the surviving spouse of Mr. Lloyd D. Crome. Mr. Crome, a veteran, passed away in 2005.

- B. Mr. Cromey was deemed to be permanently and totally disabled in February 2004.¹ He lived in a home jointly owned with the Petitioner in Owings Mills, Maryland until his death in 2005. Mr. Cromey has never been a resident of South Carolina, and he has never owned real property in South Carolina.
- C. Petitioner moved to South Carolina in 2010 and purchased real property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina. Petitioner applied for and received the disabled veteran property tax exemption as a surviving spouse for this property beginning with tax year 2011
- D. In 2016, Petitioner sold the property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina.
- E. In August 2016, Petitioner acquired the real property located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina ("legal residence").
- F. At all times, the legal residence has been solely listed in the Petitioner's name.
- G. On February 17, 2017, Petitioner submitted to the Department a 2017 application for property tax exemption (Form PT 401-1), based on section 12-37-220(B)(1)(a). Petitioner subsequently submitted a Legal Residence (4%) Exemption Application to the Department. In her applications, Petitioner requested a property tax exemption for her legal residence based on her status as a surviving spouse of a disabled veteran.
- H. On April 19, 2017, the Department issued a Property Tax Exemption Denial to the Petitioner. The Department determined that Petitioner did not meet the requirements of section 12-37-220(B)(1)(a).
- I. By letter dated July 11, 2017, Petitioner submitted correspondence to the Department protesting the Property Tax Exemption Denial.
- J. On July 18, 2017, the Department acknowledged its receipt of the Petitioner's protest of the Property Tax Exemption Denial for the legal residence.
- K. On August 15, 2017, the Department received correspondence from the Petitioner informing the Department that she wished to continue to appeal the Department's decision.
- L. The file was subsequently forwarded to the Department's Office of General Counsel for Litigation.

¹Mr. Cromey's disability status is supported by documentation from the United States Veterans Administration.

M. The Department issued its final agency decision on November 20, 2017.

6. A summary of any motions expected to be raised at the hearing and the appropriate authority underlying the motion:

The Department anticipates filing a motion for summary judgment in this matter. Further, the Department reserves the right to raise additional motions if circumstances warrant such action.

7. A list of proposed witnesses and exhibits:

Witnesses:

Latisha Johnson, Exempt Property Supervisor

The Department reserves the right to name additional witnesses pending the completion of discovery.

Exhibits:

- A. Department's File
- B. November 20, 2017 Department Determination

The Department reserves the right to name additional exhibits after discovery.

8. A statement regarding the necessity for discovery, if any:

The Department issued discovery requests to Petitioner on January 12, 2018. The Department may issue supplemental discovery requests after receiving answers to its initial requests.

9. The estimated length of the hearing:

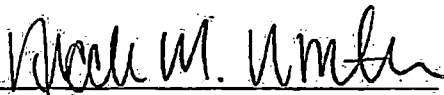
One (1) day.

10. Any dates in the next one hundred twenty (120) days when you will not be available for a hearing:

February 19
March: 19-12; 30
April: 2-6
May: 10; 22; 25; 28, 2018

11. An e-mail address where you can be reached:

Nicole.Wooten@dor.sc.gov



Nicole M. Wooten (Bar No. 73594)
Counsel for Litigation
Jason P. Luther (Bar No. 78021)
General Counsel for Litigation
PO Box 12265
Columbia, SC 29211-9979
Phone: 803-898-1826
Nicole.Wooten@dor.sc.gov
CourtOrders@dor.sc.gov
Attorneys for Department of Revenue

Columbia, South Carolina
January 24, 2018

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Mary Cromeey,

Petitioner,

vs.

South Carolina Department of
Revenue,

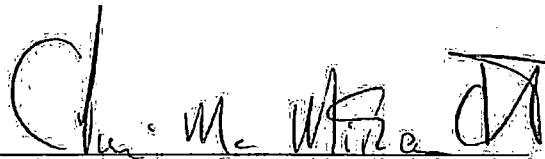
Respondent.

DOCKET NO. 17-ALJ-17-0451-CC

PROOF OF SERVICE

I, the undersigned employee of the South Carolina Department of Revenue, Office of General Counsel, do hereby certify that I have served the South Carolina Department of Revenue's Prehearing Statement in connection with the above-captioned matter by causing a copy of the same to be deposited in the United States Mail on the below date, postage prepaid to the following party at the address of record:

Mary Cromeey
1885 Carolina Towne Court
Mount Pleasant, SC 29464
Petitioner



Tonie M. Miranda
Legal Assistant, Office of General Counsel
South Carolina Department of Revenue

Columbia, South Carolina
January 24, 2018

1885 Carolina Towne Court
Mount Pleasant SC 29464

January 29, 2018

The Honorable Ralph King Anderson, III
Chief Administrative Law Judge
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Ste. 224
Columbia, SC 29201

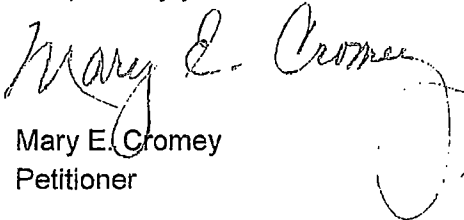
RE: Mary E. Cromeys vs. South Carolina Department of Revenue
Docket No. 17-ALJ-17-0451-CC

Dear Judge Anderson:

Enclosed please find the South Carolina's Department of Revenue's Prehearing Statement as noted above. Also enclosed is a Proof of Service.

Please do not hesitate to contact me if you so desire.

Respectfully yours,


Mary E. Cromeys
Petitioner

Copy: Nicole M. Wooten
Counsel for Litigation
South Carolina Department of Revenue

mec
Enclosures

January 29, 2018

South Carolina Department of Revenue, Respondent

Docket No. 17-ALJ-17-0451-CC

Vs.

Petitioner's Prehearing Statement

Mary E. Cromeey, Petitioner

TO: The Honorable Ralph King Anderson, III, Presiding Judge:

1. The nature of this proceeding:

I, Mary E. Cromeey, Petitioner, requested a contested case hearing on December 18, 2017 to challenge decision by South Carolina Department of Revenue that I do not qualify for property tax exemption in state of SC because my deceased husband never owned property in the state.

2. Statutory provisions conferring subject matter jurisdiction to the agency and other applicable statutes and regulations:

- a. Tax Exemption Application, PT-401: Classifications of Exempt Property: SC Code Section 12-37-220(B)(1)(a); 12-37-220(B)(i)(A); 12-37-220(B)(1)(b); 12-37-220(B)(1)(b)(iii); 12-37-220(B)(1)(c).

3. The issues presented for determination set forth with particularity, including any claims or defenses expected to be raised:

Am I, Mary E. Cromeey, the Petitioner, exempted from personal property taxes as the surviving spouse of a disabled veteran of the armed forces of the United States who was permanently and totally disabled as a result of a service-connected disability (SC Code Section 12-37-220(B)(1)(a); 12-37-220(B)(i)(A); 12-37-220(B)(1)(b); 12-37-220(B)(1)(b)(iii); 12-37-220(B)(1)(c).

Petitioner's defense is:

Property tax exemption was granted to Mr. Lloyd D. Cromeey for property located at 100 Rangeford Dr., Owings Mills, MD on July 7, 2005.

Property tax exemption was granted to Mary E. Cromeey, spouse to deceased disabled veteran, Lloyd D. Cromeey, for property located at 1551 Ben Sawyer Blvd., Mt. Pleasant, SC 29464 on December 13, 2010. Letter from Department of Revenue, Hazel McCallum, Auditor 1/Exempt Property, restating property tax exemption for

PETITIONER'S PREHEARING STATEMENT

Page 2

1551 Ben Sawyer Blvd., Mt. Pleasant SC 29464 would be for calendar year 2011, letter dated January 4, 2011.

Property tax exemption denied to Mary E. Cromey for property located at 1885 Carolina Towne Ct., Mt. Pleasant SC 29464 dated April 17, 2017.

Louise Shaw, Tax Manager in the Charleston County Auditor's office, assisted me in the preparation of my Tax Exemption Applications in 2010 and 2017. She placed calls to the Department of Revenue after my denial as she believed a mistake had been made. As Ms. Shaw stated to me, she had never heard of this explanation for denial before and she did not believe it was correct. In her position, she works with veterans and spouses in securing tax exemptions.

4. The action requested of the Court and a detailed statement of the law which supports the requested action, including statutory and/or case citations:

It is requested that the Court examine the Tax Exemption Application, PT-401, SC Code 12-37-220 and subdivisions that apply. It is also requested that the Court examine the prior approval of property tax exemption granted to the Petitioner in 2010 and to understand why this exemption was granted and to reverse the 2017 denial of this exemption.

5. A brief summary of the facts to be presented at the hearing:

Fact 1: My late husband was granted property tax exemption in Maryland where we resided in 2005 and this is the residence where he died in 2005. The Petitioner lived at this residence until 2010.

Fact 2: I, Mary E. Cromey, Petitioner, moved to South Carolina in 2010 and I received property tax exemption for my residence at 1551 Ben Sawyer Blvd. Mt. Pleasant SC.

Fact 3: I, Mary E. Cromey, Petitioner, moved to another residence in 2016 and was denied property tax exemption for residence at 1885 Carolina Towne Ct. Mt. Pleasant.

6. A summary of any motions expected to be raised at the hearing and the appropriate authority underlying the motion.

I do not plan to file a motion at this time; however, the Petitioner reserves the right to raise motion if circumstances warrant.

PETITIONER'S PREHEARING STATEMENT

Page 3

7. A list of proposed witnesses and exhibits:

Witness: Mary E. Cromeey, Petitioner

The petitioner reserves the right to name additional witnesses pending completion of discovery.

Exhibits: Petitioner's File, Protest letters. The Petitioner reserves the right to name additional exhibits after discovery.

8. A statement regarding the necessity for discovery, if any:

No discovery request at this time.

9. The estimated length of the hearing:

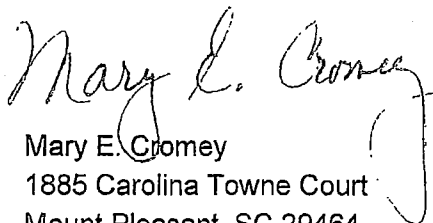
One (1) day.

10. Any dates in the next one hundred twenty (120) days when you will not be available for a hearing:

February 6, 7, 8 and 21
March 12 thru 19

11. An email address where you can be reached:

mcromey@msn.com
mcromeysc@gmail.com


Mary E. Cromeey
1885 Carolina Towne Court
Mount Pleasant, SC 29464
Phone: 410.236.9028

Mary E. Cromey, Petitioner

Vs.

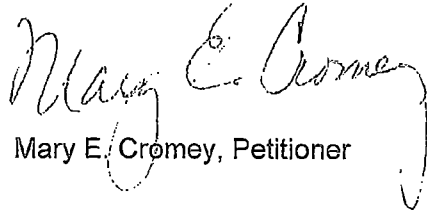
South Carolina Department of Revenue,
Respondent

DOCKET NO: 17-ALJ-17-0451-CC

PROOF OF SERVICE

I, the undersigned, do certify that I served the Prehearing Statement of Petitioner, Mary E. Cromey, in connection with the above-referenced matter by causing a copy of the same to be deposited in the United States Mail on the below date. Postage prepaid to the following party at the address of record:

Nicole M. Wooten
Counsel for Litigation
Department of Revenue
P.O. Box 12265
Columbia, SC 29211-9979


Mary E. Cromey, Petitioner

Mount Pleasant, South Carolina
January 31, 2018

1885 Carolina Towne Court
Mount Pleasant, SC 29464

February 7, 2018

Nicole M. Wooten
Counsel for Litigation
State of South Carolina
Department of Revenue
P.O. Box 12265
Columbia, SC 29211-9979

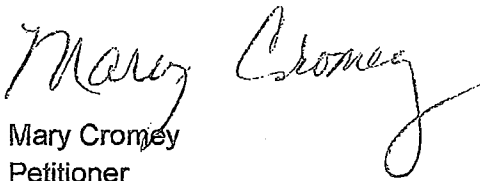
RE: Mary Cromey vs. South Carolina Department of Revenue
Docket No: 17-ALJ-17-0451-CC

Dear Ms. Wooten:

Enclosed is Petitioner's Admissions Statement regarding the above-noted case. Also enclosed is Proof of Service.

Should you have any further questions, please do not hesitate to contact me at 410.236.9028 or by email at mcromeysc@gmail.com.

Respectfully,


Mary Cromey
Petitioner

Enclosures

Copy: The Honorable Ralph King Anderson, III
Chief Administrative Law Judge
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Ste. 224
Columbia, SC 29201

Mary Cromey, Petitioner

DOCKET NO: 17-ALJ-17-0451-CC

vs.

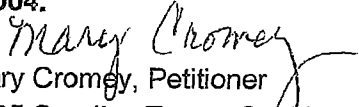
South Carolina Department of Revenue,
Respondent

**RESPONDENT'S REQUEST FOR
ADMISSIONS**

TO: Respondent, South Carolina Department of Revenue

ADMISSIONS

1. Petitioner is the surviving spouse of Lloyd D. Cromey (Mr. Cromey).
2. In February 2004, The United States Veterans Administration deemed Mr. Cromey to be permanently and totally disabled.
3. Mr. Cromey passed away in 2005.
4. Petitioner and Mr. Cromey lived in a jointly owned home in Owings Mills, Maryland until his death in 2005.
5. Mr. Cromey has never been a resident of South Carolina.
6. Mr. Cromey has never owned real property in South Carolina.
7. Petitioner moved to South Carolina in 2010 and purchased real property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina.
8. Petitioner sold the property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina in 2016.
9. Petitioner acquired real property located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina (legal residence) in August 2016.
10. **Since August 2016, the legal residence has been solely owned by the Petitioner, and Deed was filed transferring the property to the Lloyd and Mary Cromey Revocable Trust dated January 23, 2004.**


Mary Cromey, Petitioner
1885 Carolina Towne Ct. Mount Pleasant SC

Mount Pleasant SC
February 6, 2018

Mary Cromey, Petitioner

DOCKET NO: 17-ALJ-17-0451-CC

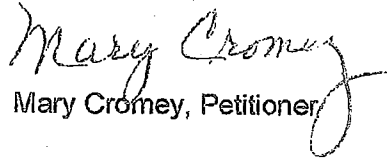
vs.

South Carolina Department of Revenue,
Respondent

PROOF OF SERVICE

I, the Petitioner, do hereby certify that I have served My Admissions' Statement in connection with the above-noted matter by causing a copy of the same to be deposited in the United States Mail on the below date, postage prepaid to the following party at the address of record:

Nicole M. Wooten
Counsel for Litigation
Department of Revenue
P.O. Box 12265
Columbia, SC 29211-9979


Mary Cromey, Petitioner

Mount Pleasant SC
February 7, 2018

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Mary Cromey,	)	DOCKET NO. 17-ALJ-17-0451-CC
	)	
Petitioner,	)	
	)	
vs.	)	
	)	
South Carolina Department of Revenue,	)	RESPONDENT'S
	)	REQUEST FOR ADMISSIONS
Respondent.	)	
	)	

TO: Petitioner Mary Cromey:

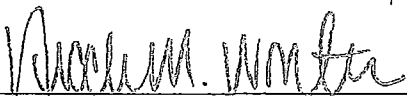
Pursuant to ALC Rule 21, and Rule 36, SCRCP, Respondent South Carolina Department of Revenue (Department), hereby serves you with the following Request for Admissions and request that Petitioner Mary Cromey (Petitioner), within 30 days after service of this Request, admit for the purposes of this action only, that each of the statements set forth below is true.

If an objection is made, the reasons therefore must be stated. Petitioner may not object solely on the ground that a request presents a genuine issue for trial.

REQUEST TO ADMIT

1. Admit that Petitioner is the surviving spouse of Lloyd D. Cromey ("Mr. Cromey").
2. Admit that in February 2004, the United States Veterans Administration deemed Mr. Cromey to be permanently and totally disabled.
3. Admit that Mr. Cromey passed away in 2005.
4. Admit that Petitioner and Mr. Cromey lived in a jointly owned home in Owing Mills, Maryland until his death in 2005.
5. Admit that Mr. Cromey has never been a resident of South Carolina.

6. Admit that Mr. Cromey has never owned real property in South Carolina.
7. Admit that Petitioner moved to South Carolina in 2010 and purchased real property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina.
8. Admit that Petitioner sold the property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina in 2016.
9. Admit that Petitioner acquired the real property located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina ("legal residence") in August 2016.
10. Admit that since August 2016, the legal residence has been solely owned by the Petitioner. *under Estate of Lloyd B. and Mary E. Cromey Revocable Trust.*



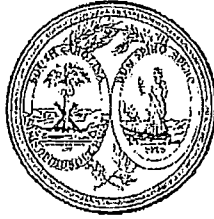
Nicole M. Wooten (Bar No. 73594)
Counsel for Litigation
Jason P. Luther (Bar No. 78021)
General Counsel for Litigation
P.O. Box 12265
Columbia, SC 29211-9979
803-898-1826 (Telephone)
Nicole.Wooten@dor.sc.gov
Attorneys for Department of Revenue

Columbia, South Carolina
January 12, 2018

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
OFFICE OF THE GENERAL COUNSEL

Physical Address:

300A Outlet Pointe Blvd.
Columbia, SC 29210



Mailing Address:

PO Box 12265
Columbia, SC 29211-9979

February 23, 2018

The Honorable Ralph King Anderson, III
Chief Administrative Law Judge
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Ste. 224
Columbia, SC 29201

Re: Mary Cromeys vs. South Carolina Department of Revenue
Docket No. 17-ALJ-17-0451-CC

Dear Judge Anderson:

Enclosed please find the South Carolina Department of Revenue's (Respondent's) Motion for Summary Judgment and Memorandum in Support of Respondent's Motion for Summary Judgment in the above-referenced matter. Also enclosed is a Proof of Service.

Should you have any questions, please do not hesitate to contact me at 803-898-1826 or Nicole.Wooten@dor.sc.gov.

Very truly yours,

OFFICE OF GENERAL COUNSEL FOR LITIGATION

Nicole M. Wooten
Counsel for Litigation

c: Mary Cromeys, Petitioner

Enclosures
NMW: tm

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Mary Cromeey,	)	Docket No. 17-ALJ-17-0451-CC
	)	
Petitioner,	)	
	)	
v.	)	RESPONDENT'S MOTION
	)	FOR SUMMARY JUDGMENT
	)	
South Carolina Department of Revenue,	)	
	)	
Respondent.	)	

TO: MARY CROMEY, PETITIONER

PLEASE TAKE NOTICE that pursuant to Rule 56(c), SCRCP, and ALC Rule 68, Respondent South Carolina Department of Revenue (Department), by and through its undersigned attorney, will ten days from the date of service hereof, or as soon thereafter as counsel may be heard, move before the Presiding Judge of the Administrative Law Court (ALC) for an Order granting summary judgment to the Department in the above-referenced matter. This Motion is based on the grounds that no genuine issue of material fact is in dispute as to the issue that Mary Cromeey (Petitioner) is not entitled to the disabled veteran property tax exemption as a surviving spouse pursuant to S.C. Code Ann. § 12-37-220(B)(1) (2014). Accordingly, the Department is entitled to judgment as a matter of law.

Summary judgment should be granted when there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *R.J. Hendricks, II v. Clemson Univ.*, 353 S.C. 449, 455, 578 S.E.2d 711, 714 (2003); Rule 56(c), SCRCP; ALC Rule 68. As explained more fully in the Memorandum of Law included herewith, the material facts related to whether Petitioner is entitled to the property tax exemption pursuant to section 12-37-220(B)(1) are not in

dispute. Moreover, the Department is entitled to judgment as a matter of law on this issue and, therefore, summary judgment is appropriate.

WHEREFORE, the Department moves that the Court enter summary judgment in favor of the Department and for such other and further relief as the Court deems just and proper.

Respectfully submitted,



Nicole M. Wooten (Bar No. 73594)
Counsel for Litigation
Jason P. Luther (Bar No. 78021)
General Counsel for Litigation
P.O. Box 12265
Columbia, SC 29211-9979
803-898-1826
803-896-0171 (Fax)
Attorneys for Department of Revenue
Nicole.Wooten@dor.sc.gov
courtorders@dor.sc.gov

Columbia, South Carolina
February 23, 2018

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Mary Cromeey,	)	Docket No. 17-ALJ-17-0451-CC
	)	
Petitioner,	)	
	)	
v.	)	MEMORANDUM IN SUPPORT
	)	OF RESPONDENT'S MOTION
	)	FOR SUMMARY JUDGMENT
South Carolina Department of Revenue,	)	
	)	
Respondent.	)	
	)	

Respondent South Carolina Department of Revenue (Department), by and through the undersigned counsel, respectfully submits this Memorandum in Support of Respondent's Motion for Summary Judgment. For the reasons set forth below, the Administrative Law Court (ALC) should grant the motion as Mary Cromeey (Petitioner) is not entitled to the disabled veteran property tax exemption as a surviving spouse pursuant to S.C. Code Ann. § 12-37-220(B)(1) (2014). Accordingly, there is no genuine issue of material fact and the Department is entitled to judgment as a matter of law.

STATEMENT OF THE CASE

This matter is before the ALC pursuant to Petitioner's request for a contested case hearing under S.C. Code Ann. §§ 12-60-460(C) and 12-60-2120(D) (2014). The issue before the ALC is whether Petitioner is entitled to the disabled veteran property tax exemption as a surviving spouse pursuant to section 12-37-220(B)(1). The Department now files this Motion for Summary Judgment because the material facts not in dispute demonstrate that Petitioner cannot meet the

requirements of section 12-37-220(B)(1), and the Department is entitled to judgment as a matter of law.

MATERIAL FACTS NOT IN DISPUTE

The following material facts are not in dispute:

1. Petitioner is the surviving spouse of Lloyd D. Cromeey ("Mr. Cromeey"). (Pet'r Responses to Request to Admit, Ex. 1.)
2. In February 2004, United States Veterans Administration deemed Mr. Cromeey to be permanently and totally disabled. *Id.*
3. Mr. Cromeey passed away in 2005. *Id.*
4. Petitioner and Mr. Cromeey lived in a jointly owned home in Owing Mills, Maryland until his death in 2005. *Id.*
5. Mr. Cromeey has never been a resident of South Carolina. *Id.*
6. Mr. Cromeey has never owned real property in South Carolina. *Id.*
7. Petitioner moved to South Carolina in 2010 and purchased real property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina. *Id.* Petitioner submitted an application to the Department for the disabled veteran property tax exemption as a surviving spouse on this property beginning with tax year 2011, and the Department granted the Petitioner's application. (December 14, 2010 approval letter, Ex. 2.)
8. In 2016, Petitioner sold the property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina. (Ex. 1.)
9. Petitioner purchased the real property located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina ("legal residence") in August 2016. *Id.*

10. Petitioner applied for the disabled veteran property tax exemption as a surviving spouse for the legal residence on February 17, 2017. (Pet'r 2017 Property Tax Exemption Application and Legal Residence Exemption Application, Ex. 3.) The Department denied Petitioner's application based upon the Department's determination that Petitioner did not meet the requirements of S.C. Code Ann. § 12-37-220(B)(1)(a) (2014). (April 19, 2017 Denial Letter and July 18, 2017 correspondence, Ex. 4; Affidavit of Latisha Q. Johnson, Ex. 5.)

11. Since 2016, the legal residence has been solely owned by the Petitioner. (Ex. 1.)¹

STANDARD OF REVIEW

Summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Young v. S.C. Dep't of Disabilities & Special Needs*, 374 S.C. 360, 649 S.E.2d 488 (2007); *Henderson v. Allied Signal, Inc.*, 373 S.C. 179, 644 S.E.2d 724 (2007); *Pittman v. Grand Strand Entm't, Inc.*, 363 S.C. 531, 611 S.E.2d 922 (2005); *Eagle Container Co., LLC v. County of Newberry*, 366 S.C. 611, 622 S.E.2d 733 (Ct. App. 2005); *B & B Liquors, Inc. v. O'Neil*, 361 S.C. 267, 603 S.E.2d 629 (Ct. App. 2004). In determining whether any genuine issue as to any material fact exists, the evidence and all inferences that can reasonably be drawn therefrom must be viewed in the light most favorable to

¹In her response to the Department's Request to Admit, Petitioner asserts that the legal residence "Deed was filed transferring the property to the Lloyd and Mary Cromey Revocable Trust dated January 23, 2004." (Ex. 1, ¶ 10.) However, the public indexes of the Charleston County Assessor's Office and the Charleston County Register of Deeds Office list the owner of the legal residence as Mary E. Cromey. (Charleston County records via public indexes, Ex. 6.) Moreover, Petitioner admitted that Mr. Cromey has never owned property in South Carolina prior to his death. (Ex. 1.)

the non-moving party.² *Catawba Indian Tribe of S.C. v. State*, 372 S.C. 519, 642 S.E.2d 751 (2007); *Med. Univ. of S.C. v. Arnaud*, 360 S.C. 615, 602 S.E.2d 747 (2004); *Moore v. Weinberg*, 373 S.C. 209, 216, 644 S.E.2d 740, 743 (Ct. App. 2007); *Rife v. Hitachi Constr. Mach. Co., Ltd.*, 363 S.C. 209, 609 S.E.2d 565 (Ct. App. 2005). “The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.” *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). “A court considering summary judgment neither makes factual determinations nor considers the merits of competing testimony; however, summary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner.” *David v. McLeod Reg’l Med. Ctr.*, 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006). Thus, because the material facts listed above are not in dispute, and those facts viewed in the light most favorable to Petitioner establish that she cannot meet the exemption requirements of section 12-37-220(B)(1), the Court should grant the Department’s Motion for Summary Judgment.

DISCUSSION

The sole issue in this case is whether Petitioner is entitled to the disabled veteran property tax exemption as a surviving spouse. In South Carolina, it is well settled that “the language of a tax exemption statute must be given its plain, ordinary meaning and must be construed strictly against the claimed exemption.” *Owen Indus. Prods., Inc. v. Sharpe*, 274 S.C. 193, 195, 262 S.E.2d 33, 34 (1980); *see also Southeastern-Kusan, Inc. v. S.C. Tax Comm’n*, 276 S.C. 487, 489,

²*See also Bovain v. Canal Ins.*, 383 S.C. 100, 105, 678 S.E.2d 422, 424 (2009) (“Rule 56(c) of the South Carolina Rules of Civil Procedure provides that a trial court may grant a motion for summary judgment ‘if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.’”) (citation omitted).

280 S.E.2d 57, 58 (1981) (“As a general rule, tax exemption statutes are strictly construed against the taxpayer.”). Accordingly, in order to claim an exemption a taxpayer has the burden of “clearly bring[ing] himself with the constitutional or statutory language upon which he relies.” *York County Fair Ass’n, Inc. v. S.C. Tax Comm’n*, 249 S.C. 337, 341, 154 S.E.2d 361, 363 (1967) (quoting *Textile Hall Corp. v. Hill*, 215 S.C. 262, 54 S.E.2d 809 (1949)).

Under South Carolina law, “[a]ll real and personal property in this State . . . shall be subject to taxation” unless expressly exempted as a matter of legislative grace. S.C. Code Ann. § 12-37-210 (2014); *S. Weaving Co. v. Query*, 206 S.C. 307, 34 S.E.2d 51 (1945). The General Assembly has delineated specific exemptions to ad valorem property tax in S.C. Code Ann. § 12-37-220 (2014). The relevant provisions of the statute exempt the following:

(B) [T]he following classes of property are exempt from ad valorem taxation subject to the provisions of Section 12-4-720:

(1)(a) the house owned by an eligible owner in fee or jointly with a spouse;

(b) the house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse.

S.C. Code Ann. § 12-37-220(B)(1)(a) – (b) (2014). For purposes of the exemption in S.C. Code Ann. § 12-37-220(B) (2014), the following definitions are relevant:

“[H]ouse” means a dwelling and the lot on which it is situated classified in the hands of the current owner [as the owner’s legal residence].

“[E]ligible owner” means a veteran of the armed forces of the United States who is permanently and totally disabled as a result of a service-connected disability and who files with the Department of

Revenue a certificate signed by the county service officer certifying this disability.

“[Q]ualified surviving spouse” means the surviving spouse of an [eligible owner] while remaining unmarried, who resides in the house, and who owns the house in fee or for life.

S.C. Code Ann. §§ 12-37-220(B)(1)(e)(i), 12-37-220(B)(1)(e)(iii), and 12-37-220(B)(1)(e)(iv) (2014).

The exemption in section 12-37-220(B)(1) is granted to the disabled veteran. Further, the exemption in section 12-37-220(B)(1) may be extended to the surviving spouse if certain requirements are met. Here, however, Petitioner cannot meet the requirements of section 12-37-220(B)(1) because Mr. Cromey was never eligible for the exemption in South Carolina. Specifically, Mr. Cromey neither owned nor resided in a house in South Carolina.

Section 12-37-220(B)(1)(e)(i) defines “eligible owner” as the disabled veteran, and subsection (b)(1)(e)(i) defines “house” as the owner’s legal residence. In order to qualify for the exemption under section 12-37-220(B), the eligible owner must have owned the house in fee or jointly with his spouse. Further, because section 12-37-220(B) is an exemption from South Carolina property taxes, it necessarily follows that the qualifying house owned by the eligible owner must be located within South Carolina. *See* section 12-37-220(B)(1)(e)(iv) (citing S.C. Code Ann. § 12-43-220(c) (2014)). Here, the disabled veteran (Mr. Cromey) neither owned nor resided in the home for which Petitioner seeks the exemption. Moreover, Mr. Cromey never owned or resided in any house in South Carolina. Thus Petitioner, as the surviving spouse, is not eligible for the exemption on any home she acquired subsequent to the death of her husband.

Simply put, because Mr. Cromey never qualified for the exemption in South Carolina, the exemption cannot be extended to the Petitioner in South Carolina.³

Accordingly, for the home to qualify for the exemption, the eligible owner must have owned the home in fee or jointly with a spouse (Petitioner), such that the Petitioner would have acquired the home from him upon or subsequent to his death. The Administrative Law Court has consistently applied the Department's interpretation of section 12-37-220(B). In *Watson v. South Carolina Department of Revenue*, 2000 WL 147506, No. 99-ALJ-17-0304-CC, (2000), the court agreed with the Department's interpretation and found that five elements are required for a taxpayer to claim this exemption:⁴

- (1) the disabled veteran must have resided in the dwelling;
- (2) the disabled veteran must have owned the property in fee, for life or jointly with his spouse;
- (3) the spouse must not be remarried;
- (4) the spouse must reside at the same dwelling; and
- (5) the spouse

³Section 12-37-220(B) does not automatically extend the disabled veteran exemption granted in another state to a surviving spouse who subsequently purchases real property located in South Carolina. The disabled veteran property tax exemption varies by state, and in some cases, by local jurisdictions. *See* Md. Code Ann., Tax-Property § 7-208 (2014) (requiring the "dwelling house" to be acquired by the surviving spouse within 2 years of the individual's death, if the individual or the surviving spouse was domiciled in Maryland as of the date of the individual's death); Ga. Code Ann. § 48-5-48 (2017) (a disabled veteran may receive a property tax exemption of \$60,000 or more on his primary residence if the veteran is 100 percent disabled; property in excess of this exemption remains taxable); N.C. Gen. Stat. Ann. § 105-277.1C (2010) (providing a property tax exemption to disabled veterans of up to the first \$45,000 of the appraised value of his property residence if the veteran is 100 percent disabled as a result of service).

Moreover, courts have recognized a state's right to create exemptions from local property taxes for the surviving spouse of a resident disabled veteran but denying the exemption to a surviving spouse of a nonresident disabled veteran. *Garma v. Twp. of Lakewood*, 14 N.J. Tax 1, 1994 WL 380713 (N.J. Tax Ct., March 22, 1994).

⁴Although the wording of the statute applied in *Watson* was subsequently amended to its current form, the substance of the relevant portions that form the basis of that decision remains unaltered.

must have obtained by devise a fee or life estate in the property from the disabled veteran.

Petitioner has not met this burden, and the exemption cannot be granted. Mr. Cromey never resided in any residence in South Carolina (element 1), he has never owned any interest in any residence in South Carolina (element 2), Petitioner never resided in the same residence with Mr. Cromey in South Carolina (element 4), and Petitioner did not receive a fee or life estate in the property from Mr. Cromey (element 5). These facts independently disqualify Petitioner from receiving the disabled veteran property tax exemption as a surviving spouse pursuant to section 12-37-220(B)(1). Although the application of the statute may appear harsh in this case, the Department must follow the law as written.⁵ *Smith v. Wallace*, 295 S.C. 448, 369 S.E.2d 657 (Ct. App. 1988) (“The Legislature can repeal or amend its statute but neither the [state agency] nor this Court has the authority to do so.”). The Petitioner purchased the legal residence in her own name subsequent to the death of her husband, and unfortunately, that disqualifies the legal residence from the available exemption under section 12-37-220(B).⁶ The Petitioner did not receive a fee or

⁵The Department does not dispute that Petitioner received the surviving spouse exemption for tax years 2011-2016; however, the Department erroneously granted such exemption to Petitioner as she did not meet the requirements of section 12-37-220(B) when she purchased the home in 2010. The error was not discovered until she applied for the same exemption for the legal residence purchased in 2016. Unfortunately, the Department’s error with regard to the exemption granted in 2011 does not automatically extend the surviving spouse exemption to Petitioner’s legal residence purchased in 2016. The Department must follow the statute as written, and as discussed above, Petitioner failed to meet the requirements of the statute. *See Morgan v. S.C. Budget and Control Bd.*, 377 S.C. 313, 319-230, 659 S.C.2d 263, 266-267 (concluding “[e]stoppel will not lie against a government entity where a government employee gives erroneous information in contradiction of statute. Simply stated, equity follows the law.”) (citations omitted).

⁶In her request for the contested case hearing, Petitioner relies upon the alleged statement of an employee with the county auditor’s office to support her assertion that she is entitled to the exemption in South Carolina. The General Assembly has granted the Department the authority to determine if Petitioner is entitled to the exemption at issue:

life estate in the house from her husband at his death, as required by section 12-37-220(B)(1), and the home does not qualify under the second clause of subsection (b) as a “subsequently acquired” home by an “eligible surviving spouse.” When the terms of a statute are clear and unambiguous, there is no room for construction, and the Department must give such terms their literal meaning. *Duke Power Co. v. S.C. Tax Comm’n*, 292 S.C. 64, 354 S.E.2d 902 (1987).

CONCLUSION

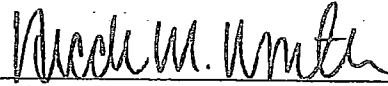
As the material facts not in dispute demonstrate, Petitioner cannot meet the requirements set forth in section 12-37-220(B), and thus, Petitioner is not entitled to the disabled veteran property tax exemption as a surviving spouse for the property located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina.

Except for the exemption provided by Section 12-37-220(A)(9), the department shall determine if any property qualifies for exemption from local property taxes under Section 12-37-220 in accordance with the Constitution and general laws of this State. This determination must be made on an annual basis and the appropriate county official so advised by June first of each year by the department.

S.C. Code Ann. § 12-4-710 (2014); *see also* Exhibit 5. Even if Petitioner was given erroneous advice from an employee in the county auditor’s office, the Department – and not the county auditor – has been charged with the administration of property tax exemptions such as the exemption in this matter. (Ex. 5.) As discussed above, Petitioner is not eligible for the exemption, as she does not meet the requirements of the statute. *See Mead v. Beaufort Cty. Assessor*, 419 S.C. 125, 135, 796 S.E.2d 165, 171 (Ct. App. 2016), *cert. denied*, (Dec. 13, 2017) (“The construction of a statute by the agency charged with its administration will be accorded the most respectful consideration and will not be overruled absent compelling reasons.”) (citations omitted). While the Department sympathizes with Petitioner’s situation, the Department cannot grant an exemption from property tax to Petitioner where she failed to meet the statutory requirements.

THEREFORE, the Department respectfully requests this Court grant the Motion for Summary Judgment because the material facts are not in dispute and the Department is entitled to judgment as a matter of law.

Respectfully submitted,



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Jason P. Luther (Bar No. 78021)
General Counsel for Litigation
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803-898-1826
803-896-0171 (Fax)
Attorneys for Department of Revenue
Nicole.Wooten@dor.sc.gov
Courtorders@dor.sc.gov

Columbia, South Carolina
February 23, 2018

Exhibit 1

1885 Carolina Towne Court
Mount Pleasant, SC 29464

February 7, 2018

Nicole M. Wooten
Counsel for Litigation
State of South Carolina
Department of Revenue
P.O. Box 12265
Columbia, SC 29211-9979



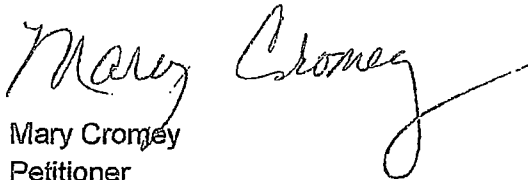
RE: Mary Cromey vs. South Carolina Department of Revenue
Docket No: 17-ALJ-17-0451-CC

Dear Ms. Wooten:

Enclosed is Petitioner's Admissions Statement regarding the above-noted case. Also enclosed is Proof of Service.

Should you have any further questions, please do not hesitate to contact me at 410.236.9028 or by email at mcromeysc@gmail.com.

Respectfully,


Mary Cromey
Petitioner

Enclosures

Copy: The Honorable Ralph King Anderson, III
Chief Administrative Law Judge
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Ste. 224
Columbia, SC 29201

Mary Cromey, Petitioner

DOCKET NO: 17-ALJ-17-0451-CC

vs.

South Carolina Department of Revenue,
Respondent

**RESPONDENT'S REQUEST FOR
ADMISSIONS**

TO: Respondent, South Carolina Department of Revenue

ADMISSIONS

1. Petitioner is the surviving spouse of Lloyd D. Cromey (Mr. Cromey).
2. In February 2004, The United States Veterans Administration deemed Mr. Cromey to be permanently and totally disabled.
3. Mr. Cromey passed away in 2005.
4. Petitioner and Mr. Cromey lived in a jointly owned home in Owings Mills, Maryland until his death in 2005.
5. Mr. Cromey has never been a resident of South Carolina.
6. Mr. Cromey has never owned real property in South Carolina.
7. Petitioner moved to South Carolina in 2010 and purchased real property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina.
8. Petitioner sold the property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina in 2016.
9. Petitioner acquired real property located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina (legal residence) in August 2016.
10. Since August 2016, the legal residence has been solely owned by the Petitioner, and Deed was filed transferring the property to the Lloyd and Mary Cromey Revocable Trust dated January 23, 2004.


Mary Cromey, Petitioner
1885 Carolina Towne Ct. Mount Pleasant SC

Mount Pleasant SC
February 6, 2018

Mary Cromey, Petitioner

DOCKET NO: 17-ALJ-17-0451-CC

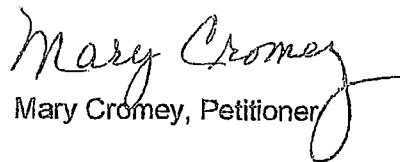
vs.

South Carolina Department of Revenue,
Respondent

PROOF OF SERVICE

I, the Petitioner, do hereby certify that I have served My Admissions' Statement in connection with the above-noted matter by causing a copy of the same to be deposited in the United States Mail on the below date, postage prepaid to the following party at the address of record:

Nicole M. Wooten
Counsel for Litigation
Department of Revenue
P.O. Box 12265
Columbia, SC 29211-9979


Mary Cromey, Petitioner

Mount Pleasant SC
February 7, 2018

Exhibit 2

1350



State of South Carolina
Department of Revenue
**PROPERTY TAX
EXEMPTION APPROVAL**

PT-461
(Rev. 1/27/16)
7087

12/14/2010

PREXE 1466256008



MARY ELLEN CROMEY
1551 BEN SAWYER BLVD UNIT 6B
MOUNT PLEASANT SC 29464-5510

TAX-YEAR: 2011
SID/Suffix: 2564332-000-001
COUNTY: CHARLESTON

Applicant:

Your application for Property Tax exemption has been approved for the following properties:

PROPERTY:
BUILDING 1 100.0%
LAND 1.00 ACRES 100.0%

TAX MAP NUMBER:
5321500119

APPLICABLE SC CODE SECTION:
12-37-220(B1A)

This information is being sent to your county auditor and assessor.

If you receive a tax bill or if you have paid Property Tax for the year(s) in which the exemption has been granted, contact your county auditor.

South Carolina Department of Revenue
Government Services Division
PO Box 125
Columbia, SC 29214-0303

70871017

Exhibit 3

1350



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
PROPERTY TAX EXEMPTION
APPLICATION FOR INDIVIDUALS

PT-401-1
(Rev. 4/27/16)
7092

Mail to: South Carolina Department of Revenue, Government Services Division, PO Box 126, Columbia, SC 29214-0303

Year(s) Exemption Requested: 2017

SSN: _____

Owner and Mailing Address

Cromey, Mary E.
1885 Carolina Towne Ct.
Mt Pleasant, SC 29464-8001

SID #: _____

Office Use Only

Telephone Number: 410-236-9028

Exemption Section Requested (see instructions): B-1-A

COMPLETE ONLY THE APPLICABLE SECTION(S).

Section 1 – Real Property

Separate applications must be filed for each parcel of real property. Please see instructions for documentation needed.

- Date Real Property Acquired: 8/12/2016
- County Where Property is Located: Charleston
- Physical Address of Property: 1885 Carolina Towne Ct., Mt Pleasant, SC 29464 (20)
Street City State Zip Tax District
- Are you applying for exemption on (check all that apply):
☒ Land and Building ☐ Building
☐ Land ☐ Mobile Home

5. Fill out the applicable information:

- Tax Map Number: 5581500269
- Number of Acres: .08
- Mobile Home Permit Number: _____
- Mobile Home Tax Map Number: _____
- Deed Book: 0578
- Page Number: 564

Section 2 – Personal Property

To apply for vehicle exemption, please complete the chart below. Please see instructions for documentation needed.

VEHICLE IDENTIFICATION NUMBER	TYPE	MAKE	YEAR	REGISTERED OWNER	COUNTY OF REGISTRATION
		KIA	2011		Charleston

70921010

Section 3 - Real Property Exemption Questions

Please answer all questions completely and sign the statement below.

Did you file an individual income tax return with the South Carolina Department of Revenue?

Yes ☐ No ☒

If so, what name is on the return? _____

Explain the use of the property, land and buildings: Residential use

Do any other individuals, associations or corporations occupy or use any part of the claimed exemption that is listed on this application?

Yes ☐ No ☒

If so, explain circumstances: _____

Is any rent received for this property or any portion of this property?

Yes ☐ No ☒

If yes, from whom? _____

Do you lease or rent any property for which you are requesting an exemption?

Yes ☐ No ☒

If yes, from whom? _____

Section 4 - Declaration of Owner or Owner's Agent

Subject to penalty for perjury, I declare that I have examined this application, including enclosures and attachments (if any), and to the best of my knowledge and belief it is true, correct, and complete.

Signature

Mary E. Cromey

Date

02/17/17

LEGAL RESIDENCE (4%) EXEMPTION APPLICATION
This Application is for the current year only, **REFUNDS REQUIRE A DIFFERENT FORM**

DO NOT FAX – DO NOT EMAIL

Mail original application to:

Charleston County Assessor's Office
PO Box 427, Charleston, SC 29402-0427
Telephone: 843-958-4100 (option #1)

Located at:

101 Meeting Street, Ste. 135
Charleston, SC 29401

NAME & MAILING ADDRESS OF OWNER	PROPERTY LOCATION & LEGAL DESC.
Cromey Mary E. 1885 Carolina June Ct. Mt Pleasant S.C. 29464	1885 Carolina June Ct Lot. 6
(PLEASE CORRECT MAILING ADDRESS IF NECESSARY)	
Ofc. Use: Assoc. PID: _____ AC	

CALL 843-958-4100 (option #1) IF YOU HAVE ANY QUESTIONS ABOUT THE REQUIREMENTS

YOU MUST ANSWER ALL QUESTIONS ON THIS APPLICATION AND PROVIDE ALL REQUIRED INFORMATION

1. ADDRESS of owner-occupant's primary legal residence: 1885 Carolina June Ct. Mt Pleasant S.C. 29464
2. Date owner-occupant(s) began to occupy the property: 8-12-2014
3. Type of residence: ☒ Single Family ☐ Duplex ☐ Townhouse ☐ Condo ☐ this is a separate Parcel used as a Yard
☐ Mobile Home (Provide Decal # _____) If Mobile home, do you own the land the mobile home is on? ☐ No ☐ Yes
4. Is the property held in a trust? ☒ No ☐ Yes If YES: attach copy of ENTIRE trust and any related documents
If the property is held in a trust: Is the property occupied by a current income beneficiary of the trust? ☐ No ☐ Yes
5. Is the property owned by a single member Limited Liability Corporation (LLC)? ☒ No ☐ Yes If YES: provide operating agreement or other document(s) showing the applicant is the single member
6. Is the property subject to a land/installment contract or bond for title? ☒ No ☐ Yes If YES: attach copy of recorded contract
7. Is the property rented for any period of time during the year? ☒ No ☐ Yes If YES: # of days rented? _____
8. Is any part of the property (commercial, apartment, lot, mobile home, etc.) rented OR used/claimed for business purposes?
☒ No ☐ Yes Describe use (attach extra sheet if needed) _____
9. Do you have room-mate(s) who pay rent? ☒ No ☐ Yes If YES: attach lease(s) or detailed explanation
10. For all owners: List full name, percent interest owned and relationship to applicant (attach extra sheet if needed)
Mary E. Cromey
11. Please check appropriate box: A) Married ☐ B) Widowed ☒ C) Legally separated ☐ D) Divorced ☐ E) Never Married ☐
12. A) Address of your PREVIOUS residence. (Street, City, County, State, Country) 1551 Red Surges Blvd Mt Pleasant S.C. 29464
B) Spouse's previous address (if different from A): Check if NOT Different ☐
13. A) Did you own your previous residence? ☐ No ☒ Yes If YES: Has it been sold? ☐ No ☐ Yes If YES: Date sold: _____
B) If NOT sold - Is that property qualified for any type of exemption, discount or credit, etc.? ☐ No ☒ Yes If YES: the previous taxing jurisdiction MUST provide a letter stating it was removed and the effective date of the removal.
14. Do you, your spouse or any member of your household* claim to be a resident of any other Jurisdiction (City, County, State or Country) for any purpose? ☐ No ☐ Yes If YES: attach explanation
15. Do you, your spouse, or any member of your household* own another residence(s) in the United States or in another country?
☒ No ☐ Yes If YES: List ALL addresses showing City, County, State, Country (attach extra sheet if necessary)

MINIMUM REQUIRED DOCUMENTS TO CONSIDER THIS APPLICATION

PROVIDE ALL APPLICABLE ITEMS OR EXPLANATION FOR MISSING ITEMS – SEE INSTRUCTIONS

- A) Copies of SC Driver(s) License(s) OR SC Identification card(s) showing current address (for all owner-occupants AND spouse).
- B) Copies of SC Vehicle Registration(s) showing current address (for all owner-occupants AND spouse). If you drive a company car provide registration.
- C) Copies of first 2 pages of most recently filed Federal 1040 (including schedules A, C, E & Form 8829 or Extension if applicable) AND SC/Other State income tax returns – for all owner-occupants AND spouse (redact income, social security & account/routing numbers – see Instructions for redacting).
- D) Copies of SC Voter Registration Cards (for all owner-occupants AND spouse). use SC OIL
- E) If legally separated or divorced, provide court-issued proof of legal separation or divorce.
- F) Members of the Military must also provide a copy of Military Identification card, current orders & current LES (redact income data – see Instructions).
- G) If answers to questions 4, 5, 6, 8 or 9 are YES OR if 13 B) is checked, additional information or documents are required as noted in those sections.
If any required proof or information is missing, the application will not be processed. On examining the completed application, if questions arise – other proof or information may be required. If so, you will be contacted.

YOU WILL BE NOTIFIED IN WRITING IF YOUR APPLICATION IS DENIED

From SC Code 12-43-220: "The owner or his agent shall provide all information required in the application, and shall certify to the following statement: 'Under penalty of perjury I certify that: (A) the residence which is the subject of this application is my legal residence and where I am domiciled at the time of this application and that neither I, nor any member of my household*, claim to be a legal resident of a jurisdiction other than South Carolina for any purpose; and (B) that neither I, nor a member of my household*, claim the special assessment ratio allowed by this section on another residence.' If a person signs the certification and obtains the four percent assessment ratio, and is thereafter found not eligible, or thereafter loses eligibility and fails to notify the Assessor within six months, a penalty is imposed..."

*member of my household is defined on the back of this application.

REQUIRED SIGNATURE – Owner-Occupant's Signature

Signature: Mary E. Cromey
Print Name Legibly: Mary E. CROMEY
SSN: _____ Date: 12/17/14
Phone # 470.6230.4666 Phone # 470.236.9028

REQUIRED SIGNATURE: ☐ Spouse (spouse MUST sign if applicant is married and not separated – even if spouse is NOT an owner)
OR ☐ Co-Owner IF occupant of property

Signature: _____
Print Name Legibly: _____
SSN: _____ Date: _____
Phone # _____ Phone # _____

For office use only: Approved: ☐ Yes ☐ No By: _____

PID# _____

FILING THIS APPLICATION DOES NOT ALLOW YOU TO DELAY PAYING TAXES THAT HAVE BEEN BILLED.

Taxes are DUE BY THE DATE ON THE BILL (Usually January 15th)

PENALTIES AND INTEREST CANNOT BE WAIVED IF THE PAYMENT IS LATE.

Legal Residence 4% Exemption Application Revised September 3, 2014

RECORD 000054

Exhibit 4

1350

State of South Carolina
Department of Revenue**PROPERTY TAX
EXEMPTION DENIAL****PT-456**

(Rev. 1/27/16)

7081

04/19/2017

PREXE 7238759008

MARY ELLEN CROMEY
1885 CAROLINA TOWNE CT
MOUNT PLEASANT SC 29464-8001NOTICE DATE: 04/19/2017
TAX-YEAR: 2017
SID\Suffix: 2564332-000-004
COUNTY: CHARLESTON

Applicant:

Your application for property tax exemption has been denied for the following properties:

PROPERTY:

BUILDING 1 100.0%
LAND 0.08 ACRES 100.0%

TAX MAP NUMBER:

5581500269

APPLICABLE SC CODE SECTION:

12-37-220(B1A)

REASON FOR DENIAL

TO QUALIFY FOR A HOME, THE VETERAN WOULD HAD TO HAVE OWNED
PROPERTY IN THE STATE OF SC PRIOR TO HIS OR HER PASSING
WHICH OWNERSHIP INTEREST COULD BE TRANSFERRED TO THE
SURVIVING SPOUSE. SINCE THE VETERAN DID NOT OWN THIS HOME
OR ANY OTHER PROPERTY IN SC THE REAL PROPERTY DOES NOT
QUALIFY FOR THE EXEMPTION.

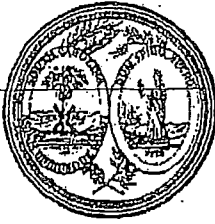
You or your agent may protest the denial of your property tax exemption request. The protest must be made in writing to the South Carolina Department of Revenue within 90 days from the date of this notice. The protest must contain the information outlined on the enclosed form PT-437. You will be notified by the Property Section if any additional information is required.

If you have any questions, call the Property Section at (803) 898-5700.

Sincerely,

South Carolina Department of Revenue
Government Services Division
PO Box 125
Columbia, SC 29214-0303Enclosure
(Form PT-437)

70811013



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214

July 18, 2017

Mrs. Mary E Cromey
1885 Carolina Towne Ct
Mt. Pleasant, SC 29464

Re: SID/Suffix: 2564332-000-004
Protest of Property Tax Exemption Denial
Charleston County

Dear Mrs. Mary Cromey,

This is in response to the protest of the Property Tax Exemption denial for the real property located at 1885 Carolina Towne Court in Mt Pleasant, South Carolina. The reason for this decision is identified below:

S. C. Code Ann. Section 12-37-220 (1)(a) states "the house owned by an eligible owner in fee or jointly with a spouse; (b) the house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house."

In the letter provided, you indicated that you relocated to South Carolina in 2010 following the passing of your husband in 2005 while living in the state of Maryland. Based on the information provided and after conducting a review of the file when the application for the subsequent home was received, we determined that at no point did the eligible owner, your husband, and prior to his passing own real property in the state of South Carolina.

To qualify the totally and permanently service-connected disabled veteran had to have owned real estate in South Carolina, which subsequently upon his passing would have transferred solely to you, the surviving spouse. Since this was not the case, the subsequent home nor the first home purchased in 2010 qualify for tax exemption.

We regret any hardship this may cause, but we must follow the guidelines as set forth by law as exemptions are strictly construed in South Carolina.



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214

Mrs. Mary Cromeey

July 18, 2017

Page Two

If you wish to continue this appeal, please provide written notification to us within 30 days of the date of this letter. Upon timely notification, we will forward this appeal to our General Counsel and a Final Agency Determination will be issued to you.

If after reviewing the facts supporting the Division's position for denial, should you have any questions, please do not hesitate to contact me at (803) 898-5158.

Sincerely,

Latisha Johnson

South Carolina Department of Revenue
Local Government Services/Exempt Property
803 898-5158
Latisha.Johnson@dor.sc.gov

Exhibit 5

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Mary Cromeey,

Petitioner,

vs.

South Carolina Department of Revenue,

Respondent.

DOCKET NO. 17-ALJ-17-0451-CC

AFFIDAVIT OF LATISHA Q. JOHNSON

I, Latisha Q. Johnson, after first being duly sworn, do hereby make oath and affirm as follows:

1. I am over eighteen years of age, suffer from no known disability, and am competent to testify to the facts set forth herein. The statements in this affidavit are made based on my personal knowledge, including my review of the issues in this case.

2. I am an Administrative Coordinator II in the role of Exempt Property Supervisor in the Local Government Services section for the South Carolina Department of Revenue ("Department"). I have a B.S. in Accounting from the University of Phoenix. I have been employed with the Department since 2009, and I have worked in the Department's Local Government Services section for approximately two years. In my role as Exempt Property Supervisor, I supervise the application process for property tax exemptions. Currently, I supervise four employees in the Exempt Property section.

3. In my capacity as an Exempt Property Supervisor, I am authorized to make this Affidavit on behalf of myself and on behalf of the Department. Further, I make this Affidavit from my own personal knowledge, based on the experience that I have gained while working at the Department.

4. The Department is responsible for determining if any property qualifies for the exemption from local property taxes under S.C. Code Ann. § 12-37-220 (2014). *See* S.C. Code Ann. § 12-4-710 (2014). In my role at the Department, I am responsible for these activities. As part of my regular duties with the Department and in accordance with S.C. Code Ann. § 12-37-220(B), I supervise the application process for property tax exemptions related to, *inter alia*, veterans, law enforcement officers, firefighters, nonprofit organizations, and religious organizations.

5. As part of my duties, I frequently communicate with employees of the auditor and assessor's offices located in the forty-six counties regarding property tax exemption applications. For Fiscal Year 2017, the Department processed 25,670 property tax exemption applications for individuals, and 4,325 property tax exemption applications for organizations.

6. When the Department receives a property tax exemption application for individuals (Form PT-401-I), the Department reviews the application and supporting documentation to determine if the individual meets the statutory qualifications for the exemption. With respect to a property tax exemption for the surviving spouse of a disabled veteran, the supporting documentation typically includes a Deed of Distribution or Last Will and Testament, Veteran Administration documents, a legal residence exemption application, vehicle registration cards, and the death certificate for the disabled veteran.

7. After a review of the application and supporting documentation, the Department will notify the applicant in writing if the application is approved or denied. If the application is denied, the Department provides instruction to the applicant if he/she wishes to appeal the decision.

8. Once the Department has made a decision regarding a property tax exemption application, such decisions are furnished to the counties via a secure website: (1) a weekly spreadsheet is made available to each specific county that includes any changes made related to property tax exemptions; (2) a monthly report is posted and such report details all property tax exemption approvals and denials made by the Department from the prior month; and (3) an annual report is published the first week of July which indicates any property tax exemption applications that were approved by the Department during the prior year.

9. I am familiar with the property tax exemption application of Mary E. Cromey for tax year 2017. As part of my duties as the Exempt Property Supervisor, I reviewed her application file, including Mrs. Cromey's protest of the Department's decision to deny the surviving spouse exemption request. Further, I issued a July 18, 2017 letter to Mrs. Cromey explaining the Department's decision to deny the exemption request. Finally, I communicated, via telephone, with Louise Shaw of the Charleston County Auditor's office regarding Mrs. Cromey's 2017 application. **true*

FURTHER AFFIANT SAYETH NOT.

Latisha Johnson
Latisha Q. Johnson

SWORN and subscribed to before me
this 15th day of February, 2018.

Lauren Acquaviva
Notary Public for South Carolina
My Commission Expires: 6-14-21

Handwritten notes:
Numerous calls were made to DOR to speak to person who issued denial. Only spoke w/ a "Ms Brooke" who told me I would not receive none of person nor could I talk to her. I believe Mrs. Louise Shaw was told the same & only spoke to "Ms. Brooke."

Exhibit 6

Site Provided
governmax

Overview

Owner Nar
2 of 2

Records

Overview

Parcel

Land

Improvements

Sales Disclosure

Pay Taxes

Property ID (PIN)	Alternate ID (AIN)	Parcel Address	Data refreshed as of	Assess Year	Pay Year
5581500269	307755	1885 CAROLINA TOWNE CT, MT PLEASANT	2/2/2018	2017	2017

Current Parcel Information

Owner	CROMEY MARY E	Property Class Code	120 - RESID-TM
Owner Address	1885 CAROLINA TOWNE CT MOUNT PLEASANT SC 29464	Acreage	.0800
Legal Description	MapPlatB L14 MapPlatP 0430 SubdivisionName CAROLINA WALK A TOWN CENTER Lot 6		

Historic Information

Tax Year	Land	Improvements	Market	Taxes	Payme
2017	\$136,347	\$382,553	\$518,900	\$1,936.34	\$1,936.3
2016	\$85,034		\$85,034	\$361.13	\$465.3
2015	\$85,034		\$85,034	\$344.66	\$344.6

Functions

Homepage

Real Property

Personal Property

Motor Vehicle

Shopping Cart

Help

Feedback

County Login

Sales Disclosure

Grantor	Book & Page	Date	Deed	Vacant	Sale Pri
PULTE HOME CORPORATION	0578 564	8/12/2016	G		\$518,94

Improvements

Building	Type	Use Code Description	Constructed Year	Stories	Bedrooms	Finished Improve Sq. Ft.	Si
R01	DWELL	Dwelling	2016	3	03	2,444	

Charleston County makes every effort to produce the most accurate information possible. No warranties, expressed or implied are provided for the data herein, its use or interpretation. All data is subject to change.



PGS:

BP0578564

5

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

TITLE TO REAL ESTATE

WHEREAS, at a meeting of **PULTE HOME CORPORATION**, a Michigan corporation, it was unanimously RESOLVED that the Corporation convey the property hereinafter described, and that the below signed officer(s) be authorized to execute and deliver this Deed of Conveyance for the consideration hereinafter expressed;

KNOW ALL MEN BY THESE PRESENTS, THAT **PULTE HOME CORPORATION**, a Michigan corporation ("Grantor") in the State aforesaid for/and in consideration of the sum of **FIVE HUNDRED EIGHTEEN THOUSAND NINE HUNDRED FORTY AND NO/100THS (\$518,940.00) DOLLARS**, to it in hand paid at and before the sealing of these presents by **MARY E. CROMEY** ("Grantee") in the State aforesaid, and the receipt whereof is hereby acknowledged, has granted, bargained, sold and released, subject to the easements, restrictions, reservation and conditions ("Exceptions") set forth below, and by these Presents do grant, bargain, sell and release, subject to the easements, restrictions, reservation and conditions ("Exceptions") set forth below, unto the said **MARY E. CROMEY**, (hereinafter referred to as Grantee), his/her/their heirs and assigns, the following described real property to-wit:

ALL that certain piece, parcel or lot of land, lying, situate and being in the Town of Mount Pleasant, County of Charleston, State of South Carolina, shown and designated as **LOT 6** on that certain plat of GPA Professional Land Surveyors entitled, "FINAL SUBDIVISION PLAT SHOWING THE SUBDIVISION OF TMS NO 558-00-00-306 TO CREATE CAROLINA WALK AT TOWNE CENTRE (FKA HUNGRYNECK TOWNHOMES) CONTAINING LOTS 1 THROUGH 49, CAROLINA TOWNE COURT RIGHT OF WAY AND HOA AREAS OWNED BY PULTE HOME CORPORATION AND TO CREATE A NEW DRAINAGE EASEMENT ON TMS NOS. 558-00-00-401 & 558-15-00-261 OWNED BY MILL CREEK VILLAGE HOME OWNERS ASSOCIATION, INC. LOCATED IN THE TOWN OF MOUNT PLEASANT, CHARLESTON COUNTY, SOUTH CAROLINA," dated April 25, 2014 and recorded October 20, 2014 in the RMC Office for Charleston County in Book L14 at Page 0430 - 0432. SAID lot, piece, or parcel of land having such size, shape, location, dimensions, buttings and boundings, courses and distances, as will by reference to said plat more fully and at large appear.

The above described property is conveyed subject to the following ("Exceptions"):

1. Declaration of Covenants, Restrictions and Easements the same being recorded, in the RMC Office for Charleston County in Book 0429 at Page 481, and as amended from time to time.

This being a portion of the property conveyed to the Grantor herein by deed of Buck Investments Limited Company dated 12/12/13 and recorded 12/16/13 in the Office of the RMC for Charleston County in Book 0379 at Page 094.

Weeks & Irvine, LLC
8086 Rivers Ave. 2nd Floor
North Charleston, SC 29406

1

16-57587M/Cromey
8/16

TMS Number: 558-15-00-269
Grantee's Address: 1885 CAROLINA TOWNE COURT
MOUNT PLEASANT, SOUTH CAROLINA 29464

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said *Grantees, Grantees, Successors and assigns*

AND the said Grantor does hereby bind itself and its Successors and Assigns to warrant and forever defend, all and singular, the said Premises unto the said Grantee, the Grantee's Heirs and Assigns, against it and its Successors and Assigns.

IN WITNESS WHEREOF, Grantor has caused these presents to be executed in its name by its undersigned officer(s), and its corporate seal to be hereto affixed this 2nd day of August, in the year of our Lord two thousand and sixteen in the two hundred and forty-first year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Pulte Home Corporation
a Michigan corporation

Maura A. McCarthy
[Signature]
By: Jessica Milne (SEAL)
Name: Jessica Milne
Title: Asst. Controller
Its: _____

STATE OF SOUTH CAROLINA)

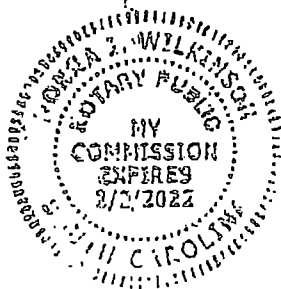
) ACKNOWLEDGMENT

COUNTY OF CHARLESTON)

The foregoing instrument was acknowledged before me this 2nd day of August, 2016, by Jessica M. McKea its, ASSIST. Controller (title) on behalf of Pulte Home Corporation, a Michigan Corporation, on behalf of the corporation.

[Signature] (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 2/2/22



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

)
) AFFIDAVIT
)

Date of Transfer of Title
August 12, 2016

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred by Pulte Homes Corporation TO Mary E. Cromeey on August 12, 2016.
3. Check one of the following: The deed is:
 - a. X subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - b. _____ subject to the deed recording fee as a transfer between a corporation, a partnership or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
 - c. _____ EXEMPT from the deed recording fee because _____. (Explanation, if required: n/a If exempt, please skip items 4-6 and go to Item No. 7 of this affidavit.
4. Check one of the following if either item 3(a) or item 3(b) above has been checked.
 - a. X The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$518,940.00.
 - b. _____ The fee is computed on the fair market value of the realty, which is \$_____.
 - c. _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is \$_____.
5. Check YES ☐ or NO ☒ to the following: A lien or encumbrance existed on the land, tenement or realty before the transfer and remained on the land, tenement or realty after the transfer. If "YES", the amount of the outstanding balance of this lien or encumbrance is \$_____.
6. The DEED Recording Fee is computed as follows:
 - a. \$518,940.00 the amount listed in Item No. 4 above
 - b. \$0.00 the amount listed on Item No. 5 above (no amount, please zero)
 - c. \$518,940.00 subtract Line 6(b) from Line 6(a) and place the result here.
7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Grantee.
8. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year or both.

SWORN to before me this the 12th day of August, 2016.

Notary Public
My Commission Expires: 9-15-16

(SEAL)



Mary Cromeey
Grantor, Grantee or Legal Representative
Connected with this Transaction

Mary E. Cromeey
Print or Type Name Here

RECORDER'S PAGE

NOTE: This page MUST remain
with the original document



Filed By:

WEEKS & IRVINE LLC

MAKER:

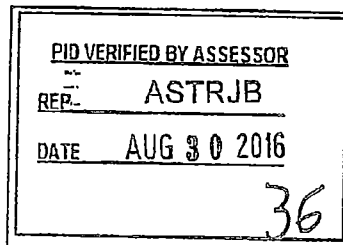
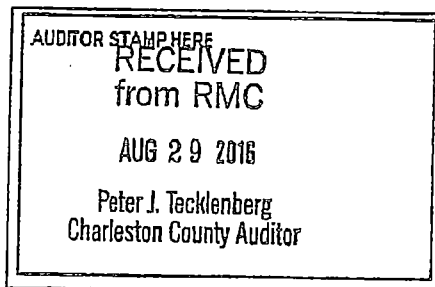
PULTE HOME CORP

RECIPIENT:

CROMEY MARY E AL

Original Book:

Original Page:



RECORDED

Date: August 26, 2016

Time: 8:52:12 AM

Book	Page	DocType
0578	564	Deed

Charlie Lybrand, Register
Charleston County, SC

of Pages: 5

Recording Fee	\$ 10.00
State Fee	\$ 1,349.40
County Fee	\$ 570.90
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 1,930.30

DRAWER Drawer 3
CLERK ECP



0578
Book



564
Page



08/26/2016
Recorded Date



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Pgs



Original Book



Original Page



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Mary Cromey,	)	DOCKET NO. 17-ALJ-17-0451-CC
	)	
Petitioner,	)	
	)	PROOF OF SERVICE
vs.	)	
	)	
South Carolina Department of	)	
Revenue,	)	
	)	
Respondent.	)	
	)	

Mary Cromey
1885 Carolina Towne Court
Mount Pleasant, SC 29464
Petitioner

Columbia, South Carolina
February 23, 2018

February 28, 2018

1885 Carolina Towne Court
Mount Pleasant, SC 29464

The Honorable Ralph King Anderson, III
Chief Administrative Law Judge
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Ste. 224
Columbia, SC 29201

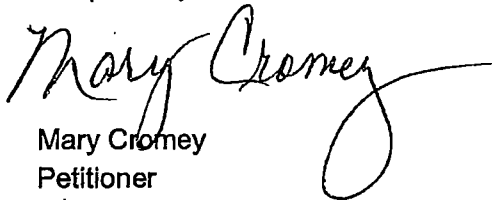
**RE: South Carolina Department of Revenue vs. Mary Cromey
Docket No. 17-ALJ-17-0451-CC**

Dear Honorable Judge Anderson:

Please find enclosed the Petitioner's, Mary Cromey, Motion for Summary Judgment in the above-noted matter. Also enclosed is a Proof of Service.

Please do not hesitate to contact me at 410.236.9028 should you have any questions or at my email address at mcromeysc@gmail.com.

Respectfully,


Mary Cromey
Petitioner

Copy: Nicole M. Wooten, Counsel for Litigation
Enclosures
mc

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Mary Cromey, Petitioner

Docket No. 17-ALJ-17-0451-CC

Vs.

**South Carolina Department of Revenue,
Respondent**

**PETITIONER'S MOTION FOR
SUMMARY JUDGMENT**

TO: Nicole M. Wooten, Counsel for Litigation

The Petitioner, Mary Cromey, requests to move before presiding Judge of the Administrative Law Court for an Order granting Summary Judgment to the Petitioner in this referenced matter. This Motion is based on the grounds that genuine issue of material **is in dispute** as to the issue that Mary Cromey, Petitioner, is entitled to the disabled veteran property tax exemption as a surviving spouse of a 100% disabled veteran, pursuant to SC Code Section 12-37-220, (B)(1)(a)(i)(A), (B)(1)(b), (B)(1)(b)(iii), (B)(1)(c).

(B)(1)(a): "The house owned by an eligible owner in fee or for life, or jointly with a spouse."

(i): "eligible owner" means:

(A) "veteran of the armed forces of the United States who is permanently and totally disabled as a result of a service connected disability and who files with the Department of Revenue a certificate signed by the county service officer certifying this disability. Applicant must file a certificate, signed by the veteran's or county service officer, of the 100% total and permanent service-connected disability with the effective date. (VA Rating Decision letter does not meet the provision of Section 12-37-220)

(B)(1)(b): "The house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house. (iii) "qualified surviving spouse" means the surviving spouse of an individual described in "subsubitem" (i) while remaining unmarried who resides in the house, and who owns the house in fee or for Life..."

(B)(1)(c): "When a trustee holds legal title to a dwelling for a beneficiary **and the beneficiary is a person who qualifies otherwise for the exemptions** provided in subitems (a) and (b) and the beneficiary uses the dwelling as the beneficiary's domicile, the

dwelling is exempt from property taxation in the same amount and manner as dwellings are exempt pursuant to subitems (a) and (b). The Department of Revenue may require documentation it determines necessary to determine eligibility for the exemption allowed by this item. **Trust Agreement, deed or title to real property and the required documentation as stated in subitems (a) and (b) of the 100% total and permanent service connected disability with the effective date must accompany the application. (VA Rating Decision letter does not meet the provision of Section 12-37-220).**"

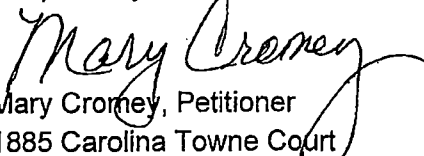
Petitioner, Mary Cromey, contends that "Classification of Exempt Property: SC Code Section 12-37-220" does not state that property owned jointly with 100% disabled veteran and spouse must have been in the State of South Carolina prior to the veteran's death. If the code has not been amended, the interpretation of this code should not be amended.

Veteran and spouse, prior to his death, owned residence in Maryland which was granted tax exemption in 2005.

Please note: Interpretation of this code was determined and therefore approval of property tax exemption granted by Department of Revenue to petitioner for South Carolina residence at 1551 Ben Sawyer Blvd. Unit 6B, Mount Pleasant SC 29464 for tax years 2011 through 2016. To reverse this interpretation and exemption six (6) years later would be, in my opinion, a breach of code of ethics.

Please find enclosed The Lloyd and Mary Cromey Revocable Trust Agreement and Certificate of Trust, both dated January 23, 2004. Also enclosed is Quitclaim Deed, transferring deed of property 1885 Carolina Towne Court, Mount Pleasant SC 29464 to the Certificate of Trust.

Respectfully submitted,


Mary Cromey, Petitioner
1885 Carolina Towne Court
Mount Pleasant SC 29464

Mary Cromey, Petitioner

Vs.

South Carolina Department of Revenue,
Respondent

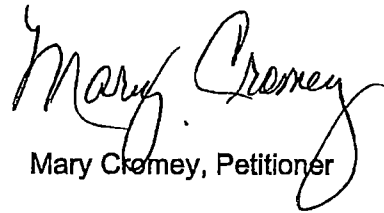
DOCKET NO: 17-ALJ-17-0451-CC

PROOF OF SERVICE

I, the undersigned, do certify that I served the Motion for Summary Judgment of Petitioner, Mary Cromey, in connection with the above-referenced matter by causing a copy of the same to be deposited in the United States Mail on the below date. Postage prepaid to the following parties at the address of record:

The Honorable Ralph King Anderson, III
Chief Administrative Law Judge
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Ste. 224
Columbia, SC 29201

Nicole M. Wooten
Counsel for Litigation
Department of Revenue
P.O. Box 12265
Columbia, SC 29211-9979

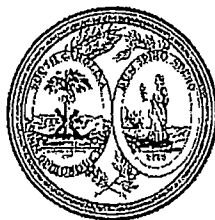

Mary Cromey, Petitioner

Mount Pleasant, South Carolina
March 2, 2018

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
OFFICE OF THE GENERAL COUNSEL

Physical Address:

300A Outlet Pointe Blvd.
Columbia, SC 29210



Mailing Address:

PO Box 12265
Columbia, SC 29211-9979

March 12, 2018

The Honorable Ralph King Anderson, III
Chief Administrative Law Judge
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Ste. 224
Columbia, SC 29201

Re: Mary Cromeys vs. South Carolina Department of Revenue
Docket No. 17-ALJ-17-0451-CC

Dear Judge Anderson:

Enclosed please find the South Carolina Department of Revenue's (Respondent's) Response to Petitioner's Motion for Summary Judgment in the above-referenced matter. Also enclosed is a Proof of Service.

Should you have any questions, please do not hesitate to contact me at 803-898-1826 or Nicole.Wooten@dor.sc.gov.

Very truly yours,

OFFICE OF GENERAL COUNSEL FOR LITIGATION

Nicole M. Wooten
Counsel for Litigation

c: Mary Cromeys, Petitioner

Enclosures
NMW: tm

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Mary Cromeey,	)	Docket No. 17-ALJ-17-0451-CC
	)	
Petitioner,	)	
	)	
v.	)	RESPONDENT'S RESPONSE
	)	TO PETITIONER'S MOTION
	)	FOR SUMMARY JUDGMENT
South Carolina Department of Revenue,	)	
	)	
Respondent.	)	
_____	)	

TO: The Honorable Ralph K. Anderson, III, Presiding Judge:

Respondent South Carolina Department of Revenue (Department) moves the Administrative Law Court (ALC) pursuant to Rule 56, SCRCP, and ALC Rule 19, to deny the Motion for Summary Judgment ("Petitioner's Motion") filed by Petitioner Mary Cromeey (Petitioner) on or about March 2, 2018 and to grant summary judgment in favor of the Department. In denying Petitioner's Motion, the Department asserts that the Department's motion for summary judgment filed with the ALC on February 23, 2018, along with the accompanying memorandum and exhibits, establish that the material facts are not in dispute. Further, Petitioner's Motion asks this Court to draw inaccurate conclusions of law.

For the reasons set forth below, the Department respectfully requests that Petitioner's Motion be denied and the Department's motion for summary judgment be granted.

STATEMENT OF THE CASE

The Department presented its Statement of the Case in the Department's Memorandum in Support of Respondent's Motion for Summary Judgment (Department's Memorandum). In the interest of judicial economy, the Department respectfully incorporates its Statement of the Case in the Memorandum into this Response. (Dep't Mem., pp. 1-2.)

MATERIAL FACTS NOT IN DISPUTE

The Department presented the Material Facts Not in Dispute in the Department's Memorandum. In the interest of judicial economy, the Department respectfully incorporates its Material Facts Not in Dispute in the Memorandum into this Response. *Id.* at pp. 2-3.

STANDARD OF REVIEW

The Department presented the Standard of Review in the Department's Memorandum. In the interest of judicial economy, the Department respectfully incorporates the Standard of Review in the Memorandum into this Response. *Id.* at pp. 3-4.

DISCUSSION

In her motion, Petitioner asserts that a genuine issue of material fact exists and that she is entitled to the property tax exemption pursuant to S.C. Code Ann. § 12-37-220(B)(1)(c) (2014). However, the Petitioner premises this argument on an incorrect interpretation of section 12-37-220(B)(1)(c). Further, as explained in the Department's Memorandum, the material facts are not in dispute, and Petitioner cannot meet the requirements of the relevant statutory provisions to qualify for the disabled veteran property tax exemption as a surviving spouse in South Carolina.

I. This Matter Does Not Involve Any Disputed Material Facts.

In Petitioner's Motion, she asserts that her Motion is "based on the grounds that genuine issues of material [facts are] in dispute." (Pet.'s Mo., p. 1.) First, to the extent Petitioner intended to state that material facts are in dispute, it is well established in South Carolina that summary judgment is not appropriate when either party asserts that the material facts are in dispute. *Wogan v. Kunze*, 366 S.C. 583, 591, 623 S.E.2d 107, 112 (Ct. App. 2005) ("The party seeking summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact." (citing *McCall v. State Farm Mut. Auto. Ins. Co.*, 359 S.C. 372, 597 S.E.2d 181 (Ct. App. 2004)));

Singleton v. Sherer, 377 S.C. 185, 197, 659 S.E.2d 196, 203 (Ct. App. 2008); *see also Gadson v. Hembree*, 364 S.C. 316, 320, 613 S.E.2d 533, 535 (2005) (concluding summary judgment is inappropriate where further inquiry into the facts of the case is necessary to clarify the application of law); *Wogan*, 366 S.C. at 591, 623 S.E.2d at 112; *Montgomery v. CSX Transp., Inc.*, 362 S.C. 529, 542, 608 S.E.2d 440, 447 (Ct. App. 2004). Thus, Petitioner's Motion should be denied as she asserts that there is a genuine issue of material fact in dispute.

Nevertheless, as discussed in the Department's Memorandum, Petitioner's admissions in discovery establish that there is no genuine issue of material fact in dispute in this matter, and the Department is entitled to summary judgment. (Dep't Memorandum, Ex. 1.) *See also* Dep't Memorandum, pp. 1-10; Ex. 2-6. Accordingly, the Department requests the ALC to grant summary judgment in favor of the Department.

II. S.C. Code Ann. § 12-37-220(B)(1)(c) Does Not Apply In This Matter.

Petitioner next argues that she is entitled to the disabled veteran property tax exemption as a surviving spouse pursuant to S.C. Code Ann. § 12-37-220(B)(1)(c), which provides as follows:

(c) when a trustee holds legal title to a dwelling for a beneficiary and the beneficiary is a person who qualifies otherwise for the exemptions provided in subitems (a) and (b) and the beneficiary uses the dwelling as the beneficiary's domicile, the dwelling is exempt from property taxation in the same amount and manner as dwellings are exempt pursuant to subitems (a) and amount and manner as dwellings are exempt pursuant to subitems (a) and (b);

As support for her assertion, Petitioner includes in her Motion a copy of The Lloyd and Mary Cromey Revocable Trust Agreement (the Trust) dated January 23, 2004. Petitioner also includes a copy of a recorded deed transferring the property located at 1885 Carolina Towne Court, Mount Pleasant, SC 29464 (property at issue) from Mary E. Cromey to the Trust. Such deed appears to

be recorded at Book 700, Page 767 in the Office of the Register of Deeds for Charleston County, South Carolina on February 23, 2018.

Although section 12-37-220(B)(1)(c) permits a “trustee” to hold legal title to a dwelling for a beneficiary who qualifies for the property tax exemption for the disabled veteran (or the surviving spouse), Petitioner still cannot meet the requirements of subsection (B)(1)(c) for two reasons. First, under the plain language of the subsection, the beneficiary (Petitioner) must qualify for the exemption provided in subitem (a):

(1)(a) the house owned by an eligible owner in fee or jointly with a spouse;

S.C. Code Ann. § 12-37-220(B)(1)(a). As discussed at length in the Department’s Memorandum, Petitioner cannot meet the requirements of subsection (1)(a). (Dep’t Memorandum, pp. 4-10.) The disabled veteran and eligible owner (Mr. Cromey) neither owned nor resided in the home for which Petitioner seeks the exemption. Moreover, Mr. Cromey never owned or resided in any house in South Carolina. Thus Petitioner, as the surviving spouse, is not eligible for the exemption on any home she acquired subsequent to the death of her husband. Simply put, because Mr. Cromey never qualified for the exemption in South Carolina, the exemption cannot be extended to the Petitioner in South Carolina.

Second, even if Petitioner could meet the requirement of subsection (B)(1)(a), Petitioner cannot meet the requirements of subsection (B)(1)(b):

(b) the house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house;

S.C. Code Ann. § 12-37-220(B)(1)(b). Here, Petitioner did not acquire any house in South Carolina from Mr. Cromey as he neither owned nor resided in any house in South Carolina. Thus,

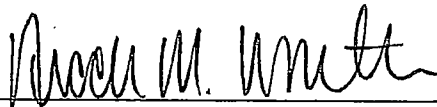
Petitioner's subsequent attempt to transfer the property at issue to the Trust still does not bring her into compliance with the requirements of the exemption statute. Petitioner, as the surviving spouse, is not eligible for the exemption on any home she acquired subsequent to the death of her husband.

These facts independently disqualify Petitioner from receiving the disabled veteran property tax exemption as a surviving spouse pursuant to section 12-37-220(B)(1)(c). Although the application of the statute may appear harsh in this case, the Department must follow the law as written.¹ *Smith v. Wallace*, 295 S.C. 448, 369 S.E.2d 657 (Ct. App. 1988) ("The Legislature can repeal or amend its statute but neither the [state agency] nor this Court has the authority to do so."). The Petitioner purchased the legal residence in her own name subsequent to the death of her husband, and unfortunately, that disqualifies the legal residence from the available exemption under section 12-37-220(B). The Petitioner did not receive a fee or life estate in the house from her husband at his death, as required by section 12-37-220(B)(1), and the home does not qualify under the second clause of subsection (b) as a "subsequently acquired" home by an "eligible surviving spouse." When the terms of a statute are clear and unambiguous, there is no room for construction, and the Department must give such terms their literal meaning. *Duke Power Co. v. S.C. Tax Comm'n*, 292 S.C. 64, 354 S.E.2d 902 (1987).

¹The Department erroneously granted the exemption Petitioner received on the first home she purchased in South Carolina in 2010. The Department must follow the statute as written, and as discussed above, Petitioner failed to meet the requirements of the statute. See *Morgan v. S.C. Budget and Control Bd.*, 377 S.C. 313, 319-230, 659 S.C.2d 263, 266-267 (concluding "[e]stoppel will not lie against a government entity where a government employee gives erroneous information in contradiction of statute. Simply stated, equity follows the law.") (citations omitted).

CONCLUSION

For the reasons set forth above, the Department respectfully requests that this Court deny Petitioner's Motion, as a genuine issue of material fact is not in dispute. Further, Petitioner is not entitled to judgment as a matter of law as she has misinterpreted the law in her Motion. Finally, as discussed in the Department's motion for summary judgment, because there are no material facts in dispute, the Department requests that this Court grant the Department's motion for summary judgment, and uphold the Department's Determination finding that Petitioner is not entitled to the disabled veteran property tax exemption as a surviving spouse pursuant to S.C. Code Ann. § 12-37-220(B)(1) (2014).



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Columbia, South Carolina
March 12, 2018

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Mary Cromeey,

Petitioner,

vs.

South Carolina Department of
Revenue,

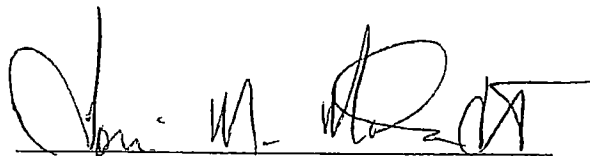
Respondent.

DOCKET NO. 17-ALJ-17-0451-CC

PROOF OF SERVICE

I, the undersigned employee of the South Carolina Department of Revenue, Office of General Counsel, do hereby certify that I have served the South Carolina Department of Revenue's Respondent's Response to Petitioner's Motion for Summary Judgment in connection with the above-captioned matter by causing a copy of the same to be deposited in the United States Mail on the below date, postage prepaid to the following party at the address of record:

Mary Cromeey
1885 Carolina Towne Court
Mount Pleasant, SC 29464
Petitioner



Tonie M. Miranda
Legal Assistant, Office of General Counsel
South Carolina Department of Revenue

Columbia, South Carolina
March 12, 2018



Madison Felder
Associate
Telephone: 864.577.6362
Direct Fax: 864.242.9888
madisonfelder@parkerpoe.com

Atlanta, GA
Charleston, SC
Charlotte, NC
Columbia, SC
Greenville, SC
Raleigh, NC
Spartanburg, SC

May 18, 2018

Via Hand Delivery

Harvin Fair
Law Clerk to the Honorable
Ralph K. Anderson, III
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

Re: Mary E. Crome v. South Carolina Department of Revenue;
Docket No. – 17-ALJ-17-0451-CC

Dear Harvin:

Enclosed please find an original and one copy of the *Petitioner's Revised Prehearing Statement* in the above captioned case. Please date-stamp the original and the copy, file the original with the Court's records, and return the copy to our courier for our records.

Should you have any questions, please do not hesitate to contact me at 864.577.6362 or madisonfelder@parkerpoe.com.

Sincerely,

Madison Felder

JMTF

cc w/ enclosures: Nicole Wooten

Enclosures as stated above

FILED

MAY 18 2018

SC ADMIN LAW COURT

PPAB 4234225v1

Parker Poe Adams & Bernstein LLP 1221 Main Street Suite 1100 Columbia, SC 29201
t 803.255.8000 f 803.255.8017 www.parkerpoe.com

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Mary E. Cromey,

Petitioner,

vs.

South Carolina Department of Revenue,

Respondent.

Docket No. 17-ALJ-17-0451-CC

**PETITIONER'S
REVISED
PREHEARING STATEMENT**

Petitioner, Mary E. Cromey, submits this Revised Prehearing Statement in the above referenced matter.

I. The nature of this proceeding

Mary E. Cromey ("Taxpayer") is the surviving spouse of Mr. Lloyd D. Cromey, a veteran who was permanently disabled in 2004 ("Decedent"). Taxpayer's request for a contested case hearing arises from the South Carolina Department of Revenue's ("SCDOR" or "Department") issuance of its determination dated November 20, 2017 (the "Department Determination"), which denied an application for exemption from *ad valorem* property tax on Taxpayer's residence in Charleston County, South Carolina, located at 1885 Carolina Towne Court in Mount Pleasant, South Carolina ("Property").

Taxpayer is entitled to the exemption for surviving spouses of disabled veterans ("Exemption"), which is codified in S.C. Code Ann. § 12-37-220(B)(1)(b) (the "Exemption Statute").¹ The tax years in dispute are tax year 2017 (lien date of 12/31/2016) and tax year 2018 (lien date of 12/31/2017) ("Tax Years"). For both Tax Years, Taxpayer owned a fee simple interest in the Property.

¹ Previous filings in this matter have made reference to S.C. Code Ann. § 12-37-220(B)(1)(c), which addresses property owned by a trust. However, this specific provision is not relevant in this case because the Property was first transferred to a trust after the respective lien dates for the Tax Years in dispute. *Hampton Friends of the Arts v. SCDOR*, 401 S.C. 372, 737 S.E.2d 628 (2013).

FILED

MAY 18 2018

According to the Department Determination, SCDOR denied Taxpayer's application because the Decedent never lived in South Carolina and never owned any property in South Carolina. The Department argues that a surviving spouse is only be entitled to the Exemption if the deceased veteran resided in South Carolina.

Taxpayer asserts the Department's interpretation is incorrect and unsupported by the plain language of the statute.

2. *Statutory provisions conferring subject matter jurisdiction and other applicable statutes and regulations*

The Court has jurisdiction under S.C. Code Ann. § 12-60-2130 to hold a contested case hearing arising from a challenge by Taxpayer to a Department Determination. This case is governed by the application of S.C. Code Ann. § 12-37-220(B)(1)(b).

Taxpayer reserves the right to supplement the above during the course of the hearing.

3. *The issues presented for determination, including any claims or defenses expected to be raised*

The only issue to be resolved is whether Taxpayer is eligible for the Exemption on Property acquired by Taxpayer subsequent to Decedent's death.

4. *The action requested of the Court and a detailed statement of the law which supports the requested action, including statutory and/or case citations*

The Court has scheduled a hearing to address both Taxpayer's Motion for Summary Judgment and the Department's Motion for Summary Judgment. Taxpayer respectfully requests the Court deny the Department's Motion for Summary Judgment and grant Taxpayer's Motion for Summary Judgment.

Taxpayer's Motion for Summary Judgment should be granted for three reasons. First, the plain language of the Exemption Statute states that it applies to "a house subsequently acquired by an eligible surviving spouse." The undisputed facts show Taxpayer is the surviving spouse of Decedent, who became a disabled veteran in 2004 and passed away in 2005. The undisputed

facts show Taxpayer acquired the Property in 2016, which is subsequent to Decedent's death in 2005. Consequently, Taxpayer is entitled to the Exemption on the Property under the plain language of the Exemption Statute.

Second, the legislative history of the Exemption Statute shows that, subsequent to the original enactment of the Exemption Statute in 1992, the General Assembly broadened the Exemption to cover houses subsequently acquired by a surviving spouse. Prior to legislative changes in the years 2000 and 2004, the Exemption was only available (i) on a house acquired by a surviving spouse directly from a disabled veteran by devise or (ii) on a house surviving spouse purchased as a replacement to the house acquired directly from a disabled veteran by devise, provided the replacement house was valued at no more than one and one-half times (150%) as much as the inherited house. Most importantly, prior to 2004, the Exemption was explicitly prohibited on "a subsequent dwelling of a surviving spouse." In other words, prior to 2004 the surviving spouse could only benefit from the Exemption on the specific house inherited from the decedent or on the first replacement to that house that met the 150% valuation limitation.

This prohibition on subsequent houses was removed by the General Assembly in 2004 at the same time the General Assembly removed the language allowing for a replacement house if the house fell within the 150% valuation limitation. Consequently, the Exemption is now available to surviving spouses on (i) a house acquired by a surviving spouse directly from a disabled veteran (the statute no longer requires this to have taken place "by devise") or (ii) a house subsequently purchased by a surviving spouse. There is no language in the current version of the Exemption Statute that ties the category of subsequently purchased houses to the house acquired from a disabled veteran, evidencing the General Assembly's intent to broaden the scope of the Exemption. Strong public policy considerations support this legislative change made by the General Assembly. The motivating purpose for providing property tax relief to a surviving

spouse for so long as the surviving spouse remains unmarried is to provide some small measure of pecuniary relief in light of the loss of a loved one, loss of support, and loss of the deceased spouse's ability to earn a living. Simply put, a surviving spouse of a disabled veteran is equally impacted by the loss of her deceased veteran spouse regardless of whether the veteran lived in California, Kansas, Afghanistan, or South Carolina. Because the category of subsequently purchased houses is no longer tied to the inherited house (like the prior "replacement house" category was prior to 2004), Taxpayer is entitled to the Exemption on the Property.

Third, the Department's interpretation of the Exemption has the unintended consequence of discriminating against surviving spouses of eligible owners based solely on the domicile of the deceased disabled veteran. Taxpayer asserts the Department Determination constitutes unlawful discrimination under the Privileges and Immunities Clause, the Equal Protection Clause, and the Commerce Clause of the United States Constitution.

5. *A brief summary of the facts to be presented at the hearing:*

The relevant facts in this case are undisputed by the parties and consist of the following:

- a) Taxpayer is the surviving spouse of Lloyd D. Crome ("Decedent").
- b) In February 2004, the United States Veterans Administration deemed Decedent to be permanently and totally disabled.
- c) Decedent passed away in 2005.
- d) Taxpayer and Decedent lived in a jointly owned home in Owings Mill, Maryland until Decedent's death in 2005.
- e) Decedent has never been a resident of South Carolina.
- f) Decedent has never owned real property in South Carolina.
- g) Taxpayer moved to South Carolina in 2010 and purchased real property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina.

h) Taxpayer sold the property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina in 2016.

i) Taxpayer acquired real property located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina (legal residence) in August 2016.

j) Since August 2016, the legal residence has been solely owned by the Taxpayer and Deed was filed on February 23, 2018 transferring the Property to the Lloyd and Mary Cromey Revocable Trust dated January 23, 2004.

6. *A summary of any motions expected to be raised at the hearing and the appropriate authority underlying the motion:*

The Court has scheduled a hearing to address both Taxpayer's Motion for Summary Judgment and the Department's Motion for Summary Judgment. At this time, Taxpayer does not anticipate raising any additional motions in this matter.

7. *A list of proposed witnesses and exhibits:*

Because all relevant facts are undisputed by the parties, Taxpayer does not anticipate the need to call any witnesses in this matter.

8. *A statement regarding the necessity for discovery, if any:*

No discovery is necessary in this matter.

9. *The estimated length of the hearing:*

Not applicable as the hearing has been scheduled for Thursday, May 24, 2018 at 10:00am.

10. *Any dates in the next one hundred twenty (120) days when you will not be available for a hearing:*

Not applicable as the hearing has been scheduled for Thursday, May 24, 2018 at 10:00am.

11. *An email address where you can be reached:*

madisonfelder@parkerpoe.com

richardfew@parkerpoe.com

Respectfully submitted,



Madison Felder, SC Bar No. 100606
Richard Few, SC Bar No. 2000
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Counsel for Petitioner
Mary E. Cromey

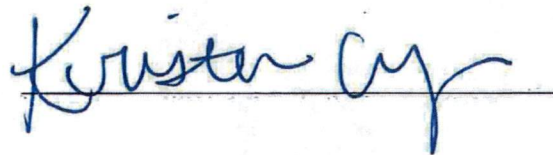
May 18, 2018
Greenville, South Carolina

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 18, 2018, she caused to be served the foregoing **REVISED PREHEARING STATEMENT** on all parties of record by emailing and depositing a copy of the same in the United States Mail, postage prepaid, addressed as follows:

Counsel for South Carolina Department of Revenue:

Nicole M. Wooten
Counsel for Litigation
Jason P. Luther
General Counsel for Litigation
P.O. Box 12265
Columbia, SC 29211-9979
803-898-1826
803-896-0171
Nicole.Wooten@dor.sc.gov
courtorders@dor.sc.gov

A handwritten signature in blue ink, appearing to read "Kristin Ay", is written over a horizontal line.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT
Docket No. 17-ALJ-17-0451-CC

Mary Cromeey,)
)
Petitioner,)
)
v.)
)
South Carolina Department of)
Revenue,)
)
Respondent.)
)
-----)

ADMINISTRATIVE HEARING

Thursday, May 24, 2018
10:02 a.m. - 11:10 a.m.

The administrative hearing before the Honorable Ralph King Anderson, III was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 24th day of May, 2018, before Amanda Creel Godfrey, Court Reporter and Notary Public in and for the State of South Carolina.



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(803) 252-3445 / (800) 822-0896

APPEARANCES

Nicole M. Wooten, Esquire
Jason P. Luther, Esquire
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 300-A Outlet Pointe Boulevard
 Columbia, South Carolina 29210
 Attorneys for Respondent

Joshua Madison Tyler Felder, Esquire
 Parker, Poe, Adams & Bernstein, L.L.P.
 110 East Court Street, Suite 200
 Greenville, South Carolina 29601
 Attorney for Petitioner

Also Present:

Harvin Fair, Law Clerk
 Katie Buckner, Staff Counsel
 Emily Zackon
 Mary Stewart King
 Franklin McGuire
 Alex Breazeale
 John Pressly, Litigation Department of Revenue
 Bill Condon

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EXHIBITS

(There were no Exhibits marked during this hearing.)



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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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CALL TO ORDER AND OPENING REMARKS:

THE COURT: All right. This is a hearing in the matter of *Mary Cromey versus South Carolina Department of Revenue*. The docket number is 17-ALJ-17-0451-CC, it's a matter involving state or county taxes? Which one?

MS. WOOTEN: Your Honor ---

THE COURT: Because y'all are here, but I think it involves county taxes.

MS. WOOTEN: It does; it's county taxes ---

THE COURT: Okay.

MS. WOOTEN: --- it's an exemption for county taxes.

THE COURT: That's what makes it confusing. All right. I'll state for the record, I -- I'll tell you what, real quickly, if -- can one of you give me the facts concerning this case?

STATEMENT OF FACTS:

MR. FELDER: Sure, I don't -- I don't believe the facts are in dispute.

THE COURT: I -- I know they're not in dispute, but I just want to -- the -- Ms. Cromey was living in another state?

MS. WOOTEN: Yes -- yes, Your Honor. In 2004, she resided in Maryland with her husband.

THE COURT: And he was a veteran?



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1 MS. WOOTEN: He was a veteran, a disabled veteran.

2 THE COURT: And so she had tax exemption in that
3 state?

4 MS. WOOTEN: She did, Your Honor.

5 THE COURT: All right. Go ahead.

6 MS. WOOTEN: I'm sorry, go ahead. If you were going
7 to ask a question. He passed away I believe in
8 2005 in Maryland while they were still residing
9 together in that state.

10 THE COURT: Okay.

11 MS. WOOTEN: Approximately four to five years later,
12 she moved to South Carolina and purchased a
13 home.

14 THE COURT: All right.

15 MS. WOOTEN: The Dep- -- she applied for the
16 property tax exemption that we're here on
17 today, and the Department granted that
18 erroneously.

19 THE COURT: Right. I might disagree with you on
20 that one, but go ahead.

21 MS. WOOTEN: Okay. So she moved to another -- she
22 sold that legal residence, moved to another
23 legal residence in 2016, then applied for the
24 same property tax exemption on the subsequent
25 house.



1 **THE COURT:** All right. Okay. So we all can be
2 clear, the way I view this case, is -- well,
3 but I'll hear your arguments, I just wanna --
4 I'm just gonna tell you so you'll know where
5 I'm coming from is I don't necessarily agree
6 with the Department on whether the purchase of
7 a house in South Carolina was erroneous for her
8 to get a tax exemption. However, the problem
9 I have with your case is I spent about a half
10 a day researching the -- what is it called, A
11 is called a -- I can't remember the phrase of
12 what it is, but I researched the -- the word A.
13 What does A mean, and it could be both singular
14 and plural, but even if it is plural -- and I
15 was interpreting that as any house. The
16 problem is it doesn't say houses, it says
17 house. Now, you -- you've gone back and looked
18 at the previous statute, and -- and as I have,
19 too. And, matter of fact, I've even outlined
20 it, at which time I don't have it in this file,
21 so it must be somewhere else. But -- well,
22 here it is. But it was a 2004 from which the
23 change was made. But it'd still be -- the new
24 one was 2004, 1999's the one I outlined. But
25 I know they got rid of the section that



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1 specifically said that no subsequent dwelling
2 or surviving -- of a surviving spouse is
3 eligible for exemption under this act. But to
4 me, they took care of several other issues that
5 -- so that doesn't indicate that the change in
6 the statute was made to delete that. Matter of
7 fact, a house, as I have discussed with others,
8 I mean, you can get a house, a dog, a, you
9 know, whatever you pick, as A. It doesn't
10 carry the connotation that it's a house or --
11 and then another house, or a dog and then
12 another dog. Now, if that's -- if y'all -- and
13 I don't know if y'all have taken an
14 interpretation on that. If you di- -- if y'all
15 disagree with my interpretation on that, this
16 hearing may be quick. But ---

17 **MS. WOOTEN:** I believe the Department's position
18 would be once the surviving -- the qualified
19 surviving spouse who meets all of the
20 requirements and acquires it from the deceased
21 spouse, a subsequent legal residence would
22 qualify. She could move three times, she could
23 move four times ---

24 **THE COURT:** Okay.

25 **MS. WOOTEN:** --- as long as ---



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1 **THE COURT:** So you disagree with the ---

2 **MS. WOOTEN:** --- as long as she meets the
3 requirements and remains unmarried, she can
4 continue to receive that exemption for subse-
5 -- any subsequent legal residence.

6 **THE COURT:** Okay. I don't know how I'm gonna
7 approach that now. Although, I'll tell you,
8 the -- I could argue that it's ambiguous, and
9 since it's ambiguous, y'all are taking an
10 interpretation. Now, you said I believe. And
11 to get deference, it has to be an
12 interpretation by the Department of a
13 longstanding determination and can't hold a
14 debate on all that. But I will hear your case
15 now.

16 **ARGUMENT BY MR. FELDER:**

17 **MR. FELDER:** Thank you, Judge Anderson.

18 **THE COURT:** You got a lot better shot now.

19 **MR. FELDER:** I appreciate it. Judge Anderson, may
20 it please the Court, I'm gonna have Emily
21 Zackon run through the PowerPoint presentation
22 while I address the Court from ...

23 **THE COURT:** Okay.

24 **MR. FELDER:** Thank you for your time this morning,
25 Judge Anderson. As you have pointed out, we



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1 are here to discuss just one legal issue, and
2 that's whether Mary Cromey, the Petitioner in
3 this case, is eligible as the surviving spouse
4 of a disabled veteran, for the exemption that's
5 codified at Section 12-37-220(B)(1)(b). We
6 believe that she is entitled to that exemption
7 for three reasons. One, the undisputed facts
8 in this case show that the Petitioner satisfies
9 the requirements of the plain language. Number
10 two, we believe the legislative history, which
11 you have already alluded to ---

12 **THE COURT:** When you say the plain language, you
13 mean because her husband was a disabled
14 veteran, is that what you're talking about?

15 **MR. FELDER:** Correct, and she ---

16 **THE COURT:** Okay.

17 **MR. FELDER:** --- is a surviving spouse who has ---

18 **THE COURT:** Okay.

19 **MR. FELDER:** --- purchased a house subsequent to the
20 death of the decedent.

21 **THE COURT:** Okay.

22 **MR. FELDER:** And then third, we believe that if the
23 Department determination in this case were to
24 stand or be upheld, that it would raise
25 constitutional concerns under the Privileges



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1 and Immunities Clause, the Commerce Clause, and
2 the Equal Protection Clause.

3 **THE COURT:** Now, how would it raise privilege and
4 immunities under that?

5 **MR. FELDER:** So, I won't spend a whole lot of time
6 on the constitutional arguments, but I'll give
7 you the -- the general background. So each of
8 those three clauses has been interpreted by the
9 United States Supreme Court to provide some
10 level of protection for a taxpayer being
11 discriminated against based on certain aspects
12 of their identity. All three of those have
13 been ---

14 **THE COURT:** But the law clearly says that the -- the
15 right to receive an exemption under the statute
16 is a matter of the State's grace, correct --
17 correct?

18 **MR. FELDER:** Correct, but a state cannot pass an
19 exemption that would discriminate against
20 someone based on their residence. What -- the
21 main -- the main takeaway here is that each of
22 those three clauses, there are cases
23 illustrating that there is an exception where
24 it is proper for a ca- -- for a state to
25 discriminate based on residence. But what we



1 have here is not a taxpayer who is being
2 discriminated based on their residence, we have
3 a taxpayer being discriminated against based
4 upon the residence of a third party. So I
5 believe if you look at the underlying rationale
6 for that exception, what's called the bonafide
7 residence exception, which is an exception to
8 these three clauses that normally provide
9 protection against discrimination. The basis
10 of that is sort of a cost benefit analysis, you
11 know, if this person is in a state and they're
12 only here some part of the time, they're not
13 contributing to the economic output of the
14 state, but yet they're imposing costs on the
15 state. And so that has traditionally been more
16 or less the rationale for allowing a state to
17 treat residents differently than nonresidents.
18 And I propose to you here today that what we
19 have is a discrimination not based on the
20 taxpayer, who's here, the comparison point is
21 a surviving spouse of a disabled veteran who
22 passed away in Maryland versus a surviving
23 spouse of a taxpayer who passed away in South
24 Carolina.

25 THE COURT: Yeah.



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1 **MR. FELDER:** We don't believe there's a rational
2 basis for South Carolina, or any state, to be
3 able to discriminate on that basis.

4 **THE COURT:** And let's say they didn't even have a
5 statute that allowed it, then would you say the
6 -- if South Carolina did not have a statute
7 that allowed the exemption, then -- then
8 because they had it in Maryland, you could walk
9 into South Carolina and say that you're
10 required to grant that privilege?

11 **MR. FELDER:** No -- no, Your Honor, my argument is
12 that the state law in South Carolina,
13 irrespective of what the law from another state
14 is, discriminates against a person based on,
15 again, a third party's residence. We don't
16 believe that is permissible, regardless of what
17 the other state's law is. And the Department
18 has pointed out in filings in this case that
19 this particular exemption, while it may be
20 called the same thing in a lot of different
21 states, there -- there are certainly different
22 rules, different statutes, different language
23 used in -- in the various states.

24 **THE COURT:** Uh-huh. Well, I don't know if I buy
25 that one, but you're -- you're still ahead of



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1 the game on this argument with me, but go
2 ahead.

3 **MR. FELDER:** Understood. Just going through the
4 undisputed facts quickly, Mary E. Cromey is the
5 surviving spouse of Lloyd Cromey. United
6 States Veteran's Administration deemed Lloyd
7 Cromey to be permanently and totally disabled
8 in 2004. He passed away in 2005 while they
9 were living in Maryland. Mary and Lloyd lived
10 in a jointly owned home in Maryland in 2005.
11 Mr. Cromey has never been a resident of South
12 Carolina and he's never owned real property in
13 South Carolina. He -- Mary moved to South
14 Carolina in 2010 in the Charleston area,
15 purchased property, applied for the exemption
16 and was granted that exemption for tax years
17 2011 and forward. In 2016, she sold that
18 property and also bought another property. In
19 2017, she applied for the same exemption and
20 was denied that exemption on April 19th, 2017,
21 via Department determination, which is why
22 we're here today. Since 2016, she has
23 continued to occupy and reside in the property
24 as her legal residence. At one point, there
25 was some correspondence in this case regarding



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1 a trust. We don't believe that is relevant to
2 the issue before the Court today, because that
3 transfer took place after the lien date for the
4 tax years in dispute in this case. One
5 additional fact, I did not see in the
6 admissions in this case, so I don't believe
7 it's been disputed, is that Mary Cromey has not
8 remarried following the death of the decedent
9 spouse.

10 **THE COURT:** Well, that was a provision that was in
11 1999 but it's not now anyway, is it? I mean,
12 I don't know the significance the Department
13 will take, but I'll hear ---

14 **MR. FELDER:** They're -- it ---

15 **THE COURT:** --- I'll hear from their lawyer.

16 **MR. FELDER:** It is still a part of the statute. It
17 is in a different place.

18 **THE COURT:** Oh. Oh.

19 **MR. FELDER:** There's a lot of -- there were a lot of
20 changes that happened in 2004, and we'll try to
21 work through those ---

22 **THE COURT:** Oh, okay.

23 **MR. FELDER:** --- this morning. The standard
24 overview, the summary judgment is appropriate
25 where there is no genuine issue of material



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1 fact and a party's entitled to judgment as a
2 matter of law. In determining whether any
3 genuine issue as to any material fact exists,
4 the evidence and all inferences can reasonably
5 be drawn will be viewed in the light most
6 favorable to the non-moving party. Again,
7 because the material facts here are not in
8 dispute ---

9 **THE COURT:** That provision's not even applicable, is
10 it? If you stipulate to the facts and agree to
11 the facts, there is no need for me to make an
12 inference against the non-moving party because
13 you all agree to the facts.

14 **MR. FELDER:** Correct, Your Honor. Moving on.

15 **THE COURT:** Yeah.

16 **MR. FELDER:** This case involves statutory
17 construction and we'll spend a lot of time
18 talking about the statute before and after
19 2004. Our argument is the statute is clear and
20 it's unambiguous, so there's no room for
21 construction in this case and the plain terms
22 of the statute control. The words of the
23 statute are unambiguous, the Court must apply
24 their literal meaning. Moving on. The
25 granting of an exemption from property taxation



1 is a matter of legislative grace. And
2 generally those exemptions are construed
3 narrowly against the taxpayer. However, that
4 rule of strict construction does not come into
5 play in a case where the plain language is
6 unambiguous. And the Court will not restrain
7 or liberally construe a provision in the
8 taxpayer's -- excuse me, against the taxpayer,
9 and will not search for an interpretation in
10 favor of the Department of Revenue in this
11 case, where the plain unambiguous language
12 leaves no room. The first argument, the plain
13 language. The way Section 12-37-220(B)(1) is
14 structured, it is a list of various classes of
15 property. Contains two such classes of
16 property in the specific section we're talking
17 about today. The first section, first class is
18 not at issue here, it's the second class. A
19 house subsequently acquired by an eligible
20 surviving spouse. It is not uncommon in
21 Section 12-37-220(B) for numbered subparts to
22 list more than one distinct class of property
23 separated by the word and. So for example, if
24 you look at 12-37-220(15), there's an exemption
25 provided for all livestock and all live



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1 poultry. Now, it doesn't mean that a farmer
2 has to own both livestock and live poultry to
3 get the exemption. Those are two separate
4 classes, even though they're listed in the same
5 provision, provision number 15.

6 **THE COURT:** I got that.

7 **MR. FELDER:** So similar here, a surviving spouse is
8 not required to meet both classes. Moving on,
9 Section 12-37-220 ---

10 **THE COURT:** It would be impossible for her to.

11 **MR. FELDER:** --- applies to a house subsequently
12 acquired by an eligible surviving spouse, those
13 are three elements we've got to work with. For
14 purposes of the exemption, house is defined as
15 a dwelling and the lot on which it is situated,
16 classified in the hands of the current owner
17 for property tax purposes pursuant to Section
18 12-43-220(C). That provision basically means
19 it has to be classified as the legal residence
20 and be granted the four percent assessment
21 ratio, which is found in 12-43-220(C). Again,
22 the undisputed facts show that Mary Cromey does
23 own the property and she does reside there. She
24 has submitted the four percent application.
25 Consequently, it is a house within the



1 statutory meaning. Element two, subsequently
2 acquired, that is a phrase that does not have
3 definition in the statute, but we believe the
4 most logical meaning is that it was a house
5 acquired after the death of the decedent
6 spouse. Again, the undisputed facts show that
7 that is not -- not an issue here. Element
8 three, by an eligible surviving spouse. That
9 phrase is also not defined in the statute, but
10 the phrase qualified surviving spouse is. And
11 it's defined as an individual described in the
12 sub sub-item (1) the qualified surviving spouse
13 is the surviving spouse of an individual in
14 that section while remaining unmarried who
15 resides in the house and who owns the house in
16 fee for life. Again, sub -- sub-item (1) is
17 the specific part of the exemption we're here
18 today, that is the disabled veteran provision.
19 We've already been through the undisputed facts
20 on that. Mary Cromey remains unmarried; she
21 resides at the property; she owns the property
22 in fee for the tax years that are before this
23 Court. So we believe that elements have been
24 met under the plain language of the exemption.
25 Now, moving towards the legislative history



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1 piece, a lot was changed in 2004 and the law
2 generally presumes a legislative amendment to
3 an existing statutory provision was intended by
4 the General Assembly to make a change to the
5 existing law.

6 **THE COURT:** All right. It could go either way, but
7 yes.

8 **MR. FELDER:** We believe that the Department's
9 arguments in this case are relying on
10 interpretation of the law prior to that 2004
11 change, and that is really the heart of this
12 case, so getting into legislative history, a
13 little more granularly. Prior to year 2000,
14 the exemption was available, again, sort of two
15 separate classes. The fee or life estate by a
16 devise, she had -- the surviving had to
17 actually receive the property by devise. That
18 provision was struck in the 2000 amendment.
19 The other class was a -- what I call the
20 replacement residence. So the surviving spouse
21 was able to get a replacement for a house that
22 was in that first class, but it had to meet the
23 value limitation, it could not be more than 150
24 percent of the value of the first house ---

25 **THE COURT:** That's the 1999 provision.



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1 MR. FELDER: Correct.

2 THE COURT: Okay.

3 MR. FELDER: So that -- those were the sort of the
4 two worlds we had under 12-37-220(B).

5 THE COURT: Do you believe that the 1999 version was
6 unconstitutional?

7 MR. FELDER: Honestly, I have not spent much time
8 thinking about that ---

9 THE COURT: Okay.

10 MR. FELDER: --- as I don't believe that's an issue
11 in this case.

12 THE COURT: I was just curious. Go ahead.

13 MR. FELDER: So prior to 2000 again, we had these
14 two -- two separate classes. Again with the
15 150 percent value limitation. Also prior to
16 2000, the law required a surviving spouse to
17 give the Department notice of a change of
18 address, which is further evidence that she had
19 to have property in that first class, and then
20 transfer it over to a second class. There was
21 a change in address notice that was required to
22 be sent to the Department. That's important
23 because that language also changed in 2004,
24 which we're going to get to.

25 THE COURT: Well, that's -- that is significant.



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1 **MR. FELDER:** So, again, in the year 2000, the by
2 devise requirement was struck. More or less,
3 the exemption was unchanged otherwise. So
4 moving on, we got the redline of the statute in
5 2000 versus the prior, which I believe is 1992,
6 when it was originally enacted. I've
7 highlighted the provision that I'm calling the
8 replacement. So this allowed a surviving
9 spouse who disposes of the exempt dwelling.
10 Again, there had to be property in that first
11 class before changing it over to the second
12 class. I just highlight that because it'll be
13 important later when -- again, when we get to
14 the 2004. So the big takeaway here is that
15 following the 2000 amendment, those two classes
16 were still joined at the hip. Couldn't get in
17 the second class unless you were already in the
18 first class. And moving on to the 2004
19 legislative history, the Generally Assembly
20 changed a lot of things in 2004. At the end of
21 the day when all the dust settled, there were
22 still those two categories that we're here
23 talking about today. The house acquired from
24 the deceased spouse essentially did not change
25 the prior law. Again, the devise requirement



1 had already been removed. So that part of the
2 statute which was interpreted in the *Watson*
3 case, which has been cited in the proceedings
4 here, that has pretty much been left
5 undisturbed. However, the second class was
6 changed significantly, and we'll go through
7 that in detail here. So here's a redline of
8 that 2004 act. As you can see, they went in
9 and changed a whole lot of stuff and what was
10 left, was again those -- that introductory
11 language of (b), the house owned by a
12 qualifying surviving spouse acquired from the
13 deceased spouse, and a house subsequently
14 acquired by an eligible surviving spouse. And
15 again, the highlighted language from before was
16 completely removed. That replacement concept
17 is gone, and if you look at the very bottom of
18 the highlight in about the middle of the page,
19 you see change in address is now just address
20 of the subsequent house ---

21 **THE COURT:** Right ---

22 **MR. FELDER:** --- we -- we believe that's important.

23 **THE COURT:** You said the bottom of?

24 **MR. FELDER:** In about the middle of the highlighted
25 section, the last sentence where it says the



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1 change in address of the dwelling. It's about
2 five or six lines from the bottom, Depart- --
3 the line starts with Department of Revenue of
4 the ---

5 **THE COURT:** Okay. Yeah.

6 **MR. FELDER:** So prior to the 2004 law, the required
7 notice of a change in address. After, it just
8 required notice of a -- address of a
9 subsequent house, which I believe shows that,
10 like the Department has already stated, this
11 subsequent provision can apply to multiple
12 houses.

13 **THE COURT:** Well, why -- I could -- go back, if you
14 don't mind, on that. The -- I'm -- six is
15 ambiguous and the Department interprets it in
16 your favor, I'm only mainly at this point
17 asking this for debate purposes, but to say
18 that when they removed the -- the requirement
19 to provide them with a change of address, the
20 fact that they removed the requirement to
21 provide a change of address could equally
22 indicate that they no longer allow you to take
23 the subsequent exemption, and, therefore, there
24 would not be a need to provide a change of
25 address because you only get it on a singular



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1 house. But you're taking the interpretation in
2 less than a simplistic fashion. And I am
3 almost -- Razor, does it really apply
4 specifically to this, but are you familiar with
5 that concept?

6 **MR. FELDER:** Yes, sir.

7 **THE COURT:** If I was to follow Razor, I'd -- I'd say
8 the more -- I'd take the more simplistic route.
9 Just -- can you respond to that?

10 **MR. FELDER:** I can. So I think if that was the only
11 change made by the legislation, that would be
12 a reasonable resolution.

13 **THE COURT:** That's a good response.

14 **MR. FELDER:** In -- in light of the other provision,
15 which I -- the one I keep calling the
16 replacement provision ---

17 **THE COURT:** Yeah.

18 **MR. FELDER:** In light of that being deleted
19 simultaneously, I believe this provision on the
20 change of address is so tied to eliminating
21 that provision, that it would broaden the
22 exemption, not just from a single house,
23 because that was the law before.

24 **THE COURT:** Yeah.

25 **MR. FELDER:** I mean there was this 150 percent value



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1 limitation, but the Department -- excuse me,
2 not the Department, if the General Assembly
3 wanted that to be the case, they could have
4 taken a red pen and just struck through the 150
5 percent value limitation because that was the
6 law before.

7 **THE COURT:** Okay.

8 **MR. FELDER:** And that's -- that's the way we view
9 it. Now, they -- they weren't done, they also
10 added a whole lot of other stuff. This is
11 stuff that was added on the end of the statute
12 in blue. Two pieces I'd like to point out, the
13 -- the qualified surviving spouse definition,
14 which we've already covered, is highlighted.
15 And also, the definition of house, which,
16 again, we've already covered. Moving on,
17 following the 2004 amendment, the two classes
18 from our perspective were no longer joined at
19 the hip, you didn't have to be in bucket number
20 one in order to get into bucket number two.
21 Thus a surviving spouse can benefit from the
22 exemption on either the house obtained directly
23 from the disabled spouse, or any house
24 purchased subsequent to the death of the
25 disabled veteran.



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1 **THE COURT:** All right. As long as you have a toe
2 dipped in bucket number one, can't be a
3 surviving spouse if the -- if the -- if the
4 other spouse was not a disabled veteran.

5 **MR. FELDER:** Correct, but the way the surviving --
6 the way that surviving spouse is defined, that
7 is, in my opinion, an independent requirement
8 under the definitional structure.

9 **THE COURT:** So it's not in the bucket?

10 **MR. FELDER:** I believe both buckets require the need
11 ---

12 **THE COURT:** Okay.

13 **MR. FELDER:** --- to be deceased ---

14 **THE COURT:** Okay.

15 **MR. FELDER:** --- a deceased veteran, yes, sir. And
16 again, we've -- we've already covered the
17 change in address piece. Again, we -- we just
18 think this is further evidence that the -- the
19 two buckets are not joined at the hip. I
20 believe we've already covered the un- --
21 unconstitutional arguments. I can certainly
22 provide more on that if you'd like, but I think
23 I will just move on at this point.

24 **THE COURT:** Okay.

25 **MR. FELDER:** In conclusion, we believe the facts



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1 show that the Petitioner has satisfied the
2 plain language. Gone through our detailed
3 review of the legislative history, we -- we
4 believe that supports the idea that the General
5 Assembly broadened the exemption back in 2004.
6 And if upheld, we believe there will be some
7 constitutional concerns of the Department
8 determination as it stands. And one -- one
9 other thought just to leave you with here, the
10 idea of equitable estoppel has been raised in
11 some of the filings in this case. I just
12 wanted to address that briefly.

13 **THE COURT:** They were raised by whom?

14 **MR. FELDER:** By the Department in I believe it's
15 Department determination ---

16 **THE COURT:** Okay.

17 **MR. FELDER:** I'll have to go check the file just to
18 be 100 percent sure, but I believe it was
19 raised in the Department determination.

20 **THE COURT:** All right. I didn't read that.

21 **MR. FELDER:** So the Court of Appeals in the *Morgan*
22 *vs. South Carolina Budget Control Board* stated
23 that misrepresentations by government officials
24 acting within the proper scope of their
25 authority may subject the government to



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1 estoppel and they provided three elements. The
2 lack of knowledge and a means of knowledge of
3 the truth as to the facts in question,
4 justifiable reliance upon the government's
5 conduct, and a prejudicial change in position.
6 So as to the first element, the lack of
7 knowledge or the means of the knowledge, as
8 we've gone through today, there's -- there's
9 nothing in the text of the exemption statute
10 itself ---

11 **THE COURT:** Well, can I stop you? Equitable
12 estoppel can't stop the proper exercise of
13 government police powers, correct? That's
14 clear law.

15 **MR. FELDER:** Correct.

16 **THE COURT:** Secondly, simply because the government
17 improperly advises about the law doesn't mean
18 that -- that the equitable estoppel applies,
19 there's case law on that. So how does all that
20 fit in what you're about to tell me?

21 **MR. FELDER:** Let me ---

22 **THE COURT:** You've done a real good job dancing so
23 far, so ---

24 **MR. FELDER:** Thank you -- thank you, Your Honor. So
25 can you -- can you repeat the -- two of them,



1 Your Honor?

2 **THE COURT:** Number one, equitable estoppel does not
3 apply to the proper exercise of governmental
4 police powers. I think I'm pretty close to
5 quoting that.

6 **MR. FELDER:** Understood.

7 **THE COURT:** Secondly, it doesn't --
8 misrepresentations of the law do not find the
9 government or other principles of equitable
10 estoppel because the law -- there is an
11 exception to that, I can't remember what it is.
12 I don't think it's applicable here. But if you
13 can respond to those.

14 **MR. FELDER:** Understood. I'm not well versed in the
15 whole gamut of police powers of the states ---

16 **THE COURT:** Okay.

17 **MR. FELDER:** --- but I would at least pause at the
18 ability to -- the ability for the State of
19 South Carolina to pass a type of exemption is
20 reserved not to the police powers of the state,
21 but to the revenue raising powers of the state.

22 **THE COURT:** Okay.

23 **MR. FELDER:** But that's ---

24 **THE COURT:** Good shot.

25 **MR. FELDER:** That's my best shot at the moment, Your



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1 Honor. Thank you.

2 **THE COURT:** The -- the Department's over there
3 smiling. They may have a smoking gun on that
4 one, but go ahead.

5 **MR. FELDER:** Understood. Actually, that was the
6 first one.

7 **THE COURT:** Okay, go ahead.

8 **MR. FELDER:** All right. So as to the three
9 elements, again, to the lack of knowledge and
10 the means of knowledge, so neither the
11 exemption statute itself, going in the
12 published guidance of the Department, at least
13 that I could find, would have put any taxpayer
14 on notice that the residency of the disabled
15 veteran is what the statute turns on. So
16 that's as to the very first element. As to the
17 second element, justifiable reliance upon the
18 government's conduct, again, we -- we have a
19 Petitioner here who applied for the exemption
20 and was granted the exemption under, in our
21 mind, the same facts, just different years.
22 And relying on that treatment, she purchased a
23 different house in 2016, she sold her existing
24 house, and that's -- that's no small moment for
25 someone to sell their house and move somewhere



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1 else. She did not anticipate being treated
2 differently in that circumstance. And that's
3 the third element, the prejudicial change in
4 position. Ms. Cromey stated in a letter to the
5 Department last summer that if she had known
6 that she would lose the tax exemption, she
7 would not have changed her residence.

8 **THE COURT:** All right.

9 **MR. FELDER:** One more point on the *Morgan* case. The
10 Department has cited that case for the
11 proposition that estoppel will not lie against
12 the governmental entity where a government
13 employee gives erroneous information and
14 contradicts another statute, or a government
15 official or employee with limited authority
16 erroneously provides advice beyond the scope of
17 the authority.

18 **THE COURT:** Therein lies my comment earlier.

19 **MR. FELDER:** Understood. In this case, the
20 erroneous information was not provided by a
21 mere employee of the Department or by someone
22 with limited authority. Here, it was published
23 in the South Carolina Property Tax Manual. A
24 policy manual that's published by the
25 Department, it bears the name of the governor



1 of the state and the director of the Department
2 of Revenue. I believe the most recent addition
3 is the 2015. I've got an excerpt from that
4 publication which discusses the surviving
5 spouse exemption. There's no mention of the
6 residency of the deceased spouse ---

7 **THE COURT:** Hold on.

8 **MR. FELDER:** --- in -- in the provision ---

9 **THE COURT:** Let me read it. All right. When you
10 say there's no mention, it doesn't really
11 erroneously tell you, it just doesn't mention
12 it.

13 **MR. FELDER:** Well, when the -- the consequence is
14 not getting an exemption versus ---

15 **THE COURT:** Yeah.

16 **MR. FELDER:** --- getting an exemption, that's ---

17 **THE COURT:** Yeah.

18 **MR. FELDER:** --- and that's -- that's why we're here
19 today. It's a -- it's a big impact on the
20 Petitioner. And that description, as far as I
21 can tell, has not changed going back to the
22 2009 edition, 2010 edition, I could not find a
23 2011 edition. I found a '12, a '13, and a '14
24 ---

25 **THE COURT:** You did miss one good point in -- in



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1 there, but that -- in your favor, if you go
2 back. The -- in order to get deference, there
3 must be a long-standing administrative
4 interpretation. And that says a house
5 subsequently acquired by -- a house of -- well,
6 it doesn't say how many, it just says a house.
7 Oh well. I thought that was gonna help you.
8 Go ahead.

9 **MR. FELDER:** Understood, thank you -- thank you,
10 Your Honor.

11 **THE COURT:** I'm sorry I messed you up.

12 **MR. FELDER:** Well, it -- I don't know how -- how
13 long it has to be to be longstanding, this ---

14 **THE COURT:** Yeah.

15 **MR. FELDER:** --- exemption has been in place since
16 2004, so at least since 2009. At least that's
17 -- that's as far back as I went.

18 **THE COURT:** Yeah.

19 **MR. FELDER:** That seems to have been the -- the only
20 published position of the Department.

21 **THE COURT:** Okay.

22 **MR. FELDER:** With that, I will concede my time ---

23 **THE COURT:** Okay.

24 **MR. FELDER:** --- to the Department. Thank you.

25 **RESPONSE:**



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1 **MS. WOOTEN:** Thank you, Your Honor. A couple of
2 responses to the Petitioner's argument. First,
3 the Department has argued that the plain
4 language of the statute controls and supports
5 the Department's position in this matter. In
6 the alternative, if the -- if the judge -- or
7 the Court does not believe that, we believe ---

8 **THE COURT:** Oh, you can change my mind, I'm just ---

9 **MS. WOOTEN:** Oh, and I ---

10 **THE COURT:** --- I didn't have an original position,
11 but ---

12 **MS. WOOTEN:** And to the extent that you do not agree
13 with that, we believe that there might be --
14 there is an ambiguity in the statute that
15 should be resolved in favor of the Department.
16 The plain language of the statute, if you look
17 under subsection (b), 1(b), the language we're
18 talking about, the house owned by qualified
19 surviving spouse acquired from a dec- --
20 deceased spouse and a house subsequently
21 acquired by an eligible surviving spouse. If
22 you turn to the definition of a qualified
23 surviving spouse, it means the surviving spouse
24 of an individual described in sub-item 1, that
25 refers to an eligible owner. So the surviving



1 spouse has to be -- it has to be the surviving
2 spouse of the eligible owner.

3 **THE COURT:** Okay.

4 **MS. WOOTEN:** Subsection A, defines eligible ---

5 **THE COURT:** Hold on a second, let me -- my computer
6 went down. I've gotta log back on. All right.
7 Take me back through that statute again, I --
8 I'm sorry.

9 **MS. WOOTEN:** Sure.

10 **THE COURT:** All right. So you were where?

11 **MS. WOOTEN:** At the beginning of subsection (B),
12 (1)(b), the house owned by a qualifying
13 surviving spouse acquired from the deceased
14 spouse, and a house subsequently acquired by an
15 eligible sur- -- surviving spouse.

16 **THE COURT:** Okay. I've got that.

17 **MS. WOOTEN:** All right. So we go further down,
18 surviving -- excuse me, qualified surviving
19 spouse is defined in the statute. It means the
20 surviving spouse of an eligible owner ---

21 **THE COURT:** And it's defined under 220 -- I
22 apparently cut it off there, so is it in ---

23 **MS. WOOTEN:** It's B ---

24 **THE COURT:** --- under -- okay, here it is. I didn't

25 ---



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1 MS. WOOTEN: Little ---

2 THE COURT: I didn't copy enough of ---

3 MS. WOOTEN: Okay.

4 THE COURT: --- 220 is what I'm getting at. Go
5 ahead.

6 MS. WOOTEN: Okay. So if you turn to the definition
7 of qualified surviving spouse, it means the
8 surviving spouse of an eligible owner. So now
9 we go up to the definition of an eligible
10 owner, who is an eligible owner? A veteran of
11 the Armed Forces of the United States who is
12 permanently and totally disabled as a result of
13 a service-connected disability. The Department
14 agrees that Mr. Cromey meets those
15 qualifications. However, there's an and. He
16 has to do something else. And files with the
17 Department of Revenue a certificate signed by
18 the County Service Officer certifying his
19 disability. Mr. Cromey never filed anything
20 with the Department of Revenue, Ms. Cromey did.
21 Mr. Cromey had already passed away by this
22 point. Why would he not file anything with the
23 Department of Revenue? Because he doesn't own
24 any property in South Carolina and he's not
25 requesting a property tax exemption on that



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1 property. So the Department's position is that
2 Mr. Cromey was never an eligible owner, which
3 means Ms. Cromey can never be extended the
4 exemption because he never qualified for it.
5 Therefore, the Department's position is that
6 the plain language of the statute supports our
7 position. Unfortunately, Mr. Cromey never
8 qualified here, therefore, it can't be extended
9 to Ms. Cromey. In the alternative, if the
10 Court does not believe the plain language
11 supports the Department's position, we would
12 say that the -- the statute creates an
13 ambiguity, because the -- the language that the
14 Petitioner relies on is eligible surviving
15 spouse, that is not defined in the statute.
16 Qualified surviving spouse is. And under the
17 principles of statutory construction, the
18 Department would sub- -- submit that that
19 ambiguity should be resolved in favor of the
20 Department. Although eligible surviving spouse
21 is not a defined term, when you ---

22 **THE COURT:** Well, when you say it should be resolved
23 in favor of the Department, when did the
24 Department take this posit- -- position in this
25 case, or is it -- has it been a position that



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1 you've taken over an extended period of time,
2 concerning ---

3 **MS. WOOTEN:** That -- that it's an ambigui- -- well,
4 our first argument is the ---

5 **THE COURT:** No, it ---

6 **MS. WOOTEN:** --- the plain language.

7 **THE COURT:** No, not the ---

8 **MS. WOOTEN:** I'm sorry.

9 **THE COURT:** The interpretation.

10 **MS. WOOTEN:** This has always been the Department's
11 interpre- -- interpretation.

12 **THE COURT:** Okay.

13 **MS. WOOTEN:** I am not aware of any other
14 interpretation by the Department for this
15 particular item ---

16 **THE COURT:** Okay, that's what I'm asking. All
17 right.

18 **MS. WOOTEN:** So, although the eligible surviving
19 spouse, again, this is the language Petitioner
20 is -- is relying on, is not defined, when you
21 read the exemption statute as a whole, eligible
22 surviving spouse means the surviving spouse
23 who's qualified, i.e., she meets all the
24 requirements in the statute, becomes eligible
25 for any subsequent house. So once she receives



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1 the house from the deceased veteran and meets
2 all of these requirements, as long as she
3 remains unmarried, she becomes eligible for
4 every subsequent house. And so the Department
5 would submit that under that, as well, the
6 exemption should be denied for Ms. Cromey.

7 **THE COURT:** Well, he took the approach that there
8 were two buckets. What is your interpretation
9 of that because he's saying that under his
10 approach, all she has to do is come in and meet
11 the requirements of the second bucket and she
12 ~~is~~ she's in the door?

13 **MS. WOOTEN:** I think you have to read the statute as
14 a whole. What is the statute giving an
15 exemption for? It's giving an exemption for a
16 disabled veteran who has a legal residence in
17 this state. That's the starting point. That
18 is the hat, that's the dwelling. Once that
19 exemption is -- is granted, he continues to
20 keep it. And then if he passes away, the state
21 has said you know what, we're going to let the
22 surviving spouse remain in this home, property
23 tax-free, as long as she meets these other
24 requirements. So we believe that the starting
25 point is the eligible house, which is the



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1 eligible owner, which is the disabled veteran.

2 **THE COURT:** All right. So you get that the -- has --
3 -- has to be disabled. And then you made the
4 statement who has a residence here. The
5 residence is -- requirement is established by
6 the inference from what you made previously
7 about the requirement to ---

8 **MS. WOOTEN:** Your Honor, if -- if I may?

9 **THE COURT:** Yeah, I'm -- I'm trying to ask.

10 **MS. WOOTEN:** If you look at the statute, house is
11 defined as -- means a dwelling or a lot and
12 which is situated, classified in the hands of
13 the current owner for property tax pur- --
14 purposes, pursuant to 12-43-220, that is the
15 legal residence statute, that ---

16 **THE COURT:** Okay.

17 **MS. WOOTEN:** --- allows you to get the four percent
18 property tax rate.

19 **THE COURT:** Okay.

20 **MS. WOOTEN:** So that's where we're getting the
21 resident -- the legal residence, the property
22 owner, and disabled vet. That's how it's being
23 tied together.

24 **THE COURT:** Okay.

25 **MS. WOOTEN:** And secondly, addressing the legislative



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1 history, briefly. Petitioner is asserting that
2 subsequently in the statute and subsequent to
3 the deceased veteran's death. The Department's
4 position is sub- -- subsequently refers to the
5 home you sub- -- the subsequently-acquired home
6 that you acquired after receiving the first
7 property tax exemption as a surviving spouse.
8 And to support that, if you look at the ---

9 **THE COURT:** Okay.

10 **MS. WOOTEN:** --- if you will look at the legislative
11 history, two changes -- two major change from
12 the Department's position occurred. One, it
13 removed the 150 percent cap, so the surviving
14 spouse is no longer limited to the valuation of
15 150 percent of the, again, initial exempt
16 dwelling, that's the starting point. That cap
17 has been removed. The other is under the
18 previous version, 2004 amendment, a surviving
19 spouse who disposes of the exempt dwelling
20 again, house number one, and acquires another
21 residence, house number two, is exempt. But
22 any subsequent dwelling is no longer -- is not
23 exempt. We believe that was the -- the change
24 the legislature intended to make. We're gonna
25 remove that, that you can only receive one --



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1 one house, and we're going to let you continue
2 to receive the exemption on any subsequent
3 house, as long as you meet the requirements of
4 the statute. And if you'll look at the
5 preamble language of that amendment, very
6 bottom, to allow the surviving spouse of a
7 disabled veteran to receive the exemption for
8 any subsequent dwelling. That was the purpose
9 of the amendment. It was not ---

10 **THE COURT:** That was in the preamble?

11 **MS. WOOTEN:** Yes, that is ---

12 **THE COURT:** Okay.

13 **MS. WOOTEN:** --- in the preamble. That was the
14 purpose of the amendment, it was not to create
15 a new class of people, it was to broaden the
16 category of how many houses that -- that
17 surviving spouse, once qualified, is then
18 eligible to receive. So, Your Honor, we would
19 say -- the Department would say that the
20 legislative history supports the Department's
21 position that because she was never eligible to
22 begin with, she cannot receive it on a
23 subsequent house. And just briefly, if I can
24 address the discrimination issues. I won't go
25 into this very, you know ---



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1 **THE COURT:** The constitutional issues?

2 **MS. WOOTEN:** Yes, any const- -- I'm sorry,
3 constitutional issues, as you're aware, the ALC
4 cannot hear a racial discrimination claim in
5 this court. However, to the extent that the
6 Petitioner is claiming that this is a -- as
7 applied ---

8 **THE COURT:** As applied would be ---

9 **MS. WOOTEN:** --- would be different and the court --
10 -

11 **THE COURT:** Because he's taking the constitutional
12 concerns and saying if you apply it this way,
13 it creates a constitutional concern, but if you
14 apply it the way that it -- which he would --
15 seeks ---

16 **MS. WOOTEN:** Sure.

17 **THE COURT:** --- it to be applied, it removes the
18 constitutional infraction.

19 **MS. WOOTEN:** Sure. Just briefly, there are cases,
20 specifically, I believe I cited to a New Jersey
21 tax court case, not binding on this court, and
22 I understand, but it goes through why that is
23 not a constitutional issue. That states have
24 the right to make those decisions for those
25 residents. And also, this -- the Department is



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1 not applying this statute any differently than
2 if Ms. Cromeey and her husband had resided here
3 in South Carolina and they rented. If he did
4 not own property in South Carolina, she would
5 not have been eligible to receive -- receive
6 the exemption as a surviving spouse. So it
7 doesn't matter that he was in Maryland; he
8 could have been here and not owned any
9 property. She still wouldn't have been
10 entitled to the exemption under the plain
11 language of the statute.

12 **THE COURT:** All right. And just -- just to
13 reiterate, if you go back to the definition of
14 eligible owner, eligible owner of what
15 property, what are we seeking an exemption on?
16 Property tax. That's the starting point, it
17 assumes that he owns property in the State of
18 South Carolina and is requesting 100 percent
19 property tax -- or exemption on that property.

20 **THE COURT:** Thank you.

21 **MS. WOOTEN:** Thank you.

22 **THE COURT:** Any response?

23 **RESPONSE BY MR. FELDER:**

24 **MR. FELDER:** Yes, Your Honor. I prepared a response
25 to the arguments that were included in the



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1 Department determination, so I'd like to go
2 through those, as well as address a few points
3 that were just raised by the Department.

4 **THE COURT:** Okay.

5 **MR. FELDER:** All right, so before we get into the --
6 a few points that were just raised, there were
7 three arguments raised by the Department in
8 either its Department determination or in its
9 motion for summary judgment or in other filings
10 in this case that we feel warrants a response.
11 Number one, the Department relies on the case
12 *Rachel Watson v. SC DOR*, an ALC decision from
13 the year 2000, for its understanding of the
14 exemption. They go through the five elements
15 of the exemption as it existed at that time.
16 Again, because we are making this two bucket
17 argument and we're in the second bucket, we
18 don't believe that case applies. Basically, we
19 believe it is no longer good law for the facts
20 of this case. Secondly ---

21 **THE COURT:** This -- I'm getting this ca- -- y'all
22 didn't make cross motions for summary judgment,
23 did you?

24 **MS. WOOTEN:** We did, Your Honor.

25 **THE COURT:** That's what I thought. Okay. Wrong



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1 page. Go ahead. You said something that made
2 -- made me think that I -- I perceived this
3 case wrong. Go -- go ahead. You're fine.

4 **MR. FELDER:** Okay. Secondly, the Department we
5 believe, has incorrectly substituted the
6 definition of the word eligible owner into the
7 text of the exemption in place of the word
8 current owner. Getting into that in a moment.
9 And then third, the Department has relied upon
10 the case of *Garma vs. Township of Lakewood*, the
11 New Jersey case, for the proposition that a
12 state can deny property tax exemptions to a
13 surviving spouse based on the residency of a
14 third person, the disabled veteran. Even if
15 that is a correct statement of constitutional
16 law, which we argue is not, it's one of the
17 concerns we've already raised, we believe that
18 case has no application here because South
19 Carolina has not enacted a statute that
20 discriminates on the basis of the disabled
21 veteran's residency. Again, the plain language
22 of the statute we believe should be read
23 otherwise. So point number one, the *Watson*
24 case, again, the tax years in dispute there
25 were '96, '97, and '98. The predecessor to the



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1 current exemption was in effect at that time.
2 The court in that case said there were five
3 elements, I've got an excerpt from the original
4 law in 1992 on the next page. Back then, the
5 exemption applied to the dwelling house in
6 which he resides. The disabled veteran had to
7 actually reside at the dwelling. Disabled
8 veteran had to own the dwelling fee or -- for
9 life or jointly with a spouse. The spouse must
10 not remarry. The spouse must reside at the
11 same dwelling; the spouse must obtain by devise
12 by fee or life estate. So again, that was the
13 case then, that's just not the case now,
14 particularly in the second bucket where a lot
15 of those provisions have been removed. In the
16 year 2000, that by devise provision was removed
17 again. Moving on to 2004, we believe the
18 disabled veteran having to reside in the
19 dwelling provision was removed for purposes of
20 that second bucket, which is why we're here
21 today. So again, we're down to our original
22 three requirements. On the next page is that
23 red line that we're all now familiar with, it's
24 just a house subsequently acquired by an
25 eligible surviving spouse. If you go to the



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1 definition of qualified surviving spouse, that
2 is an individual who is described in sub sub-
3 item (i), sub sub-item (I) refers to an
4 eligible owner, a veteran of the Armed Forces
5 of the United States who is permanently and
6 totally disabled as a result of service-
7 connected disability and who filed with the
8 Department of Revenue a certificate signed by
9 the County Service Officer certifying his
10 disability. I'm -- I was not aware that there
11 was a second requirement that the Department
12 had raised in this case until just now, but I
13 believe -- the way we would respond is that
14 provision is merely providing certification
15 that the injury is true. And what we have in
16 this case, undisputed by both parties, is
17 evidence from the federal government that that
18 disability was in existence in 2004, and we
19 believe that should be sufficient notice --
20 sufficient certification, if you will, of the
21 disability. Even though maybe this particular
22 filing was not made with the Department of
23 Revenue. Moving on -- so the surviving spouse
24 and individual described in sub sub-item (i),
25 that's where we were. The next three



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1 requirements, while remaining unmarried, who
2 resides in the house and who owns the house in
3 fee for life. Those three requirements were in
4 the law before, they were just in there for
5 that first bucket. Now they're, by definition,
6 included also in the second bucket, so that's
7 where we get those requirements from. The next
8 question is this idea of an eligible owner. If
9 you look at the definition of house, according
10 to the Department determination, a surviving
11 spouse can only qualify for the exemption of
12 the house was formerly the disabled veteran's
13 residence. That conclusion is reached by
14 substituting the statutory definition of
15 eligible owner in place of the statute's words,
16 current owner. So we believe when they changed
17 the law in 2004 and included the phrase current
18 owner, the intent was to have ---

19 **THE COURT:** Can you stop and let me look at this?

20 Okay. Following you.

21 **MR. FELDER:** So we believe that change is further
22 evidence of the General Assembly wanting to
23 create an exemption where all the definitions
24 meet their goal of creating, again, two
25 separate buckets, two separate classes of



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1 property. By changing it -- by having included
2 in the definition, the phrase current owner, it
3 could be the surviving spouse who is applying
4 at the time that the deceased has already
5 passed, or it could be the deceased -- excuse
6 me, or it could be the disabled veteran during
7 his lifetime. Because without that change, if
8 you -- if you impose the phrase eligible owner
9 into that definition, it wouldn't make sense
10 under this second bucket. So that -- we
11 believe that's further evidence of the General
12 Assembly's intent to again, create two classes
13 of property that are exempt independent of one
14 another. The next slide shows eligible owner,
15 has the definition, but in the definition of
16 house, again the phrase is current owner. We
17 would urge this Court to look at those two
18 terms meaning different things.

19 **THE COURT:** Rephrase that eligible owner, the word
20 eligible is what opens you up to the idea of
21 having the second bucket. You could argue that
22 its current form would leave you with ---

23 **MR. FELDER:** Correct, but the definition of house
24 does not require that eligible owner to own the
25 house. That's the point.



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1 THE COURT: Yeah.

2 MR. FELDER: Moving on to the next slide. The Garma
3 case, again, we believe is inapplicable. That
4 case involved an exemption that was actually
5 constitutional in nature. It's in the New
6 Jersey Constitution, there's a disabled veteran
7 exemption. That's not the case here in South
8 Carolina, it's a discretionary exemption passed
9 by the state legislature. And the words
10 residency appear in the Constitution, so we
11 just -- we just -- we don't believe that case
12 is applicable here. I've got an excerpt from
13 that case on the next slide. Article 8 Section
14 1 Paragraph 3 of the Constitution of the State
15 of New Jersey relates to exemption from real
16 property, taxation for property owned by
17 veterans and their surviving spouses. And you
18 can skip down to the highlighted section.
19 Surviving spouse of any citizen and resident of
20 this state. So to -- just to bring a finer
21 point to it, there's both a citizenship
22 requirement and a resident requirement. That's
23 just not the case in the South Carolina
24 statute, we don't -- we don't find those words,
25 we don't find those requirements.



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1 **THE COURT:** Well, even if that was a requirement in
2 the New Jersey Constitution, under your theory,
3 would not that constitutional provision be
4 violative of the Federal Constitution?

5 **MR. FELDER:** That would be our argument. I don't
6 believe that case was ---

7 **THE COURT:** So it doesn't matter whether it's in the
8 statute or the Constitution, your theory's
9 still -- it applies to both provisions, would
10 it not?

11 **MR. FELDER:** The constitutional argument would apply
12 to both, that's right.

13 **THE COURT:** Okay. Therein I missed the point.

14 **MR. FELDER:** I guess I must have missed the point,
15 as well.

16 **THE COURT:** Okay. That's fine. I probably missed a
17 few already in this case myself.

18 **MR. FELDER:** My apologies, Your Honor.

19 **THE COURT:** No, it's fine. Like I said, I probably
20 missed some myself.

21 **MR. FELDER:** So I believe we've covered the eligible
22 owner issue that was raised by the Department,
23 and I believe we also covered this definitional
24 eligible owner, the and clause about filing
25 with the Department of Revenue. Again, we



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1 would take ---

2 **THE COURT:** With the and.

3 **MR. FELDER:** Again, we would take the position that
4 the evidence in this case is above and beyond
5 a certification filed with the Department of
6 Revenue, again it's coming from the federal
7 government, it's undisputed by the parties in
8 the case. So I don't think that's ---

9 **THE COURT:** It's coming from the federal government,
10 explain what you mean.

11 **MR. FELDER:** So in the -- in the filings in this
12 case, I believe in the admissions -- just a
13 second here. In February of 2014, this is
14 admission number two, the United States
15 Veterans Administration deemed Mr. Cromey to be
16 permanently and totally disabled.

17 **THE COURT:** Okay. All right. That's part of your
18 argument?

19 **MR. FELDER:** Yes, sir. Let me make sure I -- I've
20 addressed everything I intended to address. I
21 believe that's all I have, Your Honor.

22 **THE COURT:** Thank you.

23 **MR. FELDER:** Thank you.

24 **THE COURT:** All right. Since it's cross summary
25 judgment motions, if you wish to respond, I'll



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1 allow y'all -- y'all to respond.

2 RESPONSE BY MS. WOOTEN:

3 MS. WOOTEN: Thank you. May I have just one moment,
4 Your Honor?

5 THE COURT: You may.

6 MS. WOOTEN: Thank you. May I have one moment,
7 sorry, I didn't stand up. Your Honor, I will
8 try to be as brief as possible, I ---

9 THE COURT: That's okay, I -- I want to figure this
10 all out.

11 MS. WOOTEN: I better ---

12 THE COURT: You can be loquacious and then I'll cut
13 you off when I get tired of hearing you.

14 MS. WOOTEN: Thank you. Let me respond briefly to
15 his arguments. The first response that he had
16 to us was that *Watson* was no longer applicable
17 because of the change in the statute. I
18 briefly addressed that earlier, we believe that
19 the only real change in that statute was to
20 remove the cap and to allow any subsequent
21 house, the surviving spouse to have exemption
22 on any subsequent house. If you look at the
23 requirements, they may not be contained in the
24 same fashion as they were in the previous
25 version of the statute, but those requirements



1 are still there. For instance, number one, the
2 disabled veteran must have resided in the
3 house. You go and look at the definition --
4 sorry, the definition of house, it has to be
5 classi- -- it has to be a property owner, and
6 it has to be classified in his hands as the
7 legal residence. So again, we would submit
8 that case is still good with the -- the
9 requirements, because they are still contained
10 in the revised statute. And for the second
11 point, current owner versus eligible owner,
12 once the -- the current owner is initially the
13 disabled veteran, he is the eligible owner.
14 Once the surviving spouse meets all of the
15 requirements and then steps into the shoes of
16 an eligible surviving spouse, she would be the
17 current property owner under that definition of
18 house. We are not suggesting that those two
19 are always interchangeable. The surviving
20 spouse has to meet the qualifications first and
21 then she can move into the role as the current
22 owner. And then two more points about the
23 statute briefly, Your Honor. If you take the
24 Petitioner's argument that those two provisions
25 in the statute -- two buckets I think we've



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1 been calling them here, are independent and not
2 related. If they're not related and a disabled
3 veteran surviving spouse applies for the
4 exemption, there's nowhere in the statute that
5 requires her to provide proof that her deceased
6 spouse was a disabled veteran. That has to
7 come first, in the first -- if -- if -- again,
8 if we're gonna call those two independent
9 clauses, there's nothing that ties her to
10 provide that kind of proof to the Department.
11 That is why, Your Honor, we argue that the
12 starting point is the disabled veteran's house,
13 and then we move from there. And then finally,
14 if you look at ---

15 **THE COURT:** Well, the way he's treating it, he's
16 taking 1(a) and saying like that's the criteria
17 that applies to both, the house owned by
18 eligible owner in fee or jointly with spouse.
19 And then he's taking (b) and going the house,
20 and then he's creating two buckets after the
21 house. The house owned by a qualified
22 surviving spouse acquired from the deceased
23 spouse, and a house -- I don't need to read the
24 rest, but ---

25 **MS. WOOTEN:** Right.



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1 **THE COURT:** --- can you respond to that?

2 **MS. WOOTEN:** Sure, and I -- I think I was trying to
3 respond to that, maybe I did not do that ---

4 **THE COURT:** No, I -- I want -- I want ---

5 **MS. WOOTEN:** --- as -- as well.

6 **THE COURT:** See, I may be missing the point.

7 **MS. WOOTEN:** But if -- if that is the argument, you
8 know, we would -- again, the Department would
9 say there has to be some kind of tie in that
10 second bucket of 2(b) -- or 1(b), excuse me.
11 If they're solely relying on that phrase in
12 isolation, which we would argue you can't do
13 that, but if they're solely relying on a house
14 acquired by an eligible surviving spouse,
15 eligible surviving spouse is not defined and
16 then there's no -- the requirement to provide
17 that kind of documentation is not tied to that
18 sole phrase.

19 **THE COURT:** Okay. In the second ---

20 **MS. WOOTEN:** In the second part. And then finally,
21 if you look at the qualified surviving spouse
22 definition, we've been talking about the
23 beginning of the -- the definition. But if you
24 go further into it, it says qualified surviving
25 spouse also means the surviving spouse of a



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1 member who was killed in action, same sentence,
2 lots of commas and words in between, but same
3 sentence, who at the time of death owned a
4 house in fee or jointly with the now surviving
5 spouse. That is contained in the definition of
6 qualified surviving spouse. And the Department
7 would submit that that creates an absurd
8 conclusion for the legislature to require a
9 surviving spouse of a member who was -- of
10 Armed Forces who was killed in action to have
11 owned it at the same time, but not require a
12 disabled veteran surviving spouse to have owned
13 it before she can continue with the exemption.
14 So, Your Honor, we would just argue that that
15 would lea- -- that -- reading those in
16 isolation would lead to an absurd conclusion,
17 to put two different requirements on two
18 different types of armed forces surviving
19 spouses. That's all, Your Honor.

20 **THE COURT:** All right. Anything else? Y'all have
21 given me a lot to think about.

22 **MR. FELDER:** I've got a lot to think about myself.

23 **THE COURT:** Yeah. So ---

24 **RESPONSE BY MR. FELDER:**

25 **MR. FELDER:** Just -- just a moment, Your Honor.



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1 Just briefly. On the definition of qualified
2 surviving spouse, the -- the further down
3 portion of the statute that was just covered,
4 we believe it's clear that that phrase, the
5 separate sentence and the separate
6 qualifications, if you -- if you get down to
7 that part about the member of the armed forces
8 who was killed in action, or a firefighter who
9 dies in the line of duty, etcetera, for
10 whatever reason, those specific instances of
11 eligible owners -- actually I misspoke, that
12 those are not eligible owners, those are in
13 addition to the eligible owners, because the
14 eligible owners are all based on disability.
15 For whatever reason, those do have the
16 additional requirement that the property be
17 owned at the time of death. I can't sit here
18 and tell you I can understand why that's the
19 General Assembly's conclusion, but we believe
20 that the plain language of the statute should
21 control here. We don't believe that's an
22 absurd conclusion, that's just a discretionary
23 conclusion made by the General Assembly. I'm
24 sure they have plenty of reasons for the things
25 that they do, but we don't believe that is an



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 absurd -- absurd conclusion. That's all.

2 **THE COURT:** Thank you.

3 **MR. FELDER:** Thank you, Your Honor.

4 **ADJOURNMENT:**

5 **THE COURT:** All right. Well, this hearing's
6 adjourned -- I'm -- well, before I adjourn it.
7 I -- I'm going to look into what -- the
8 arguments both of y'all made. I may ask for
9 additional briefing or proposed orders in this
10 case. I'm not sure, I want to think about it
11 first, but it's an interesting case. So thank
12 you for your time.

13 **MS. WOOTEN:** Thank you.

14 **MR. FELDER:** Thank you, Your Honor.

15 (There being nothing further, the administrative
16 hearing concluded at 11:10 a.m.)

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CREEL COURT REPORTING, INC.
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(803) 252-3445 / (800) 822-0896

*Property Tax exemption previous SC
Address.*

State of South Carolina
Department of Revenue

301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

12/14/2010

PREXE 1466258008



MARY ELLEN CROMEY
1551 BEN SAWYER BLVD UNIT 6B
MOUNT PLEASANT SC 29464-5510

NOTICE DATE: 12/14/2010
TAX-YEAR: 2011
SID-SFX: 2564332-000-001
COUNTY: CHARLESTON

Dear Applicant:

Your application for Property Tax exemption has been approved and exemption granted for the following properties:

PROPERTY:

BUILDING 1 100.0%
LAND 1.00 ACRES 100.0%

TAX MAP NUMBER:
5321500119

APPLICABLE SC CODE SECTION:
12-37-220(B1A)

This information is being sent to your county auditor and assessor; therefore, if you receive a tax bill or if you have paid Property Tax for the year(s) in which the exemption has been granted, please contact your appropriate county auditor.

1350



State of South Carolina
Department of Revenue
**PROPERTY TAX
EXEMPTION DENIAL**

PT-456
(Rev. 1/27/16)
7081

04/19/2017

PREXE 7238759008



MARY ELLEN CROMLEY
1885 CAROLINA TOWNE CT
MOUNT PLEASANT SC 29464-8001

NOTICE DATE: 04/19/2017
TAX-YEAR: 2017
SID\Suffix: 2564332-000-004
COUNTY: CHARLESTON

Applicant:

Your application for property tax exemption has been denied for the following properties:

PROPERTY:

BUILDING 1 100.0%
LAND 0.08 ACRES 100.0%

TAX MAP NUMBER:

5581500269

APPLICABLE SC CODE SECTION:

12-37-220(B1A)

*****REASON FOR DENIAL*****

TO QUALIFY FOR A HOME, THE VETERAN WOULD HAD TO HAVE OWNED
PROPERTY IN THE STATE OF SC PRIOR TO HIS OR HER PASSING
WHICH OWNERSHIP INTEREST COULD BE TRANSFERRED TO THE
SURVIVING SPOUSE. SINCE THE VETERAN DID NOT OWN THIS HOME
OR ANY OTHER PROPERTY IN SC THE REAL PROPERTY DOES NOT
QUALIFY FOR THE EXEMPTION.

You or your agent may protest the denial of your property tax exemption request. The protest must be made in writing to the South Carolina Department of Revenue within 90 days from the date of this notice. The protest must contain the information outlined on the enclosed form PT-437. You will be notified by the Property Section if any additional information is required.

If you have any questions, call the Property Section at (803) 898-5700.

Sincerely,

South Carolina Department of Revenue
Government Services Division
PO Box 125
Columbia, SC 29214-0303

Enclosure
(Form PT-437)

70811013

July 11, 2017

State of South Carolina
Department of Revenue
Government Services Division
P.O. Box 125
Columbia, SC 29214-0303

Ref: Property Tax Exemption Denial Letter of 04/19/17

To Whom It May Concern:

I am writing to protest the Property Tax Exemption Denial for my property in Mt. Pleasant, SC.

Property Tax exemption was first granted to my late husband in 2005 in the state of Maryland as a result of his being a 100% Disabled American Veteran. He passed away in 2005 as a result of this disability.

After my move to South Carolina in 2010, I was able to transfer this exemption to my property here in Mt. Pleasant at 1551 Ben Sawyer Blvd. 29464. I resided at this residence until my move in 2016 to my current residence in Mt. Pleasant at 1885 Carolina Towne Ct. 29464. My application for tax exemption was submitted to your office and after much back and forth, I received a denial to this request.

My efforts to discuss this denial with the person who made this decision was not possible as when I called the number on the notice, I was told the office was not required to give out the name. If I had known I would lose this tax exemption, I would not have changed my residence.

I have talked to individuals in the Charleston County Tax office who have never heard of this "Reason for Denial" before. My protest is that my tax exemption granted in 2005 and 2010 should not be taken away after 12 years, 6 in the state of South Carolina.

Sincerely,

Mary Ellen Cromeey
1885 Carolina Towne Ct., Mt. Pleasant SC 29464
410.236.9028

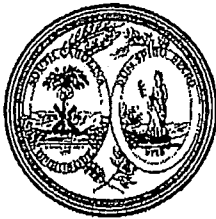
cc: W. Harley Powell, Director, South Carolina Department of Revenue
Attachments (13)

Protest for Denial of Property Tax Exemption:

- B. 1. Mary Ellen Cromeey, 1885 Carolina Towne Court, Mt. Pleasant SC 29464
Phone number 410.236.9028
2. Taxpayer ID: 235-76-1993
 3. Tax year: 2017
 4. Residential Property Tax, Tax Map No. 5581500269
 5. Statement of facts supporting my position: Attached letter with documentation
 6. Statement outlining reasons for appeal: Attached letter with documentation
 7. Any other relevant information: Attached letter with documentation

Mary Ellen Cromeey
1885 Carolina Towne Court
Mount Pleasant SC 29464
410.236.9028

07/12/17 and
08/14/17



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214

July 18, 2017

Mrs. Mary E Cromey
1885 Carolina Towne Ct
Mt. Pleasant, SC 29464

Re: SID/Suffix: 2564332-000-004
Protest of Property Tax Exemption Denial
Charleston County

Dear Mrs. Mary Cromey,

This is in response to the protest of the Property Tax Exemption denial for the real property located at 1885 Carolina Towne Court in Mt Pleasant, South Carolina. The reason for this decision is identified below:

S. C. Code Ann. Section 12-37-220 (1)(a) states "the house owned by an eligible owner in fee or jointly with a spouse; (b) the house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house."

In the letter provided, you indicated that you relocated to South Carolina in 2010 following the passing of your husband in 2005 while living in the state of Maryland. Based on the information provided and after conducting a review of the file when the application for the subsequent home was received, we determined that at no point did the eligible owner, your husband, and prior to his passing own real property in the state of South Carolina.

To qualify the totally and permanently service-connected disabled veteran had to have owned real estate in South Carolina, which subsequently upon his passing would have transferred solely to you, the surviving spouse. Since this was not the case, the subsequent home nor the first home purchased in 2010 qualify for tax exemption.

We regret any hardship this may cause, but we must follow the guidelines as set forth by law as exemptions are strictly construed in South Carolina.



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214

Mrs. Mary Cromeey
July 18, 2017
Page Two

If you wish to continue this appeal, please provide written notification to us within 30 days of the date of this letter. Upon timely notification, we will forward this appeal to our General Counsel and a Final Agency Determination will be issued to you.

If after reviewing the facts supporting the Division's position for denial, should you have any questions, please do not hesitate to contact me at (803) 898-5158.

Sincerely,

Latisha Johnson

South Carolina Department of Revenue
Local Government Services/Exempt Property
803 898-5158
Latisha.Johnson@dor.sc.gov

General Counsel
State of South Carolina
Department of Revenue
300A Outlet Pointe Blvd.
P.O. Box 125
Columbia, SC 29214

August 13, 2017

RE: Property Tax Exemption Protest
1885 Carolina Towne Court
Mount Pleasant, SC 29464

TO: General Counsel

This is a continuation of appeal to property tax exemption denial issued to me July 18, 2017. The reason for your denial in your July 18, 2017 letter quoted the "S.C. Code Ann. Section 12-37-220(1)(a)."

My continued appeal will also refer to the "Application For Exemption Instructions, PT-401-1 (Rev.9/1/05) 7017:"

B. CLASSIFICATIONS OF EXEMPT PROPERTY:

SC CODE SECTION 12-37-220. General exemption from taxes:

"(B)(1)(a) The house owned by an eligible owner in fee or for life, or jointly with a spouse."

"(B)(1)(b) The house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house. (iii) "qualified surviving spouse" means the surviving spouse of an individual described in subsubitem (i) while remaining unmarried, who resides in the house, and who owns the house in fee or for life."

Following the Code Section above, I believe my tax exemption denial should be overturned.

1. Property Tax exemption was first granted to my late husband in 2005 in the state of Maryland. He passed away in 2005 while we were residing in this house which was owned by us both.
2. After my move to South Carolina in 2010, I was able to transfer this exemption to my property here at 1551 Ben Sawyer Blvd. Mt. Pleasant SC. I resided at this residence for nearly six (6) years, receiving the tax exemption for each of those years.

Referring to the SC Code Section 12-37-220, there is no mention that the residence owned by the veteran must be in the state of South Carolina, or "prior to his passing must have owned real property in the state of South Carolina," as Ms. Latisha Johnson stated in her letter.

In my discussions with the Charleston County Auditor's Office who has assisted me both in 2010 and 2017 in my exemption requests, I was told they have never heard of this denial statement. As Ms. Louise B. Shaw, Tax Manager, stated that in her many years in working with veterans for tax exemption requests, she emphatically stated she had never heard of this. I find these statements very disturbing and I trust that you do as well.

Something is clearly wrong here. I do not believe this is subject to personal interpretation of the Code and my belief is that an aggressive effort was given to issue this denial.

Thank you for taking the time to review this appeal. Attachments are included and I await your decision.

Respectfully,

Mary Ellen Cromeey
1885 Carolina Towne Court
Mt. Pleasant SC 29464
410.236.9028

Attachments 19 pages

September 25, 2017

State of South Carolina
Department of Revenue
300A Outlet Pointe Blvd.
Columbia, SC 29210

State of South Carolina
Department of Revenue
P.O. Box 125
Columbia, SC 29214

TO: General Counsel

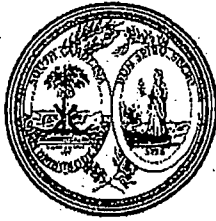
I am concerned that I have not received a reply or acknowledgment of the protest letter that I sent to you last month. This letter was sent to both addresses that are shown above and was sent on August 13 so had time to be received in both offices prior to August 18, 2017. There was also considerable documentation included with this letter.

You may contact me by phone if necessary at my number given below and I appreciate your attention to this most important concern of mine.

Thank you,

Mary E. Crome
1885 Carolina Towne Court
Mt. Pleasant, SC 29464
410.236.9028

Attachment: 2 pages



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211-9979
803-898-5130 FAX # 803-896-0171

November 20, 2017

Mary Cromey
1885 Carolina Towne Court
Mount Pleasant, SC 29464

Re: Department Determination
2017 Property Tax Year

Dear Ms. Cromey:

Enclosed is the South Carolina Department of Revenue's Determination in the above-referenced matter. If you disagree with the Determination, you may request a contested case hearing before an Administrative Law Judge. If you choose to pursue such remedy, you must do so within thirty (30) days of the date of this letter. If you fail to respond within this time limitation, you will lose your right to appeal the Department Determination and your protest will be ended. Should you desire a contested case hearing, you must complete the enclosed request form and mail it, along with a \$150.00 filing fee, to the Administrative Law Court at the address stated on the form's instruction sheet.

The Administrative Law Court rules require that you also send me a copy of your request.
My address is as follows: P.O. Box 12265, Columbia, SC 29211-9979.

Sincerely,

OFFICE OF GENERAL COUNSEL FOR LITIGATION

A handwritten signature in black ink, reading "Nicole M. Wooten", is positioned above the typed name.

Nicole M. Wooten
Counsel for Litigation
Nicole.Wooten@dor.sc.gov
803-898-1826

Enclosures
NMW: tm

DEPARTMENT DETERMINATION

Taxpayer:

Mary Cromeey
1885 Carolina Towne Court
Mount Pleasant, SC 29464

Period Involved:

2017 Property Tax Year

Matter in Dispute:

Is Mary Cromeey (Taxpayer) entitled to the disabled veteran property tax exemption as a surviving spouse pursuant to S.C. Code Ann. § 12-37-220(B)(1) (2014)?

Property in Dispute:

1885 Carolina Towne Court
Mount Pleasant, SC 29464
Tax Map Number: 558-15-00-269

Determination:

The Taxpayer is not entitled to the disabled veteran property tax exemption as a surviving spouse pursuant to section 12-37-220(B)(1).

Relevant Facts:

1. The Taxpayer is the surviving spouse of Mr. Lloyd D. Cromeey. Mr. Cromeey, a veteran, passed away in 2005.
2. Mr. Cromeey was deemed to be permanently and totally disabled in February 2004.¹ He lived in a home jointly owned with the Taxpayer in Owings Mills, Maryland until his death in 2005. *Mr. Cromeey has never been a resident of South Carolina, and he has never owned real property in South Carolina. *ed for*
3. The Taxpayer moved to South Carolina in 2010 and purchased real property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina. *The Taxpayer applied for and received the disabled veteran property tax exemption as a surviving spouse for this property beginning with tax year 2011. *thru 2016.*

¹Mr. Cromeey's disability status is supported by documentation from the United States Veterans Administration.

4. In 2016, the Taxpayer sold the property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina.
5. In August 2016, the Taxpayer acquired the real property located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina ("legal residence").
6. At all times, the legal residence has been solely listed in the Taxpayer's name.
7. On February 17, 2017, the Taxpayer submitted to the Department a 2017 application for property tax exemption (Form PT 401-1), based on section 12-37-220(B)(1)(a). The Taxpayer subsequently submitted a Legal Residence (4%) Exemption Application to the Department. In her applications, the Taxpayer requested a property tax exemption for her legal residence based on her status as a surviving spouse of a disabled veteran.
8. On April 19, 2017, the Department issued a Property Tax Exemption Denial to the Taxpayer. The Department determined that the Taxpayer did not meet the requirements of section 12-37-220(B)(1)(a).
9. By letter dated July 11, 2017, the Taxpayer submitted correspondence to the Department protesting the Property Tax Exemption Denial.
10. On July 18, 2017, the Department acknowledged its receipt of the Taxpayer's protest of the Property Tax Exemption Denial for the legal residence.
11. On August 15, 2017, the Department received correspondence from the Taxpayer informing the Department that she wished to continue to appeal the Department's decision.
12. The file was subsequently forwarded to the Department's Office of General Counsel for Litigation.

Discussion:

I. The Taxpayer Is Not Entitled To The Disabled Veteran Property Tax Exemption As a Surviving Spouse Pursuant To Section 12-37-220(B)(1).

The Taxpayer submitted an application to the Department and requested a property tax exemption for her legal residence located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina. In her application, the Taxpayer stated that she is the surviving spouse of a disabled veteran. Because S.C. Code Ann. § 12-37-220(B)(1)(e)(iii) (2014) extends the property tax exemption for disabled veterans to a surviving spouse that remains unmarried, the Taxpayer claims that she is entitled to the property tax exemption of her legal residence. As explained below, the Taxpayer cannot meet all the statutory requirements of the applicable statute, and the Taxpayer is not entitled to a property tax exemption for her legal residence.

Under South Carolina law, “[a]ll real and personal property in this State . . . shall be subject to taxation” unless expressly exempted as a matter of legislative grace. S.C. Code Ann. § 12-37-210 (2014); S. Weaving Co. v. Query, 206 S.C. 307, 34 S.E.2d 51 (1945). The General Assembly has delineated specific exemptions to ad valorem property tax in S.C. Code Ann. § 12-37-220 (2014). The relevant provisions of the statute exempt the following:

(B) [T]he following classes of property are exempt from ad valorem taxation subject to the provisions of Section 12-4-720:

(1)(a) the house owned by an eligible owner in fee or jointly with a spouse;

(b) the house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse.

S.C. Code Ann. § 12-37-220(B)(1)(a) – (b) (2014).

For purposes of the exemption in S.C. Code Ann. § 12-37-220(B) (2014), the following definitions are relevant to this matter:

“[H]ouse” means a dwelling and the lot on which it is situated classified in the hands of the current owner [as the owner’s legal residence].

“[E]ligible owner” means a veteran of the armed forces of the United States who is permanently and totally disabled as a result of a service-connected disability and who files with the Department of Revenue a certificate signed by the county service officer certifying this disability.

“[Q]ualified surviving spouse” means the surviving spouse of an [eligible owner] while remaining unmarried, who resides in the house, and who owns the house in fee or for life.

S.C. Code Ann. §§ 12-37-220(B)(1)(e)(i), 12-37-220(B)(1)(e)(iii), and 12-37-220(B)(1)(e)(iv) (2014).

The exemption in section 12-37-220(B)(1) is granted to the disabled veteran. This exemption may then be extended to the surviving spouse if certain requirements are met. Here, however, the Taxpayer cannot meet the requirements of section 12-37-220(B)(1) because Mr. Cromey was never eligible for the exemption. Specifically, Mr. Cromey neither owned nor resided in a house in South Carolina.

Section 12-37-220(B)(1)(e)(i) defines "eligible owner" as the disabled veteran, and subsection (b)(1)(e)(i) defines "house" as the owner's legal residence. In order to qualify for the exemption under section 12-37-220(B), the eligible owner must have owned the house in fee or jointly with his spouse. Further, because section 12-37-220(B) is an exemption from South Carolina property taxes, it necessarily follows that the qualifying house owned by the eligible owner must be located within South Carolina. See section 12-37-220(B)(1)(e)(iv) (citing Section 12-43-220(c)). Here, the disabled veteran (Mr. Cromey) neither owned nor resided in the home for which the Taxpayer seeks the exemption. Moreover, Mr. Cromey never owned or resided in any house in South Carolina. Thus, the Taxpayer as the surviving spouse is not eligible for the exemption on any home she acquired subsequent to the death of her husband. Simply put, because Mr. Cromey never qualified for the exemption in South Carolina, the exemption cannot be extended to the Taxpayer in South Carolina.

The statute is clear – for the home to qualify for the exemption, the eligible owner must have owned the home in fee or jointly with a spouse (Taxpayer), such that the Taxpayer would have acquired the home from him upon or subsequent to his death. The Administrative Law Court has consistently applied the Department's interpretation of section 12-37-220(B). In Watson v. South Carolina Department of Revenue, 2000 WL 147506, No. 99-ALJ-17-0304-CC, (2000), the court agreed with the Department and found that five elements are required for a taxpayer to claim this exemption:²

- (1) the disabled veteran must have resided in the dwelling; (2) the disabled veteran must have owned the property in fee, for life or jointly with his spouse; (3) the spouse must not be remarried; (4) the spouse must reside at the same dwelling; and (5) the spouse must have obtained by devise a fee or life estate in the property from the disabled veteran.

In South Carolina, it is well settled that "the language of a tax exemption statute must be given its plain, ordinary meaning and must be construed strictly against the claimed exemption." Owen Indus. Prods., Inc. v. Sharpe, 274 S.C. 193, 195, 262 S.E.2d 33, 34 (1980); see also Southeastern-Kusan, Inc. v. S.C. Tax Comm'n, 276 S.C. 487, 489, 280 S.E.2d 57, 58 (1981) ("As a general rule, tax exemption statutes are strictly construed against the taxpayer."). Accordingly, in order to claim an exemption a taxpayer has the burden of "clearly bring[ing] himself within the constitutional or

²Although the wording of the statute applied in Watson was subsequently amended to its current form, the substance of the relevant portions that form the basis of that decision remains unaltered.

OK this

statutory language upon which he relies.” York County Fair Ass’n, Inc. v. S.C. Tax Comm’n, 249 S.C. 337, 341, 154 S.E.2d 361, 363 (1967) (quoting Textile Hall Corp. v. Hill, 215 S.C. 262, 54 S.E.2d 809 (1949)).

The Taxpayer has not met this burden, and the exemption cannot be granted. Although the application of the statute may appear harsh in this case, the Department must follow the law as written. Smith v. Wallace, 295 S.C. 448, 369 S.E.2d 657 (Ct. App. 1988) (“The Legislature can repeal or amend its statute but neither the [state agency] nor this Court has the authority to do so.”) The Taxpayer purchased the legal residence in her own name subsequent to the death of her husband, and unfortunately, that disqualifies the home from the available exemption under section 12-37-220(B). The Taxpayer did not receive a fee or life estate in the house from her husband at his death, as required by section 12-37-220(B)(1), and the home does not qualify under the second clause of subsection (b) as a “subsequently acquired” home by an “eligible surviving spouse.” When the terms of a statute are clear and unambiguous, there is no room for construction, and the Department must give such terms their literal meaning. Duke Power Co. v. S.C. Tax Comm’n, 292 S.C. 64, 354 S.E.2d 902 (1987).

II. The Taxpayer’s Arguments.

The Taxpayer asserts that she is entitled to the exemption for four reasons: (1) because she and her husband jointly owned a home in Maryland that qualified for the disabled veteran exemption, her subsequently acquired home in South Carolina should also qualify for the exemption; (2) she applied for and received the disabled veteran exemption as a surviving spouse for her South Carolina home purchased in 2010, and thus, the purchase of her “subsequently acquired home” in 2016 should also qualify for the exemption; (3) section 12-37-220(B) does not require the disabled veteran to own property in South Carolina; and (4) an employee in the county auditor’s office advised her that the auditor’s office has “never been aware of the requirement” that the disabled veteran own the property in South Carolina in order for the surviving spouse exemption to apply.

First, section 12-37-220(B) does not automatically extend the disabled veteran exemption granted in another state to a surviving spouse who subsequently purchases real property located in South Carolina.³ The Taxpayer has not offered any precedent in support of her position. Moreover, other courts have recognized a state’s right to create exemptions from local property taxes for the surviving spouse of a resident disabled veteran but denying the exemption to a surviving spouse

³Notably, the disabled veteran property tax exemption varies by state, and in some cases, by local jurisdictions. See Md. Code Ann., Tax-Property § 7-208 (2014) (requiring the “dwelling house” to be “acquired by the surviving spouse within 2 years of the individual’s death, if the individual or the surviving spouse was domiciled in Maryland as of the date of the individual’s death); Ga. Code Ann. § 48-5-48 (2017) (a disabled veteran may receive a property tax exemption of \$60,000 or more on his primary residence if the veteran is 100 percent disabled; property in excess of this exemption remains taxable); N.C. Gen. Stat. Ann. § 105-277.1C (2010) (providing a property tax exemption to disabled veterans of up to the first \$45,000 of the appraised value of his property residence if the veteran is 100 percent disabled as a result of service).

of a nonresident disabled veteran. Garma v. Twp. of Lakewood, 14 N.J. Tax 1, 1994 WL 380713 (N.J. Tax Ct., March 22, 1994).

The Taxpayer next asserts that she received the surviving spouse exemption for the South Carolina residence purchased in 2010 and thus, she should continue to receive the exemption as a surviving spouse for the "subsequently acquired" home purchased in 2016. The Department does not dispute that the Taxpayer received the surviving spouse exemption for tax year 2011; however, the Taxpayer was erroneously granted such exemption as she did not meet the requirements of section 12-37-220(B) when she purchased the home in 2010. The error was not discovered until she applied for the same exemption for the second legal residence purchased in 2016. Nevertheless, the Department's error with regard to the exemption granted in 2011 does not require the Department to extend the surviving spouse exemption to the residence purchased in 2016. The Department must follow the statute as written, and as discussed above, the Taxpayer failed to meet the requirements of the statute. See Morgan v. S.C. Budget and Control Bd., 377 S.C. 313, 319-230, 659 S.C.2d 263, 266-267 (concluding "[e]stoppel will not lie against a government entity where a government employee gives erroneous information in contradiction of statute. Simply stated, equity follows the law.") (citations omitted).

Next, the Taxpayer asserts that section 12-37-220(B) does not require that the disabled veteran own property in South Carolina. As discussed above, for purposes of the exemption in section 12-37-220(B)(1), "house" is defined as the owner's legal residence, and subsection (b)(1)(e)(i) defines "eligible owner" as the disabled veteran. To qualify for the exemption, the statute requires the "house" to be the disabled veteran's legal residence. Mr. Cromey never owned any property in South Carolina, and he did not establish any "house" in South Carolina as his legal residence. Thus, Mr. Cromey never qualified for the exemption in South Carolina.

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Finally, the Taxpayer relies upon the alleged statement of an employee with the county auditor's office to support her assertion that she is entitled to the exemption in South Carolina. The General Assembly has granted the Department the authority to determine if the Taxpayer is entitled to the exemption at issue:

Except for the exemption provided by Section 12-37-220(A)(9), the department shall determine if any property qualifies for exemption from local property taxes under Section 12-37-220 in accordance with the Constitution and general laws of this State. This determination must be made on an annual basis and the appropriate county official so advised by June first of each year by the department.

S.C. Code Ann. § 12-4-710 (2014). Even if the Taxpayer was given erroneous advice from an employee in the county auditor's office the Department – and not the county auditor – has been charge with the administration of property tax exemptions such as the exemption in this matter. See Mead v. Beaufort Cty. Assessor, 419 S.C. 125, 135, 796 S.E.2d 165, 171 (Ct. App. 2016), *petition for cert. filed*, (Mar. 24, 2017) ("The construction of a statute by the agency charged with

its administration will be accorded the most respectful consideration and will not be overruled absent compelling reasons.”) (citations omitted). As discussed above, the Taxpayer is not eligible for the exemption as she does not meet the requirements of the statute. While the Department sympathizes with the Taxpayer’s situation, the Department cannot grant an exemption of property tax to the Taxpayer where she failed to meet the statutory requirements.

Conclusion:

In South Carolina, exemption statutes are construed narrowly, and the Taxpayer bears the burden of bringing herself squarely within the parameters of the statute that grants the exemption. Home Med. Sys. Inc. v. S.C. Dep’t of Revenue, 383 SC 556, 677 SE2d 582 (2009) (“The language of a tax exemption statute must be given its plain, ordinary meaning and must be strictly construed against the claimed exemption.”). In this case, the Taxpayer has failed to carry that burden as Mr. Cromey never owned the residence at issue. This fact alone disqualified the residence from the property tax exemption at issue. Further, Mr. Cromey has never been a resident of South Carolina, and he has never owned any real property in South Carolina. Therefore, the claimed property tax exemption was properly denied.

November 20, 2017

South Carolina Administrative Law Court (SC ALC)
Request for Contested Case Hearing FORM
Mail to: 1205 Pendleton St., Suite 224, Columbia, SC 29201

Last Name: <u>Cromey</u>		First: <u>Mary</u>	Middle: <u>Ellen</u>	☐ Mr. ☒ Mrs.	☐ Miss ☐ Ms.	Docket No. (To Be Completed by ALC)
Mailing Address: <u>1885 Carolina Towne Ct.</u>			City: <u>Mt. Pleasant</u>		State and Zip: <u>SC 29464</u>	
Home Number:		Work Number:		Cell Number: <u>410.236.9028</u>		*E-Mail Address: <u>McCromey@msn.com</u>

*By providing your e-mail address, you consent to receive court orders and notices via electronic transmission

REPRESENTATION

Are you representing yourself? ☒ Yes ☐ No <u>not at this time</u>	
Are you represented by an Attorney? ☐ Yes ☐ No	Name of Attorney:
Attorney Mailing Address:	City, State and Zip:
Attorney Work Number and Cell Number:	Attorney E-Mail Address:

CASE INFORMATION

Name of Agency that Issued the Decision: <u>Dept. of Revenue</u> (Example - Dept. of Revenue, Dept. of Insurance, DHEC)	
In order to have your case processed, you must attach the agency decision. Is it attached?: ☒ Yes ☐ No	If no, please explain:
Date the decision was issued: <u>Nov. 20, 2017</u>	Date the decision was received: <u>Nov. 22, 2017</u>
Please provide a brief statement regarding why the hearing is being requested and the relief sought: <u>SC Code Section 12-37-220: I lived w/ disabled husband in house we both owned when he passed in 2005. Moved to SC in 2010 & tax exemption from MD was granted to SC Residence in 2011. Applied for tax exemption on new Residence in 2016 & was denied. This is the precedent that NOR said I did not enter in my protest. (attachment please)</u>	
Payment via ☒ Check ☐ Money Order ☐ Cash for \$ submitted today to the Administrative Law Court via	(applicable filing fee pursuant to ALC Rule 71) is being ☒ U.S. Postal Service ☐ Hand-delivery
<u>Mary E. Cromey</u> X Your Signature or Signature of Attorney	<u>Nov. 17, 2017</u> Date

PROOF OF SERVICE (MUST BE COMPLETED)

Your Name:	Date:	City:	State:
I hereby certify that on the date and place listed above, I served a copy of the foregoing Request for Contested Case Hearing on all other parties to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows (use the reverse side for any additional names):			
<u>Mary E. Cromey</u> Name and/or Agency Name	<u>1885 Carolina Towne Ct</u> Address	<u>Mt. Pleasant, SC</u> City, State and Zip	<u>29464</u>
Name and/or Agency Name		Address	
City, State and Zip		Date	
<u>Mary E. Cromey</u> X Your Signature or Signature of Attorney		<u>11-17-17</u> Date	

FILED
DEC 18 2017

SC ADMIN. LAW COURT

Attention: All cases filed in the Administrative Law Court are subject to the Rules of Procedure found at the Court's website www.scalc.net or from the Clerk of Court. Failure to follow these rules may result in dismissal of your case.

Filing and Assignment of a Contested Case with the Administrative Law Court

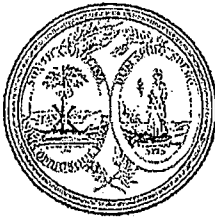
Complete the Request for Contested Case Hearing and Certificate of Service form in its entirety. File the original by mailing it or hand-delivering it to the Administrative Law Court, along with a copy of the decision from the agency and the appropriate filing fee. Be sure to serve a copy of the Request on the agency which you are appealing as well as any other known parties or protestants.

Your case will be deemed filed with the Administrative Law Court upon receipt of your request and filing fee, and will normally be assigned to an administrative law judge within a week of filing. You should receive a Notice of Assignment within a few days of your case being assigned. The Notice of Assignment will have the case caption, docket number, date of filing and the name of the administrative law judge assigned to your case. Once your case has been assigned, all filings and questions regarding your case should be directed to the assigned judge.

Clerk's Office
South Carolina Administrative Law Court
1205 Pendleton St., Ste. 224
Columbia, SC 29201

South Carolina Department of Revenue
Office of General Counsel for Litigation
PO Box 12265
Columbia, SC 29211

① Attachment: Reference Department Determination, II. The Taxpayer's Arguments. (4) "an employee in the county auditor's office:" This is Louise B. Shaw, Tax Manager in the Charleston County's Auditor's Office. It is her responsibility to work with veterans & their spouses and she has done this for years, working with them regarding property tax exemptions and processing paperwork to be forwarded to DOR.



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211-9979
803-898-5130 FAX # 803-896-0171

November 20, 2017

Mary Cromey
1885 Carolina Towne Court
Mount Pleasant, SC 29464

Re: Department Determination
2017 Property Tax Year

Dear Ms. Cromey:

Enclosed is the South Carolina Department of Revenue's Determination in the above-referenced matter. If you disagree with the Determination, you may request a contested case hearing before an Administrative Law Judge. If you choose to pursue such remedy, you must do so within thirty (30) days of the date of this letter. If you fail to respond within this time limitation, you will lose your right to appeal the Department Determination and your protest will be ended. Should you desire a contested case hearing, you must complete the enclosed request form and mail it, along with a \$150.00 filing fee, to the Administrative Law Court at the address stated on the form's instruction sheet.

The Administrative Law Court rules require that you also send me a copy of your request. My address is as follows: P.O. Box 12265, Columbia, SC 29211-9979.

Sincerely,

OFFICE OF GENERAL COUNSEL FOR LITIGATION

A handwritten signature in black ink, reading "Nicole M. Wooten", is positioned above the typed name.

Nicole M. Wooten
Counsel for Litigation
Nicole.Wooten@dor.sc.gov
803-898-1826

Enclosures
NMW: tm

September 25, 2017

State of South Carolina
Department of Revenue
300A Outlet Pointe Blvd.
Columbia, SC 29210

State of South Carolina
Department of Revenue
P.O. Box 125
Columbia, SC 29214

TO: General Counsel

I am concerned that I have not received a reply or acknowledgment of the protest letter that I sent to you last month. This letter was sent to both addresses that are shown above and was sent on August 13 so had time to be received in both offices prior to August 18, 2017. There was also considerable documentation included with this letter.

You may contact me by phone if necessary at my number given below and I appreciate your attention to this most important concern of mine.

Thank you,

Mary E. Crome
1885 Carolina Towne Court
Mt. Pleasant, SC 29464
410.236.9028

Attachment: 2 pages

DEPARTMENT DETERMINATION

Taxpayer:

Mary Cromeey
1885 Carolina Towne Court
Mount Pleasant, SC 29464

Period Involved:

2017 Property Tax Year

Matter in Dispute:

Is Mary Cromeey (Taxpayer) entitled to the disabled veteran property tax exemption as a surviving spouse pursuant to S.C. Code Ann. § 12-37-220(B)(1) (2014)?

Property in Dispute:

1885 Carolina Towne Court
Mount Pleasant, SC 29464
Tax Map Number: 558-15-00-269

Determination:

The Taxpayer is not entitled to the disabled veteran property tax exemption as a surviving spouse pursuant to section 12-37-220(B)(1).

Relevant Facts:

1. The Taxpayer is the surviving spouse of Mr. Lloyd D. Cromeey. Mr. Cromeey, a veteran, passed away in 2005.
2. Mr. Cromeey was deemed to be permanently and totally disabled in February 2004.¹ He lived in a home jointly owned with the Taxpayer in Owings Mills, Maryland until his death in 2005. Mr. Cromeey has never been a resident of South Carolina, and he has never owned real property in South Carolina.
3. The Taxpayer moved to South Carolina in 2010 and purchased real property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina. The Taxpayer applied for and received the disabled veteran property tax exemption as a surviving spouse for this property beginning with tax year 2011.

¹Mr. Cromeey's disability status is supported by documentation from the United States Veterans Administration.

4. In 2016, the Taxpayer sold the property located at 1551 Ben Sawyer Blvd., Unit 6B, Mount Pleasant, South Carolina.
5. In August 2016, the Taxpayer acquired the real property located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina ("legal residence").
6. At all times, the legal residence has been solely listed in the Taxpayer's name.
7. On February 17, 2017, the Taxpayer submitted to the Department a 2017 application for property tax exemption (Form PT 401-1), based on section 12-37-220(B)(1)(a). The Taxpayer subsequently submitted a Legal Residence (4%) Exemption Application to the Department. In her applications, the Taxpayer requested a property tax exemption for her legal residence based on her status as a surviving spouse of a disabled veteran.
8. On April 19, 2017, the Department issued a Property Tax Exemption Denial to the Taxpayer. The Department determined that the Taxpayer did not meet the requirements of section 12-37-220(B)(1)(a).
9. By letter dated July 11, 2017, the Taxpayer submitted correspondence to the Department protesting the Property Tax Exemption Denial.
10. On July 18, 2017, the Department acknowledged its receipt of the Taxpayer's protest of the Property Tax Exemption Denial for the legal residence.
11. On August 15, 2017, the Department received correspondence from the Taxpayer informing the Department that she wished to continue to appeal the Department's decision.
12. The file was subsequently forwarded to the Department's Office of General Counsel for Litigation.

Discussion:

I. The Taxpayer Is Not Entitled To The Disabled Veteran Property Tax Exemption As a Surviving Spouse Pursuant To Section 12-37-220(B)(1).

The Taxpayer submitted an application to the Department and requested a property tax exemption for her legal residence located at 1885 Carolina Towne Court, Mount Pleasant, South Carolina. In her application, the Taxpayer stated that she is the surviving spouse of a disabled veteran. Because S.C. Code Ann. § 12-37-220(B)(1)(e)(iii) (2014) extends the property tax exemption for disabled veterans to a surviving spouse that remains unmarried, the Taxpayer claims that she is entitled to the property tax exemption of her legal residence. As explained below, the Taxpayer cannot meet all the statutory requirements of the applicable statute, and the Taxpayer is not entitled to a property tax exemption for her legal residence.

Under South Carolina law, “[a]ll real and personal property in this State . . . shall be subject to taxation” unless expressly exempted as a matter of legislative grace. S.C. Code Ann. § 12-37-210 (2014); S. Weaving Co. v. Query, 206 S.C. 307, 34 S.E.2d 51 (1945). The General Assembly has delineated specific exemptions to ad valorem property tax in S.C. Code Ann. § 12-37-220 (2014). The relevant provisions of the statute exempt the following:

(B) [T]he following classes of property are exempt from ad valorem taxation subject to the provisions of Section 12-4-720:

(1)(a) the house owned by an eligible owner in fee or jointly with a spouse;

(b) the house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse.

S.C. Code Ann. § 12-37-220(B)(1)(a) – (b) (2014).

For purposes of the exemption in S.C. Code Ann. § 12-37-220(B) (2014), the following definitions are relevant to this matter:

“[H]ouse” means a dwelling and the lot on which it is situated classified in the hands of the current owner [as the owner’s legal residence].

“[E]ligible owner” means a veteran of the armed forces of the United States who is permanently and totally disabled as a result of a service-connected disability and who files with the Department of Revenue a certificate signed by the county service officer certifying this disability.

“[Q]ualified surviving spouse” means the surviving spouse of an [eligible owner] while remaining unmarried, who resides in the house, and who owns the house in fee or for life.

S.C. Code Ann. §§ 12-37-220(B)(1)(e)(i), 12-37-220(B)(1)(e)(iii), and 12-37-220(B)(1)(e)(iv) (2014).

The exemption in section 12-37-220(B)(1) is granted to the disabled veteran. This exemption may then be extended to the surviving spouse if certain requirements are met. Here, however, the Taxpayer cannot meet the requirements of section 12-37-220(B)(1) because Mr. Cromey was never eligible for the exemption. Specifically, Mr. Cromey neither owned nor resided in a house in South Carolina.

Section 12-37-220(B)(1)(e)(i) defines "eligible owner" as the disabled veteran, and subsection (b)(1)(e)(i) defines "house" as the owner's legal residence. In order to qualify for the exemption under section 12-37-220(B), the eligible owner must have owned the house in fee or jointly with his spouse. Further, because section 12-37-220(B) is an exemption from South Carolina property taxes, it necessarily follows that the qualifying house owned by the eligible owner must be located within South Carolina. See section 12-37-220(B)(1)(e)(iv) (citing Section 12-43-220(c)). Here, the disabled veteran (Mr. Cromey) neither owned nor resided in the home for which the Taxpayer seeks the exemption. Moreover, Mr. Cromey never owned or resided in any house in South Carolina. Thus, the Taxpayer as the surviving spouse is not eligible for the exemption on any home she acquired subsequent to the death of her husband. Simply put, because Mr. Cromey never qualified for the exemption in South Carolina, the exemption cannot be extended to the Taxpayer in South Carolina.

The statute is clear – for the home to qualify for the exemption, the eligible owner must have owned the home in fee or jointly with a spouse (Taxpayer), such that the Taxpayer would have acquired the home from him upon or subsequent to his death. The Administrative Law Court has consistently applied the Department's interpretation of section 12-37-220(B). In Watson v. South Carolina Department of Revenue, 2000 WL 147506, No. 99-ALJ-17-0304-CC, (2000), the court agreed with the Department and found that five elements are required for a taxpayer to claim this exemption:²

- (1) the disabled veteran must have resided in the dwelling;
- (2) the disabled veteran must have owned the property in fee, for life or jointly with his spouse;
- (3) the spouse must not be remarried;
- (4) the spouse must reside at the same dwelling; and
- (5) the spouse must have obtained by devise a fee or life estate in the property from the disabled veteran.

In South Carolina, it is well settled that "the language of a tax exemption statute must be given its plain, ordinary meaning and must be construed strictly against the claimed exemption." Owen Indus. Prods., Inc. v. Sharpe, 274 S.C. 193, 195, 262 S.E.2d 33, 34 (1980); see also Southeastern-Kusan, Inc. v. S.C. Tax Comm'n, 276 S.C. 487, 489, 280 S.E.2d 57, 58 (1981) ("As a general rule, tax exemption statutes are strictly construed against the taxpayer."). Accordingly, in order to claim an exemption a taxpayer has the burden of "clearly bring[ing] himself within the constitutional or

²Although the wording of the statute applied in Watson was subsequently amended to its current form, the substance of the relevant portions that form the basis of that decision remains unaltered.

statutory language upon which he relies.” York County Fair Ass’n, Inc. v. S.C. Tax Comm’n, 249 S.C. 337, 341, 154 S.E.2d 361, 363 (1967) (quoting Textile Hall Corp. v. Hill, 215 S.C. 262, 54 S.E.2d 809 (1949)).

The Taxpayer has not met this burden, and the exemption cannot be granted. Although the application of the statute may appear harsh in this case, the Department must follow the law as written. Smith v. Wallace, 295 S.C. 448, 369 S.E.2d 657 (Ct. App. 1988) (“The Legislature can repeal or amend its statute but neither the [state agency] nor this Court has the authority to do so.”) The Taxpayer purchased the legal residence in her own name subsequent to the death of her husband, and unfortunately, that disqualifies the home from the available exemption under section 12-37-220(B). The Taxpayer did not receive a fee or life estate in the house from her husband at his death, as required by section 12-37-220(B)(1), and the home does not qualify under the second clause of subsection (b) as a “subsequently acquired” home by an “eligible surviving spouse.” When the terms of a statute are clear and unambiguous, there is no room for construction, and the Department must give such terms their literal meaning. Duke Power Co. v. S.C. Tax Comm’n, 292 S.C. 64, 354 S.E.2d 902 (1987).

II. The Taxpayer’s Arguments.

The Taxpayer asserts that she is entitled to the exemption for four reasons: (1) because she and her husband jointly owned a home in Maryland that qualified for the disabled veteran exemption, her subsequently acquired home in South Carolina should also qualify for the exemption; (2) she applied for and received the disabled veteran exemption as a surviving spouse for her South Carolina home purchased in 2010, and thus, the purchase of her “subsequently acquired home” in 2016 should also qualify for the exemption; (3) section 12-37-220(B) does not require the disabled veteran to own property in South Carolina; and (4) an employee in the county auditor’s office advised her that the auditor’s office has “never been aware of the requirement” that the disabled veteran own the property in South Carolina in order for the surviving spouse exemption to apply.

First, section 12-37-220(B) does not automatically extend the disabled veteran exemption granted in another state to a surviving spouse who subsequently purchases real property located in South Carolina.³ The Taxpayer has not offered any precedent in support of her position. Moreover, other courts have recognized a state’s right to create exemptions from local property taxes for the surviving spouse of a resident disabled veteran but denying the exemption to a surviving spouse

³Notably, the disabled veteran property tax exemption varies by state, and in some cases, by local jurisdictions. See Md. Code Ann., Tax-Property § 7-208 (2014) (requiring the “dwelling house” to be acquired by the surviving spouse within 2 years of the individual’s death, if the individual or the surviving spouse was domiciled in Maryland as of the date of the individual’s death); Ga. Code Ann. § 48-5-48 (2017) (a disabled veteran may receive a property tax exemption of \$60,000 or more on his primary residence if the veteran is 100 percent disabled; property in excess of this exemption remains taxable); N.C. Gen. Stat. Ann. § 105-277.1C (2010) (providing a property tax exemption to disabled veterans of up to the first \$45,000 of the appraised value of his property residence if the veteran is 100 percent disabled as a result of service).

of a nonresident disabled veteran. Garma v. Twp. of Lakewood, 14 N.J. Tax 1, 1994 WL 380713 (N.J. Tax Ct., March 22, 1994).

The Taxpayer next asserts that she received the surviving spouse exemption for the South Carolina residence purchased in 2010 and thus, she should continue to receive the exemption as a surviving spouse for the “subsequently acquired” home purchased in 2016. The Department does not dispute that the Taxpayer received the surviving spouse exemption for tax year 2011; however, the Taxpayer was erroneously granted such exemption as she did not meet the requirements of section 12-37-220(B) when she purchased the home in 2010. The error was not discovered until she applied for the same exemption for the second legal residence purchased in 2016. Nevertheless, the Department’s error with regard to the exemption granted in 2011 does not require the Department to extend the surviving spouse exemption to the residence purchased in 2016. The Department must follow the statute as written, and as discussed above, the Taxpayer failed to meet the requirements of the statute. See Morgan v. S.C. Budget and Control Bd., 377 S.C. 313, 319-230, 659 S.C.2d 263, 266-267 (concluding “[e]stoppel will not lie against a government entity where a government employee gives erroneous information in contradiction of statute. Simply stated, equity follows the law.”) (citations omitted).

Next, the Taxpayer asserts that section 12-37-220(B) does not require that the disabled veteran own property in South Carolina. As discussed above, for purposes of the exemption in section 12-37-220(B)(1), “house” is defined as the owner’s legal residence, and subsection (b)(1)(e)(i) defines “eligible owner” as the disabled veteran. To qualify for the exemption, the statute requires the “house” to be the disabled veteran’s legal residence. Mr. Cromey never owned any property in South Carolina, and he did not establish any “house” in South Carolina as his legal residence. Thus, Mr. Cromey never qualified for the exemption in South Carolina.

Finally, the Taxpayer relies upon the alleged statement of an employee with the county auditor’s office to support her assertion that she is entitled to the exemption in South Carolina. The General Assembly has granted the Department the authority to determine if the Taxpayer is entitled to the exemption at issue:

Except for the exemption provided by Section 12-37-220(A)(9), the department shall determine if any property qualifies for exemption from local property taxes under Section 12-37-220 in accordance with the Constitution and general laws of this State. This determination must be made on an annual basis and the appropriate county official so advised by June first of each year by the department.

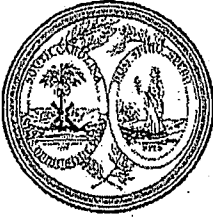
S.C. Code Ann. § 12-4-710 (2014). Even if the Taxpayer was given erroneous advice from an employee in the county auditor’s office, the Department – and not the county auditor – has been charged with the administration of property tax exemptions such as the exemption in this matter. See Mead v. Beaufort Cty. Assessor, 419 S.C. 125, 135, 796 S.E.2d 165, 171 (Ct. App. 2016), *petition for cert. filed*, (Mar. 24, 2017) (“The construction of a statute by the agency charged with

its administration will be accorded the most respectful consideration and will not be overruled absent compelling reasons.”) (citations omitted). As discussed above, the Taxpayer is not eligible for the exemption as she does not meet the requirements of the statute. While the Department sympathizes with the Taxpayer’s situation, the Department cannot grant an exemption of property tax to the Taxpayer where she failed to meet the statutory requirements.

Conclusion:

In South Carolina, exemption statutes are construed narrowly, and the Taxpayer bears the burden of bringing herself squarely within the parameters of the statute that grants the exemption. Home Med. Sys. Inc. v. S.C. Dep’t of Revenue, 383 SC 556, 677 SE2d 582 (2009) (“The language of a tax exemption statute must be given its plain, ordinary meaning and must be strictly construed against the claimed exemption.”). In this case, the Taxpayer has failed to carry that burden as Mr. Cromeey never owned the residence at issue. This fact alone disqualified the residence from the property tax exemption at issue. Further, Mr. Cromeey has never been a resident of South Carolina, and he has never owned any real property in South Carolina. Therefore, the claimed property tax exemption was properly denied.

November 20, 2017



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214

July 18, 2017

Mrs. Mary E Cromey
1885 Carolina Towne Ct
Mt. Pleasant, SC 29464

Re: SID/Suffix: 2564332-000-004
Protest of Property Tax Exemption Denial
Charleston County

Dear Mrs. Mary Cromey,

This is in response to the protest of the Property Tax Exemption denial for the real property located at 1885 Carolina Towne Court in Mt Pleasant, South Carolina. The reason for this decision is identified below:

S. C. Code Ann. Section 12-37-220 (1)(a) states "the house owned by an eligible owner in fee or jointly with a spouse; (b) the house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house."

In the letter provided, you indicated that you relocated to South Carolina in 2010 following the passing of your husband in 2005 while living in the state of Maryland. Based on the information provided and after conducting a review of the file when the application for the subsequent home was received, we determined that at no point did the eligible owner, your husband, and prior to his passing own real property in the state of South Carolina.

To qualify the totally and permanently service-connected disabled veteran had to have owned real estate in South Carolina, which subsequently upon his passing would have transferred solely to you, the surviving spouse. Since this was not the case, the subsequent home nor the first home purchased in 2010 qualify for tax exemption.

We regret any hardship this may cause, but we must follow the guidelines as set forth by law as exemptions are strictly construed in South Carolina.



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214

Mrs. Mary Cromeey
July 18, 2017
Page Two

If you wish to continue this appeal, please provide written notification to us within 30 days of the date of this letter. Upon timely notification, we will forward this appeal to our General Counsel and a Final Agency Determination will be issued to you.

If after reviewing the facts supporting the Division's position for denial, should you have any questions, please do not hesitate to contact me at (803) 898-5158.

Sincerely,

Latisha Johnson

South Carolina Department of Revenue
Local Government Services/Exempt Property
803 898-5158
Latisha.Johnson@dor.sc.gov

General Counsel
State of South Carolina
Department of Revenue
300A Outlet Pointe Blvd.
P.O. Box 125
Columbia, SC 29214

August 13, 2017

RE: Property Tax Exemption Protest
1885 Carolina Towne Court
Mount Pleasant, SC 29464

TO: General Counsel

This is a continuation of appeal to property tax exemption denial issued to me July 18, 2017. The reason for your denial in your July 18, 2017 letter quoted the "S.C. Code Ann. Section 12-37-220(1)(a)."

My continued appeal will also refer to the "Application For Exemption Instructions, PT-401-1 (Rev.9/1/05) 7017:"

B. CLASSIFICATIONS OF EXEMPT PROPERTY:

SC CODE SECTION 12-37-220. General exemption from taxes:

"(B)(1)(a) The house owned by an eligible owner in fee or for life, or jointly with a spouse."

"(B)(1)(b) The house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house. (iii) "qualified surviving spouse" means the surviving spouse of an individual described in subsubitem (i) while remaining unmarried, who resides in the house, and who owns the house in fee or for life."

Following the Code Section above, I believe my tax exemption denial should be overturned.

1. Property Tax exemption was first granted to my late husband in 2005 in the state of Maryland. He passed away in 2005 while we were residing in this house which was owned by us both.
2. After my move to South Carolina in 2010, I was able to transfer this exemption to my property here at 1551 Ben Sawyer Blvd. Mt. Pleasant SC. I resided at this residence for nearly six (6) years, receiving the tax exemption for each of those years.



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214

Mrs. Mary Cromeey
July 18, 2017
Page Two

If you wish to continue this appeal, please provide written notification to us within 30 days of the date of this letter. Upon timely notification, we will forward this appeal to our General Counsel and a Final Agency Determination will be issued to you.

If after reviewing the facts supporting the Division's position for denial, should you have any questions, please do not hesitate to contact me at (803) 898-5158.

Sincerely,

Latisha Johnson

South Carolina Department of Revenue
Local Government Services/Exempt Property
803 898-5158
Latisha.Johnson@dor.sc.gov

1350



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
PROPERTY TAX EXEMPTION
APPLICATION FOR INDIVIDUALS

PT-401-1
(Rev. 4/27/16)
7092

Mail to: South Carolina Department of Revenue, Government Services Division, PO Box 125, Columbia, SC 29214-0303

Year(s) Exemption Requested: 2017

SSN: 235-76-1993

Owner and Mailing Address

Cromey, Mary E.

1885 Carolina Towne Ct.

Mt Pleasant, SC 29464-8001

Telephone Number: 410-236-9028

Exemption Section Requested (see instructions): B-1-A

SID #:

Office Use Only

COMPLETE ONLY THE APPLICABLE SECTION(S).

Section 1 – Real Property

Separate applications must be filed for each parcel of real property. Please see instructions for documentation needed.

1. Date Real Property Acquired: 8/12/2016
2. County Where Property is Located: Charleston
3. Physical Address of Property: 1885 Carolina Towne Ct., Mt Pleasant, SC 29464 (20)
Street City State Zip Tax District
4. Are you applying for exemption on (check all that apply):
☒ Land and Building ☐ Building
☐ Land ☐ Mobile Home
5. Fill out the applicable information:
 • Tax Map Number: 5581500269 • Mobile Home Tax Map Number: _____
 • Number of Acres: .08 • Deed Book: 0578
 • Mobile Home Permit Number: _____ • Page Number: 564

Section 2 – Personal Property

To apply for vehicle exemption, please complete the chart below. Please see instructions for documentation needed.

VEHICLE IDENTIFICATION NUMBER	TYPE	MAKE	YEAR	REGISTERED OWNER	COUNTY OF REGISTRATION
5XYKV4A21B60D9324		KIA	2011		Charleston

70921010

Section 3 – Real Property Exemption Questions

Please answer all questions completely and sign the statement below.

Did you file an individual income tax return with the South Carolina Department of Revenue?

Yes ☐ No ☒

If so, what name is on the return? _____

Explain the use of the property, land and buildings: Residential use

Do any other individuals, associations or corporations occupy or use any part of the claimed exemption that is listed on this application?

Yes ☐ No ☒

If so, explain circumstances: _____

Is any rent received for this property or any portion of this property?

Yes ☐ No ☒

If yes, from whom? _____

Do you lease or rent any property for which you are requesting an exemption?

Yes ☐ No ☒

If yes, from whom? _____

Section 4 – Declaration of Owner or Owner's Agent

Subject to penalty for perjury, I declare that I have examined this application, including enclosures and attachments (if any), and to the best of my knowledge and belief it is true, correct, and complete.

Signature Mary E. Cromey

Date 02/17/17

1350



State of South Carolina
Department of Revenue
**PROPERTY TAX
EXEMPTION DENIAL**

PT-456
(Rev. 1/27/16)
7081

04/19/2017

PREXE 7238759008



MARY ELLEN CROMLEY
1885 CAROLINA TOWNE CT
MOUNT PLEASANT SC 29464-8001

NOTICE DATE: 04/19/2017
TAX-YEAR: 2017
SID\Suffix: 2564332-000-004
COUNTY: CHARLESTON

Applicant:

Your application for property tax exemption has been denied for the following properties:

PROPERTY:

BUILDING 1 100.0%
LAND 0.08 ACRES 100.0%

TAX MAP NUMBER:

5581500269

APPLICABLE SC CODE SECTION:

12-37-220(B1A)

*****REASON FOR DENIAL*****

TO QUALIFY FOR A HOME, THE VETERAN WOULD HAD TO HAVE OWNED
PROPERTY IN THE STATE OF SC PRIOR TO HIS OR HER PASSING
WHICH OWNERSHIP INTEREST COULD BE TRANSFERRED TO THE
SURVIVING SPOUSE. SINCE THE VETERAN DID NOT OWN THIS HOME
OR ANY OTHER PROPERTY IN SC THE REAL PROPERTY DOES NOT
QUALIFY FOR THE EXEMPTION.

You or your agent may protest the denial of your property tax exemption request. The protest must be made in writing to the South Carolina Department of Revenue within 90 days from the date of this notice. The protest must contain the information outlined on the enclosed form PT-437. You will be notified by the Property Section if any additional information is required.

If you have any questions, call the Property Section at (803) 898-5700.

Sincerely,

South Carolina Department of Revenue
Government Services Division
PO Box 125
Columbia, SC 29214-0303

Enclosure
(Form PT-437)

70811013

Office of the County Assessor
PO Box 427
Charleston, SC 29402-0427

101 Meeting Street, Suite 132
Charleston, SC 29401
843.958.4100

CHARLESTON
COUNTY
SOUTH CAROLINA

April 17, 2017

MARY E CROMEY
1885 CAROLINA TOWNE CT
MOUNT PLEASANT SC 29464

RE: PID: 2017/558-15-00-269
OWNER: MARY E CROMEY
LOCATION: 1885 CAROLINA TOWNE CT

Dear Ms. Cromey:

Per the Assessor's office, our records indicate that you have received the 4% Legal Residence Exemption since April 13, 2017.

If we can assist you in any way, please contact our office at (843) 958-4100 (select option #1) Or visit www.charlestoncounty.org, look on the left hand side of the homepage for Tax Info and browse the items in the new screen for forms, contacts and further information.

Sincerely,
Candice Champion for
County Services Rep. III

CC: File;

PID: 558-15-00-269

1350

State of South Carolina
Department of Revenue

PT-457

(Rev. 5/16/16)

7082

**PROPERTY TAX EXEMPTION APPLICATION
REQUEST FOR ADDITIONAL INFORMATION**



MARY ELLEN CROMEY
1885 CAROLINA TOWNE CT
MOUNT PLEASANT SC 29464-8001

NOTICE DATE: 02/27/2017
TAX-YEAR: 2017
SID\Suffix: 2564332-000-004
COUNTY: CHARLESTON

Applicant:

Additional information is requested by the South Carolina Department of Revenue to process your property tax exemption application. Submit this letter along with the requested information that is listed below.

Failure to furnish this information within 30 days from this notice date will result in your application being denied. If you have any questions, call the Property Section at (803) 898-5700.

ADDITIONAL INFORMATION NEEDED:

- 1 THE CODE SECTION IN WHICH YOU ARE APPLYING FOR EXEMPTION REQUIRES THE SUBMISSION OF DOCUMENTATION FROM THE COUNTY ASSESSOR'S OFFICE CERTIFYING THAT 4% LEGAL RESIDENCY IS APPLIED TO YOUR PROPERTY.

This was already sent

Enclosure
(Form PT-401 Instructions)

70821012

225

RECORD 000187

1350



State of South Carolina
Department of Revenue
**PROPERTY TAX
EXEMPTION DENIAL**

PT-456
(Rev. 1/27/16)
7081

02/27/2017

PREXE 7186575008



MARY ELLEN CROMEY
1885 CAROLINA TOWNE CT
MOUNT PLEASANT SC 29464-8001

NOTICE DATE: 02/27/2017
TAX-YEAR: 2017
SID\Suffix: 2564332-000-001
COUNTY: CHARLESTON

Applicant:

Your application for property tax exemption has been denied for the following properties:

PROPERTY:

BUILDING 1 100.0%
LAND 1.00 ACRES 100.0%

TAX MAP NUMBER:
5321500119

APPLICABLE SC CODE SECTION:
12-37-220(B1A)

REASON FOR DENIAL

DENIED PER YOU ARE NOW APPLYING FOR A HOME LOCATED AT 1885
CAROLINA TOWNE CT.

You or your agent may protest the denial of your property tax exemption request. The protest must be made in writing to the South Carolina Department of Revenue within 90 days from the date of this notice. The protest must contain the information outlined on the enclosed form PT-437. You will be notified by the Property Section if any additional information is required.

If you have any questions, call the Property Section at (803) 898-5700.

Sincerely,

South Carolina Department of Revenue
Government Services Division
PO Box 125
Columbia, SC 29214-0303

Enclosure
(Form PT-437)

70811013

1350



State of South Carolina
Department of Revenue

**PROPERTY TAX EXEMPTION APPLICATION
REQUEST FOR ADDITIONAL INFORMATION**

PT-457
(Rev. 5/16/16)
7082

870
803-5484

*Broke
Broke
Tori*



MARY ELLEN CROMEY
1885 CAROLINA TOWNE CT
MOUNT PLEASANT SC 29464-8001

NOTICE DATE: 03/17/2017
TAX-YEAR: 2017
SID\Suffix: 2564332-000-004
COUNTY: CHARLESTON

S.C.
DEPT. OF REVENUE

APR 17 2017

RECEIVED
CHARLESTON OFFICE

Applicant:

Additional information is requested by the South Carolina Department of Revenue to process your property tax exemption application. Submit this letter along with the requested information that is listed below.

Failure to furnish this information within 30 days from this notice date will result in your application being denied. If you have any questions, call the Property Section at (803) 898-5700.

ADDITIONAL INFORMATION NEEDED:

- ✓ 1 COPY OF 4% LEGAL RESIDENCE FORM
- ✓ 2 PROVIDE A COPY OF THE VETERAN'S DEATH CERTIFICATE. TO QUALIFY FOR A SUBSEQUENT HOME THE VETERAN HAD TO HAVE OWNED REAL PROPERTY IN THE STATE OF SC, AND HAD TRANSFERRED HIS OWNERSHIP INTEREST SOLELY TO THE SURVIVING SPOUSE. IF THIS DID NOT OCCUR THE SUBSEQUENT HOME WILL NOT QUALIFY FOR TAX EXEMPTION

Enclosure
(Form PT-401 Instructions)

70821012



CHARLESTON COUNTY DELINQUENT TAX
4045 BRIDGE VIEW DRIVE
CHARLESTON SC 29405-7464
RETURN SERVICE REQUESTED

5581500269

EXECUTION NOTICE

THESE TAXES ARE PAST DUE!

TAX SALE DATE: DECEMBER 11, 2017

4/7/2017

905 - VAC-RES-LOT

6455

MARY E CROMEY
1885 CAROLINA TOWNE CT
MOUNT PLEASANT SC 29464-8001

PLEASE PAY THE TOTAL:

DELINQUENT TAXES, PENALTIES, FEES AND COSTS:

Total Year(s) Due

465.30

DELINQUENT TAXES ARE DUE ON THE FOLLOWING
DESCRIBED 905 - VAC-RES-LOT PROPERTY

TaxYr/Bill Number(s)
2016-6093469

465.30
2.50

PROPERTY DESCRIPTION:

ACCOUNT #: 5581500269

DESCRIPTION: MAPPLATB L14 MAPPLATP 0430 SUBDIVISIONNAME CAROLINA WALK AT TOWN CENTER LOT 6

IF THE TAXES, ASSESSMENTS, PENALTIES, AND COSTS ARE **NOT PAID BEFORE A SUBSEQUENT SALES DATE**, THE PROPERTY MUST BE DULY ADVERTISED AND SOLD FOR DELINQUENT PROPERTY TAXES, ASSESSMENTS, PENALTIES, AND COSTS.

If you do not pay the delinquent amount due, the following action(s) will be taken accordingly:

1. On Thursday, May 11, 2017 an additional levy cost will be added to this delinquent tax bill and an Official Notice of Levy will be mailed to you on that day.
2. A notice may be posted on your property in the month of November, 2017 stating that the property is to be sold for delinquent taxes.
3. Your name and property will be advertised in the local newspaper and online beginning November 03, 2017 for the Delinquent Tax Sale.
4. If your delinquent tax bill is not paid by the last day to pay on Friday, December 08, 2017, before the subsequent tax sale date of Monday, December 11, 2017, your property will be duly advertised and sold for delinquent property taxes, assessments, penalties and costs.

*** **SEE IMPORTANT INFORMATION ON BACK** ***

DETACH AND RETURN WITH YOUR PAYMENT

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable Ralph King Anderson, III, Chief Administrative Law Judge

Docket No. 17-ALJ-17-0451-CC

Mary Cromey Appellant,

v.

South Carolina Department of Revenue Respondent.

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 materials.



Madison Felder, SC Bar No. 100606
Richard Few, SC Bar No. 2000
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Greenville, South Carolina 29601
madisonfelder@parkerpoe.com
richardfew@parkerpoe.com

*Counsel for Appellant
Mary Cromey*

March 6, 2019
Greenville, South Carolina