

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

H.W. Funderburk, Administrative Law Judge

Appellate Case No.: 19-ALJ-17-0016-CC

Kristiane M. Shirer,

Respondent,

v.

Calhoun County Assessor,

Appellant.

RECORD ON APPEAL

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Kristiane M. Shirer,)	Docket No. 19-ALJ-17-0016-CC
)	
Petitioner,)	
)	
vs.	)	FINAL ORDER
)	
Calhoun County Assessor,	)	FILED
)	
Respondent.	)	OCT 10 2019
)	
	)	ADMIN. LAW COURT

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a request for a contested case hearing by Kristiane M. Shirer (Petitioner) challenging a decision by the Calhoun County Board of Assessment Appeals (Board) affirming the Calhoun County Assessor's (Assessor or Respondent) denial of Petitioner's applications for 4% special tax assessment ratio on a building on Petitioner's residential lot, as provided in S.C. Code Ann. § 12-43-220(c)(2)(ii) (Supp. 2016).

FINDINGS OF FACT

Having observed the witnesses and exhibits presented at the hearing and passed upon their credibility, taking into consideration each party's burden of proof, the Court makes the following Findings of Fact by a preponderance of the evidence.

Petitioner and her husband reside in Calhoun County at 7187 Cameron Road, Cameron, South Carolina, where they have had a 4% special tax assessment ratio on their home. The home is on a one-acre lot surrounded by the family farm. Sometime in 1984 or 1985, Petitioner and her husband added a pool house in their backyard. In 2014, the pool house was enlarged. A building permit was issued to add 1600 square feet. When the project was completed, a large eating and entertainment area and an additional bedroom had been added, making the pool house 2032 square feet. Petitioner and her husband lived in the pool house while their residence was renovated. When the renovation was complete, they moved back into their home. The pool house is used for family gatherings or when their children and/or grandchildren visit. It has been used exclusively by Petitioner and her spouse and for visiting members of their immediate family and has never been rented.

The Assessor confirmed that Petitioner was given a building permit to expand the pool house in 2014 and stated that the modified pool house became taxable in 2015. All of the witnesses agreed that the pool house included a kitchen (with a sink), a full bath, living areas, and at least one bedroom. It, therefore, meets the definition of a “dwelling” under the International Residential Building Code adopted by Calhoun County.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Court concludes the following as a matter of law.

This Court has jurisdiction over this contested case pursuant to S.C. Code Ann. § 12-60-2540(A) (2014), S.C. Code Ann. § 1-23-600 (Supp. 2016), and S.C. Code Ann. §§ 1-23-310 *et seq.* (2005 & Supp. 2018).

The ALC reviews the decision of the Assessor *de novo*. *Reliance Ins. Co. v. Smith*, 327 S.C. 528, 534, 489 S.E.2d 674, 677 (Ct. App. 1997) (explaining “although a case involving a property tax assessment reaches the ALJ in the posture of an appeal, the ALJ is not sitting in an appellate capacity and is not restricted to a review of the decision below. Instead, the proceeding before the ALJ is in the nature of a *de novo* hearing.”). The burden of proof is on the party challenging the Board’s decision. *Id.* Here, the burden rests on the Petitioner. *See CFRE, LLC v. Greenville Cty. Assessor*, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011) (South Carolina policy is to construe strictly tax exemption statutes against the taxpayer).

This case involves S.C. Code Ann. § 12-43-220 (2014 & Supp. 2018), which reads, in pertinent part:

(c)(1) The legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, and additional dwellings located on the same property and occupied by immediate family members of the owner of the interest, are taxed on an assessment equal to four percent of the fair market value of the property.

* * *

If this property has located on it any rented mobile homes or residences which are rented or any business for profit, this four percent value does not apply to those businesses or rental properties.

* * *

(c)(2)(i) To qualify for the special property tax assessment ratio allowed by this item, the owner-occupant must have actually owned and occupied the residence as his legal residence and been domiciled at that address for some period during the applicable tax year. A residence which has been qualified as a legal residence for any part of the

year is entitled to the four percent assessment ratio provided in this item for the entire year, for the exemption from property taxes levied for school operations pursuant to Section 12-37-251 for the entire year, and for the homestead exemption under Section 12-37-250, if otherwise eligible, for the entire year.

*

*

*

If the assessor determines the owner-occupant ineligible, the six percent property tax assessment ratio applies and the owner-occupant may appeal the classification as provided in Chapter 60 of this title.

S.C. Code Ann. § 12-43-220(c) (2014 & Supp. 2018)

The Assessor insists that only an individual's primary residence can be her domicile and that the law limits the 4% assessment to a single owner-occupied dwelling.¹ The statute, however, allows the legal residence to include by "additional dwellings located on the same property." These additional dwellings can only be occupied by the owner or her immediate family.

The four percent assessment does not apply if the property in question is rented for profit during the applicable tax year or has on it "residences which are rented." *Id. See also Ford v. Beaufort County Assessor*, 398 S.C. 508, 512, 730 S.E.2d 335, 338 (Ct. App. 2012) (denying the four-percent assessment to a legal residence which had been rented for more than fourteen days during the tax year). In this case, neither of the dwellings on the property have been rented for any period.

Assessor also argues that an apartment on the second floor of a detached garage, which meets the standards to be a dwelling, would not be an accessory or incidental structure. *Archambault v. Sprouse*, 218 S.C. 500, 507, 63 S.E.2d 459, 462 (1951). *Archambault*, however, deals with the application of restrictive covenants that limit each lot to "one detached single family dwelling" and "'buildings incidental' to the use of such residence." *Id.* 506-507, 63 S.E.2d 459, 462. The statute governing this case allows "additional dwellings located on the same property" and makes the tax assessment depend on the use of the additional dwelling. A business use or rental would expose the dwelling to the

¹ The Assessor relies on a 2001 ALC decision which contained the following: "It is clear that the term 'legal residence' as used in Section 12-43-220(c) for the residential assessment ratio must be construed in the singular number, and must, therefore, be understood to refer to a single dwelling of the taxpayer. Only under a strained and liberal definition of 'legal residence' could the term be construed in the taxpayer's favor to include two separate dwellings on two separate lots, whether contiguous or not." *Guthrie v. Orangeburg County Assessor*, No. 01-ALJ-17-0173 (Sept. 5, 2001). Although the Court is not bound by a previous ALC decision, I note that this case which involves two dwellings located on the same lot at the same address is distinguishable from the "strain" apparent in *Guthrie*.

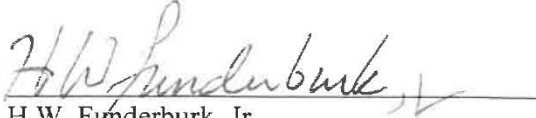
undiscounted six-percent assessment. The facts in this case do not show such a disqualifying use.

It is therefore,

ORDERED that Petitioner's request for the four percent special assessment ratio for the previous tax years beginning in 2015 is **GRANTED**. Future tax years must depend on Petitioner's demonstrating her eligibility for the four-percent assessment.

AND IT IS SO ORDERED.

October 10, 2019
Columbia, South Carolina


H.W. Funderburk, Jr.
Administrative Law Judge

Docket No. 19-ALJ-17-0016-CC

CERTIFICATE OF SERVICE

I, Elizabeth A. Perkins, hereby certify that I have this date served this **Final 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).

Bates N. Felder, Esquire
The Felder Firm, LLP
St. Matthews, SC 29135
Counsel for Petitioner

C.D. Rhodes, III, Esquire
Pope Flynn Group
P.O. Box 11509
Columbia, SC 29201
Counsel for Respondent

October 10, 2019
Columbia, SC



Elizabeth A. Perkins
Judicial Law Clerk

FILED

OCT 10 2019

SC ADMIN. LAW COURT

FILED

NOV 18 2019

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

SC ADMIN. LAW COURT

Kristiane M. Shirer,	)	Docket No. 19-ALJ-17-0016-CC
)	
Petitioner,)	
)	
vs.	)	ORDER DENYING MOTION
	)	TO RECONSIDER
Calhoun County Assessor,)	
)	
Respondent.)	
_____)	

This case comes before the South Carolina Administrative Law Court (ALC) pursuant to the Calhoun County Assessor's (Respondent) Motion to Reconsider the order granting Kristiane M. Shirer's (Petitioner) request for the four percent special assessment ratio for the previous tax years beginning in 2015. The Court issued its Final Order October 10, 2019, after a hearing on the merits, held on September 18, 2019. Respondent's motion was filed on October 25, 2019. Petitioner has not responded.

In its motion, Respondent concedes that the findings of fact contained in the Final Order are accurate. These include findings that the additional dwelling has been used exclusively by Petitioner, her spouse, and visiting members of Petitioner's immediate family. Respondent claims that the "additional dwelling" is not the legal residence of Petitioner or "any immediate family members" of Petitioner and, therefore, cannot meet the requirements of S.C. Code Ann. § 12-43-220(c) (2014 & Supp. 2018) which provides for a four percent special assessment in certain limited circumstances.

Section 12-43-220(c) allows a four percent special assessment ratio to apply to an individual's legal residence and not more than five contiguous acres, owned and occupied by the owner of the interest, and to "additional dwellings located on the same property and occupied by immediate family members of the owner."

Respondent concedes that the additional dwelling has not been rented or otherwise used for commercial purposes. However, Respondent argues that the statute **requires** that a family member reside in the additional dwelling and that the additional dwelling is not Petitioner's legal residence (emphasis added).

The four percent special assessment ratio, according to the plain terms of the statute, applies to the legal residence, not more than five contiguous acres, and **additional** dwellings located on the same property (emphasis added). These dwellings are in addition to the legal residence but subject to the same tax exemption. While the statute limits the use of these dwellings to immediate family members, it does not require an additional dwelling to be continuously occupied by the same immediate family members. In this case, the Petitioner, her spouse, her children, and grandchildren have been the sole, but not continuous, occupants. Likewise, the legal residence is not continuously occupied by Petitioner. Petitioner and her spouse spend time in the additional dwelling, and, according to her testimony, own and occupy other dwellings on properties in other locations where they are subject to the standard 6% assessment ratio.

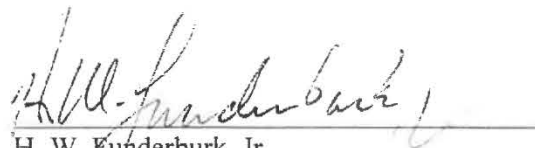
The Court agrees with Respondent that should the dwelling in question be rented or otherwise used commercially or for other than Petitioner's immediate family, the four percent special assessment ratio should be denied. *See Ford v. Beaufort County Assessor*, 398 S.C. 508, 512, 730 S.E.2d 335, 338 (Ct. App. 2012). In *Ford*, the Court upheld the ALC's interpretation of section 12-43-220(c) to mean that the four-percent ratio generally would not be applied to an owner-occupied legal residence if that residence is rented for profit during the applicable tax year.

In this case, the additional dwelling is only used by Petitioner and her spouse and/or when Petitioner's family members visit. It has not been rented out or used for any disqualifying purpose. It is therefore,

ORDERED that Respondent's Motion to Reconsider is **DENIED**.

AND IT IS SO ORDERED.

November 18, 2019
Columbia, South Carolina


H. W. Funderburk, Jr.
Administrative Law Judge

FILED

NOV 18 2019

SC ADMIN. LAW COURT

Docket No. 19-ALJ-17-0016-CC

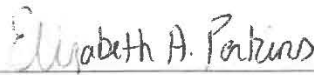
CERTIFICATE OF SERVICE

I, Elizabeth A. Perkins, hereby certify that I have this date served this **Order Denying Motion to Reconsider** 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).

Bates N. Felder, Esquire
The Felder Law Firm, LLP
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St. Matthews, SC 29135
Counsel for Petitioner

Charles D. Rhodes, III, Esquire
Pope Flynn, LLC
1411 Gervais Street, Suite 300
Columbia, SC 29201
Counsel for Respondent

November 18, 2019
Columbia, South Carolina



Elizabeth A. Perkins
Judicial Law Clerk

**CALHOUN COUNTY
BOARD OF ASSESSMENT APPEALS**

102 Courthouse Drive • Suite 107
St. Matthews, SC 29135
(803) 874-3613 • Fax: (803) 874-1242

December 21, 2018

To: All Concerned Parties

Re: Appeal Hearing on TMS # 198-00-00-008

A hearing before the Calhoun County Board of Assessment Appeals was held as scheduled on December 20, 2018 at 2:30 pm. The issue of the appeal was the denial of the legal residence classification on an additional dwelling on the above parcel number. Also under appeal was the denial of the request for refund for the years that said structure may have qualified for the legal residence classification. All relevant parties were in attendance. The following board members were in attendance:

Ms. Alena Fleming
Mr. Michael V. Edge, Chairman

Ms. Christine W. Randolph

The above members did make up a quorum of the Board. Upon hearing arguments and evidence presented by both parties, the Board rules that insufficient evidence was presented by the taxpayer to support the claim for the legal residence classification and assessment to be extended and applied to this additional dwelling. The Board found that even if the arguments brought forth by the Assessor in the Guthrie v. Orangeburg County Assessor case were not granted significant weight, the strict interpretation of the legal residence statute under 12-43-220 would still prevent the granting of the legal residence classification in this instance. The strict interpretation of the statute, the adherence to the definition of a habitable dwelling under the building code, and the agreement of the parties that there are two structures meeting that definition on this parcel, one of which is already the legal residence and domicile of the owner/occupant, seem to compel this conclusion. Therefore, by unanimous vote of the attending Board members, the decision of the Board does hereby confirm the Assessor's denial of the legal residence classification and assessment to the additional dwelling on the above parcel number.

The status of the legal residence classification on the second dwelling was required before a decision could be rendered on the second matter under appeal, the status of the refund request. As the Board has found that the legal residence classification cannot be granted to the additional dwelling, it cannot logically have a refund granted based upon a classification to which it was not entitled. Therefore, by unanimous vote of the attending Board members, the decision of the Board does hereby confirm the Tax Committee's denial of the refund for the difference between the legal residence classification 4% and the 6% other property classification for previous years regarding the additional dwelling on the above parcel number.

Should either the taxpayer or the assessor be aggrieved by this decision, either may request a contested case hearing before the Administrative Law Judge Division. A request for a contested case hearing must be made in writing within thirty days after the date of the board's written decision. The rules of the Administrative Law Judge Division will control the appeal process from this point forward. If not

**CALHOUN COUNTY
BOARD OF ASSESSMENT APPEALS**

Courthouse Annex • Suite 107
St. Matthews, SC 29135
(803) 874-3613 • Fax: (803) 874-1242

appealed within 30 days the decision will become final. The request must be sent to the following address along with a \$75.00 filing fee for residential property and a \$350.00 filing fee for commercial property:

South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Suite 224
Columbia, SC 29201

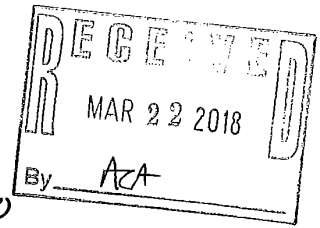
Regards,



Michael V. Edge, Chairman

Cc: Assessor, and Taxpayer Kristiane Shirer

Michael P. and Kristiane M. Shirer
7187 Cameron Road, Cameron, SC 29030
(803) 826-6604 (Residence) (803) 664-4322 or 4321 (Cell)
KMShirer@gmail.com



March 21, 2018

Calhoun County Office of the Assessor
Attention: Steve Hamilton, Assessor
102 Courthouse Drive, Suite 107
St. Matthews, SC 29135-1479

RE: 2018 Residential Tax Classification Appeal

I, Kristiane M. Shirer, am requesting an Appeal for 2018 Tax Classification of my home tract identified as Calhoun County Tax Map #198-00-00-008. On this tract, I have a pool/guest house and swimming pool adjacent to my permanent residence. This pool/guest house is used for recreational purposes only for my family and is not used as a permanent residence or for rental purposes.

Therefore, I am requesting a 4% tax classification for this structure and a refund of 2016 and 2017 real estate taxes overpaid because I was denied the 4% residential classification.

Best regards,

A handwritten signature in cursive script that reads "Kristiane M. Shirer".

Kristiane M. Shirer

OFFICE OF THE ASSESSOR

102 Courthouse Drive • Suite 107
St. Matthews, SC 29135
(803) 874-3613 • Fax: (803) 874-1242

October 18, 2018

Kristiane M. Shirer
7187 Cameron Rd
Cameron, SC 29030

Re: TMS# 198-00-00-008

Dear Mrs. Shirer:

This letter is in response to your appeal letter received March 22, 2018 concerning the assessment on the above referenced parcel.

After a review of the statutes and case law, no support has been found that would allow the Assessor to adjust the assessment ratios in the manner you request. Indeed, in *Guthrie v. Orangeburg County Assessor*, the court specifically ruled that:

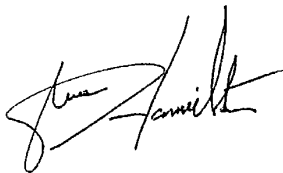
This tribunal finds that the term "legal residence" as used in Section 12-43-220(c) must be understood to refer to a single dwelling house, and not to extend to multiple dwellings. Both the language of Section 12-43-220(c) and the use of "legal residence" elsewhere in South Carolina law suggest that the term "legal residence" should be construed only in the singular number.

Therefore, no changes have been made to the market value or assessment ratios of this parcel for the 2018 tax year.

If you wish to appeal this decision to the Calhoun County Board of Appeals, you must give written notice of such an appeal, including the grounds, to the Assessor at the above address, **within 30 days of the date of this letter**. Upon receipt of such notice, the Assessor will notify the Board of said appeal. The notice of appeal shall contain all grounds for the appeal, and any that are not listed shall not be considered. If no notice of appeal is received within 30 days of the date of this letter, the property tax assessment will become final.

If you have any questions, please contact the Assessor's office at the above address or telephone number between 9 am and 5 pm.

Best regards,



Steve Hamilton
Calhoun County Assessor

Calhoun County, South Carolina • Established 1908

OFFICE OF THE ASSESSOR

102 Courthouse Drive • Suite 107
St. Matthews, SC 29135
(803) 874-3613 • Fax: (803) 874-1242

October 19, 2018

Kristiane M. Shirer
7187 Cameron Rd.
Cameron, SC 29030

Re: Refund Request on tax map # 198-00-00-008

Dear Mrs. Shirer:

We have received your request for a refund on the above parcel. As required by South Carolina Code of Laws Section 12-60-2560, I have notified both the county Auditor and Treasurer of this request. The three officials vested with the statutory authority to make this determination unanimously concur that your request for a refund cannot be granted since operation of South Carolina law prevents this from occurring. Both the SC Code of Laws Section 12-43-220 and case law interpreting this statute, indicate that the four percent legal residence assessment classification is singular in nature and applies only to a single dwelling in such instances. The court has stated that:

"Beyond its repeated use of "legal residence" in the singular number, Section 12-43-220(c) also contains a critical term of art that suggests that the legal residence can be only one dwelling. That section requires that if a residence is to qualify for the tax exemption, it must "be the *domicile* of the owner-applicant." S.C. Code Ann. § 12-43-220(c)(1) (emphasis added).⁽²⁾ It is well-settled doctrine that an individual can have legal domicile in only one dwelling."

As the parcel in question had already received the legal residence classification on a dwelling for the years requested, no additional legal residence classification or refund is merited.


If you wish to appeal this decision to the Calhoun County Board of Assessment Appeals, you must give written notice of such an appeal and the grounds therefore to the Assessor at the above address, within 30 days of the date of this letter. Upon receipt of such notice, the Assessor will notify the Board of said appeal. The notice of appeal shall contain all grounds for the appeal, and any that are not listed shall not be considered. If no notice of appeal is received within 30 days of the date of this letter, this decision will become final.

If you have any questions please contact our office at the above address or telephone number.

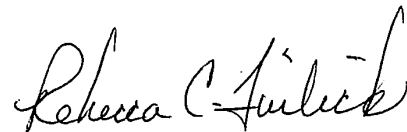
Best regards,



Steve Hamilton
Calhoun County Assessor



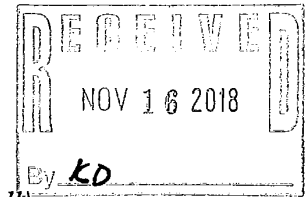
April Wise
Calhoun County Auditor



Rebecca Furtick
Calhoun County Treasurer

Calhoun County, South Carolina • Established 1908

Michael P. and Kristiane M. Shirer
7187 Cameron Road, Cameron, SC 29030
(803) 826-6604 (Residence) (803) 664-4321 or 4322 (Cell)
KMShirer@gmail.com



November 13, 2018

Calhoun County Office of the Assessor
Attention: Steve Hamilton, Assessor
102 Courthouse Drive, Suite 107
St. Matthews, SC 29135-1479

RE: Appealing the Denial of Legal Residence Classification and Refund

Our original application for legal residence included our pool house many years ago. The original pool house had the same kitchen area and bath room but was too small for a gathering of all the family including children and grandchildren. In the process of remodeling we decided to enlarge the pool house to accommodate our growing family and have now incorporated a larger dining area, a play area for the grandchildren along with a bedroom. When our family visits us now we have room for everyone. The grandchildren keep their toys and video arcade game machines in the pool house and use it for their enjoyment. The pool house has never been rented and never will be and is only for my family to enjoy when they visit.

We have read the ALC case you mentioned and believe it is not pertinent to our situation. Based on our reading the taxpayer in that case owned a home and later acquired the home that was adjacent to their home. Apparently the assessor then combined the parcels into one parcel and the taxpayer then wanted both homes to be qualified as his legal residence. In our case we had a pool house already qualified as part of our legal residence and have only remodeled to accommodate our growing family.

For these reasons we are appealing the denial of our the legal residence classification for the pool house and request a refund for all past years when the property was improperly classified at the 6% rate.

Best regards,

A handwritten signature in cursive script that reads "Kristiane M. Shirer".

Kristiane M. Shirer

THE FELDER FIRM, LLP
ATTORNEYS AT LAW

POST OFFICE BOX 346 · 614 NORTH. F.R. HUFF DRIVE · ST. MATTHEWS, SOUTH CAROLINA 29135
(803) 874-1430 · (803) 874-2010 · FAX: (803) 655-7167

JOHN GRESSETTE FELDER, SR.
BATES N. FELDER
T. DERRICK FELDER

e-mail:
johngfelder@sc.rr.com
batesfelder@sc.rr.com
tdfelder@sc.rr.com

January 18, 2019

Calhoun County Board of Assessment Appeals
102 Courthouse Dr., Ste. 107
St. Matthews, SC 29135

Re: Kristiane M. Shirer
Appeal Hearing on TMS#: 198-00-00-008
Date of Hearing: December 20, 2018

Dear Sir/Madam:

Enclosed and hereby served upon you please find a copy of the Request for Contested Case Hearing Form on behalf of my client, Kristiane M. Shirer, in the above-referenced matter.

Should you have any questions, please do not hesitate to contact me.

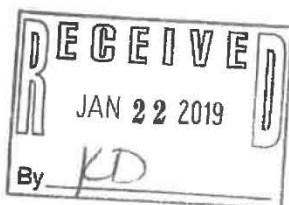
With kindest personal regards, I am

Yours truly,



Bates N. Felder

BNF/cm
Enclosures
cc: Mrs. Kristiane M. Shirer



ROA 015

**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: Shirer		First: Kristiane	Middle: M.	<input type="checkbox"/> Mr. <input checked="" type="checkbox"/> Mrs.	<input type="checkbox"/> Miss <input type="checkbox"/> Ms.	Docket No. (To Be Completed by ALC)
Mailing Address: 7187 Cameron Road			City: Cameron	State and Zip: SC 29030		
Home Number: (803)	Work Number: (803)	Cell Number:		*E-Mail Address:		

*By providing your e-mail address, you consent to receive court orders and notices via electronic transmission

REPRESENTATION

Are you representing yourself? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Are you represented by an Attorney? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Name of Attorney: Bates N. Felder
Attorney Mailing Address: P.O. Box 346	City, State and Zip: St. Matthews, SC 29135
Attorney Work Number and Cell Number: (803) 874-1430 (803) 707-7058	Attorney E-Mail Address: batesfelder@sc.rr.com

CASE INFORMATION

Name of Agency that Issued the Decision: (Example -- Dept. of Revenue, Dept. of Insurance, DHEC) Calhoun County Board of Assessment Appeals	
In order to have your case processed, you must attach the agency decision. Is it attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	If no, please explain:
Date the decision was issued: 12-21-2018	Date the decision was received: 12-26-2018
Please provide a brief statement regarding why the The Calhoun County Board of Assessment Appeals hearing is being requested and the relief sought: inappropriately classified a pool house as an additional dwelling on their residential property causing a significant increase in property taxes. The property owner requests that this decision be overturned and that the pool house be taxed as it has been for more than 30 years.	
Payment via <input checked="" type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> Cash for \$	(applicable filing fee pursuant to ALC Rule 71) is being
submitted today to the Administrative Law Court via	<input type="checkbox"/> U.S. Postal Service <input type="checkbox"/> Hand-delivery
BNFL	1-18-19
X Your Signature or Signature of Attorney	Date

PROOF OF SERVICE (MUST BE COMPLETED)

Your Name: Kristiane M. Shirer	Date: 1-18-19	City: St. Matthews	State: SC
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):			
Calhoun County Board of Assessment Appeals	102 Courthouse Dr., Ste 107	St. Matthews, SC 29135	
Name and/or Agency Name	Address	City, State and Zip	
Calhoun County Tax Assessor	102 Courthouse Dr., Ste. 107	St. Matthews, SC 29135	
Name and/or Agency Name	Address	City, State and Zip	
BNFL	1-18-19		
X Your Signature or Signature of Attorney	Date		

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.

**CALHOUN COUNTY
BOARD OF ASSESSMENT APPEALS**

102 Courthouse Drive • Suite 107
St. Matthews, SC 29135
(803) 874-3613 • Fax: (803) 874-1242

Received
12/26/18

December 21, 2018

To: All Concerned Parties

Re: Appeal Hearing on TMS # 198-00-00-008

A hearing before the Calhoun County Board of Assessment Appeals was held as scheduled on December 20, 2018 at 2:30 pm. The issue of the appeal was the denial of the legal residence classification on an additional dwelling on the above parcel number. Also under appeal was the denial of the request for refund for the years that said structure may have qualified for the legal residence classification. All relevant parties were in attendance. The following board members were in attendance:

Ms. Alena Fleming
Mr. Michael V. Edge, Chairman

Ms. Christine W. Randolph

The above members did make up a quorum of the Board. Upon hearing arguments and evidence presented by both parties, the Board rules that insufficient evidence was presented by the taxpayer to support the claim for the legal residence classification and assessment to be extended and applied to this additional dwelling. The Board found that even if the arguments brought forth by the Assessor in the Guthrie v. Orangeburg County Assessor case were not granted significant weight, the strict interpretation of the legal residence statute under 12-43-220 would still prevent the granting of the legal residence classification in this instance. The strict interpretation of the statute, the adherence to the definition of a habitable dwelling under the building code, and the agreement of the parties that there are two structures meeting that definition on this parcel, one of which is already the legal residence and domicile of the owner/occupant, seem to compel this conclusion. Therefore, by unanimous vote of the attending Board members, the decision of the Board does hereby confirm the Assessor's denial of the legal residence classification and assessment to the additional dwelling on the above parcel number.

The status of the legal residence classification on the second dwelling was required before a decision could be rendered on the second matter under appeal, the status of the refund request. As the Board has found that the legal residence classification cannot be granted to the additional dwelling, it cannot logically have a refund granted based upon a classification to which it was not entitled. Therefore, by unanimous vote of the attending Board members, the decision of the Board does hereby confirm the Tax Committee's denial of the refund for the difference between the legal residence classification 4% and the 6% other property classification for previous years regarding the additional dwelling on the above parcel number.

Should either the taxpayer or the assessor be aggrieved by this decision, either may request a contested case hearing before the Administrative Law Judge Division. A request for a contested case hearing must be made in writing within thirty days after the date of the board's written decision. The rules of the Administrative Law Judge Division will control the appeal process from this point forward. If not


**CALHOUN COUNTY
BOARD OF ASSESSMENT APPEALS**

Courthouse Annex • Suite 107
St. Matthews, SC 29135
(803) 874-3613 • Fax: (803) 874-1242

appealed within 30 days the decision will become final. The request must be sent to the following address along with a \$75.00 filing fee for residential property and a \$350.00 filing fee for commercial property:

South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Suite 224
Columbia, SC 29201

Regards,


Michael V. Edge, Chairman

Cc: Assessor, and Taxpayer Kristiane Shirer

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Kristiane M. Shirer,	)	DOCKET NO. 19-ALJ-17-0016-CC
)	
Petitioner,)	
	)	RESPONDENT CALHOUN COUNTY
vs.	)	ASSESSOR'S PREHEARING
	)	STATEMENT
Calhoun County Assessor,)	
)	
Respondent.)	

As ordered by the Court pursuant to an Order for Prehearing Statements, dated April 1, 2019, the Respondent, Calhoun County Assessor, hereby provides the following Prehearing Statement containing the information requested by the Court.

1. The nature of the proceeding:

This matter is a contested case hearing appealing the decision of the Calhoun County Board of Assessment Appeals (the "Appeals Board"), to deny (1) Petitioner's application for legal residence status on a second dwelling that is located on the same property as the dwelling that Petitioner currently claims as her legal residence for property tax purposes and (2) Petitioner's request of a refund of property taxes paid with respect to this second dwelling.

2. Statutory provision(s) conferring subject matter jurisdiction to the agency and other applicable statutes and regulations:

Petitioner's initial appeal to the Calhoun County Assessor and the Appeals Board was made pursuant to S.C. Code §§ 12-60-2510 *et seq.* This matter comes before the Court pursuant to S.C. Code Ann. § 12-60-2540 and the subject matter jurisdiction conferred upon the Court by this provision. This matter is a contested case subject to the rules of the Court set forth at S.C. Code Ann. §§ 1-23-310 *et seq.*

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

The issue presented in this matter is whether Section 12-43-220(c)(1) of the Code of Laws of South Carolina 1976, as amended, should be construed to confer legal residence status upon a second dwelling that is located on the same property as the dwelling that the taxpayer claims as her legal residence?

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 classification of real property for the purpose of determining the appropriate assessment ratio is governed by Section 12-43-220. Under this provision, the legal residence of a taxpayer and “additional dwellings located on the same property and occupied by immediate family members” of the taxpayer are taxed on the basis of a 4% assessment ratio. S.C. Code Ann. § 12-43-220(c)(1). As further provided by this section, “[f]or purposes of the assessment ratio allowed pursuant to this item, a residence does not qualify as a legal residence unless the residence is determined to be the domicile of the owner-applicant. *Id.* In order to qualify for a 4% assessment ratio, the owner-applicant must certify that “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 a member of my household, claim the special assessment ratio allowed by this subsection on another residence.” S.C. Code Ann. § 12-43-220(c)(2)(ii)(A)–(B).

Section 12-43-220(c)(1) is a “tax exemption statute,” and the 4% assessment ratio conferred upon the legal residence of a taxpayer is considered to be a tax exemption. *Ford v. Beaufort Cty. Assessor*, 398 S.C. 508, 515, 730 S.E.2d 335, 339 (Ct. App. 2012) (citing *CFRE, LLC v. Greenville Cty. Assessor*, 395 S.C. 67, 74–75, 716 S.E.2d 877, 881 (2011)). While tax

enforcement statutes are construed in favor of the taxpayer, tax exemption statutes such as Section 12-43-220(c)(1) are to be strictly construed against the taxpayer, and thus in favor of the payment of the tax. *Mead v. Beaufort Cty. Assessor*, 419 S.C. 125, 140, 796 S.E.2d 165, 173 (Ct. App. 2016) (emphasis added). In strictly construing a tax exemption statute, the statutory language should not be “strained or liberally construed in the taxpayer’s favor,” and to the extent that any ambiguity exists, a tax exemption statute should be interpreted against granting the exemption. *Id.* Therefore, when interpreting the language of Section 12-43-220(c)(1) to determine whether to classify a dwelling as the legal residence of a taxpayer, or to extend legal residence status to include other structures that may also be construed as dwellings, to the extent that the language of the provision is at all ambiguous it should be interpreted to deny legal residence status for a second dwelling. *See Ford*, 398 S.C. at 515, 730 S.E.2d at 339.

The South Carolina Administrative Law Court has in the past relied on this rule of statutory construction to deny legal residence status to a second dwelling located on the same property as the taxpayer’s legal residence. In *Guthrie v. Orangeburg County Assessor*, the Administrative Law Court held,

[t]his tribunal finds that the term “legal residence” as used in Section 12-43-220(c) must be understood to refer to a single dwelling house, and not to extend to multiple dwellings. Both the language of Section 12-43-220(c) and the use of “legal residence” elsewhere in South Carolina law suggest that the term “legal residence” should be construed only in the singular number.

Guthrie v. Orangeburg County Assessor, No. 01-ALJ-17-0173-CC, at *2 (Sept. 5, 2001). In *Guthrie*, the taxpayers had purchased a lot and dwelling adjacent to their legal residence and combined the two parcels into one. The taxpayers claimed that legal residence status should extend

to both dwellings with the justification that they “do not rent out the property or use it for any other commercial purpose” and, although they normally live at their original residence, they use the second dwelling “merely as optional residence space.” *Id.* at 1. Analyzing Section 12-43-220(c)(1), the Court reasoned that the language of the statute was clear that the “residential assessment ratio must be construed in the singular number and must, therefore, be understood to refer to a single dwelling of the taxpayer.” *Id.* at 4.

Calhoun County has adopted the International Residential Code for One- and Two-Family Dwellings (the “Residential Code”), and the Calhoun County Assessor considers the provisions of the Residential Code to determine whether a structure qualifies as a “dwelling” for the purposes of applying Section 12-43-220(c)(1). Chapter 3 of the Residential Code establishes the minimum standards for a dwelling to include having one full bath, one habitable room of 70 square feet, a full bathroom, a kitchen area with a sink, and a connection to a sanitary sewer or private sewage disposal system. When considering whether a structure that generally meets these livability standards constitutes a dwelling, as opposed to an accessory or incidental structure, the South Carolina Supreme Court has applied a similar standard in holding that an apartment on the second floor of a detached garage, which constitutes “a complete living unit” is not incidental to the use of the property owner’s residence, and therefore constitutes its own separate dwelling. *See Archambault v. Sprouse*, 218 S.C. 500, 507, 63 S.E.2d 459, 462 (1951).

As applied to this matter, Section 12-43-220(c)(1) should be strictly construed to deny Petitioner the benefit of a 4% assessment ratio on the structure in question unless the structure clearly falls outside of the definition of a dwelling or the structure is subject to an express exception set forth in the statute. The structure in question meets and far exceeds the minimum standards of a dwelling. Therefore, there are two structures on Petitioner’s property that meet this standard, the

other of which Petitioner already claims as her legal residence. The one exception allowed under Section 12-43-220(c)(1) whereby legal residence status can be applied to multiple dwellings on a single property is a case where the additional dwelling is occupied by an immediate family member of the taxpayer, which does not apply in this instance. Moreover, in adopting such an exception, the South Carolina General Assembly has demonstrated that it has considered situations where it is appropriate to allow a property owner to claim legal residence status for multiple residences on a single property, and has chosen not to extend this tax exemption to situations such as the one presented by Petitioner. *See Hodges v. Rainey*, 341 S.C. 79, 87, 533 S.E.2d 578, 582 (2000) (quoting Norman J. Singer, *Sutherland Statutory Construction* § 47.23 at 227 (5th ed. 1992) (“The enumeration of exclusions from the operation of a statute indicates that the statute should apply to all cases not specifically excluded. Exceptions strengthen the force of the general law and enumeration weakens it as to things not expressed.”)).

The Appeals Board based its ruling upon correct conclusions of law and, therefore, Respondent respectfully requests that the Court uphold the ruling of the Appeals Board.

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

i. Petitioner’s property is located at 7187 Cameron Road in Calhoun County, South Carolina and contains approximately 213.3 acres in total.

ii. The property was deeded to Petitioner by her spouse, Michael P. Shirer, in May 2000. Mr. Shirer previously received legal residence classification on 1 acre of the 213.3-acre tract. The 1-acre tract included Petitioner’s legal residence and accessory improvements including a pool and a 432 square foot structure that was characterized by Petitioner as her “pool house.”

iii. The balance of the property had been assessed at the 4% agricultural use classification. The legal residence classification continued to be assessed on 1 acre of the above

parcel until 2015.

iv. In 2014, Petitioner was issued a building permit to expand the pool house to 2,032 square feet of heated and cooled living area. The modified structure became taxable at its increased square footage for the first time for the 2015 tax year.

v. Upon completion, a Calhoun County appraiser inspected the structure to determine its nature. The appraiser examined the issued building permits, measured and inspected the actual structure, and spoke with someone onsite regarding the interior rooms and makeup of the structure. In his inspection, the appraiser learned that the structure had a full kitchen and bathroom, living facilities, and a bedroom.

vi. The structure appeared to be occupied at the time of the inspection and it was later confirmed Petitioner and her spouse resided in the structure while their legal residence was being renovated.

vii. Based upon this inspection, the appraiser determined that the structure is a dwelling.

viii. As Petitioner had already received legal residence classification for one dwelling on the property, the Calhoun County Assessor removed 1 acre of the 213.3-acre tract from the agricultural classification and the 1 acre and the structure in question became taxable at the 6% other property classification.

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

Respondent does not anticipate filing any motions at this time; however, Respondent respectfully reserves the right to file motions if necessary upon notice in accordance with the Rules of the Administrative Law Court and the South Carolina Rules of Civil Procedure.

7. A list of proposed witnesses and exhibits:

In the event of a hearing on the merits, Respondent proposes to call the following witnesses; provided, however, Respondent reserves the right to modify and supplement this list and designate witnesses as experts, upon notice to the parties and to the Court:

- i. Steven S. Hamilton III, Calhoun County Assessor
- ii. Antonia D. Boyd, Appraiser, Calhoun County Office of the Assessor
- iii. Kristiane M. Shirer

Respondent's proposed exhibits will consist of the following:

- i. Exhibits contained in the administrative file;
- ii. Documents obtained in discovery; and
- iii. Exhibits proffered and or admitted by the other parties.

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

Respondent anticipates that discovery performed to date is sufficient in this matter; however, Respondent reserves the right to submit a request to the Court for additional discovery if the need arises.

9. The estimated length of the hearing:

Respondent expects that it will take three hours to present its case in chief should a merits hearing be necessary.

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

April 30-May 5, 2019

May 15-16, 2019

June 6-14, 2019

June 27-28, 2019

July 1-5, 2019

July 18-19, 2019

August 5-7, 2019

August 16, 2019

11. An email address where you can be reached:

cdrhodes@popeflynn.com

With cc to:

hcollier@popeflynn.com

Pope Flynn, LLC



Charles D. Rhodes, III
Pope Flynn, LLC
1411 Gervais Street, Suite 300
Columbia, South Carolina 29201
803-354-4911
cdrhodes@popeflynn.com
Attorney for Calhoun County Assessor

Columbia, South Carolina
April 20, 2019

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Kristiane M. Shirer,	)	Docket No. 19-ALG-17-0016-CC
)	
Petitioner,)	
)	
vs.)	
	)	PETITIONER'S PREHEARING STATEMENT
Calhoun County Assessor,)	
)	
Respondent.)	
)	

Pursuant to the Order for Prehearing Statement in the foregoing matter, the Petitioner states as follows:

1. The nature of this proceeding;

The above-captioned matter is a Contested Case Proceeding brought by Petitioner pursuant to the Rules of the South Carolina Administrative Law Court. Specifically, Petitioner is appealing the decision of the Calhoun County Board of Assessment Appeals which confirmed the decision of the Calhoun County Tax Assessor to classify a pool house as an additional dwelling on the residential property of the Petitioner.

2. Statutory provisions(s) conferring subject matter jurisdiction to the agency and other applicable statutes and regulations;

The Administrative Law Court has subject matter jurisdiction over the contested case pursuant to S.C. Ann. § 12-60-2540 (as amended) and S.C. Code Ann. § 1-23-310 (as amended).

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

The issue to be determined at trial is whether or not the Calhoun County Tax Assessor erroneously classified the Petitioner's pool house as an additional dwelling on the residential property of the Petitioner. The classification carried a significant increase in the property tax levied on the property of the Petitioner.

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;

Petitioner requests the Court to overturn the prior decision and allow the Petitioner to receive the 4% residential tax rate on her legal residence and the five (5) contiguous acres that include her pool and pool house pursuant to S.C. Code Ann. § 12-43-220(c) (as amended).

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

Petitioner built a pool house on her homeplace in the mid-1980's on a 75+/- acre tract where she and her husband reside. The pool house had a kitchen, bathroom, recreational room, and bedroom. From the time of construction until 2018, the structure was not classified as a dwelling. After Petitioner expanded the pool house, the County Assessor decided the expanded building met the definition of a habitable dwelling and classified the structure as such which caused a significant increase in taxes.

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

No motions are expected on behalf of Petitioner.

7. A list of proposed witnesses and exhibits;

Kristiane M. Shirer and Michael P. Shirer. Mr. & Mrs. Shirer will present copies of pictures showing the pool house at issue in this matter. Petitioner reserves the right to supplement this item and will do so at the appropriate time.

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

Petitioner does not feel discovery is necessary.

9. The estimated length of the hearing;

2 hours.

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

Petitioner is unavailable May 6, 8-9, 13, 24-31, June 7-14, 17-21, 23-27, July 1-12, 23, and August 7, 12-15, 26.

11. An email address where you can be reached.

batesfelder@sc.rr.com

Respectfully submitted,

THE FELDER FIRM, LLP

By:



Bates N. Felder, Esquire
Post Office Box 346
St. Matthews, South Carolina 29135
Phone: (803) 874-1430
Fax: (803) 655-7167
batesfelder@sc.rr.com

April 22, 2019

St. Matthews, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Kristiane M. Shirer,)
)
) Petitioner,)
)
 vs.)
)
) **CERTIFICATE OF SERVICE BY MAIL**
 Calhoun County Assessor,)
)
) Respondent.)
 _____)


I, the undersigned, do hereby certify that I have served opposing counsel with a copy of the Petitioner's Prehearing Statement in the foregoing matter by placing same in the United States Mail with sufficient postage affixed thereto and properly addressed as follows:

C. D. Rhodes, III, Esquire
Pope Flynn Group
P.O. Box 11509
Columbia, South Carolina 29201

this 22nd day of April, 2019.

THE FELDER FIRM, LLP

By:


Carolyn S. Morgan
Legal Assistant

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Kristiane M. Shirer,	)	DOCKET NO. 19-ALJ-17-0016-CC
)	
Petitioner,)	
	)	RESPONDENT CALHOUN COUNTY
vs.	)	ASSESSOR'S MOTION FOR
	)	RECONSIDERATION
Calhoun County Assessor,)	
)	
Respondent.)	
_____)	

The Final Order dated October 10, 2019 and received by Respondent on October 15, 2019 (the "Order") granted Petitioner Kristiane M. Shirer's request for the 4% tax exemption on an additional dwelling located on her property. Pursuant to Rule 29(D) of the South Carolina Administrative Law Court Rules, Respondent Calhoun County Assessor moves this Court to reconsider its Order and deny Petitioner's request.

I. Construction of Section 12-43-220(c)(1)

In its ruling, the Court focused on the fifth sentence of S.C. Code § 12-43-220(c)(1): "[i]f this property has located on it any rented mobile homes or residences which are rented or any business for profit, this four percent value does not apply to those businesses or rental properties." S.C. Code Ann. § 12-43-220(c)(1) (2014 & Supp. 2018) (hereinafter, the "Rental Provision"). The effect of the Court's reading of the Rental Provision would be to extend the 4% assessment beyond the legal residence of the property owner to include any additional dwellings on the same property that are not rented, solely on the basis that they are not rented.

The Court's interpretation of S.C. Code Ann. § 12-43-220(c)(1) disregards the structure of the statute and the manner in which the General Assembly sought to extend the 4% assessment to cover specific situations throughout the subsection. The Rental Provision should properly be read

as a limitation on the general rule (applying the 4% assessment to legal residences and additional residences on the property and occupied by immediate family members) and the extensions of the general rule contained in the next three sentences of the subsection.

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the Legislature. *SCANA Corp. v. South Carolina Department of Revenue*, 384 S.C. 388, 392, 683 S.E.2d 468, 470 (2009) (citation omitted). “All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in light of the intended purpose of the statute.” *Id.* “When construing statutory language, the statute must be read as a whole, and sections which are part of the same general statutory law must be construed together and each one given effect.” *South Carolina State Ports Auth. v. Jasper County*, 368 S.C. 388, 398, 629 S.E.2d 624, 629 (2006) (citation omitted). “Moreover, a statute should not be construed by concentrating on an isolated phrase.” *Id.* (citation and internal quotation omitted). Rather, it is appropriate for the courts to consider the overall structure of the statute in order to ascertain the intent of the Legislature. *See Matthews v. State*, 300 S.C. 238, 240, 387 S.E.2d 258, 259 (1990); *Columbia/CSA-HS Greater Columbia Healthcare Sys., LP v. S.C. Med. Malpractice Liab. Joint Underwriting Ass'n*, 411 S.C. 557, 562, 769 S.E.2d 847, 849–50 (2015).

The Legislature utilized a clear structure in Section 12-43-220(c)(1); expressly extending the 4% assessment in the affirmative where it chose to do so, and generally limiting the applicability of the 4% assessment in the negative where necessary. *See* S.C. Code Ann. § 12-43-220(c)(1). The first sentence of the subsection contains the general rule and reads as follows:

The legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, and additional dwellings located on the same property and occupied by immediate

family members of the owner of the interest, are taxed on an assessment equal to four percent of the fair market value of the property.

Id.

Each of the three sentences that follow are structured to affirmatively and expressly extend the 4% assessment to cover highly specific circumstances where, for technical reasons due to property ownership, the 4% assessment might not otherwise apply.

If residential real property is held in trust and the income beneficiary of the trust occupies the property as a residence, then the assessment ratio allowed by this item applies if the trustee certifies to the assessor that the property is occupied as a residence by the income beneficiary of the trust. When the legal residence is located on leased or rented property and the residence is owned and occupied by the owner of a residence on leased property, even though at the end of the lease period the lessor becomes the owner of the residence, the assessment for the residence is at the same ratio as provided in this item. If the lessee of property upon which he has located his legal residence is liable for taxes on the leased property, then the property upon which he is liable for taxes, not to exceed five acres contiguous to his legal residence, must be assessed at the same ratio provided in this item.

Id. (emphasis added).

In the fifth sentence of Section 12-43-220(c)(1), the Rental Provision, where the Legislature is not expressly extending the 4% assessment, the structure changes accordingly:

If this property has located on it any rented mobile homes or residences which are rented or any business for profit, this four percent value does not apply to those businesses or rental properties.

Id. (emphasis added). The structure of the Rental Provision is entirely different from the structure of the sentences that precede it which are unquestionably intended to extend the 4% assessment. The Rental Provision is not an express extension of the general rule to cover a specific circumstance, but is instead a limitation on the applicability of the 4% assessment in an instance where the general rule or any extension of the general rule might otherwise apply. Where each

expansion of the 4% assessment is presented in the affirmative with respect to a detailed circumstance, the Rental Provision is presented in the negative in general terms.

In the sentence that follows the Rental Provision—the sixth sentence—the Legislature reverts back to its practice of affirmatively and expressly expanding the 4% assessment in another highly specific circumstance where only a portion of a legal residence is rented.

However, if the person claiming the four percent assessment ratio resides in the mobile home or single family residence and only rents a portion of the mobile home or single family residence to another individual as a residence, the foregoing provision does not apply and the four percent assessment ratio must be applied to the entire mobile home or single family residence.

Id. (emphasis added).

Finally, the last sentence of the section is an additional overarching limitation that applies to all residences for which the 4% assessment may apply.

For purposes of the assessment ratio allowed pursuant to this item, a residence does not qualify as a legal residence unless the residence is determined to be the domicile of the owner-applicant.

Id. (emphasis added). Notably, under the Court's ruling, Petitioner's second dwelling would receive the 4% assessment despite the fact that it is not Petitioner's domicile, as expressly required by this final provision.

When viewed in light of the entirety of Section 12-43-220(c)(1) and the manner in which the Legislature sought to either expand or limit the applicability of the 4% assessment, it is evident that the Rental Provision is intended to be a general limitation on the applicability of the 4% assessment. Had the Legislature intended to extend the 4% assessment to cover additional dwellings on the same property as the taxpayer's legal residence, solely on the basis that the additional dwellings are not rented, it would have utilized the same degree of specificity as it used in the rest of the subsection to expressly do so. When the Rental Provision is interpreted in this

manner, in any instance where a residence might otherwise receive the 4% assessment under the subsection, if the residence is rented it loses its eligibility.

This construction is consistent with the Court of Appeals holding in *Ford v. Beaufort County Assessor*, where the Court of Appeals concluded that the phrase “this property” contained in the Rental Provision applies to the property on which the legal residence is situated and any contiguous property. *Ford v. Beaufort County Assessor*, 398 S.C. 508, 513, 730 S.E.2d 335, 338 (Ct. App. 2012). The Court of Appeals read the Rental Provision as a limitation on the general rule. *See id.* It stands to reason that the Rental Provision should also be read as a limitation on the expansions of the general rule contained elsewhere in the subsection.

To read the Rental Provision as an additional extension of the 4% assessment, where every other extension contained in the subsection is express and is presented in the affirmative, requires that the sentence be read in isolation from the rest of the subsection and represents a strained and liberal construction. This is inappropriate in this instance where the statute in question is a “tax exemption statute.” *See Mead v. Beaufort Cty. Assessor*, 419 S.C. 125, 140, 796 S.E.2d 165, 173 (Ct. App. 2016).

II. Section 12-43-220(c)(1) as Applied to Petitioner’s Request

This Court’s findings of fact contained in the Order are accurate. Petitioner’s second dwelling has not been rented; however, the statute requires taxpayer do more than simply not rent the dwelling to receive the tax exemption of the 4% assessment. Section 12-43-220(c)(1) expressly extends the 4% assessment to cover multiple dwellings on the same property in the specific situation where the “additional dwellings [are] located on the same property **and** occupied by immediate family members of the owner of the interest.” S.C. Code Ann. § 12-43-220(c)(1)

(emphasis added). It is not enough that a taxpayer is not accepting rent for an additional dwelling. The statute requires that a family member reside in it.

As the Court stated in the Findings of Fact contained in the Order, the “pool house is used for family gatherings or when their children and/or grandchildren visit.” Here, by the Petitioner’s own evidence, it is undisputed that this additional dwelling is not the legal residence of Petitioner or any “immediate family members” of Petitioner and, therefore, cannot meet the requirements for this extension of the 4% assessment.

For these reasons, Respondent respectfully requests that this Court reconsider its Order and deny Petitioner’s request for the 4% special assessment for the additional dwelling on her property. This motion is based upon the South Carolina Administrative Law Court Rules, applicable South Carolina case and statutory law, and all other materials, authority, and memoranda which Respondent may submit to the Court.

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Attorney for Calhoun County Assessor

Columbia, South Carolina
October 25, 2019

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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

Case No. 2019-ALJ-17-0016-CC

RECEIVED
DEC 17 2019
SC Court of Appeals

Kristiane M. Shirer.....Respondent,

v.

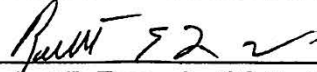
Calhoun County Assessor.....Appellant.

NOTICE OF APPEAL

Appellant South Calhoun County Assessor ("Appellant") appeals the Final Order of the Honorable H.W. Funderburk, Jr. dated October 10, 2019 and the Order denying Motion to Reconsider by the Honorable H.W. Funderburk, Jr. dated November 18, 2019. Appellant received a copy of the Order denying Motion to Reconsider on November 20, 2019.

< Signature Page to Follow >

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December 17, 2019

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Kristiane M. Shirer,) Docket No. 19-ALJ-17-0016-CC
)
Petitioner,)
)
vs.) FINAL ORDER
)
Calhoun County Assessor,) RECEIVED FILED
) DEC 17 2019 OCT 10 2018
Respondent.) SC Court of Appeals ADMIN. LAW COURT

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a request for a contested case hearing by Kristiane M. Shirer (Petitioner) challenging a decision by the Calhoun County Board of Assessment Appeals (Board) affirming the Calhoun County Assessor's (Assessor or Respondent) denial of Petitioner's applications for 4% special tax assessment ratio on a building on Petitioner's residential lot, as provided in S.C. Code Ann. § 12-43-220(c)(2)(ii) (Supp. 2016).

FINDINGS OF FACT

Having observed the witnesses and exhibits presented at the hearing and passed upon their credibility, taking into consideration each party's burden of proof, the Court makes the following Findings of Fact by a preponderance of the evidence.

Petitioner and her husband reside in Calhoun County at 7187 Cameron Road, Cameron, South Carolina, where they have had a 4% special tax assessment ratio on their home. The home is on a one-acre lot surrounded by the family farm. Sometime in 1984 or 1985, Petitioner and her husband added a pool house in their backyard. In 2014, the pool house was enlarged. A building permit was issued to add 1600 square feet. When the project was completed, a large eating and entertainment area and an additional bedroom had been added, making the pool house 2032 square feet. Petitioner and her husband lived in the pool house while their residence was renovated. When the renovation was complete, they moved back into their home. The pool house is used for family gatherings or when their children and/or grandchildren visit. It has been used exclusively by Petitioner and her spouse and for visiting members of their immediate family and has never been rented.

The Assessor confirmed that Petitioner was given a building permit to expand the pool house in 2014 and stated that the modified pool house became taxable in 2015. All of the witnesses agreed that the pool house included a kitchen (with a sink), a full bath, living areas, and at least one bedroom. It, therefore, meets the definition of a “dwelling” under the International Residential Building Code adopted by Calhoun County.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Court concludes the following as a matter of law.

This Court has jurisdiction over this contested case pursuant to S.C. Code Ann. § 12-60-2540(A) (2014), S.C. Code Ann. § 1-23-600 (Supp. 2016), and S.C. Code Ann. §§ 1-23-310 *et seq.* (2005 & Supp. 2018).

The ALC reviews the decision of the Assessor *de novo*. *Reliance Ins. Co. v. Smith*, 327 S.C. 528, 534, 489 S.E.2d 674, 677 (Ct. App. 1997) (explaining “although a case involving a property tax assessment reaches the ALJ in the posture of an appeal, the ALJ is not sitting in an appellate capacity and is not restricted to a review of the decision below. Instead, the proceeding before the ALJ is in the nature of a *de novo* hearing.”). The burden of proof is on the party challenging the Board’s decision. *Id.* Here, the burden rests on the Petitioner. *See CFRE, LLC v. Greenville Cty. Assessor*, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011) (South Carolina policy is to construe strictly tax exemption statutes against the taxpayer).

This case involves S.C. Code Ann. § 12-43-220 (2014 & Supp. 2018), which reads, in pertinent part:

(c)(1) The legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, and additional dwellings located on the same property and occupied by immediate family members of the owner of the interest, are taxed on an assessment equal to four percent of the fair market value of the property.

* * *
If this property has located on it any rented mobile homes or residences which are rented or any business for profit, this four percent value does not apply to those businesses or rental properties. * *

*
(c)(2)(i) To qualify for the special property tax assessment ratio allowed by this item, the owner-occupant must have actually owned and occupied the residence as his legal residence and been domiciled at that address for some period during the applicable tax year. A residence which has been qualified as a legal residence for any part of the

year is entitled to the four percent assessment ratio provided in this item for the entire year, for the exemption from property taxes levied for school operations pursuant to Section 12-37-251 for the entire year, and for the homestead exemption under Section 12-37-250, if otherwise eligible, for the entire year.

* * *

If the assessor determines the owner-occupant ineligible, the six percent property tax assessment ratio applies and the owner-occupant may appeal the classification as provided in Chapter 60 of this title.

S.C. Code Ann. § 12-43-220(c) (2014 & Supp. 2018)

The Assessor insists that only an individual's primary residence can be her domicile and that the law limits the 4% assessment to a single owner-occupied dwelling.¹ The statute, however, allows the legal residence to include by "additional dwellings located on the same property." These additional dwellings can only be occupied by the owner or her immediate family.

The four percent assessment does not apply if the property in question is rented for profit during the applicable tax year or has on it "residences which are rented." *Id. See also Ford v. Beaufort County Assessor*, 398 S.C. 508, 512, 730 S.E.2d 335, 338 (Cl. App. 2012) (denying the four-percent assessment to a legal residence which had been rented for more than fourteen days during the tax year). In this case, neither of the dwellings on the property have been rented for any period.

Assessor also argues that an apartment on the second floor of a detached garage, which meets the standards to be a dwelling, would not be an accessory or incidental structure. *Archambault v. Sprouse*, 218 S.C. 500, 507, 63 S.E.2d 459, 462 (1951). *Archambault*, however, deals with the application of restrictive covenants that limit each lot to "one detached single family dwelling" and "'buildings incidental' to the use of such residence." *Id.* 506-507, 63 S.E.2d 459, 462. The statute governing this case allows "additional dwellings located on the same property" and makes the tax assessment depend on the use of the additional dwelling. A business use or rental would expose the dwelling to the

¹ The Assessor relies on a 2001 ALC decision which contained the following: "It is clear that the term "legal residence" as used in Section 12-43-220(c) for the residential assessment ratio must be construed in the singular number, and must, therefore, be understood to refer to a single dwelling of the taxpayer. Only under a strained and liberal definition of 'legal residence' could the term be construed in the taxpayer's favor to include two separate dwellings on two separate lots, whether contiguous or not." *Guthrie v. Orangeburg County Assessor*, No. 01-ALJ-17-0173 (Sept. 5, 2001). Although the Court is not bound by a previous ALC decision, I note that this case which involves two dwellings located on the same lot at the same address is distinguishable from the "strain" apparent in *Guthrie*.

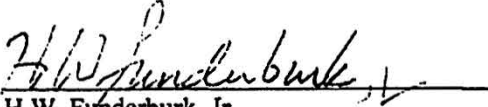
undiscounted six-percent assessment. The facts in this case do not show such a disqualifying use.

It is therefore,

ORDERED that Petitioner's request for the four percent special assessment ratio for the previous tax years beginning in 2015 is **GRANTED**. Future tax years must depend on Petitioner's demonstrating her eligibility for the four-percent assessment.

AND IT IS SO ORDERED.

October 10, 2019
Columbia, South Carolina


H.W. Funderburk, Jr.
Administrative Law Judge

Docket No. 19-ALJ-17-0016-CC

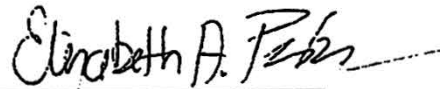
CERTIFICATE OF SERVICE

I, Elizabeth A. Perkins, hereby certify that I have this date served this **Final 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).

Bates N. Felder, Esquire
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St. Matthews, SC 29135
Counsel for Petitioner

C.D. Rhodes, III, Esquire
Pope Flynn Group
P.O. Box 11509
Columbia, SC 29201
Counsel for Respondent

October 10, 2019
Columbia, SC



Elizabeth A. Perkins
Judicial Law Clerk

FILED

OCT 10 2019

SC ADMIN. LAW COURT

The four percent special assessment ratio, according to the plain terms of the statute, applies to the legal residence, not more than five contiguous acres, and **additional dwellings** located on the same property (emphasis added). These dwellings are in addition to the legal residence but subject to the same tax exemption. While the statute limits the use of these dwellings to immediate family members, it does not require an additional dwelling to be continuously occupied by the same immediate family members. In this case, the Petitioner, her spouse, her children, and grandchildren have been the sole, but not continuous, occupants. Likewise, the legal residence is not continuously occupied by Petitioner. Petitioner and her spouse spend time in the additional dwelling, and, according to her testimony, own and occupy other dwellings on properties in other locations where they are subject to the standard 6% assessment ratio.


The Court agrees with Respondent that should the dwelling in question be rented or otherwise used commercially or for other than Petitioner's immediate family, the four percent special assessment ratio should be denied. *See Ford v. Beaufort County Assessor*, 398 S.C. 508, 512, 730 S.E.2d 335, 338 (Ct. App. 2012). In *Ford*, the Court upheld the ALC's interpretation of section 12-43-220(c) to mean that the four-percent ratio generally would not be applied to an owner-occupied legal residence if that residence is rented for profit during the applicable tax year.

In this case, the additional dwelling is only used by Petitioner and her spouse and/or when Petitioner's family members visit. It has not been rented out or used for any disqualifying purpose. It is therefore,

ORDERED that Respondent's Motion to Reconsider is **DENIED**.

AND IT IS SO ORDERED.

November 18, 2019
Columbia, South Carolina



H. W. Funderburk, Jr.
Administrative Law Judge

FILED

NOV 18 2019

Docket No. 19-ALJ-17-0016-CC

SC ADMIN. LAW COURT

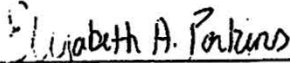
CERTIFICATE OF SERVICE

I, Elizabeth A. Perkins, hereby certify that I have this date served this **Order Denying Motion to Reconsider** 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).

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Counsel for Respondent

November 18, 2019
Columbia, South Carolina



Elizabeth A. Perkins
Judicial Law Clerk

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT
Docket No. 19-ALJ-17-0016-CC

Kristiane M. Shirer,)
)
 Petitioner,)
)
v.)
)
Calhoun County Assessor,)
)
 Respondent.)
-----)

ADMINISTRATIVE HEARING

Wednesday, September 18, 2019
10:20 a.m. - 1:27 p.m.

COPY

The administrative hearing before the Honorable H. W. Funderburk, Jr. was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 18th day of September, 2019, before Amanda Creel Godfrey, Court Reporter and Notary Public in and for the State of South Carolina.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 752-3445 / (800) 877-0806

ROA 049

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Also Present:

Stephanie Perez, Judicial Law Clerk
 Emily Howard, Staff Counsel
 Elizabeth Perkins, Judicial Research Aide
 Kristiane Shirer, Petitioner
 Mike Shirer, Spouse of Petitioner
 Stephen S. Hamilton, III, Calhoun County Assessor
 Antonia Boyd, Calhoun County Appraiser

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EXHIBITS

(All Exhibits were marked prior to the hearing and referenced as follows:)

Joint Exhibit Number 1, Letters A through O

Admitted into Evidence	26
Letter A	5,16,60
(Photograph of Residence and Pool House)	
Letter B	5,17
(Photograph of Driveway, Residence and Pool House)	
Letter D	5,19
(Photograph Showing Walkway and Electrical Pole)	
Letter E	5,18,45,60
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(Photograph of Pool House Bedroom)	
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(Photograph of Table in Pool House)	
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(Photograph of Pool House Kitchen)	



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ROA 051

Letter N 5,14
 (Two Photographs of the Original
 Pool House Bathroom)

Respondent's Exhibit Number 1 5,28,58
 (Photograph, Calhoun County GIS, Overhead
 Photograph of Property)
 Admitted into Evidence 44

Respondent's Exhibit Number 2, Letters A through E
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 (Property Card, Accessory Structures)

Letter C 78
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 Structure)

Respondent's Exhibit Number 3 89,101,134
 (Policy Statement, Office of the Assessor)
 Admitted into Evidence 98

(The original Exhibits were retained by the Court.)

STIPULATIONS

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



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1 (All Exhibits were marked prior to the hearing.)

2 CALL TO ORDER:

3 **THE COURT:** We are on the record for Case Number 19-
4 ALJ-17-0016. This is a contested case brought
5 by Kristiane Shirer, Petitioner, represented by
6 Mr. Felder, and the Calhoun County Assessor,
7 represented by Mr. Rhodes. This is a question
8 of the Petitioner's entitlement to a 4 percent
9 assessment on residential property in Calhoun
10 County, if I understand that correctly. All
11 right. If you haven't been here before, I'll
12 give you a little outline about what we do.
13 We'll start with opening statements by the
14 parties, then we'll have opportunity to present
15 witnesses and evidence subject to cross-
16 examination, of course, and closing arguments.
17 Any motions or stipulations before we begin?

18 **MR. FELDER:** Nothing, Your Honor.

19 **MR. RHODES:** No, Your Honor.

20 **THE COURT:** All right. Just remind me some time
21 around 11:20, 11:30 we'll take a break for
22 people to feed meters, if that's necessary,
23 because that's sometimes an issue. I don't
24 want to make it any more expensive than it
25 already is to come to Columbia. All right.



1 Mr. Felder.

2 MR. FELDER: Thank you, Your Honor. If it please
3 the Court.

4 PETITIONER'S OPENING STATEMENT - MR. FELDER:

5 MR. FELDER: I will be brief, believe it or not. I
6 don't think there's a lot of factual dispute in
7 this matter, and Mr. Rhodes may agree or
8 disagree, he'll certainly have the chance to do
9 that. I really don't think there is much
10 dispute in the way of facts. I think it will
11 come down to the -- my clients have a pool
12 house, which is in their backyard of their
13 principal residence, and for 30-plus years it
14 had been taxed as part of the principal
15 residence as another building beginning in two
16 thousand -- well, I think it, when reassessment
17 hit, somewhere around '17 or '18, is when it
18 changed because they had added on, remodeled
19 the pool house. And I think it's gonna come
20 down to a determination of -- you know, I don't
21 think we're here to dispute that it's a
22 habitable dwelling; I just don't think that
23 ends the analysis. I think it, you know, it
24 has a -- it's always had a full bathroom,
25 always had a kitchen, always had another room;



1 met the minimum requirements for that standard.
2 It's just when they added on and had a building
3 permit, the County, despite having many other
4 times to reassess that property, decided in
5 this last time to go out there and assess it at
6 6 percent. We think it's part of their
7 residential property, it's on the same lot,
8 it's the same address, it's in their backyard,
9 there is no other legal access to it. We just
10 think it should be treated as part of their
11 principal residence.

12 **THE COURT:** Mr. Rhodes.

13 **MR. RHODES:** Thank you, Your Honor. If it please
14 the Court.

15 **RESPONDENT'S OPENING STATEMENT - MR. RHODES:**

16 **MR. RHODES:** I would agree with Mr. Felder. There's
17 not a lot of facts that are in dispute here.
18 We've got some pictures that we'll introduce
19 into evidence that show the interior of the
20 pool house and so there's really no disputing
21 what's in there. It has all of the elements of
22 a dwelling. And it's not pure happenstance
23 that the pool house was changed over from, kind
24 of, a 4 percent portion of the property owner's
25 legal residence over to a separate dwelling in



1 2015. That coincided with an expansion of the
2 pool house, which as, kind of, part of the
3 County Assessor's Office normal procedures,
4 they went out there and took a look at it, as
5 they would with any property. And it was at
6 that point in time that they came to the
7 realization for the first time that it did have
8 all these elements of a dwelling and really
9 should be classified as a second dwelling on
10 the property. You know, the issue here is that
11 the property owners are asking for a 4 percent
12 assessment. A 4 percent assessment for a legal
13 residence is a tax exemption under our
14 Statutes. It's a tax exemption that's made
15 available by the Legislature and unlike
16 taxation statutes, which are construed in favor
17 of the taxpayer, tax exemption statutes are
18 construed in favor of paying the tax. And so,
19 unless you can find an express provision under
20 the law that extends that tax exemption to your
21 particular situation, then you should pay the
22 tax. The standard tax in this case is a 6
23 percent assessment. And, Your Honor, there are
24 some specific examples out there in the law
25 that allow a property owner to be taxed at 4



1 percent for a second dwelling on their
2 property. If you look at other dwellings all
3 on the same piece of property that are occupied
4 by immediate family members, the Statutes
5 expressly lay that out as an extension of that
6 tax exemption. They also expressly extend that
7 tax exemption in specific cases where a person
8 who is active duty military, is somewhere else
9 on orders, they can maintain that 4 percent
10 assessment on their residence here in South
11 Carolina. But those are express extensions of
12 that 4 percent exemption. There is no express
13 extension for dwellings that are, you know,
14 generally used on a day-to-day basis for
15 recreational purposes. If it is a dwelling,
16 then it is a dwelling. In this particular
17 case, Your Honor, if you were to take this
18 house and pick it up and move it two miles down
19 the road and set it on a second lot, it would
20 sit there just fine and somebody could move in
21 it tomorrow and could live there. It is a
22 dwelling and unless there is an express
23 exception in the Statute that extends that 4
24 percent assessment to this particular
25 situation, then the Statute should be construed



1 in favor of the standard of taxation, which in
2 this case is 6 percent. Thank you, Your Honor.

3 **THE COURT:** All right. Mr. Felder, do you have
4 witnesses?

5 **MR. FELDER:** Yes, Your Honor.

6 **PETITIONER'S CASE:**

7 **MR. FELDER:** I would call Mr. Michael Shirer first.
8 Go right up there.

9 (Witness takes the stand.)

10 **COURT REPORTER:** Raise your right hand, please. Do
11 you solemnly swear the testimony you're about
12 to give in this matter is the truth, the whole
13 truth and nothing but the truth, so help you
14 God?

15 **MR. SHIRER:** I do.

16 **COURT REPORTER:** Thank you. I'm going to ask that
17 you speak up for me, please.

18 **MIKE SHIRER,** having been duly sworn, testifies as
19 follows:

20 **MR. SHIRER - DIRECT EXAMINATION BY MR. FELDER:**

21 **THE WITNESS:** All right. Yes, ma'am. My name is
22 Michael Shirer.

23 **Q:** Thank you, Mr. Shirer.

24 **MR. FELDER:** Your Honor, we pre-marked the Exhibits
25 and I'm just going to grab these here. And I'm



1 not sure how to -- I can use that or not, but
2 I will try, but if I can't, I have an extra ---

3 **THE COURT:** I think you can.

4 **MR. FELDER:** Okay. You have confidence in me.

5 **THE COURT:** I have confidence in the technology that
6 we use. Yes, sir.

7 **MR. FELDER:** Okay. Thank you.

8 **THE COURT:** And the statement by the technology man
9 that this thing is going to work, unlike the
10 other Courtroom which only works now.

11 **MR. FELDER:** I gotcha.

12 **THE COURT:** We have moved.

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

14 **Q:** All right. Mr. Shirer, you are the wife of
15 Kristiane Shirer, correct?

16 **A:** Husband.

17 **Q:** Husband, excuse me. Kristiane Shirer is your
18 wife; is that correct?

19 **A:** That's, that's correct.

20 **Q:** Thank you. And you have -- when did y'all get
21 married?

22 **A:** '76.

23 **Q:** Okay. And y'all have lived on this property
24 together for how long?

25 **A:** Since then.



1 Q: Okay. And ---

2 A: 43 years.

3 Q: And originally it was in your name?

4 A: It was in my name originally, it was a part of
5 my dad's farm. He cut off a piece of property
6 and we built that house and -- in '76.

7 Q: Okay.

8 A: And later on, it was put in her name. We had
9 some estate planning done. At that time, the
10 estate taxes on exemption were only a million
11 dollars. We have a lot of farm property and we
12 exceeded the exemption, so we split some of it
13 into Kristi's, my wife, name and some into mine
14 to kind of level the estate for tax purposes.

15 Q: Okay. So you've lived there, you ---

16 A: And it's been like that ever since.

17 Q: I didn't mean to interrupt. Go ahead.

18 A: Go ahead.

19 Q: You've lived there with her and are familiar
20 with the history of this pool house and this --
21 your residential property and all of that,
22 correct?

23 A: Yes, sir.

24 Q: All right. And when was the pool house
25 originally constructed, do you know, relatively



1 speaking?

2 A: Early to mid-'80s. I know it was there several
3 years before Hugo came through, so that's what
4 I'm relating it to, but ...

5 Q: Okay.

6 A: Without looking up some documents from way
7 back, I would say '84 or '5, maybe, somewhere
8 along in there.

9 Q: Okay. And at that time, did you deal with
10 Calhoun County with constructing it for any
11 purpose?

12 A: I mean, I had ---

13 Q: Did you have ---

14 A: --- a building permit, yeah.

15 Q: You had to go to the County to get a permit?

16 A: Yeah.

17 Q: Okay.

18 A: We had a septic tank permit, too.

19 Q: Okay. And has it own -- it has its own septic
20 tank?

21 A: It does.

22 Q: And that's in your backyard?

23 A: That is true.

24 Q: Okay. And at that time when you constructed
25 that pool house, what did it consist of?



1 A: It was a kitchen area, a countertop and a table
2 -- well it had a -- it was all in one room
3 other than a little small bathroom.

4 Q: All right.

5 A: And it had a full ---

6 Q: Did it have a sink in the kitchen?

7 A: It did.

8 Q: Okay.

9 A: It had a double sink.

10 Q: Did it have a full bathroom?

11 A: It was a full bath.

12 Q: Okay.

13 A: It had a shower, a toilet and a lavatory.

14 MR. FELDER: Is it too bright? Obviously, I may not
15 know how to use this thing.

16 Q: I'll show you, this looks like Plaintiff's ---

17 MR. FELDER: You gonna help out?

18 MS. HOWARD: I'm gonna try.

19 MR. FELDER: Okay. There we go.

20 MS. HOWARD: We're getting there.

21 MR. FELDER: Oh, okay. Good enough. All right.

22 Q: This has been pre-marked as a Joint Exhibit 1
23 and I think that's letter N, if I'm not
24 mistaken.

25 (Joint Exhibit Number 1, Letter N was introduced into



1 the record at this time.)

2 Q: Okay. Is this -- these two photos reflect the
3 bathroom in the original ---

4 A: That's the original bathroom, that's right.

5 Q: --- pool ---

6 A: That is it.

7 Q: All right. And that's the condition or the
8 characteristic at the time you built it.

9 A: Yes, sir, that's correct.

10 Q: Okay.

11 A: Yes, sir.

12 Q: And where is this pool house -- where was the
13 original pool house located in proximity to
14 your home?

15 A: If you're looking at my front door, it's on the
16 right corner.

17 Q: Okay.

18 A: And it's probably -- I have a circle driveway
19 that goes all the way around the house and it
20 goes between the house and the pool house, then
21 -- I mean, it's, the deck of the pool joins
22 into the driveway by a little, short sidewalk.

23 Q: Okay.

24 A: And the doors to the pool house open toward the
25 house. There's none on the back side or ends



1 or anything.

2 Q: Okay. This is Joint Exhibit 1, letter A.
3 (Joint Exhibit Number 1, Letter A was introduced into
4 the record at this time.)

5 Q: And the structure to the right in this ---

6 A: The brick structure ---

7 Q: --- picture is ---

8 A: --- is my house.

9 Q: --- the brick structure is your house.

10 A: Yeah.

11 Q: And the other structure, is that the pool house
12 as it currently ---

13 A: That is how it is now, yes, sir.

14 Q: Okay. The original pool house, was it in the
15 same spot, basically?

16 A: Yeah, it was added on to that part. This on
17 the left-hand side, the roof of the addition
18 kind of goes over on top of it, but it was --
19 that was the original pool house.

20 Q: Okay. Basically, the left part of that ---

21 A: That, yeah.

22 Q: --- was the original?

23 A: Portion, yeah.

24 Q: Where that door is on the left; right?

25 A: That's right, it is a door there.



1 Q: Okay.

2 A: And then the addition had another door.

3 Q: Okay. And how do you actually -- if I was
4 coming to your house and to go visit your pool
5 house, how do you -- how would I get there?

6 A: Come up the driveway to my house.

7 Q: Okay. This is Joint 1, letter B.

8 (Joint Exhibit Number 1, Letter B was introduced into
9 the record at this time.)

10 Q: Is that your driveway, the front of your
11 driveway?

12 A: That is it.

13 Q: Okay.

14 A: My house is approximately 200 yards from the
15 highway.

16 Q: Okay. And you would come up that driveway and
17 drive around to the right?

18 A: That's right.

19 Q: And that's actually the pool house back there
20 ---

21 A: That's right.

22 Q: --- under that tree? Okay. And if you parked
23 and got out of the car, there's a portion I'd
24 actually have to walk across your yard; is that
25 correct?



1 A: That's right. It's a short sidewalk about 15,
2 20 feet long.

3 Q: And does that reflect the sidewalk?

4 A: That's the sidewalk right there going into the
5 -- the pool has a little knee-size wall that
6 goes all the way around it.

7 Q: Okay.

8 A: And that thing you see is the wall.

9 Q: All right. What surrounds your property, your
10 house and pool house yard?

11 A: Farm land.

12 Q: Farm land? Okay.

13 A: Full crop farm land.

14 Q: All right. And here's an aerial. That's Joint
15 1, looks like letter E.

16 **(Joint Exhibit Number 1, Letter E was introduced into**
17 **the record at this time.)**

18 Q: Is that, sort of, aerial view of the back of
19 your yard?

20 A: It is.

21 Q: Okay.

22 A: It's in the upper right-hand corner, the house
23 and the pool and ...

24 Q: And that is, it looks like, I don't want to put
25 words in your mouth, looks like that's, you



1 say, farm land, are those fields that y'all ---

2 A: That's right.

3 Q: --- someone ---

4 A: Cotton fields, yeah.

5 Q: Okay.

6 A: And that big field ---

7 Q: That's not a legal -- that's not a public
8 right-of-way right there, is it, leading off to
9 a field ---

10 A: No, that's just a dirt road coming into the
11 shop where we go in and out with equipment.

12 Q: Okay. I don't know if I've put this one up.
13 This is Joint 1, letter D.

14 (Joint Exhibit Number 1, Letter D was introduced into
15 the record at this time.)

16 Q: You can see the walkway there, correct?

17 A: Yeah, that's correct.

18 Q: All right. But I also want to draw your
19 attention to the pole on the right-hand side of
20 the house.

21 A: Yeah, that's the power pole.

22 Q: What is -- and that pole is for what?

23 A: That pole has a transformer on it. It feeds my
24 house by underground wire and it goes overhead
25 behind the pool house and feeds the pool house



- 1 also.
- 2 Q: Okay. So the power pole from the -- that
- 3 services the pool house ---
- 4 A: From Tri-County Electric.
- 5 Q: --- is coming off your house transformer.
- 6 A: That's right. It's all one transformer.
- 7 Q: And that's provided by Tri-County?
- 8 A: Tri-County Electric Coop.
- 9 Q: And that is through your wife's membership?
- 10 A: Yeah. Well, we got -- I think we have a joint
- 11 membership.
- 12 Q: Well who owns the property?
- 13 A: She does.
- 14 Q: Okay.
- 15 A: I guess it would be under her.
- 16 Q: Right. All right. What have you used this
- 17 pool house for over the last 30-plus years?
- 18 A: It's just a recreational building for my
- 19 family. We have two sons that are married and
- 20 both of them live at least 75 miles away and
- 21 when they come home, they usually stay for a
- 22 couple of days.
- 23 Q: Okay.
- 24 A: They don't -- not close enough to go back at
- 25 night.



- 1 Q: Is that why you decided to renovate it?
- 2 A: That is exactly why.
- 3 Q: To add some square footage to it?
- 4 A: Yeah.
- 5 Q: And you actually added another bathroom.
- 6 A: That's right.
- 7 Q: And what else did you add?
- 8 A: A big open room.
- 9 Q: Okay.
- 10 A: Eating and -- well we've got some video games
- 11 in there and stuff like that.
- 12 Q: All right. And another -- was there another
- 13 bedroom added or ...
- 14 A: Yes, it was.
- 15 Q: Okay.
- 16 A: And a storage room.
- 17 Q: And you went to the County and got a permit for
- 18 that; correct?
- 19 A: I did.
- 20 Q: You weren't ---
- 21 A: Yeah.
- 22 Q: You were open and went to the County and sought
- 23 a permit for that.
- 24 A: That's correct.
- 25 Q: Okay. And it was approved.



1 A: That's right, it was.

2 Q: I'm just gonna run through some of these.
3 They've been marked as a Joint Exhibit. And I
4 think that's letter F.

5 (Joint Exhibit Number 1, Letter F was introduced into
6 the record at this time.)

7 Q: Is that a view of the entertainment area?

8 A: That is it. Yes, sir.

9 Q: Okay. And G.

10 (Joint Exhibit Number 1, Letter G was marked for
11 identification purposes.)

12 Q: Is that another entertainment area?

13 A: Yeah.

14 Q: Your grandchildren like the video games, looks
15 like.

16 A: Oh, yes, sir. And I got five of them, the
17 oldest one's 9.

18 Q: All right.

19 A: So.

20 Q: And that's the bedroom, that's Joint Exhibit
21 1H.

22 (Joint Exhibit Number 1, Letter H was introduced into
23 the record at this time.)

24 A: That's right. That's it.

25 Q: Joint Exhibit 1, letter I.



1 (Joint Exhibit Number 1, Letter I was introduced into
2 the record at this time.)

3 Q: That looks like a table.

4 A: It's a big, long table, yeah.

5 Q: Okay.

6 A: I had a guy to build that so we could all eat
7 at one table.

8 Q: Okay.

9 A: Eleven of us when everybody's there.

10 Q: And, of course, this is Joint 1, letter J.

11 (Joint Exhibit Number 1, Letter J was introduced into
12 the record at this time.)

13 Q: Kitchen?

14 A: And that's the kitchen. And that's -- that
15 kitchen is the same as it was in the -- that's
16 the original building.

17 Q: Okay.

18 A: We put a new countertop on it, but everything
19 else is the same.

20 Q: Do you know how many times your property since
21 the early to mid-'80s has been reassessed by
22 the County? Do you have any idea? Do you
23 know, like has it gone through ---

24 A: They do that about every five years, but with
25 the other stuff I don't know. I mean, that's



1 their business, not mine.

2 Q: Okay.

3 A: I'd do it every hundred years if it was mine,
4 but ...

5 Q: I gotcha. How many wells do you have on that
6 property?

7 A: We have one.

8 Q: One well. Okay.

9 A: One water supply for everything.

10 Q: And you -- how do you view this pool house? Do
11 you view this pool house as part of your
12 residential property ---

13 A: That is right.

14 Q: --- as an extension of the house?

15 A: We use it, yeah, that's all. I mean we don't
16 rent it out or nobody else uses it other than
17 the family.

18 Q: And you have rented -- you renovated your own
19 house at one point, correct?

20 A: I did.

21 Q: And you were able to stay in it, but that was
22 temporary.

23 A: We stayed in there because there was sanding
24 sheetrock and I couldn't stand the dust.

25 Q: Well then also, it does have a bedroom and a



1 bathroom. We're not ---

2 A: That's right.

3 Q: --- nobody is disputing that; correct?

4 A: That's correct.

5 Q: Okay. Hold on one second.

6 MR. FELDER: I don't have anything further at this
7 time.

8 THE COURT: All right. Are you going to move the
9 Exhibits?

10 MR. FELDER: Oh. I will move -- and I think the
11 only one I referenced, Your Honor, was Joint
12 Exhibit 1. I would move that ---

13 THE COURT: Right. There are a number of subparts.

14 MR. FELDER: Yes. I can read them out. I think I
15 grabbed the whole thing and brought it with me.

16 THE COURT: Let's make sure the court reporter gets
17 those back.

18 MR. FELDER: Yeah. I'll take the time, if you don't
19 mind, to put them back in order. I would move
20 to Joint Exhibit 1 be placed into evidence.

21 THE COURT: Any objection?

22 MR. RHODES: No. None, Your Honor.

23 THE COURT: You've moved for and there is no
24 objection to the entirety of Exhibit 1.

25 MR. FELDER: Yes, Your Honor. That is A through O,



1 I think.

2 **THE COURT:** Okay. A through O. All right. Without
3 objection, Joint Exhibit 1, A through O is
4 admitted.

5 (Joint Exhibit Number 1, Letters A through O, was
6 admitted into evidence.)

7 **THE COURT:** Mr. Rhodes, do you have questions for
8 Mr. Shirer?

9 **MR. RHODES:** Yes, Your Honor.

10 **MR. SHIRER - CROSS-EXAMINATION BY MR. RHODES:**

11 **Q:** Mr. Shirer, how are you?

12 **A:** Fine, how are you?

13 **Q:** I am well. So just so I can be 100 percent
14 clear, you've owned the property where your
15 house is situated for many, many -- decades ---

16 **A:** Yeah.

17 **Q:** --- perhaps longer than that ---

18 **A:** 40-some-odd years.

19 **Q:** --- correct?

20 **A:** Yeah.

21 **COURT REPORTER:** I'm sorry. I couldn't hear.

22 **A:** 40-some years.

23 **COURT REPORTER:** Thank you.

24 **Q:** And your present house, your home, was built in
25 1976; is that correct?



1 A: That's correct.

2 Q: Okay. And you currently claim that home as
3 your legal residence for the purposes of 4
4 percent taxation; correct?

5 A: That's correct.

6 Q: Okay. And that includes, that 4 percent
7 assessment includes some acreage around your
8 home; is that correct?

9 A: Well ...

10 Q: Some small amount of acreage?

11 A: I think they have a few acres maybe up to five
12 acres with my house because I have other
13 outbuildings that are farm buildings, but they
14 are not at close proximity to the house like
15 the pool house is. You know that -- on that
16 picture you saw ---

17 Q: Gotcha.

18 Q: --- that big barn that's in the back back
19 there?

20 Q: Absolutely.

21 A: Well, that's actually a farm building, not a
22 residential building, so.

23 Q: Thank you.

24 A: I don't know how they have it sectioned off.

25 Q: Thank you.



1 MR. RHODES: So, Your Honor, this is Respondent's
2 Exhibit 1 that we've pre-marked.

3 (Respondent's Exhibit Number 1 was introduced into
4 the record at this time.)

5 MR. RHODES: So I hope we can ...

6 MS. HOWARD: Make it bigger?

7 MR. RHODES: See this.

8 (Off the record discussion.)

9 Q: So, Mr. Shirer, do you recognize, kind of, what
10 this photo depicts?

11 A: Yes, sir.

12 Q: Can you tell us what it depicts?

13 A: That's my house and circle driveway that goes
14 around it. I can see your picture better than
15 I can see mine. Mine's kind of blurry.

16 Q: Okay.

17 A: But, yeah, the pool house, the pool and then
18 there's a -- my big farm shop is in the back
19 back there.

20 Q: So, Mr. Shirer, this photo, this overhead
21 photo, it accurately reflects kind of the
22 layout and the appearance of your property as
23 ---

24 A: It does, yes, sir.

25 Q: --- as it stood in 2015 when this issue came up



- 1 and still today; is that correct?
- 2 A: That's correct.
- 3 Q: Okay.
- 4 A: I don't think, no, nothing's been added since
- 5 then.
- 6 Q: Okay. So let's kind of walk through the
- 7 picture just so we all understand the layout of
- 8 the property. The building here in the, kind
- 9 of the southern side, the bottom-most building,
- 10 that is your home; correct?
- 11 A: That's correct.
- 12 Q: And then the building behind your home to the
- 13 right, this is the pool house, correct?
- 14 A: That's correct.
- 15 Q: The one with the single roof. Adjacent, that's
- 16 the pool.
- 17 A: That's the pool.
- 18 Q: This is a barn or a shed of some sort.
- 19 A: Yes, it's a barn, yeah.
- 20 Q: Okay.
- 21 A: It's just a storage shed.
- 22 Q: What is that, is that just a bigger barn back
- 23 there in the back?
- 24 A: Yeah, that's a farm -- I call it farm shop.
- 25 It's a steel-type building.



- 1 Q: Uh-huh.
- 2 A: With a big roll-up door. It's a shop on one
3 end, open on the other.
- 4 Q: Okay.
- 5 A: 40 by 100.
- 6 Q: These buildings over here, they are ...
- 7 A: They're just little, small storage ---
- 8 Q: Small outbuildings.
- 9 A: Yeah.
- 10 Q: Okay. So I believe you ---
- 11 A: My address -- in like the bottom of the picture
12 there would be Highway 33, that's what Cameron
13 Road ---
- 14 Q: Yeah.
- 15 **MR. FELDER:** Move it up a little bit.
- 16 A: You can see it, yeah.
- 17 Q: That little piece of it right there.
- 18 A: That's right. Shows you how far it is from the
19 highway.
- 20 Q: So you were speaking about a driveway, about a
21 200-yard long driveway. I assume that's this
22 right here.
- 23 A: That's it.
- 24 Q: Circling around your house.
- 25 A: From the front of the house to the road is



1 about 200 yards.

2 Q: And that's how you would typically access your
3 house.

4 A: That's true.

5 Q: And that's also how you would, I guess,
6 typically access the pool house; correct?

7 A: That's right. That all come in the same
8 driveway.

9 Q: Got you. So tell me a little more about this
10 driveway right here, kind of in the top of the
11 photo going alongside that farm shop that you
12 mentioned.

13 A: That's just a little dirt entrance to get in
14 and out with the farm equipment so you didn't
15 have to go through the yard.

16 Q: Sure.

17 A: You can't bring that big stuff through that
18 narrow driveway.

19 Q: Now it's not quite as evident on that ---

20 MR. RHODES: Your Honor, I have a little better
21 photograph here. May I approach and give the
22 witness one just so he can ...

23 THE COURT: Sure.

24 Q: So this is just a little better copy. The one
25 here is a little bit washed out.



1 A: Uh-huh.

2 Q: But it looks like, to me, just to the south of
3 that farm shop, there's some parking or just a
4 dirt area there where vehicles probably park on
5 a regular basis; is that correct?

6 A: Yeah, you park ---

7 Q: It looks like it's worn down as people have
8 gone in and out; is that right?

9 A: Yeah. Where they're going around the building,
10 yeah, it wears it out.

11 Q: Okay. And on my copy, on this paper copy,
12 although it's a little less evident here, I
13 think I can almost see a little bit of a trail
14 worn into the dirt or something going between
15 this barn and the pool. I don't know if you
16 can see that on your photograph.

17 A: It could be if it was taken in the wintertime
18 or something, but it's grass all -- other than
19 that little pot out there by the shop that's
20 kind of white, all of that is planted in grass.

21 Q: So the spot right there between the pool and
22 the shop that's white, what is that?

23 A: Dirt.

24 Q: That's dirt?

25 A: Uh-huh.



- 1 Q: Why is that -- why is there dirt there and not
2 grass?
- 3 A: It never covered there.
- 4 Q: So ---
- 5 A: I mean, the activity around there just wears it
6 out.
- 7 Q: So, Mr. Shirer, I can see a little speck right
8 here between the pool and the barn. I'm not
9 sure what color that is, but any idea what that
10 might be?
- 11 A: We had a tree there that died that we took out
12 right on that corner. I don't ---
- 13 Q: Is there any chance that ---
- 14 A: That stump, that black thing you see, might be
15 the stump before we removed it, I don't know.
16 But it was a tree there right between the
17 corner of that building and the corner of the
18 pool.
- 19 Q: Is there any chance that's a vehicle?
- 20 A: I, I mean, we don't never park anything in
21 there. I don't know why it would be that.
- 22 Q: Could you park a vehicle right there?
- 23 A: I could park one anywhere.
- 24 Q: It's your land, you can park wherever you want.
- 25 A: That's right.



- 1 Q: Point well taken.
- 2 Q: I could park it on top of the pool house if I
3 wanted to, but I mean, I don't.
- 4 Q: Fair enough. So, Mr. Shirer, is there any
5 obstruction, is there a fence or anything that
6 I can't see on this photograph that would
7 prevent you from driving up to where that speck
8 is right there, between the pool and the barn,
9 and parking a car right there and going to the
10 pool house that way?
- 11 A: That's part of my lawn. I mean, you could pull
12 there anywhere in the yard, would be the same
13 -- I mean, but you'd have to run over my grass.
- 14 Q: So, but there's no obstruction there, there's
15 no reason you couldn't pull and ---
- 16 A: There's no driveway there.
- 17 Q: --- park through there; is that correct?
- 18 A: There's no driveway there. That's not a
19 driveway. In fact now, you can't see it, but
20 it's pavement all the way from that building,
21 this building, the one that's next to the pool.
22 That is -- when we redid the driveway, we paved
23 that in to there. There's a little small drive
24 going out to that barn.
- 25 Q: Okay. Thank you.



1 A: But I mean, that's just grass. It's just my
2 yard. You don't typically drive over your
3 yard.

4 Q: Understood.

5 A: But I don't say that somebody wouldn't park
6 there, but they shouldn't.

7 Q: So, changing course a little bit here, the pool
8 house I think you said it was built in the
9 '80s; is that correct?

10 A: That's correct.

11 Q: Early '80s, late '80s?

12 A: I say early to mid-'80s.

13 Q: Okay.

14 A: It was there three or four years, five years or
15 so before Hugo came through and I think that
16 was '89, so. 'Cause it had some damage.

17 Q: And what size was the pool house when it was
18 originally built?

19 A: You might have to get that from the Assessor,
20 I don't have it.

21 Q: Just give me a rough idea, just ---

22 A: I'd say it's about 24 by 16 or 18, maybe 20, I
23 don't know.

24 Q: And just for my benefit, I know you've
25 discussed this a little bit, can you just kind



1 of run quickly through the facilities that were
2 in the pool house when it was originally built?

3 A: It was a small bathroom, kitchen and the rest
4 of it was just open.

5 Q: Did -- and the -- your bathroom, did it have a
6 shower?

7 A: Shower, a toilet and a lavatory.

8 Q: Okay. Thank you.

9 A: And a double sink in the kitchen and, you know,
10 cabinets and stuff, you know, a stove; normal
11 stuff you have in the kitchen.

12 Q: Sure. Refrigerator was in there?

13 A: Yeah, refrigerator.

14 Q: Full-size refrigerator was in there?

15 A: Yeah.

16 Q: Okay. When you pulled the permit for that
17 original pool house -- and I recognize that was
18 a long time ago -- I believe you mentioned that
19 it was on a separate septic tank; is that
20 correct?

21 A: It is.

22 Q: Okay. Did the permit, did it make any specific
23 mention of the kitchen facilities?

24 A: I don't know.

25 Q: Okay.



1 A: I mean, I don't know what the answer to that
2 would be.

3 Q: Okay. That's fine.

4 A: All I remember was we got a septic tank permit.
5 We looked at trying to tie it into my other
6 one, but it was -- you'd have to go all the way
7 around the pool with the septic tank line and
8 it just wasn't feasible. We had to put in a
9 separate tank.

10 Q: Okay. And when did you expand the pool house;
11 what year was that?

12 A: You might have to help me with that. I think
13 it's '15, 2015, '14. Does anybody have that
14 date written down?

15 Q: That's fine, I'll ---

16 A: I mean it was in the mid ---

17 Q: Sounds right.

18 A: --- 2019 -- I mean ---

19 Q: Okay.

20 A: --- that'd be about four years ago.

21 Q: And when you expanded the pool house, what size
22 did you expand it to? If you know the square
23 footage, that's great.

24 A: We added on 40 by 40, that ---

25 Q: Okay.



1 A: --- roof structure is 40 by 40. That's 1600
2 square feet.

3 Q: So based upon the original -- the size of the
4 original pool house and what you added on to
5 it, if I told you it was around 2,000 square
6 feet, would that sound correct to you?

7 A: Yeah, probably. It might be a little bit less.

8 Q: Okay. And so the original pool house had a
9 kitchen and, am I correct in saying that the
10 kitchen in the original pool house is in the
11 same location as the kitchen now; is that
12 accurate?

13 A: That's right.

14 Q: Okay. And the original pool house had a
15 bathroom and that bathroom remains in the same
16 location it did in the original pool house;
17 correct?

18 A: That is correct.

19 Q: Okay. The portion that you added on, the 40 by
20 40 portion, what additional facilities did it
21 contain? What additional amenities, living
22 facilities, you know, whatever?

23 A: Contained the full bath, one bedroom, a storage
24 room and one big ole', you know, just open,
25 what I call social room or eating -- you know



1 it had that big table in there, it has some
2 chairs and a big sofa and stuff like that.
3 That's living area.

4 Q: Mr. Shirer, we already kind of walked through
5 these pictures and I don't think there's any
6 reason to do so again. Does the pool house as
7 it stands now, just to make sure we're all on
8 the same page, it has a -- there's a sink in
9 the kitchen; correct?

10 A: That's right.

11 Q: Full-size refrigerator; correct?

12 A: That's right.

13 Q: A range, a full-size range?

14 A: Yeah.

15 Q: Yes. And now it has two bathrooms, correct,
16 and one bedroom. Is that accurate?

17 A: That's right.

18 Q: Okay. Thank you. Mr. Shirer, is the -- I
19 heard you say that the power for the pool house
20 is fed off of a single pole. Is it off of the
21 same meter; is that what you meant by that?

22 A: No, it has a different meter.

23 Q: Okay. Thank you. So you get two power bills.
24 You get one power bill for the -- for your
25 primary residence and one power bill for the



1 pool house.

2 A: That's correct.

3 Q: Okay. Thank you.

4 A: When they did the drop, it had to have a
5 separate meter the way they ran it in. You
6 couldn't get back under the driveway with the
7 wire.

8 Q: Mr. Shirer, I believe I heard you say that when
9 you were expan- -- or when you were doing some
10 renovations to the house, was that kind of part
11 of the same project? Were you renovating some
12 parts of your house at the same time you were
13 expanding the pool house?

14 A: It was afterward. We renovated, we added onto
15 the pool house and then we did some work in the
16 house.

17 Q: Okay.

18 A: Later.

19 Q: How long do those renovations for your house
20 take, just roughly?

21 A: Well, actually my house, we're not finished
22 with them yet. Open-ended date there, I guess,
23 but ---

24 Q: Seems to be how ---

25 A: --- I had to get my contractor to put some



1 railings on the front porch and just a couple
2 of odds and ends, but I mean, from '15, '16
3 probably 'til now.

4 Q: Fair enough. That's how those things go. So
5 I believe I heard you say that while some of
6 the renovations, at least, were taking place in
7 your house, you moved into the pool house; is
8 that accurate?

9 A: That is correct.

10 Q: How long were you in the pool house?

11 A: I don't really know. Probably the better
12 portion of a year. And now, we slept and all
13 in the pool house, but a lot of our stuff was
14 still in the house. Couldn't stay -- they was
15 -- our house had popcorn ceiling. All of that
16 had to come down because it started coming
17 loose. All of that ceiling had to be re-mudded
18 and sanded. We had some other sheetrock damage
19 in there that -- I mean it was a lot of dust
20 and that's why we couldn't -- we stayed in the
21 house for a while while they were renovating
22 it, but it just got too bad and we had to, you
23 know, start sleeping and doing most of the
24 cooking in the pool house.

25 Q: Understood. So, so while you were there, you



1

2

A: I mean, we've got an office and everything in our house and all of that stuff, I mean, we had to do office work, so we were -- I guess you could say we were staying in the pool house, you know, back and forth during that period of time.

3

4

5

6

7

8

Q: But during that period of time, you slept in the pool house most nights; correct?

9

10

A: Yeah.

11

Q: And you -- is it accurate that you took most of your meals in the pool house?

12

13

A: During that time, yeah, probably half of them.

14

Q: And you cooked plenty of those meals in the pool house I would assume; is that accurate?

15

16

A: Yes.

17

Q: Okay. Mr. Shirer, is the pool house now -- I assume you have now moved back into your regular house; correct?

18

19

20

A: That's correct.

21

Q: And do you primarily use the pool house now for guests?

22

23

A: Yeah. Family.

24

Q: Okay.

25

A: But they're guests because they don't live



1 there.

2 Q: So that -- you beat me to the punch. None of
3 those guests, none of your family members
4 reside there; is that accurate?

5 A: That's true.

6 Q: When they come for a visit, how long do they
7 typically stay?

8 A: From three days to two weeks.

9 Q: And your son ---

10 A: It all depends -- it all depends. I mean,
11 sometimes the grandchildren will stay a couple
12 of weeks. We have five grandchildren. The
13 oldest one is 9 and the youngest one's 5, so
14 they're all right in that same, you know,
15 group, age group. And the parents come
16 sometimes, sometimes they don't.

17 Q: And where do the parents live?

18 A: One lives in Mount Pleasant and one lives in
19 Aiken.

20 Q: Okay. And that's their residence. That's --
21 they live in those homes in those cities;
22 accurate? That's correct?

23 A: Yes, sir.

24 Q: Okay. Mr. Shirer, I have no further questions.

25 **THE COURT:** Redirect?



1 MR. FELDER: Briefly, Your Honor.

2 MR. RHODES: Do you want this?

3 MR. FELDER: I need Joint 1.

4 THE COURT: And I'll ask Mr. Rhodes, do you want to
5 admit ---

6 MR. RHODES: Oh, yes, Your Honor, I believe it's ---

7 THE COURT: --- Respondent's 1?

8 MR. RHODES: --- Respondent's Exhibit 1.

9 MR. FELDER: No objection.

10 THE COURT: Without objection, Respondent's Exhibit
11 1 is admitted.

12 (Respondent's Exhibit Number 1 was admitted into
13 evidence at this time.)

14 MR. SHIRER - REDIRECT EXAMINATION BY MR. FELDER:

15 Q: Okay. Mr. Rhodes asked you a couple of
16 questions about the area that you referred to
17 as dirt around ---

18 A: Correct.

19 Q: --- and I think he showed you a picture that
20 appeared worn; correct?

21 A: That's right.

22 Q: And you mentioned it could have been in the
23 winter; correct?

24 A: Yeah.

25 Q: Right.



1 A: In the wintertime, it gets worn from going in
2 and out.

3 Q: This is Joint 1, letter E, I think.
4 (Joint Exhibit Number 1, Letter E was referenced at
5 this time.)

6 Q: What is the area there between the pool and
7 that building? What's between the area and
8 that pool and that building on that picture?

9 A: Just grass.

10 Q: It looks like grass, does it not?

11 A: Yeah, it's grass all the way across there.

12 Q: Okay. And I think you said you added some
13 pavement in another part when you re-did your
14 driveway?

15 A: That's right.

16 Q: Is this area up here ---

17 A: That's it.

18 Q: --- the area you're talking about?

19 A: That's right.

20 Q: Okay.

21 A: It goes out to that building.

22 Q: Okay. And while you mentioned they have
23 separate meter boxes between the pool house and
24 your main house, the pool house's line is
25 coming off your main house's transformer pole;



1 correct?

2 A: That is correct.

3 Q: Did you ever move your clothing and everything
4 from the main house to the pool house when you
5 stayed in there?

6 A: No.

7 Q: Okay. Did your wife move her makeup and do --
8 dress and bathe and all that in the pool house
9 or did she leave that stuff ---

10 A: Sometimes back and forth. She might've had
11 some stuff in the ...

12 Q: Okay.

13 A: Yeah, I guess you would call it more like
14 camped out in there.

15 Q: Okay.

16 A: Brought the stuff for one day in there at a
17 time.

18 MR. FELDER: Nothing further, Your Honor.

19 MR. RHODES: Nothing, Your Honor.

20 THE COURT: Mr. Shirer, you can return to your seat,
21 sir.

22 MR. SHIRER: Thank you.

23 MR. FELDER: We'll call Ms. Kristi Shirer. I call
24 her Kristi, I think it's Kristiane Shirer.

25 MR. SHIRER: You want me to give you that?



1 MR. FELDER: Oh, thank you. I appreciate it.

2 COURT REPORTER: Raise your right hand. Do you
3 solemnly swear the testimony you're about to
4 give in this matter is the truth, the whole
5 truth and nothing but the truth, so help you
6 God?

7 MS. SHIRER: I do.

8 COURT REPORTER: Thank you. I'm going to ask you to
9 speak up as well.

10 MS. SHIRER: Thank you.

11 COURT REPORTER: Thanks.

12 KRISTIANE SHIRER, having been duly sworn, testifies
13 as follows:

14 MS. SHIRER - DIRECT EXAMINATION BY MR. FELDER:

15 Q: Ms. Shirer, you are the Petitioner in this
16 matter, correct?

17 A: Correct.

18 Q: You brought this contested case before the
19 Court today; correct?

20 A: Yes.

21 Q: And you are the actual owner of the property
22 listed on the deed; correct?

23 A: Well, in paper, yes.

24 Q: Right. On the deed, you're the legal owner?

25 A: That's correct.



1 Q: Okay. And you're familiar with the pool house,
2 the character of the pool house, your principal
3 residence and all of that going back to the
4 early to mid-'80s; correct?

5 A: Correct.

6 Q: Okay. And you're here today asking the Court
7 to apply the 4 percent tax rate to the building
8 or to include that in with your principal
9 residence tax; correct ---

10 A: That is correct.

11 Q: --- as part in the -- okay. And you've heard
12 that y'all -- or you -- for a period of time
13 when you renovated your main house, y'all
14 stayed sometimes in the pool house. How would
15 you characterize that situation?

16 A: We would sleep over there. Mike had to stop
17 farming in -- well, when he turned 60, three
18 years ago. He developed a lung allergy to dust
19 and he could no longer breathe like cotton
20 dust, corn dust, soybean dust, all the crops
21 that we grow on the farm. And so he -- and
22 he's now on a breathing machine that he has to
23 use late in the afternoon and all night. And
24 because of having pneumonia, like three times
25 in a row, and it just got to the point where



1 the doctor told him he could not be in any kind
2 of dust. While they were dusting -- I mean,
3 while they were sanding popcorn ceilings down
4 and that kind of thing and sanding down the
5 walls and all in our house, taking up old tile,
6 putting in new tile and sanding floors for
7 that, it just created a monster of dust in the
8 house and we would go out there and sleep at
9 night. We would take, like Mike said, that we
10 would go out and we would take the clothes that
11 we were gonna put on the next morning, but we
12 still lived in our house all the time. Our
13 offices were -- we both have -- he has a farm
14 office and I have a real estate office in the
15 house -- our offices remained there, our
16 clothes remained there, all of our personal
17 belongings and everything remained in our
18 house. We just, like he said, we camped out
19 there at night so that he could use, you know,
20 his breathing machine and be free of the dust.
21 Because during the day when all of that work
22 was going on, he was not in the house and so we
23 did not want him to be in the house at night,
24 so we would go out there and sleep.

25 Q: Well you're not here denying that there's a



1 bedroom ---

2 A: No.

3 Q: --- or a kitchen or a bathroom ---

4 A: No, I'm not.

5 Q: --- or anything. Obviously your children and
6 grandchildren stay there when they visit,
7 correct?

8 A: That is correct.

9 Q: Okay.

10 A: That's correct.

11 Q: And what do you do, by the way, as a
12 profession?

13 A: I'm a realtor.

14 Q: Okay. And so you're familiar with the 6
15 percent, 4 percent and ---

16 A: Oh, yeah.

17 Q: --- principal residence stuff?

18 A: We're familiar with it, personally, as well.

19 Q: Okay. And what do you mean by that?

20 A: We pay 6 percent taxes on our house on Lake
21 Murray, we pay 6 percent taxes on a house at
22 Garden City Beach, we pay 6 percent on a cabin
23 across the road from our house, we pay 6
24 percent on a pond house. We're very familiar
25 with taxes and don't deny paying taxes and



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1 don't -- I don't say that I don't mind paying
2 taxes, but it's a fact of life. We do pay
3 taxes, but I don't want to pay any more than
4 I'm supposed to pay.

5 Q: All right. Okay. And to your knowledge has
6 anybody from the County or between the mid to
7 -- early to mid-'80s 'til the inspection after
8 the pool house renovation was done, did anybody
9 from the County ever come out there to your
10 knowledge?

11 A: Um ...

12 Q: Looked around or asked any questions?

13 A: The lady that's sitting on the bench there came
14 out, knocked on the door, I was in there with
15 my ---

16 Q: I'm gonna interrupt.

17 A: I'm sorry.

18 Q: I don't mean to interrupt -- up until that
19 point.

20 A: Up until that point, no.

21 Q: Okay. Now go ahead.

22 A: No one from the County ever came there before
23 we renovated.

24 Q: Right. Okay. Go ahead and continue. I'm
25 sorry.



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1 A: Then after we renovated, and I don't know what
2 year it was, this lady came out there, the maid
3 and I were inside cleaning the pool house
4 because the grandchildren had been there. She
5 knocked on the door, I went to the door and she
6 asked if that was our pool house and I told
7 her, yes, that it was. And that was the end of
8 conversation, she turned around and left. She
9 never put her foot inside of that pool house.

10 Q: Okay. All right. And you're -- I just want to
11 be clear for the record. You are asking the
12 Court, in your Petition, to grant the 4 percent
13 -- the pool house is treated as part of your
14 principal residence property ---

15 A: That's correct. It's ---

16 Q: --- and you're seeking 4 percent ---

17 A: --- connected by the ---

18 Q: --- like it's ---

19 A: --- same driveway, it's connected by the -- a
20 sidewalk from our house, it's always been
21 treated as a pool house and that's what we
22 continue -- we've added on to it and made the
23 large recreational room, as you see, because
24 our family moved from four -- from two to four
25 and now 11, and our house is a small brick



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1 ranch house. We couldn't accommodate 11 people
2 even in our den to sit down and watch a
3 football game together, so we added the
4 recreational room on so that we could all sit
5 down and watch a ga- -- we're all big Clemson
6 fans and we sit down and watch ball games
7 together and enjoy the kids out there when they
8 come home.

9 Q: As it sits on your property currently, would
10 you consider it a freestanding dwelling unit
11 supporting itself?

12 A: The structure itself?

13 Q: I mean ---

14 A: Yes.

15 Q: --- with the ---

16 A: The structure ---

17 Q: --- utilities and ---

18 A: --- itself, yes, but the utilities, no. It
19 gets the water from -- there's a line run from
20 our house 'cause there's only one well on the
21 property and that's the well that goes to our
22 house. The water is fed from that line that
23 goes to our house and the electricity is fed
24 from the pole that goes to our house. It does
25 have its own septic tank, but I think Mike



1 mentioned that the reason they did that is
2 because they didn't want the septic tank lines
3 to have to go -- because the bathroom is on the
4 end of the pool house and they would've had to
5 run the lines around the pool house and around
6 the pool and all the way across my backyard to
7 do that and it was just more cost effective to
8 put in a small tank there and run the lines out
9 toward that field.

10 Q: Okay.

11 MR. FELDER: Nothing further, Your Honor.

12 THE COURT: Mr. Rhodes?

13 MR. RHODES: Thank you, Your Honor.

14 MS. SHIRER - CROSS-EXAMINATION BY MR. RHODES:

15 Q: Ms. Shirer, just very briefly. When Ms. Boyd
16 visited your property ---

17 A: Yes.

18 Q: --- I believe you said that she knocked on the
19 door and you spoke with her and ---

20 A: That is correct.

21 Q: --- and that was the end of your interaction
22 with her; correct?

23 A: That is correct.

24 Q: Okay. Did your husband have any interaction
25 with her?



1 A: I can't answer for him.

2 Q: Okay.

3 A: I don't ---

4 Q: Would -- did you stay out in the yard? If she
5 had done other activity around the property, if
6 she measured the pool house, would you have
7 seen her do that?

8 A: No, I did not because I was inside and I was in
9 work clothes with a maid cleaning the floors --
10 -

11 Q: Sure.

12 A: --- from the grandchildren being there. All I
13 know is she came to the door, she knocked on
14 the door and asked me if this was the pool
15 house and I answered the question and closed
16 the door.

17 Q: Fair enough. Thank you.

18 MR. RHODES: Your Honor, no further questions.

19 THE COURT: Okay.

20 MR. FELDER: Nothing further.

21 THE COURT: I do have one question, just for
22 clarification.

23 MS. SHIRER - CLARIFICATION BY THE COURT:

24 THE COURT: I think the parties have both, through
25 their attorneys, have said this, but I just



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1 want to ask the question for Ms. Shirer, who's
2 the property owner. What's the address?

3 A: Of the pool house?

4 THE COURT: Of the property.

5 A: 7187 Cameron Road.

6 THE COURT: Okay.

7 A: Cameron, South Carolina.

8 THE COURT: Is there a separate address for the
9 house?

10 A: No, sir, there's not.

11 THE COURT: Separate address for the pool house?

12 A: No, sir, there's not.

13 THE COURT: Anything further since I've asked
14 another question?

15 MR. FELDER: No.

16 MS. SHIRER: I -- can I make a statement about the
17 yard or is that not allowed?

18 MR. FELDER: Right.

19 MS. SHIRER: The question was brought up several
20 times about the grass ---

21 MR. FELDER: I'd have to do -- I think I have to do
22 it under redirect if I ---

23 THE COURT: I think you'd have to ask the question
24 if ---

25 MR. FELDER: Right, but ---



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1 MR. RHODES: Can we approach?

2 THE COURT: Without objection, you may.

3 (Side Bar)

4 THE COURT: All right, Mr. Felder.

5 MR. FELDER: Thank you, Your Honor.

6 MS. SHIRER - REDIRECT EXAMINATION BY MR. FELDER:

7 Q: Ms. Shirer, you were going to say something
8 about the yard?

9 A: Yes.

10 Q: Okay.

11 A: The first Exhibit that was shown showed the
12 grass when it was dead or dormant in the
13 wintertime. And it does appear to look like
14 that, but like Mike said, we had taken a tree
15 out there and that's probably dirt that was
16 there, but I can tell you, since I've been in
17 that house, since 1976, they are not allowed to
18 drive -- that dirt road goes straight to that
19 farm shop and all the farmer -- all the
20 employees, everybody knows that you do not
21 drive through Kristi's yard, you do not drive
22 over my grass, you do not come across that
23 yard. That's the reason that dirt driveway was
24 put in there is for the purpose of going to
25 that shop and you can see his circle around



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1 there. If there is such a thing there, it
2 would be from dirt or from dor- -- if you see
3 across that field there, where our house is and
4 on toward the road there, you see that there's
5 a lot of dirt that isn't -- we're just sitting
6 on a sand hill is basically what it is. So
7 when the grass -- and in some of the other
8 Exhibits, you saw by the sidewalk and whatever,
9 there are areas of sand. I mean, we just are
10 in a very sandy area and the grass won't grow
11 in some places. But my back yard, that whole
12 area is irrigated, there are irrigation pipes
13 that run across there and they are not allowed
14 to bring any kind of cars and he mentioned
15 parking area on the other side of the pool
16 house, if it's any parking going on, it's in
17 that dirt circle here that goes around that
18 buil- -- that farm shop and parking would be
19 farm equipment or farm trucks that would be in
20 that area there. But there's no parking or
21 driving from that driveway allowed whatsoever.

22 **MR. FELDER:** So the record's clear, Your Honor, she
23 is referring to Respondent's Exhibit 1. If I
24 just -- when she was making that statement.

25 **(Respondent's Exhibit Number 1 was referenced at this**



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1 time.)

2 THE COURT: Right.

3 MR. FELDER: Okay.

4 THE COURT: Okay. Put that -- if you don't mind,
5 putting that back up just for a second.

6 MS. SHIRER - CLARIFICATION BY THE COURT:

7 THE COURT: Ms. Shirer, where do you and Mr. Shirer
8 park?

9 A: Where do we park? There's a double garage on
10 the back of our house. It's under the roof
11 there of the house, our house is sort of
12 square. But at the top left corner of that --
13 this building, the house building base, that
14 top left corner would be where our garage is
15 and then straight -- the little shop that's
16 straight in the back, that is all paved in
17 asphalt now. That was not paved. That's a
18 County aerial photo and that is all paved in
19 asphalt now and that's where Mike parks his
20 truck, but my car is parked in that garage.

21 THE COURT: Okay.

22 MR. FELDER: And if I may.

23 MS. SHIRER: Yes, sir.

24 THE COURT: Please.

25 MS. SHIRER - REDIRECT EXAMINATION BY MR. FELDER:



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1 Q: This is Joint 1, letter A.
2 (Joint Exhibit Number 1, Letter A was referenced at
3 this time.)

4 Q: Is the -- I think you're -- is that the carport
5 or ---

6 MR. SHIRER: No, that's the ---

7 A: No, that's the patio.

8 Q: Patio, so it's on ---

9 A: The carport would be just on the other side of
10 that double window -- well, it's not a carport,
11 it's a double garage with a roll-up garage door
12 ---

13 Q: This ---

14 A: --- is where I park. But where that asphalt
15 driveway is, go -- that's the driveway that's
16 going out to that small shed that's behind the
17 house and that's where the -- Mike parks his
18 truck.

19 Q: Okay. I'm gonna see if I have a picture of the
20 garage. I don't think we do. Maybe it's on
21 here. This is Joint 1, letter E.

22 (Joint Exhibit Number 1, Letter E was referenced at
23 this time.)

24 A: Um ...

25 Q: Does that help?



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1 A: Yes, you can see it right there.

2 Q: Okay.

3 A: Yeah, it's right there.

4 Q: On the right side of the ---

5 A: And then you can see the corner -- on the very
6 corner there, you can that shed there with the
7 asphalt drive going out to Mike's shop, to his
8 shed where he parks his car.

9 **THE COURT:** Right.

10 A: And he is not allowed -- if he's working at the
11 shop, he can walk across there, but he -- if he
12 is in his truck, he goes out that driveway and
13 comes back in my driveway.

14 Q: Yeah.

15 A: And I don't mean that ugly, I just don't like
16 my grass being ---

17 **THE COURT:** And the ---

18 A: I work very hard in that yard.

19 **MS. SHIRER - CLARIFICATION BY THE COURT:**

20 **THE COURT:** Sure. And the object between the pool
21 and the pool house ...

22 A: The object between ...

23 **THE COURT:** There's -- Mr. Felder, if you would
24 gesture towards the back, there seems to be a
25 side door to the pool house. Right there ---



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1 A: That's ---

2 **THE COURT:** Well, move your finger to the right.

3 A: That is a little Rubbermaid ---

4 **MR. FELDER:** Well, I'll do it on here so you can ---

5 A: --- storage, little tiny storage -- it's not a
6 building, but it's a little storage chest and
7 that's where the pool chemicals are kept.

8 **THE COURT:** I see.

9 A: And it's locked because of the grandchildren.
10 We don't want them, you know ...

11 **THE COURT:** So that is -- okay, I ---

12 A: No, sir, and if ---

13 **THE COURT:** I'll draw my own conclusions what that
14 is.

15 A: Right. And if you look at the back of the pool
16 house, you will see there's a tiny window there
17 and that's the bathroom window, and then
18 there's a long window and that is a bedroom
19 window. That's what that is. There's no door
20 or access on either side or the back of the
21 pool house. The only access is up that walkway
22 from our driveway and across the pool deck and
23 into the house that way, into the pool house.
24 That is correct. There's no driveway or door
25 access to it other than our yard.



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1 THE COURT: Mr. Rhodes has a cross about this, I'm
2 sure.

3 MR. RHODES: Yes. Yes, Your Honor, as you would
4 expect.

5 MS. SHIRER - RECROSS-EXAMINATION BY MR. RHODES:

6 Q: Ms. Shirer, I just want to clarify a couple of
7 points. So aside from your rule, which I am
8 sure is a -- is one that's taken very
9 seriously, outside of that, there's no reason
10 that you couldn't drive through here if you
11 wanted to. There's no obstruction in here, I
12 guess is what I'm saying.

13 A: Well, we are in the process of landscaping our
14 yard now. If you would take a picture of it
15 now, there's no shrubbery anywhere around
16 there. We have pulled all of that up and
17 getting ready to totally re-landscape around
18 the house, the pool house and put a white fence
19 across to actually separate my yard from the
20 farm. So that is in the process of being taken
21 care of. So from the corner of that building
22 that you see all the way to the right on that
23 picture, all the way to the back of the pool
24 house, will be a white picket fence across
25 there and on the other side of it.



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1 Q: Okay. And this parking area -- you can just
2 see it on the other side of the shop.

3 A: The dirt? Yes.

4 Q: The dirt, yes, ma'am.

5 A: Yes.

6 Q: That -- is that dirt because people park there
7 on a regular basis?

8 A: That is from farm equipment in and out. And as
9 you see, that farm equipment that's in there,
10 right now there is a cotton equipment that's
11 parked in there now because they're defoliating
12 cotton. This morning when we left, there were
13 two trucks and trailers parked in that driveway
14 going into that shop. That's a farm access and
15 so that road is always blocked with some sort
16 of farm equipment. Because if you look at the
17 total picture, that is the only access to that
18 field and is -- I don't know how familiar you
19 are with farming, but when you enter a field,
20 you got to have a place to park the equipment,
21 the cotton equipment, the -- whatever they're
22 using -- a place to stack your cotton bales
23 after you've done them and that's what that
24 road is used for.

25 Q: So that road, you can just freely access this



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1 farm shop from that road any time?

2 A: Not at any time. If there's equipment parked
3 in it -- this morning, you could not have
4 driven anything -- you couldn't have driven
5 over 10 feet into when we left.

6 Q: On a regular basis ---

7 A: On a day, on a ---

8 Q: --- if you want to get to that ---

9 A: --- Sunday, yes, you can access it freely.

10 Q: If I was ---

11 A: But during the week, during farming season,
12 that road is full of farm equipment all the
13 time.

14 Q: If I was one of your farm employees ---

15 A: Yes.

16 Q: --- and I was trying to get to the farm shop
17 from the road that you see -- sorry, my hand's
18 in the way -- the road that you see here ---

19 A: Yes.

20 Q: --- generally speaking, I could get there
21 through this road; is that correct?

22 A: Unless equipment was sitting in that road and
23 then you'd have to drive through their crop to
24 get there.

25 Q: Fair enough.



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1 A: To get to the shop.

2 Q: And, Ms. Shirer, so what I think I'm seeing
3 right here is this, kind of ---

4 A: It's a sitting wall.

5 Q: --- a couple foot high ---

6 A: --- it's a stone wall around the ---

7 Q: Sitting wall.

8 A: Right.

9 Q: Perfect. And is there a gap right there? So
10 between the ---

11 A: Yes, that's where the -- there's a water spigot
12 there and that's where we have to have a gap
13 there to get out -- if you see that little
14 round thing that's sitting there, that's where
15 all the pool pump and all of that is, so there
16 is a opening in that wall there to be able to
17 go out and turn the pump on and off, to turn
18 the heater on for the Jacuzzi, for whatever you
19 need to do. That's -- and go around to that
20 little storage chest to get the chemicals out.
21 There is an opening there so you don't have to
22 walk all the way around to do that.

23 Q: Sure.

24 A: Yes.

25 THE COURT: That was what I was asking about.



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1 Q: Uh-huh.

2 A: Oh, okay, yes.

3 **THE COURT:** Gotcha.

4 Q: And, Ms. Shirer, if I walk through that gap and
5 I walk just -- the pool house is immediately to
6 my left, the pool is to my right, the door to
7 the -- I will, at some point in time, encounter
8 a door to the pool house on my left? It's on
9 that face that I would be walking in front of;
10 is that accurate?

11 A: It's on the face of the pool house.

12 Q: Right.

13 A: Facing the pool, right. But there's no other
14 door other than on the front of the pool house.

15 Q: Okay.

16 A: Correct.

17 **MR. RHODES:** Your Honor, no further questions.

18 **THE COURT:** All right. Ms. Shirer, you may return
19 to your seat, ma'am. Thank you.

20 **MR. FELDER:** Your Honor, that's all we have at this
21 time.

22 **THE COURT:** All right. And we are at 11:22. If
23 people would like, we take a short break and
24 you go feed your meters or whatever would be --
25 Mr. Rhodes, how long do you think we need to



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1 take? 10, 15 minutes be enough time?

2 MR. RHODES: 10 minutes would be ...

3 MR. FELDER: Oh, that's fine.

4 THE COURT: So, we'll reconvene, at let's say
5 approximately 11:40. That gives us 18 minutes.

6 (Off the record from 11:22 am. until 11:42 a.m.)

7 THE COURT: We're back on the record in Case Number
8 19-ALJ-17-0016. It's a contested case
9 involving Kristi Shirer and the Calhoun County
10 Assessor. And I believe, Mr. Rhodes, the
11 Assessor is up.

12 MR. RHODES: Thank you, Your Honor.

13 RESPONDENT'S CASE:

14 MR. RHODES: Your Honor, I call Toni Boyd to the
15 stand.

16 THE COURT: Okay.

17 COURT REPORTER: When you say Toni, is it T-O-N-I?

18 MS. BOYD: Yes, ma'am.

19 COURT REPORTER: And your full name is Antonio --
20 Antonia Boyd.

21 MS. BOYD: Yes, ma'am.

22 COURT REPORTER: Raise your right hand. Do you
23 solemnly swear the testimony you're about to
24 give in this matter is the truth, the whole
25 truth and nothing but the truth, so help you



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1 God?

2 MS. BOYD: Yes.

3 COURT REPORTER: Thank you.

4 TONI BOYD, having been duly sworn, testifies as
5 follows:

6 MS. BOYD - DIRECT EXAMINATION BY MR. RHODES:

7 Q: Ms. Boyd, where are you employed?

8 A: Calhoun County Assessor's Office.

9 Q: Okay. And what is your job at the Assessor's
10 Office?

11 A: I am an appraiser.

12 Q: Okay. How long have you held that position?

13 A: Approximately nine years.

14 Q: Do you have any special certifications or
15 licenses as an appraiser?

16 A: I'm a State Certified Residential Appraiser.

17 Q: Okay. What was your job prior to working at
18 the Calhoun County Assessor's Office -- or
19 prior to your present job, I guess?

20 A: I would basically subcontract with appraisal
21 companies doing appraisals for mortgage loans.

22 Q: Okay. How long have you been a licensed
23 appraiser?

24 A: Since '98.

25 Q: Okay. Ms. Boyd, is it part of your job to --



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1 well, I guess, let me rephrase the question.
2 When your office receives a building permit for
3 a property out in the County, what do you do
4 with that building permit; what's -- what does
5 your job require you to do?

6 A: I would go to the property and measure and
7 value the new structure.

8 Q: Okay. Is that in every instance where you get
9 a building permit or just a building permit
10 that is gonna result in expansion or some --
11 what's the threshold, kind of, for you to go
12 out and visit a property as a result of a
13 building permit that comes across your desk?

14 A: Any building permit pulled, I would visit the
15 property. Electrical, mechanical, a structure,
16 any permit that they would pull.

17 Q: So every building permit that gets pulled in
18 Calhoun County results in you visiting the
19 property to check it out for -- and what are
20 you checking for in those cases?

21 A: To see if there's any additional taxable
22 structures.

23 Q: Okay. Are you looking for changes to existing
24 structures when you do that?

25 A: Yes, sometimes.



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1 Q: Okay. When you visit those properties, what
2 are you looking for, physically, on the
3 properties to determine whether or not there
4 has been some change that would, well, change
5 how it should be taxed; whether the value or
6 its classification, what are you looking for?

7 A: I would -- I'm looking at the building to value
8 it. I'm looking at the quality of the
9 materials used or any conditional issues. Like
10 if they pulled a permit for a remodel, if they
11 added a new roof, siding, things like that, it
12 may change the effective age of the home, which
13 would then change the value, or any additional
14 structures that we didn't previously have on
15 the record.

16 Q: Okay. Are you looking to see if the use of the
17 structure has been converted to a new use?

18 A: Yes.

19 Q: In that context, what are you generally looking
20 for?

21 A: What ...

22 Q: What physical characteristics are you, kind of,
23 are in the forefront of your mind that would
24 indicate that the use may have been changed?

25 A: An air conditioner unit, a hot water heater.



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1 Things like those would indicate someone may
2 possibly be living in the unit. Or just, like,
3 the overall what it looks like. Like what does
4 it look like they're using it for. Because
5 we're in rural Calhoun County, people will pull
6 permits for pole buildings, which are metal
7 Hoover-style buildings typically used
8 agriculturally just for storage or a garage,
9 but it is becoming more common in our County
10 for people to finish the interiors and live in
11 those buildings. So sometimes I have to
12 determine the use of a building that may not
13 originally be structured for that use.

14 Q: Okay. When you arrive at a building that's
15 perhaps been expanded or maybe it's a new
16 structure, are you generally aware of whether
17 or not there's been a septic tank permit pulled
18 for it? Is that part of the information that
19 you have on hand at that point in time?

20 A: No.

21 Q: Okay. Ms. Boyd, when did the -- or how, I
22 guess, did the Shirer's property come to your
23 attention initially? How did -- what prompted
24 you going out to visit their property?

25 A: There was a permit pulled for an addition to a



1 pool house ---

2 Q: Okay.

3 A: --- and a pool.

4 Q: Okay. And did you then visit the property?

5 A: Yes.

6 Q: Okay. Roughly when did that visit take place?

7 I don't need an exact date, just kind of a

8 general idea.

9 A: We typically go out in the spring, so if we

10 added the building for the '15 tax year, we

11 would've been there earlier in the year

12 probably between February to as late as July or

13 August.

14 Q: Okay. So the information that you had at hand

15 when you went out to visit the Shirer's

16 property consisted of what, just the building

17 permit?

18 A: A 40 by 40 pool house addition and pool.

19 Q: Were there any other details that you remember?

20 A: No. We print out a spread sheet taken from the

21 Building and Planning's main permit list, they

22 use a Microsoft spreadsheet. We would then go

23 through and pull any permits that were closed

24 that year. Typically when I visit the field,

25 I only have the information that the Building



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1 Department -- I might have a small description
2 of what was built. Single-family residence,
3 electrical permit, 40 by 40 pool house
4 addition.

5 Q: Okay. So when you visited, it's accurate to
6 say that all you were looking for was a 40 by
7 40 addition to -- did you at that point in
8 time, did you have any indication it was
9 anything other than just an accessory
10 structure?

11 A: No.

12 Q: Okay. Now when you arrived at the Shirer's
13 property, just what did you do?

14 A: Typically I will blow my horn in the yard, see
15 if I see any cars, any indication that someone
16 is there. If I see vehicles or something like
17 that, I'll knock on the door, let them know
18 that I'm there, and I need to measure the new
19 structure and take some pictures.

20 Q: Okay. In this case, did you speak with Mrs.
21 Shirer?

22 A: Yes.

23 Q: Okay. At her front door?

24 A: I don't specifically recall where I was
25 standing.



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1 Q: Okay. What did you do next in this case?

2 A: I believe they had done a conversion on the
3 house from a carport to a garage. I believe
4 there was also a conversion of a possible porch
5 to a living area. So I probably -- I looked at
6 the house and then went to measure the addition
7 on the pool house.

8 Q: Okay. When you say measure, just kind of give
9 me some idea what you're doing when you're
10 measuring the pool house.

11 A: We would measure the exterior walls of the
12 unit.

13 Q: Okay. At any point while you were there did
14 you speak with Mr. Shirer?

15 A: Yes.

16 Q: Okay. Did he -- would you normally go into a
17 property that you're visiting for this purpose?

18 A: No.

19 Q: Okay. Did he invite you in?

20 A: Yes.

21 Q: Did you go in?

22 A: Yes.

23 Q: To what extent?

24 A: I believe I really just stepped in because we
25 don't always have a interior specifications



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1 list which would tell us what type of materials
2 are used.

3 Q: Okay.

4 A: So I -- I stepped in to just look at what the
5 components were as far as cabinetry,
6 countertop, flooring and those type things.
7 Just to get a better grasp on the quality of
8 construction to better be able to value it.

9 Q: All right.

10 MR. RHODES: Your Honor, this is pre-marked
11 Respondent's Exhibit 2. See if this works.

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

14 Q: Ms. Boyd, do you recognize -- this is page A,
15 A through E -- do you recognize this?

16 A: Uh-huh. That's our typical property record for
17 any property in the County that has a
18 structure.

19 Q: Okay. Ms. Boyd, I see some markups on here.
20 Is this the original sketch of the -- of their
21 dwelling, the actual primary residence on the
22 property?

23 A: Correct.

24 Q: Okay. And I see a mark through here, CPT is
25 marked through. Is that where they -- you were



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1 making note of the fact that they converted it
2 from a carport to a garage?

3 A: Correct and you can see that indicated at the
4 top 1-2 where a carport abbreviation was marked
5 out and garage was written.

6 Q: Gotcha. So moving over to page B of the same
7 Exhibit, I assume this shows all of the -- are
8 these just all of the accessory structures?

9 (Respondent's Exhibit Number 2, Letter B was
10 referenced at this time.)

11 Q: Are they usually ---

12 A: Yes.

13 Q: --- on a separate, kind of -- and I don't know
14 what you'd call this necessarily -- what would
15 you call this?

16 A: A property card.

17 Q: Okay.

18 A: If -- we will add more cards as needed
19 depending on how many buildings and what room
20 we have to draw. As you can see on that one,
21 the pool house was on card two, but I did not
22 have room -- each dot is two feet -- I didn't
23 have room to add the 40 by 40 addition off to
24 the side. It may have bumped into the other
25 building there, so I marked it out and said,



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1 see card three for that building.

2 Q: So this is not in any way to scale. It's just
3 -- it purely is just showing the square footage
4 of the building. Has no -- they have no
5 relationship to each other spatially based on
6 what's here.

7 A: No, it won't follow any, kind of, layout as
8 what it looks like on the property.

9 Q: Gotcha. So this is page C.

10 (Respondent's Exhibit Number 2, Letter C was
11 referenced at this time.)

12 Q: What are we looking at here?

13 A: 1-1 is the original structure.

14 Q: And that's the 18 by 24.

15 A: Correct.

16 Q: Okay.

17 A: The little squiggly Z line in the middle
18 indicates that it is, the new part is part of
19 it, it adjoins, it's open inside, so it's all
20 one now.

21 Q: Okay. And did you do the measurements for this
22 40 by 40 ---

23 A: Yes, I measure ---

24 Q: --- those are independently measured by you?

25 A: I re-measured the full building.



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1 Q: Re-measured the full building.

2 A: Uh-huh.

3 Q: Okay. Perfect. And there was some discussion
4 earlier of the square footage of the pool
5 house. This is page C. Is this 2032, is that
6 what you measured as the full square footage of
7 the pool house?

8 A: Yes. It says -- the LA is an abbreviation for
9 living area.

10 Q: Gotcha. So the original pool house was 432
11 square feet, is that what this number tells us?

12 A: Yes.

13 Q: And then, the addition was 1600, which would
14 make sense.

15 A: Correct.

16 Q: Adding to 2032. Okay. Thank you. So when you
17 were invited into the pool house by Mr. Shirer,
18 just to make sure we're clear, you didn't go
19 all the way in; you kind of went into the front
20 door and stopped, is that ---

21 A: Correct.

22 Q: Okay.

23 A: I believe I did look into the new bathroom to
24 see the materials of wainscoting, flooring and
25 cabinetry for the sink.



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1 Q: Okay. Can you generally just, and very
2 briefly, describe what you could actually
3 observe when you went in?

4 A: A large open -- I was standing in a large open
5 area and I believe I was told that, you know,
6 which I obviously knew, this was the new part.
7 To my left was the kitchen, in the front of it
8 was the dining table, and in the back left
9 corner was the original bathroom.

10 Q: Okay.

11 A: With the new things to my right and then the
12 two doors straight ahead for the bedroom and
13 the bathroom.

14 Q: Okay. So the kitchen that you saw there that
15 day, do you remember, do you recall what it had
16 in it?

17 A: It was a full kitchen with a full stove,
18 refrigerator, sink, microwave, you know, above-
19 the-range microwave.

20 Q: Okay.

21 A: It may have had a full appliance package of a
22 dishwasher, I do not know. That would have
23 probably been in the island facing away from
24 where I could see.

25 Q: So we're not sure about a dishwasher, but it



1 had everything else.

2 A: Right.

3 Q: Okay.

4 A: And for mass appraising purposes, those aren't
5 things that we would individually value unlike
6 if I were doing it for a mortgage loan, I would
7 need to make note of those personal property
8 items that are inside of the house.

9 Q: So that's not something -- the appliances,
10 things like that, they're not at the forefront
11 of your mind when you're looking at that.

12 A: No.

13 Q: Okay. That's fine. So based on what you saw
14 in measuring the pool house, the -- were
15 situated, the interior facilities, what
16 determination did you then reach as far as the
17 use of the property is concerned?

18 A: Well prior to -- we had -- our office more than
19 likely had never entered that building, so all
20 I could see was an open room with a kitchen and
21 dining area and a bathroom.

22 Q: Uh-huh.

23 A: And that -- the addition of the living area and
24 the bedroom and the additional full bath is
25 what I used to determine that it was now a



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1 residence.

2 Q: Okay. Is it a common occurrence that you
3 arrive at a property that you believe is going
4 to be some sort of accessory structure and you
5 see information that kind of leads you to the
6 conclusion that it might now be a dwelling?

7 A: Does it happen? Yes. Is it common? No.

8 Q: Okay. If a -- if you had been aware, well,
9 let's say that there was a, clearly, a
10 disturbed area in the yard where a septic tank
11 had been added and you weren't afforded access
12 to the house, would that in and of itself with
13 no other information, be sufficient for you to
14 determine that the building is a dwelling
15 versus an accessory building?

16 A: It would lean towards it, but not necessarily
17 always.

18 Q: Okay. So let's talk briefly about
19 reassessment. Are you involved in the
20 reassessment process?

21 A: Yes.

22 Q: What's your role?

23 A: I do the field work and some of the valuation
24 of the land in the office.

25 Q: When you say the field work, what does that



1 mean?

2 A: I will visit the properties.

3 Q: Okay.

4 A: And ...

5 Q: So when you say visit properties for a
6 reassessment, does that mean you visit every,
7 or someone visits every property?

8 A: Yes.

9 Q: In the entire county?

10 A: Yes.

11 Q: Gotcha.

12 A: And we, intent, we look at every structure.

13 Q: Okay. When you go through this reassessment
14 process, how often does it take place?

15 A: Every five years.

16 Q: Every five years. When you are involved in
17 this reassessment process, what is it -- when
18 you visit a property, what does that typically
19 entail?

20 A: I will have the property card with me, also a
21 printout of our valuation of the property.
22 It's a cost approach is how we value, so we
23 have a separate system that has each structure
24 valued. So I'll have both of those items with
25 me and I will look at the property card and



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1 determine which buildings that I'm looking at
2 are the building on the property card, I'll
3 then refer to the cost sheets to determine
4 effective age of the houses, possible values of
5 any accessory buildings and determine whether
6 they need to be raised or lowered or left the
7 same.

8 Q: Do you ever -- well, I guess do you generally
9 go inside buildings when you're involved in
10 this reassessment process?

11 A: No, not unless the homeowner invites me in and
12 typically no -- no, more -- 99 percent of the
13 time, no.

14 Q: Does it matter whether the homeowner is even
15 there?

16 A: Most of the time, they don't know I'm there.

17 Q: Okay. If you see, when you visit a property
18 during the reassessment period, if you see that
19 it has -- if you see some of these indications
20 that the use of the structure may have changed,
21 will you at that point in time for -- during
22 that reassessment, change the use of the
23 structure from, say, an accessory building to
24 a dwelling if you actually see evidence that
25 that has occurred?



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1 A: Yes.

2 Q: Okay. But if you don't see any evidence, then
3 the use of the structure generally wouldn't --
4 it would just remain the same ---

5 A: Correct.

6 Q: --- unless you actually see something on the
7 ground that would lead you to some other
8 conclusion; is that correct?

9 A: Yes.

10 Q: Okay. One moment. And so in this particular
11 case, you arrived at the conclu- -- well, tell
12 me what conclusion you arrived at as far as the
13 use of the pool house.

14 A: I asked about the rooms. Sometimes we may have
15 an interior floor plan in the Building and
16 Planning file that I will refer to once I'm
17 back at the office to determine what the
18 interior rooms are because we don't typically
19 get access. Um ...

20 Q: And so you arrived at the conclusion that the
21 pool house was now a residence, I think is what
22 you said ---

23 A: Yes, due to the ---

24 Q: --- is that correct?

25 A: --- additional rooms and living area ---



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1 Q: Okay.

2 A: --- and the size was so small before and now
3 we're adding a significant amount, so I asked
4 specifically what the rooms were added.

5 Q: Uh-huh.

6 A: If someone is there I'll ask, what rooms did
7 you add.

8 Q: Sure. The -- what happens then? So once you
9 have made this determination that the pool
10 house is now a dwelling, do -- what do you then
11 change in order to make that effective for tax
12 purposes?

13 A: Well it would then, in this case, it caused a
14 one-acre removal from agricultural use to
15 residential use and then we would then notify,
16 with a re-appraisal notice, the homeowner of
17 the tax breakdown, the use breakdown, the 6
18 percent, 4 percent and the values. We send out
19 notifications to what their new appraisal --
20 that they're going to be billed later in the
21 year is going to be.

22 Q: Okay. And to your knowledge, that happened in
23 this case. That notice was sent to the Shirers
24 and they were made aware of it ---

25 A: Yes.



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1 Q: --- correct?

2 A: Uh-huh.

3 Q: Okay.

4 MR. RHODES: Your Honor, I have no further
5 questions.

6 THE COURT: Mr. Felder? Did you have anything to
7 admit there?

8 MR. RHODES: I did. Yes, sir. Yes, Your Honor. I
9 would like to admit the Respondent's Exhibit 2,
10 the full property card for the property and I
11 think that's A through E.

12 MR. FELDER: No objection.

13 THE COURT: Okay. Without objection, Respondent's
14 Exhibit 2 ---

15 MR. RHODES: Thank you, Your Honor.

16 THE COURT: --- parts A through E are admitted.

17 (Respondent's Exhibit Number 2, Letters A through E
18 was admitted into evidence at this time.)

19 MR. RHODES: Thank you, Your Honor.

20 THE COURT: All right. Mr. Felder.

21 MR. FELDER: Thank you, Your Honor.

22 MS. BOYD - CROSS-EXAMINATION BY MR. FELDER:

23 Q: Do you have that notice that you said was sent
24 out to the Shirers?

25 A: I do not.



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1 Q: Okay. I want to clarify. Is it your testimony
2 that the size of the dwelling is significant?

3 A: No, not always.

4 Q: Okay. I thought -- I must have misunderstood
5 you.

6 A: It -- the small size normally would indicate
7 what possible rooms could fit inside.

8 Q: Right.

9 A: Um ...

10 Q: As long as it ---

11 A: I mean, they could have a 1600 square foot
12 addition of one large room; I don't know that.

13 Q: Yeah, I'm ---

14 A: Unless I ask or go inside.

15 Q: I'm thinking more along the lines of before the
16 addition was done.

17 A: Right.

18 Q: As long as it meets a minimum square footage,
19 could it not be considered a dwelling?

20 A: The square footage doesn't typically determine
21 what it is. It's the interior rooms that would
22 determine it.

23 Q: Well, would that ---

24 A: We're leaning more -- but prior to 2005, we had
25 no building inspector, so no one inspected the



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1 original structure. They may have -- their
2 process would have been to just tell what they
3 were building and no one ever visited. There
4 was no inspector to visit the property to see
5 what was going on while it was built.

6 Q: All right. This is marked as Respondent's 3
7 and it says Office of the Assessor Policy
8 Statement.

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

11 Q: Just looking at that first paragraph
12 determining whether it's a dwelling or not, the
13 structure is a dwelling, it does talk about the
14 types of rooms in there, I agree with that, but
15 does it not also have a minimum square footage
16 ---

17 A: For ---

18 Q: --- for these rooms?

19 A: Yes. 120 square feet.

20 Q: Okay. So if the original pool house was over
21 400 square feet, 456 square feet to be exact,
22 it ---

23 A: Uh-huh.

24 Q: --- under that definition, y'all could have
25 determined it to be a dwelling, then; correct?



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1 A: That's typically not the only determining
2 factor.

3 Q: I didn't say -- I'm looking at the definition
4 of dwelling in your policy.

5 A: But without ever accessing the interior, we
6 wouldn't have known what rooms were inside.

7 Q: Did Mr. or Mrs. Shirer ever tell you you
8 couldn't go in there when you were doing your
9 reassessment? Do you recall or anybody in your
10 office ever make a note of that?

11 A: No.

12 Q: Okay. And since this was built, let's just say
13 in the mid-'80s and y'all assess every five
14 years, do you think this property, it's
15 possible it went through reassessment six
16 times?

17 A: Uh-huh.

18 Q: Okay. But it's your -- but I think it was your
19 testimony that use matters; correct? Is that
20 your opinion of the use or is that -- whose --
21 when does the use matter? When you say use,
22 what do you mean by that?

23 A: The -- it's more what are the rooms to
24 determine what ---

25 Q: Okay.



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1 A: --- is the structure.

2 Q: Okay. That's fine, that's fine. Okay.

3 A: Uh-huh.

4 Q: In the mid-'80s if that original structure had
5 those rooms going back to that point and it was
6 in open view, based on that definition, would
7 y'all have determined that to be a dwelling
8 back then?

9 A: It didn't have a -- yeah, I guess it could have
10 been.

11 Q: Okay. You don't know what ---

12 A: I wasn't ---

13 Q: --- I think you testified you don't know what
14 was ---

15 A: Uh-huh.

16 Q: Okay.

17 A: Prior to me.

18 Q: Okay. And this isn't a -- I'm not trying to
19 play, I want to clarify the record. I think
20 earlier you mentioned they pulled a permit for
21 a pool house addition, I think one time you
22 mentioned and a pool, but they weren't putting
23 in a new pool.

24 A: We don't always get clear information from the
25 Building and Planning Department.



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1 Q: Okay. But if -- there's no testimony that
2 there was a new pool put out there, did anybody
3 ---

4 A: No.

5 Q: Okay. And I'm trying to -- I might be a little
6 confused. So you pulled the permit -- or in
7 2015. So you went out there some time in 2015?

8 A: I believe.

9 Q: Okay.

10 A: I don't know exactly.

11 Q: And I think it's your testimony that some time
12 after that would have been -- would have been
13 late 2015 or early 2016 a notice would have
14 been sent out. That's the notice that you
15 mentioned earlier. And so ---

16 A: If ---

17 Q: --- I'm just trying to get timing.

18 A: It would have been late '15.

19 Q: Okay.

20 A: If they -- if the 2015 tax bill was the first
21 year they were billed, they would have received
22 the notification over the summer prior to that.

23 Q: Okay. And do you know what tax bill the taxes
24 increased on this pool house?

25 A: I do not.



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1 Q: Okay. And if the taxes were increased, say, in
2 the 2015 or 2016 tax year, would any of that
3 been subject to rollback taxes and for how
4 long?

5 A: Rollback taxes are a five-year tax that -- when
6 the use changes from agriculture to
7 residential.

8 Q: Right. And if you -- and if your office
9 determined, in its opinion, that the use
10 changed and let's just for the sake, I think
11 we'll find out here in a minute, I'm not sure,
12 but in 2016, I'm not -- or 2015 and rollback
13 taxes were applied, when would those have been
14 applied and for what tax years would they have
15 been applied for?

16 A: The first years prior to the use changing.

17 Q: So that would have gone back into '14, '13, '12
18 ---

19 A: Correct.

20 Q: Okay. So if you -- if we look at the tax
21 history on this property and the rollback taxes
22 were only applied for, I think, say -- going
23 forward '17, '16 and '15, their actual -- the
24 tax bill actually came out much later, the
25 increase came out much later than that; did it



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1 not?

2 A: Say that again.

3 Q: I'm just trying to clarify if the rollback
4 taxes went into effect as soon as the -- y'all
5 determined the use changed, then why would
6 they -- if, in fact they were -- and that might
7 be something I'll have to ask Mr. Hamilton,
8 anticipating him coming up here. I'm trying to
9 figure out when the actual taxes increased on
10 the property; when y'all determined that is
11 what I'm trying to ---

12 A: We would change it in the year, but it's five
13 years prior. I didn't write the laws.

14 Q: No, I understand. All right. I'm not -- I ---

15 A: It doesn't make ---

16 Q: --- understand what rollback ---

17 A: --- any sense.

18 Q: --- taxes are. I'm trying to figure out ---

19 A: But that's just how ---

20 Q: --- when those actually ---

21 A: --- the, the law reads. It's a five-year
22 rollback from five years prior to the use when
23 it gets changed.

24 Q: Right. I gotcha. And I understand that. I'm
25 just trying to figure out when it was



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1 determined on this particular structure that
2 the taxes needed to increase is what I'm trying
3 to figure out. And I think you'd said it would
4 have been around in 2015 or 2016.

5 A: Correct.

6 Q: And I'm not playing games, I'm just trying to
7 ---

8 A: Yeah. Right.

9 MR. FELDER: Nothing further.

10 THE COURT: Anything further, Mr. Rhodes?

11 MR. RHODES: Yes, Your Honor.

12 MS. BOYD - REDIRECT EXAMINATION BY MR. RHODES:

13 Q: Ms. Boyd, just to clarify a couple of things
14 here. Is it possible that you may have visited
15 some time in 2014? I guess the reason I ask,
16 I believe 2015 is one of the tax years that's
17 being -- they're asking for a refund here which
18 would mean the increase would have occurred by
19 then. So, is that possible? I understand
20 you're not ---

21 A: Yes.

22 Q: --- exactly sure of the date, is that within
23 the realm of possibility?

24 A: By law we're supposed to add the structure the
25 year following the closing. It was my, and on



1 our Building and Planning files, there's a
2 column for the specific close date. That
3 permit was still -- there was no date there, it
4 was still opened. As far as I knew, they'd
5 never called for a final inspection was my
6 assumption since I didn't have a close date on
7 the main building permit file. So the permit
8 was pulled in 2013 according to the permit
9 number. We don't typically go to the
10 properties until the file closes, but sometimes
11 permits could be open for 10 years. We might
12 typically ride by and look at one even though
13 it is still indicating as open. So the year,
14 I think, is a little jumbled there. I did --
15 I think I was there in '14 and in '15. I don't
16 specifically recall.

17 Q: Okay. And as far as the size of the property
18 is concerned, there's obviously in the policy
19 -- in the policy Mr. Felder put up, there is a
20 minimum room size there, but does the policy
21 have a minimum size or maximum size for the
22 structure itself ---

23 A: No.

24 Q: --- in order for it to be a dwelling? How do
25 you, when you are looking at the size of a



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1 property to decide whether or not it is a
2 dwelling or a residence, how does the size
3 factor into your analysis?

4 A: Well, the interior rooms, it has to have a 120
5 square foot habitable room and a kitchen no
6 less than 50 square feet. Ceiling height is 7
7 feet. We're going towards this tiny house
8 movement. Some dwellings are becoming smaller
9 and smaller, but that wasn't typical in the
10 past.

11 Q: So generally speaking, if you go out to a
12 property and you see a, you know, 15 by 15
13 building and maybe it's got a window in the
14 side of it, there's no other indications that
15 it's a dwelling, versus going out to a 2,000
16 square foot property, does the size lead you to
17 -- or could the size lead you to investigate
18 further to determine whether or not the
19 interior facilities are those of a dwelling?

20 A: It could, but mostly air conditioners and those
21 type things would be on the outside that I
22 could view. Possible tankless hot water
23 heaters have been a recent indicator that
24 there's water, maybe some piping on the
25 exterior. The bathrooms have to have the



1 exhaust pipes. Sometimes we might look for
2 those to see if there's a bathroom inside.
3 Things like that are more, are more better
4 indicators as to what is inside that we can't
5 see.

6 Q: Okay. Thank you.

7 MR. RHODES: No further questions, Your Honor.

8 THE COURT: Y'all going to enter that policy
9 statement?

10 MR. RHODES: The policy?

11 MR. FELDER: Yes, Your Honor.

12 MR. RHODES: Yes, sir.

13 MR. FELDER: We can do it now.

14 MR. RHODES: Without objection. I think it's right
15 here.

16 THE COURT: All right. Respondent's Exhibit 3 is
17 admitted on joint motions.

18 (Respondent's Exhibit Number 3 was admitted into
19 evidence at this time.)

20 MR. RHODES: Your Honor, I would call Steven
21 Hamilton.

22 THE COURT: All right. Ms. Boyd ---

23 MR. RHODES: No further questions, I'm sorry.

24 THE COURT: --- you ---

25 MR. RHODES: Yeah, I'm getting a little ahead of



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1 myself here.

2 THE COURT: We only have room for one at a time.

3 MR. RHODES: Sure.

4 COURT REPORTER: Raise your right hand, please. Do
5 you solemnly swear the testimony you're about
6 to give in this matter is the truth, the whole
7 truth and nothing but the truth, so help you
8 God?

9 MR. HAMILTON: I do.

10 COURT REPORTER: Thank you.

11 STEVEN HAMILTON, having been duly sworn, testifies as
12 follows:

13 MR. HAMILTON - DIRECT EXAMINATION BY MR. RHODES:

14 Q: All right, Mr. Hamilton. Where are you
15 employed?

16 A: Calhoun County Assessor's Office.

17 Q: And what's your title there?

18 A: I'm the Assessor.

19 Q: How long have you been employed as the
20 Assessor?

21 A: As Assessor, since about '99.

22 Q: Since '99. What was your job at the Assessor's
23 Office prior to being named the Assessor?

24 A: I was a chief appraiser prior to that, and then
25 prior, I was also a 911 coordinator and also an



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1 appraiser in the Assessor's Office.

2 Q: Okay. When did you go to work for Calhoun
3 County?

4 A: I think it was 1993.

5 Q: '93, okay. Do you have any special licenses or
6 certificates ---

7 A: I do.

8 Q: --- certifications as an appraiser or anything?

9 A: Yes.

10 Q: I guess as an assessor or an appraiser.

11 A: Yes.

12 Q: And what are those?

13 A: Licensed Mass Appraiser through South Carolina
14 LLR and have had various licenses over that
15 period.

16 Q: Okay. Are there any continuing education
17 requirements for appraisers, do you have to ---

18 A: There are.

19 Q: Okay. And do you generally take part in that
20 continuing education?

21 A: Oh, yes.

22 Q: I would imagine it's an important part of your
23 job. Mr. Hamilton, what is your role in
24 determining how to classify real property for
25 taxation purposes?



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1 A: That's part of the Assessor's responsibility as
2 set out in the Statute. I believe at 12-43-
3 220, is reassessment and I think it's 12-37, I
4 want to say, 230, might be -- no, that's not
5 right -- but they're specifically laid out
6 under duties of the assessor in Title 12.

7 Q: Okay. So is it correct to say that you're the
8 one who makes the ultimate determination for
9 taxation purposes how a structure should be
10 classified? Whether it's commercial or
11 industrial or residential or accessory, that is
12 ultimately your decision to make; is that
13 correct?

14 A: In properties under Calhoun's jurisdiction,
15 there are cases that are under the Department
16 of Revenue jurisdiction, there are cases that
17 we have to consult with the Department of
18 Revenue to render a determination.

19 Q: Okay. Mr. Hamilton, let's look back at this
20 policy statement, Respondent's Exhibit 3.

21 **(Respondent's Exhibit Number 3 was referenced at this**
22 **time.)**

23 Q: Can you tell me, kind of, what this document is
24 and the history behind it?

25 A: Sure. That is a policy statement we did for



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1 our office staff and employees, myself
2 included, to try to help us determine what is
3 a dwelling unit when you run across something
4 out in the field. The history of it is,
5 essentially, there was no policy, per se, in
6 place in the Calhoun County's Assessor's Office
7 prior to that October 21, 2003 date, nothing
8 really written down anyway. This was in an
9 effort to get us on a more equitable footing to
10 tie to actual State laws, State codes and the
11 International Building Code that Calhoun County
12 adopted. If you notice, it was in late '03,
13 date that was done and 2004 was the year we
14 actually began using the International Building
15 Code and had a Building Inspection Office so
16 that you actually had now codified, accepted
17 data and indicators that you could use in
18 making a determination, where before you did
19 not have that since Calhoun had not adopted
20 building codes prior to that.

21 Q: So, this policy, I'm looking at the dates here,
22 it seems like it was put in place in 2003, as
23 you said, it was revised in '08. So this
24 policy was in place in 2014 or '15 when the
25 determination to apply a 6 percent assessment



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1 to the pool house was made; is that correct?

2 A: It was.

3 Q: Okay. And this is the policy that your
4 appraisers will ultimately fall back on to make
5 the determination as to whether or not a
6 structure qualifies as a dwelling; correct?

7 A: Correct.

8 Q: Now what are, based upon this policy, what are
9 the basic elements of a dwelling, generally?

10 A: They can actually vary a little bit beyond what
11 is in that, but the 120 square foot, typically,
12 we're looking at a minimum size for that. Many
13 building codes actually don't issue permits for
14 things maybe below 400 square feet -- or I
15 should say maybe building officials in various
16 other counties -- but per the stat- -- or
17 rather, per the Code that was adopted, that is
18 your minimum size level that you're going to go
19 to to be underneath what could be considered,
20 per Code, a habitable structure. Now that
21 number has actually, my understanding, been
22 revised down in the latest issues of the
23 International Code due to the tiny house
24 movement. I believe it's actually moved down
25 to closer to 70 or 80 square feet, but I would



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1 have to look it up. But the -- you would look
2 at that, you would look at whether or not it
3 had the kitchen, you know, the area of the
4 kitchen, ceiling height can be an issue, but it
5 is also not necessarily 100 percent that that
6 would be something that would kick it out.
7 We've had people move into and live in
8 structures that don't meet the Code. We have
9 had grandfather structures that have been out
10 there for 100 years that don't have a bathroom,
11 but people have been living in them for 100
12 years, but -- and they're using privies. But
13 you would still have that down as a residence,
14 as a house, that's their domicile where they're
15 living and it would get the legal residence.

16 Q: So I think what I'm hearing you say is that the
17 -- if you, without question, use a building as
18 a dwelling, if you reside there, that in and of
19 itself makes a dwelling ---

20 A: It can.

21 Q: --- but it -- but that is not the end of the
22 analysis. If you otherwise meet all the
23 elements of a dwelling but someone doesn't
24 reside there actively at that point in time,
25 can that still be a dwelling?



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1 A: Absolutely. That would be most new houses
2 built in the County in a subdivision.

3 Q: Okay.

4 A: There is nobody living in them yet, but they're
5 definitely residences.

6 Q: So the use can be determinative, but it is not
7 the end of the discussion; it's not the end of
8 the argument ---

9 A: Correct.

10 Q: --- is that correct? Okay. Thank you. So
11 where a property has on it an existing legal
12 residence, does this policy help you determine
13 how to classify other property, other
14 structures on that same property?

15 A: Yes.

16 Q: Okay. So if an additional structure has
17 perhaps some elements of a dwelling but not
18 others, would you then rely on this policy to
19 determine whether or not it is a dwelling?

20 A: Yeah, this policy would be a starting point for
21 that.

22 Q: Okay. Can you tell me, kind of, generally how
23 you apply this policy to that particular
24 situation where you have a legal residence on
25 a property, you have another property that has



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1 the elements of a dwelling, how do you then use
2 this policy in that instance to make that final
3 determination as to whether or not that second
4 structure is a dwelling or is an accessory to
5 the primary residence?

6 A: Some of the things you would look for are
7 obviously in the policy there. Items like, you
8 know, the support network of the structure:
9 sewer, water, electricity, telephones. Access:
10 highway access, walking access. Some places
11 may be that way. Do you have to pass through
12 the existing legal residence to get to it. You
13 know, there are a variety of issues that you
14 could look at in that. You have to look at the
15 totality of the circumstances for that property
16 that's under consideration to make that
17 determination. Square footage will play an
18 influence, but it's not the end-all, be-all.

19 Q: So shifting over to, kind of, the matter at
20 hand here, when did you first become aware of
21 the Shirers' property and this pool house
22 situation?

23 A: First aware of it, I'm not entirely certain.
24 It was probably consulting with Ms. Boyd at
25 some point during her initial or after her



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1 initial inspection as to whether it should be
2 considered a separate residence and separate
3 dwelling or whether it should be accessory.
4 I'm sure her recommendation, based on what
5 we've seen and based on her conversations with
6 the owners, was that it was a separate dwelling
7 and should therefore be at 6 percent and I
8 would have concurred with that. So that would
9 probably have occurred some time in 2014 after
10 she did her initial inspection, and then we
11 would have done a -- should have sent out an
12 assessment notice, and then that would have
13 been for the 2015 tax year that it would show
14 up that way for the first time as a separate
15 residence.

16 Q: So walk us through this rollback process here.
17 Let's assume that she visited 2014, would that
18 then have made the 6 percent assessment
19 effective for the 2015 tax year? Is that
20 correct?

21 A: The rollbacks themselves would not be
22 determinate of that. What they are, are caused
23 by it. Essentially if you remove anything from
24 agricultural use for any purposes, whether it's
25 legal residence or otherwise, then you would



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1 trigger a rollback bill that would -- it's
2 actually considered a current year tax, but
3 calculated using the back years. So in this
4 case, it would have been, if there was a
5 rollback issued, it would have been issued in
6 2015 which was the first year that the property
7 would have went on as a separate dwelling unit
8 at 6 percent. That being based on the tax
9 control date in the Code which is 12/31 of the
10 previous year. So as of 12/31 of '14, the
11 actual use in our records would have been a 6
12 percent separate dwelling that would have been
13 sent out that way for '15 and, if any rollbacks
14 were assessed, it would have been done at that
15 time.

16 Q: Okay. Were rollbacks assessed in this
17 particular case?

18 A: I would have to go back and look at the actual
19 records. I'm not entirely certain.

20 Q: Okay.

21 A: It probably should have been and I believe they
22 were, but I would -- since that was not an
23 issue at point, I did not specifically research
24 that.

25 Q: Okay.



1 A: So.

2 Q: So at what point did you have any contact with
3 the Shirers on this issue?

4 A: I had gotten some contact from them regarding
5 the actual appeal when it was filed from Ms.
6 Shirer. I believe the letter's in the file.
7 Let's see, it was ...

8 Q: This some time in ---

9 A: March 22nd ---

10 Q: Okay.

11 A: --- 2018 is when we received the initial
12 appeal.

13 Q: That was the -- okay, perfect. And what were
14 they requesting at that point?

15 A: Beg your pardon?

16 Q: What were they requesting? What was their
17 appeal, they were asking for ...

18 A: It was two-fold. They wished to have the 4
19 percent assessment awarded to the second
20 dwelling, and then they wished to have refunds
21 issued for 2016 and 2017 tax years that they
22 felt it should have qualified for the legal
23 residence.

24 Q: When you -- when a property owner -- so the
25 appeal is initially made to you by law; is that



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1 accurate?

2 A: Correct. They would -- you have to notify the
3 assessor in writing of your intent to appeal.

4 Q: Okay. At that point in time, did you go back
5 and review the work that Ms. Boyd had done and
6 review the file, generally?

7 A: Yeah, we would have reviewed the information,
8 what we had, we would have looked back at the
9 building permit file, which unfortunately in
10 this case, was particularly lacking in good
11 information. The actual permit file did
12 specify work being done on both the pool house
13 and the main house, but it did not include any
14 additional drawings, so we weren't able to rely
15 on that. But we would have looked at those
16 items, re-consulted with the appraiser who had
17 actually done the inspection and, you know, at
18 that point decide, yes, okay, we think we're
19 still right on this and proceed from there.

20 Q: So walk us through this analysis a little bit.
21 Based on information that you had then,
22 arriving at this kind of final conclusion that
23 the property is, this property and this
24 particular structure, is in fact a dwelling.
25 What is it that you at that point in time were



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1 relying upon?

2 A: Well the opinion of the appraiser was one
3 definitely, but also the nature of it
4 regardless of whether it had been part of the
5 legal residence before, regardless of whether
6 it had been in a house before or not, or a
7 dwelling unit before or not, had obviously
8 changed based on the building permit.

9 Q: Uh-huh.

10 A: That would have led us to look at things like
11 size, you know, interior room counts, if
12 possible. Again, that's a harder one to do.
13 Oftentimes folks are not there when we look at
14 an individual property. You would have looked
15 at things like potential plumbing issues, where
16 the meter's located, how you access the
17 property, is it capable of being used as that
18 because it's not just whether it's been used.
19 If you look at the actual Building Code, they
20 say intended, designed or capable of being used
21 as a dwelling. So there's actually a three-
22 pong test in that scenario because you could
23 have issues where, as we have had in the past,
24 somebody comes in and claims that there's an
25 agricultural building that they're building.



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1 You go out and look at it and it's a full-blown
2 house that's 1600 square feet. And while
3 that's not terribly common, it seems to be
4 getting more of an issue where folks are saying
5 one thing for intent to get a cheaper permit to
6 be able to not do certain inspections and then
7 changing it up midstream and turning things
8 into a house.

9 Q: Uh-huh.

10 A: In that case, where we would have an
11 agricultural permit for a building that they're
12 claiming is an agricultural building, we go out
13 there and it's a house and they're living in
14 it, you know, we're gonna knock on doors and
15 ask questions. You know, we're gonna put it on
16 as a house.

17 Q: So when you are applying this standard for a
18 dwelling and you see evidence on the exterior
19 of a building that would lead you to that
20 conclusion, that it's an active dwelling, how
21 do you -- what's your response? How do you
22 then proceed? Do you always consult with the
23 property owner? Do you knock on their door?
24 How does it typically work?

25 A: No, we may not always consult with the property



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1 owner. By Statute, we would send them an
2 assessment notice and give them an opportunity,
3 at that point, they would have 90 days to
4 appeal it based on the assessment notice. Even
5 if they don't get an assessment notice, you can
6 appeal the property any time during the year in
7 which your tax bill is issued and into 15 days
8 of the next year. So they would still -- if
9 for some reason an assessment notice didn't go
10 out, there is still the ability to appeal that
11 decision. Typically if we have a question,
12 we're gonna default to a 6 percent scenario so
13 that the -- since the legal residence Statute
14 is relatively stringent, we're gonna say, okay,
15 this appears to be a house, we will put it out
16 there as that, we will send the assessment
17 notice. If the owner has an issue, they're
18 welcome to call, come in, appeal it, you know,
19 ask us for our explanations, you know, all of
20 which we will comply with to the best of our
21 abilities and provide them with our reasoning
22 as to why it's a house.

23 Q: So in a case where the property owner -- oh,
24 I'm sorry, where the appraiser perhaps didn't
25 have access to the interior of the building,



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1 will you then go back out there and take a look
2 at the interior just to make sure that all of
3 these elements are in there?

4 A: Absolutely. We've done that in the past. If
5 we have a case where we've sent one out, we've
6 measured it and done everything that we could
7 from the exterior and then actually gone and
8 sent the assessment notice, we get the appeal,
9 we have the conference with the individual, we
10 would discuss the matter with them, see if they
11 have additional information we were unaware of
12 and, if necessary, do an interior inspection at
13 that time to determine that status on the
14 inside of it actually matches what we feel
15 would be considered an actual residential
16 dwelling unit.

17 Q: Okay. And so just to be clear, after having
18 looked back at the file and consulting with
19 your appraiser, you came to the conclusion that
20 the -- what we're referring to here as the pool
21 house was in fact a second dwelling on the
22 property; is that correct?

23 A: Correct. Its -- both its design, its usage,
24 its capability of being used as that and its
25 actual use as a period of time for a residence



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1 for the owners, all indicate that it is -- and
2 even at their own -- they've even conceded the
3 point that, yes, it's a separate dwelling unit.
4 So it -- I see no point in, you know, arguing
5 that particular issue with them when they've
6 conceded the point that it's a dwelling unit.

7 Q: Let's talk a little bit about -- well, first
8 let's talk about, well, reassessment. So, I
9 think you said that you started out as an
10 appraiser with Calhoun County and you've
11 climbed the ranks and now you're the Assessor.

12 A: Well, actually I started with Lexington County,
13 worked with them, Barnwell County also and
14 Orangeburg County.

15 Q: So you -- how many reassessments would you say
16 you've been involved in?

17 A: Oh, God, I would have to sit down and count
18 now. 7, 8, maybe 10 now, so.

19 Q: Okay. You heard Ms. Boyd's testimony about,
20 kind of, how that process works. Do you think
21 it's typical to go inside every single property
22 in the County?

23 A: Oh, absolutely not. Matter of fact,
24 statutorily, we considered ourselves prohibited
25 from doing so until there is a appeal on it, we



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1 don't make any true effort to go in. Now in
2 some cases, someone may invite you in; someone
3 may offer you a cold drink on a hot day. If
4 you step in the door, you know, that's --
5 you're not doing anything wrong, per se, but
6 it's not us insisting to go inside the house.
7 We don't have that ability. We do have certain
8 abilities to go in commercial structures, but
9 not so much the residential structures.

10 Q: Okay. And as you go through this reassessment
11 process, the -- are you -- you're also, I
12 suppose where it's clear perhaps that -- let's
13 say you pulled up to a house and now it's a
14 dentist office. Would that be sufficient for
15 you to, during that reassessment, change the
16 use of it from residential 4 percent to
17 commercial 6 percent?

18 A: Absolutely and, statutorily, you should do so.

19 Q: That's right. And that would take part during
20 reassessment.

21 A: Correct.

22 Q: If there's only evident that it has changed on
23 the exterior of a property, would you then
24 investigate further for, you know, each and
25 every barn and shed in the County to see if



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1 maybe a kitchen or a bathroom had been
2 installed?

3 A: No, you simply don't have the manpower or the
4 time to do that.

5 Q: Okay.

6 A: You would essentially take your record on face
7 as being accurate and move on to your next
8 property. There is -- it's mass appraisal for
9 a reason. You're looking at, you know, 15,000
10 properties roughly, you simply don't have the
11 kind of time to go into that detail and then
12 there's also an equity issue. You don't want
13 to push one set of parameters on one without
14 those others being there. In other words, you
15 don't want to say, well we're gonna go into
16 every house in this location, but not every
17 house over here kind of thing.

18 Q: So I believe there's been testimony that this
19 pool house was built some time in the mid-'80s.
20 Did that precede your time with the County?

21 A: It does.

22 Q: Okay. What -- I believe you said that, and if
23 you just clarify for me, what year did the
24 County start issuing building permits?

25 A: The County actually issued building permits



1 prior to that, but ---

2 Q: Or inspecting buildings, I suppose.

3 A: Yeah. When we started having a building
4 inspector was 2004 after they adopted the
5 International Building Code.

6 Q: Okay. And you had no involvement with any
7 procedures of the Assessor's Office prior to
8 your time there. I think you testified that
9 you started in the late '90s with Calhoun
10 County; correct?

11 A: I started as Assessor in '99, I actually
12 believe I started as an appraiser, chief
13 appraiser in '93, I want to say.

14 Q: '93, okay.

15 A: Yeah. And an infrastructure had already
16 preexisted then. Had we run up on it in
17 reassessment, we would have simply looked at
18 it, at the card, saw that it was roughly the
19 same size, it was already classified as a pool
20 house underneath the other and we would have
21 accepted that and went on if there had been no
22 changes to structure that we could see from the
23 outside.

24 Q: Okay. So the -- I guess, what level of
25 confidence do you have that you have managed to



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1 find every single barn and pole building and
2 shed in Calhoun County that's been converted
3 over -- that's had a bathroom and a kitchen
4 installed at some point in time? I mean, do
5 they exist?

6 A: Oh, I'm certainly ---

7 Q: Let's just be honest about it.

8 A: I'm certain they do. There are certain legacy
9 structures, as in this instance, that you would
10 have out there that have been carried that way
11 historically and there's been no reason to
12 revise it.

13 Q: Uh-huh.

14 A: There are items done without permits on a
15 regular basis, especially back in the '80s and
16 '90s when the permit was \$5.00 and there was a
17 zero inspection process to it. I'm sure there
18 are others out there we are unaware of, but as
19 we run up on them, based on the changes in the
20 adoption of the Building Code and the changes
21 in the Statute, under the legal resident
22 Statutes, we try to adjust those whenever we
23 run across them and we're aware of them.

24 Q: Have you tried to find the building -- the
25 original building permit for this pool house?



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1 A: I have.

2 Q: Were you successful?

3 A: I was not. I could not find one for it. I
4 went as far back as our written records go
5 which would have been probably late '70s. I
6 did find a permit for the larger metal barn
7 shop. I think it was around, I want to say
8 '91, but I could be mistaken there. And I did
9 not find any other permits for that particular
10 structure at all.

11 Q: Okay.

12 A: I know Ms. Shirer had mentioned that she had a
13 DHEC permit from it and that's very possible,
14 but DHEC, being a State agency, would not
15 necessarily have shared that with us.

16 Q: Would it have been particularly unusual for a
17 400 square foot building of that nature to have
18 been built in the, you know, mid-'80s without
19 a building permit having been pulled?

20 A: Not at all.

21 Q: Would it -- so I guess by the same token, would
22 it be exceptionally unusual for that record
23 from several decades ago to just have been lost
24 to time?

25 A: Again, not at all. We actually have had to



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1 purge files for certain information that we
2 weren't required to keep such as DHEC permits.
3 We offered to turn those back over to DHEC,
4 they weren't interested in taking them. So I
5 know there have been issues with, you know, how
6 much room can you dedicate to storage.
7 Additionally, all the old handwritten records
8 are a bit hard to go through, they're not
9 digitized anywhere. You're looking in,
10 basically, books that have handwritten items in
11 them based roughly on the time that they were
12 done and it may or may not have a permit number
13 with it.

14 Q: So where you, kind of in the normal course of
15 your appraiser is out in the field and you
16 doing your job, where you find these legacy
17 structures that have all of these elements of
18 a dwelling, when you find them out there in the
19 County, what do you do? Do you just -- do you
20 say, gosh, we taxed it that last year and it's
21 just gonna have to be that forevermore, you
22 know, too bad, or do you correct the mistake?

23 A: We try to correct them as we find them. In
24 typical day-to-day operations, if you run up on
25 one that doesn't meet the requirements that are



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1 in place now, you would say, well, statutorily
2 and code-wise, you know, that's not supported
3 and ---

4 Q: So is there ---

5 A: --- it is to be ---

6 Q: I apologize.

7 A: Go ahead.

8 Q: Is there any theory that you're aware of that
9 locks in a property at its current use where it
10 perhaps either hasn't been reviewed or was
11 originally built under a different set of laws?

12 A: There are only for the building codes where
13 they allow certain grandfather issues. As far
14 as the assessment, none that I'm aware of.

15 Q: Okay.

16 MR. RHODES: Your Honor, no further questions.

17 MR. HAMILTON - CROSS-EXAMINATION BY MR. FELDER:

18 Q: Well, it sounds to me like you're saying ---

19 MR. FELDER: And I want to -- we'll clarify later
20 what we've stipulated to and what we haven't.
21 I think there's some technical, legal language
22 that I'm not arguing with the Witness. He said
23 we stipulated something I think we can -- may
24 clarify that later on.

25 THE COURT: Okay.



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1 Q: Sounds to me like, with your policy and based
2 on the size of the initial pool house, even
3 though it had the rooms and the minimum square
4 footage, and it was heated and it had power to
5 it, you're just saying, that's not really a
6 dwelling. But because they made it bigger,
7 we're gonna call it a dwelling.

8 A: No, not at all.

9 Q: You didn't say that?

10 A: No. I think it probably should have been
11 called, based on what -- what we're now aware
12 of was in it, a dwelling prior to that. I had
13 one this past summer that we went out and
14 looked at on a building inspection, was 312
15 square feet. It is a separate habitable
16 structure occupied and rented to a lady that
17 lives there.

18 Q: Did the Shirers do anything to keep y'all from
19 -- you said you're not allowed to go in,
20 statutorily, did they do anything to prevent
21 you from going in there?

22 A: No, not that I'm aware of.

23 Q: Okay.

24 A: But it would not have been any issue that we
25 would have pushed either. We would not make an



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1 attempt to go in and look. There have been
2 incidences in the past where the Sheriff's
3 Office has been contacted with someone
4 purporting to be from the Assessor's Office
5 trying to get interior access to a home. And
6 we will -- we have told the Sheriff as well
7 that, no, on initial inspections, we do not go
8 in.

9 Q: That's your ---

10 A: We don't ---

11 Q: --- your decision.

12 A: Right. We don't want to go in. That's the way
13 we want to keep it in that scenario unless
14 there is an issue where there is an appeal.

15 Q: Okay. This is a policy that your office, and
16 I don't know if it was you, but your office,
17 may have been you, developed; correct? You
18 said you were in the since '90 -- you were the
19 Assessor since '99, so I'm assuming you ---

20 A: Correct, I did.

21 Q: --- developed this policy. Okay. The fact
22 that it could be defined as a dwelling with
23 that first paragraph is not the end of the
24 discussion, is it?

25 A: It does not have to be.



1 Q: Well is it?

2 A: No, I mean, there are other considerations ---

3 Q: Okay.

4 A: --- that you can ---

5 Q: There are other considerations. All right.
6 And I think if you could -- and what other
7 considerations were there?

8 A: Well, again, you have to look ---

9 Q: Tell me, tell me -- I didn't mean to interrupt
10 you. Tell me what the basis for your office's
11 decision was, specifically, as to this
12 residence?

13 A: It met all their ---

14 Q: This pool house.

15 A: It met all the requirements -- and I would
16 agree with your characterization of it as a
17 residence. It met the elements that we have
18 set up in the policy. It was actually used for
19 such for a period of time. It is capable of
20 being used as such by anyone else that should
21 so choose to use it. It's accessible that way.
22 It can be cut out on a separate parcel if you
23 so choose. It's -- it would -- I would be hard
24 pressed to say there was anything that would
25 make it not a separate dwelling unit.



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1 Q: A fence wouldn't?

2 A: I beg your pardon?

3 Q: A fence wouldn't?

4 A: Most likely not. It would depend on the actual
5 fence. You have to look at the totality of the
6 situation and if you have a scenario where say
7 you have a concrete block fence that's 10 feet
8 high all the way around a property and the only
9 way to get to the separate item in the rear is
10 to pass through the house, that could be an
11 issue. But it's going to be dependent on the
12 totality of the situation. You can
13 hypothetical things to death, but it's not
14 gonna ---

15 Q: Well, I think ---

16 A: --- let us kind of look at it and that's what
17 it's -- you know, we're gonna have to do to
18 look at the individual property.

19 Q: Well not to be argumentative, I think some of
20 the things you referenced were hypotheticals,
21 were they not? You could cut it out as a
22 separate parcel if you wanted to; someone could
23 live there if they wanted to. I think some of
24 those are hypotheticals, are they not?

25 A: If the -- concerning the capability of use of



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1 the property and that's one of the things you
2 have to look at as both an assessor and
3 appraiser. What is the highest and best use of
4 that property, you know, from a valuation
5 standpoint, but also what is its use, it's
6 capable to be used as from a legal standpoint.

7 Q: Okay. So and when I asked about the fence, you
8 called that a hypothetical ---

9 A: Uh-huh.

10 Q: --- but you're looking -- I'm looking at
11 possible uses of the -- for the property, it's
12 all ---

13 A: But it's not exclusive to the possible use.

14 Q: All right. So your -- is it your testimony
15 that access, sufficient access is anybody that
16 could walk up on that pool from any direction?
17 Is that the type of access ---

18 A: I'm not sure I ---

19 Q: --- you envision with your policy?

20 A: I'm not quite sure I follow that.

21 Q: Well, I think to -- it's been testified to by
22 the Shirers that to access the property, you
23 have to come down their driveway which is their
24 principal residence driveway. I think there
25 was some questions on cross about walking up to



1 it. I'm asking you if you feel that the access
2 you envision in your policy, walking access is
3 sufficient?

4 A: In this case I think you could simply drive up
5 to it.

6 Q: Across some other property; correct?

7 A: Depends on how you cut the property up if you
8 were to do so or even if you weren't to do so.

9 Q: We're back to hypotheticals.

10 A: If you had permission to do so.

11 Q: Okay. As it sits currently, as the property
12 currently sits and as you looked at it for tax
13 purposes, you feel like walking up access is
14 sufficient under your policy?

15 A: I think it would be if it was being used -- you
16 would probably -- if it was, say, rented, you
17 would probably have somebody driving up that
18 little road there.

19 Q: Is it rented?

20 A: Not to my knowledge.

21 Q: Okay. So as it sits, I'm asking that ---

22 A: As it sits, without Ms. Shirer's rule about
23 driving on the grass, someone would drive up to
24 it and get out and go in.

25 Q: Across some other property.



- 1 A: Sure.
- 2 Q: All right.
- 3 A: Happens all the time.
- 4 Q: And in your mind, that qualifies under your
5 policy to satisfy what -- part of the analysis
6 of whether it's a freestanding dwelling unit?
- 7 A: Sure.
- 8 Q: Okay.
- 9 A: The freestanding dwelling issue, too, can be if
10 you're dealing with a duplex, you can run into
11 issues with that. So you have to look at
12 something in the totality of what's actually
13 there.
- 14 Q: Okay. We're not dealing with a duplex.
- 15 A: Correct.
- 16 Q: Okay. All right. Then you look at utilities
17 and those things and whether they're separate
18 or shared with a primary structure; correct?
- 19 A: You can.
- 20 Q: Well, your policy says you do.
- 21 A: Uh-huh.
- 22 Q: Okay. And I just want to be clear. Nothing
23 the Shirers did, to your knowledge, from the
24 time the pool house was built until the time
25 Ms. Boyd went out and inspected it, prevented



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1 y'all from determining its use.

2 A: No, nothing would have prevented it that I'm
3 aware of, but also nothing would have triggered
4 it.

5 Q: But nothing would have prevented it.

6 A: Correct.

7 Q: Okay. And you go on-site every five years;
8 correct?

9 A: We try to, it does not always happen. We have
10 manpower issues just like everyone else.

11 Q: All right. But that's your -- your policy is
12 to try to go see each piece of property when
13 you do reassessment?

14 A: Every piece of improved property, we actually
15 will try ---

16 Q: I understand.

17 A: Yeah.

18 Q: All right. This is Calhoun County's policy;
19 correct?

20 A: Correct.

21 Q: Okay. You determined it, you came up with it
22 ---

23 A: Correct.

24 Q: --- and it's not -- I think it's great you have
25 a policy. I'm not disputing the theory of



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1 having a policy. You developed this policy in
2 an effort to clarify or to apply what the
3 Statute intends; correct?

4 A: Correct.

5 Q: Okay.

6 A: The Statute.

7 Q: And this is in Calhoun County, so Orangeburg or
8 Richland or Kershaw or some other county may
9 handle things differently.

10 A: They may.

11 Q: Okay. And you would agree that this pool house
12 does not sit on a separate parcel of land from
13 the main house; would you agree with that?

14 A: Yes.

15 Q: Okay. If you don't mind, hold on one second.

16 **MR. FELDER:** Your Honor, I don't have any -- nothing
17 further for Mr. Hamilton.

18 **THE COURT:** Redirect.

19 **MR. HAMILTON - REDIRECT EXAMINATION BY MR. RHODES:**

20 Q: Mr. Hamilton, just quickly. This issue of
21 access. Is the access important because -- is
22 it important as an element of being able -- of
23 the property being able or the structure being
24 capable of being independent of the main house
25 or is it important because, you know, you -- is



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1 the fact that you may have to drive up their
2 driveway, their main driveway, versus coming in
3 from the side road there, is that an important
4 factor in determining whether or not this, the
5 pool house could exist as a living unit
6 independent of the main house?

7 A: Not in and of itself all alone. It could be a
8 helpful indicator when you're trying to make
9 that determination as to the ease of access to
10 the structure. But it's common enough that you
11 have entire subdivisions that are built around
12 the concept of a flag lot where you'll have
13 road frontage for the initial lot, a separate
14 lot that shares a driveway with that one that's
15 behind it, and the one further behind that that
16 is connected by a commonly-owned driveway -- or
17 not a commonly-owned driveway, but an owned
18 driveway by the person in the rear, but
19 everyone else is also using it. It's been
20 actually a bit of an issue for a lot of
21 counties because of the traffic issues it
22 causes and the overdevelopment and certain
23 issues it causes as well. Some codes are
24 actually outlawing the flag lot concept due to
25 that and the conflicts it creates also amongst



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1 the individual owners. So it can be an
2 indicator of it, but it's not the end-all, be-
3 all.

4 Q: Is it at all important in your analysis or is
5 it determinative in your analysis that a second
6 dwelling is on the same piece of property as
7 the dwelling that has the 4 percent assessment?

8 A: Could you re-phrase the question?

9 Q: So it -- is that factor, is it determinate?
10 Does that just in and of itself, you have two
11 dwellings on a piece of property, does that
12 mean just simply because they're on the same
13 lot that the second dwelling wouldn't be taxed
14 at 6 percent?

15 A: With them being on the same property, it could
16 be either 6 percent or 4 percent depending on
17 whether it met the provisions of the legal
18 residence Statute. In this case, in our
19 opinion, it does not meet that provision
20 because they're already getting the legal
21 residence on the primary structure. The
22 secondary one, whether it be actually on its
23 own parcel all by itself and contiguous to the
24 main, you would run into issues with the
25 Statute where it says -- in the actual Statute



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1 on the same property if it's occupied by
2 immediate family members. So I'm not entirely
3 sure what you're trying ---

4 Q: So there are cases -- pardon my interruption.
5 There are cases under the law where a second
6 dwelling on a single piece of property would
7 receive, kind of, an extension of that 4
8 percent assessment; is that right?

9 A: Under very specific circumstances, yes.

10 Q: And this was not one of them; correct?

11 A: Correct.

12 MR. RHODES: Your Honor, I have no further
13 questions.

14 THE COURT: Okay. Mr. Felder, do you have anything
15 else?

16 MR. FELDER: Just real quick.

17 THE COURT: Okay.

18 MR. HAMILTON - RECROSS-EXAMINATION BY MR. FELDER:

19 Q: Going back to that last question. The policy,
20 Mr. Hamilton, why have basically ---

21 MR. FELDER: I don't need ---

22 COURT REPORTER: Which one?

23 MR. FELDER: The policy. This Exhibit.

24 Q: Respondent's 3.

25 (Respondent's Exhibit Number 3 was referenced at this



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1 time.)

2 Q: I'm confused by your last bit of testimony why
3 we have basically the last half of this policy
4 if it's a dwelling on the property and there's
5 two dwellings. I mean, according to the
6 question, does it meet one of the exceptions,
7 why do we have the rest of this policy?

8 A: Because you have to look at the totality of the
9 situation.

10 Q: Right. So there's other factors that come in
11 and not just exemptions under the law and that
12 type thing.

13 A: Correct.

14 Q: Okay.

15 A: If you're looking at legal residence, legal
16 residence can be extended to a second dwelling
17 in certain specific instances.

18 Q: And what are those specific instances that
19 you're -- you feel apply?

20 A: Well in this case, you would be looking at it
21 being occupied by a immediate family member
22 within certain degrees of consanguinity or
23 affinity which would then not be paying rent to
24 stay in the structure.

25 Q: But I'm just trying to figure out -- do these



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1 factors at the bottom half, you use that to
2 determine whether it's a dwelling at all.

3 A: You're talking about the what kind of --
4 installations?

5 Q: Yeah. I'm talking about can it sell ---

6 A: Sure.

7 Q: So that really goes into your initial analysis.

8 A: It is taken into consideration, again, in its
9 entirety.

10 Q: That's what I was trying to -- okay.

11 MR. RHODES: I've got one or two.

12 MR. FELDER: You can have the last word.

13 MR. HAMILTON - REDIRECT EXAMINATION BY MR. RHODES:

14 Q: Mr. Hamilton, I want to just call to your
15 attention one sentence here. So we've got all
16 of the stuff up top here and we use that to
17 determine if a structure meets the basic
18 qualifications for a dwelling; correct?

19 A: Correct.

20 Q: And then this one right here, to determine if
21 a structure is a separate dwelling also asks --
22 I think that -- it seems to me that that is in
23 reference to the sentence directly above where
24 you're talking about two dwellings on a single
25 piece of property; is that accurate?



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1 A: Correct.

2 Q: So this sentence, the to determine sentence, is
3 really used to, kind of, help you make a
4 determination as to whether or not the sentence
5 directly above applies; is that accurate?

6 A: Correct.

7 Q: Okay. And so there are, perhaps, examples
8 where a structure might have those very basic
9 elements of a dwelling, but then you look down
10 here and you say that, although it has a
11 kitchen and a bathroom, that perhaps it cannot
12 support itself as a freestanding dwelling unit
13 and in that case, you might say that it's not
14 a second dwelling on the property. If it
15 wasn't a second dwelling on the property, what
16 would it otherwise be?

17 A: An accessory structure.

18 Q: An access- -- okay. So it's conceivable to
19 have those most basic elements and be an
20 accessory structure once you kind of go through
21 and apply these factors.

22 A: Correct.

23 Q: Okay.

24 A: We've actually had cases where the shower unit
25 was located outside of the home on the side of



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1 the house.

2 Q: Okay.

3 A: It has technically a shower, but your -- it's
4 not really set up for year-round usage.

5 Q: Uh-huh. Okay. Thank you.

6 THE COURT: Okay. I have a question.

7 MR. HAMILTON - QUESTIONS BY THE COURT:

8 THE COURT: Mr. Hamilton, if you can't answer it or
9 you don't know, don't worry, but there's a tax
10 map number associated with this case.

11 A: Yes, sir.

12 THE COURT: And my question is, is that tax map
13 number for this residential area separate from
14 the farm?

15 A: No, it's all one.

16 THE COURT: So that tax map number includes the
17 farm?

18 A: Correct. It's 213 acres, I believe.

19 THE COURT: Right.

20 A: And that's the farm, both houses, the pool, the
21 various other accessory buildings and farm
22 buildings that are out there; all under the
23 same parcel.

24 THE COURT: Okay. So that's 1980000008.

25 A: Correct.



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1 THE COURT: And that is for everything?

2 A: Correct. Yep. And it is broken down within
3 the tax map number, or within the parcel, for
4 the different tax classifications underneath
5 that parcel so that a portion of it is an
6 agricultural use, a portion is that legal
7 residence use, a portion of it is that 6
8 percent other property.

9 THE COURT: That's why you're the Assessor and I'm
10 not. I appreciate your information. Thank
11 you. Does anybody else have anything further
12 for Mr. Hamilton?

13 MR. RHODES: No, Your Honor.

14 THE COURT: Mr. Hamilton, you may step down.

15 MR. HAMILTON: Thank you, sir.

16 THE COURT: All right. Anything further? Any
17 rebuttal witnesses or additional witnesses?

18 MR. RHODES: No, Your Honor.

19 MR. FELDER: No, Your Honor.

20 THE COURT: All right. Closing arguments, would you
21 like a minute or two to prepare?

22 MR. FELDER: If you don't mind.

23 THE COURT: All right.

24 MR. FELDER: It won't take but a second, Your Honor.
25 I'm ready to wrap up. I just want to talk to



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1 them real quick.

2 **THE COURT:** I understand. Let's take about 10
3 minutes and we will be back on the record about
4 1:20.

5 **MR. FELDER:** Okay. Thank you, Your Honor.

6 **MR. RHODES:** Thank you, Your Honor.

7 **THE COURT:** We'll be at ease until then.

8 (Off the record from 1:08 p.m. until 1:21 p.m.)

9 **THE COURT:** We're back on the record in Case Number
10 19-ALJ-17-0016. All right. Final closing
11 arguments.

12 **MR. FELDER:** Thank you, Your Honor. If it please
13 the Court.

14 **PETITIONER'S CLOSING ARGUMENT - MR. FELDER:**

15 **MR. FELDER:** We, you know, we've been here the last
16 few hours and you've heard everything. I'm
17 gonna try not to repeat myself too much and
18 keep it brief. I think you understand both
19 sides' positions and presentations. The -- we
20 just feel and I think the evidence and
21 testimony support it, that this pool house is,
22 you know, not a freestanding dwelling unit. It
23 is tied into, as an accessory structure to the
24 principal residence through the utilities, you
25 know, the access -- and we can play games of



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1 what access meant. You know, we're talking,
2 you know, legal access, utilities, water,
3 electricity, those type things is tied to the
4 primary structure support network and we just
5 don't feel that it qualifies or is a
6 freestanding, separate dwelling unit. Yes, it
7 has some -- the elements or some of the
8 elements that would meet this definition in the
9 policy of the Assessor and any building code,
10 but that isn't the end of the analysis. You
11 know, it's been there for 30-plus years, being
12 used for the same purpose, primary purposes,
13 you know, as it is as a pool house or overflow,
14 that type thing. And we just want the proper
15 designation of taxes for it and they want to be
16 refunded what they overpaid in '16 and '17, I
17 think is when they had a new bill. And, you
18 know, going back, just to clarify, going back
19 to the mid-'80s, this structure, this pool
20 house from the outside you could tell that it
21 wasn't just an open room. It had venting for
22 the kitchen, venting for the bathroom, it was
23 heating and air. It was what it was and the
24 fact that they don't -- the Assessor goes out
25 and re-assesses and doesn't change, you know,



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1 question it or examine it, that's not my
2 client's issue. They didn't prevent them from
3 doing anything. And we just want to be treated
4 how they were for the prior, you know, 30
5 years. And the fact that they made it bigger
6 to us doesn't mean that it changed the
7 character or it's use. I don't -- I just don't
8 -- that's what it sounds like, but I don't
9 think that's the end of it, end of the
10 discussion. And that's where we are. Thank
11 you for your time, Your Honor.

12 **THE COURT:** All right. Mr. Rhodes.

13 **RESPONDENT'S CLOSING ARGUMENT - MR. RHODES:**

14 **MR. RHODES:** Your Honor, the -- this idea that
15 simply because the pool house was -- received
16 extension of the 4 percent assessment of their
17 primary residence for 30 years and so we should
18 be locked in to that forevermore, just seems a
19 little bit absurd to me, to be honest with you.
20 This is a situation where, you know, perhaps if
21 they had come out in 2013 or 2010, the last re-
22 assessment, and they had -- the Assessor's
23 Office had discovered that the old pool house
24 had all of these elements and they re-
25 classified the structure, we might could have



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1 fought over whether or not that was an
2 appropriate thing to do. I still think it
3 would have been fine, but that would have been
4 a different argument. What we have here is a
5 20,000 square -- I'm sorry, a 2,000 square
6 foot, effectively, house. The size is really
7 immaterial except for the fact that the
8 expansion in the pool house is what led the
9 Assessor's Office to come out there in the
10 first place. And so what the 400 square foot
11 pool house may or may not have had is really
12 immaterial to where we are today. The
13 Assessor's Office came out there in 2014, 2015,
14 they looked at it, it met all of the
15 qualifications, it had all of the elements of
16 a dwelling. They applied their policy to
17 determine in, I think in an abundantly
18 reasonable fashion, that with all of those
19 elements and the way the property or the way
20 that the structure is situated on the property,
21 that it can exist independent of the main
22 building. And so they determined at that point
23 in time that was a dwelling. I think that was
24 an abundantly reasonable determination for them
25 to have made. Your Honor, this is, once again,



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1 the burden is on the taxpayer to prove that
2 they are entitled to this exemption and they
3 haven't met that burden in this case. They
4 haven't shown that they fall under any
5 particular exception under the Statute that
6 allows you to extend that 4 percent assessment
7 to other dwellings on the property. They
8 haven't met their burden and the 6 percent
9 assessment for this pool house should stand.
10 Thank you, Your Honor.

11 **THE COURT:** All right. Mr. Rhodes, thank you, sir.
12 Mr. Felder, thank you. And Mr. Hamilton, Ms.
13 Boyd, Mr. and Mrs. Shirer, thank you for coming
14 and bringing this interesting case to the
15 Court. I'm not looking forward to struggling
16 with this. It's a real issue that may have
17 some impact on other folks in other counties.
18 I appreciate the thoroughness with which you've
19 presented your cases today.

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

21 **MR. RHODES:** Thank you, Your Honor.

22 **THE COURT:** We're adjourned.

23 (There being nothing further, the administrative
24 hearing concluded at 1:27 p.m.)

25



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CERTIFICATE

This is to certify that the within hearing consisting of one hundred forty four (144) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on January 20, 2020.



Amanda J. Creel Godfrey
Court Reporter

Notary Public for South Carolina
My Commission Expires: August 17, 2021



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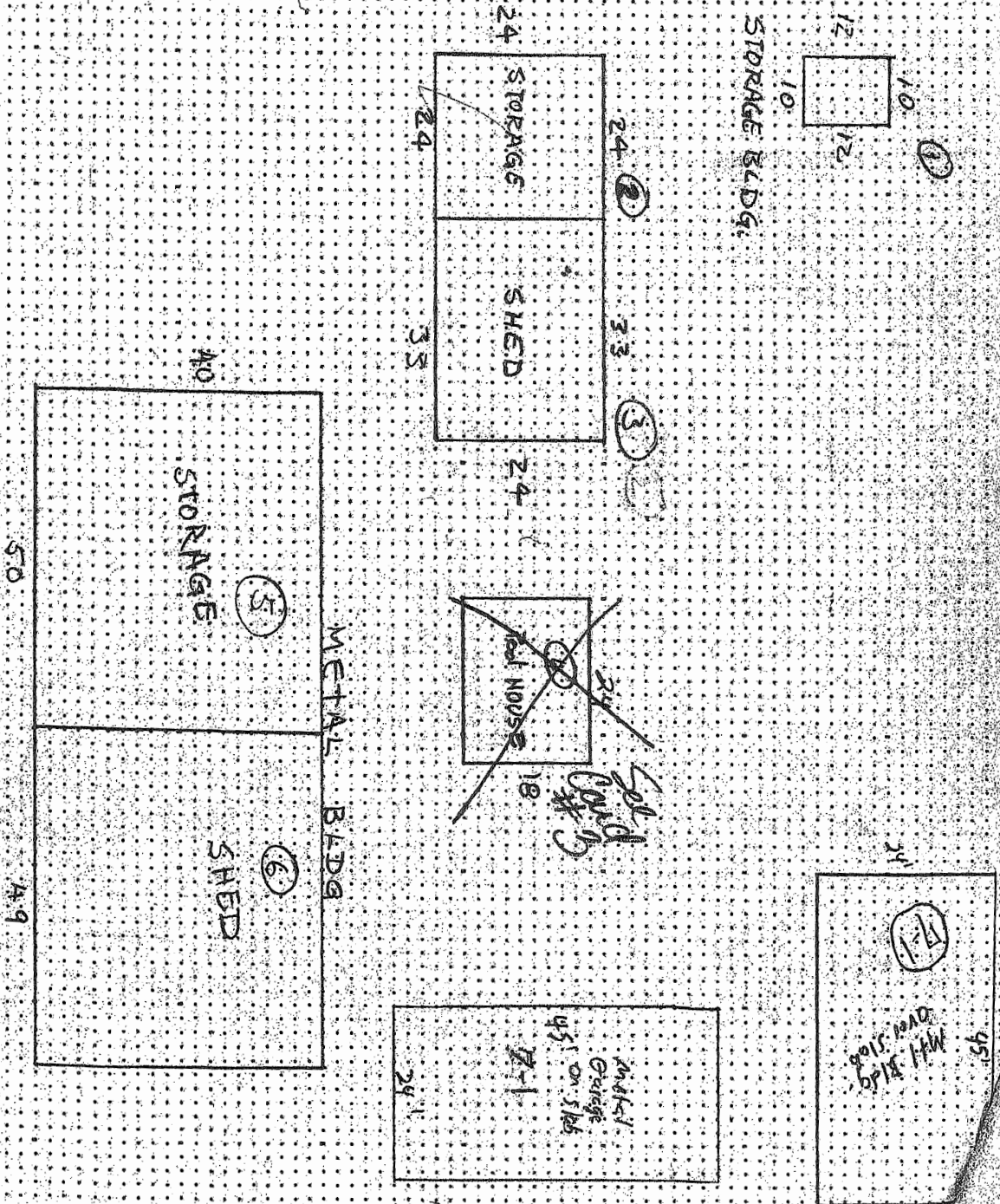
Calhoun County GIS



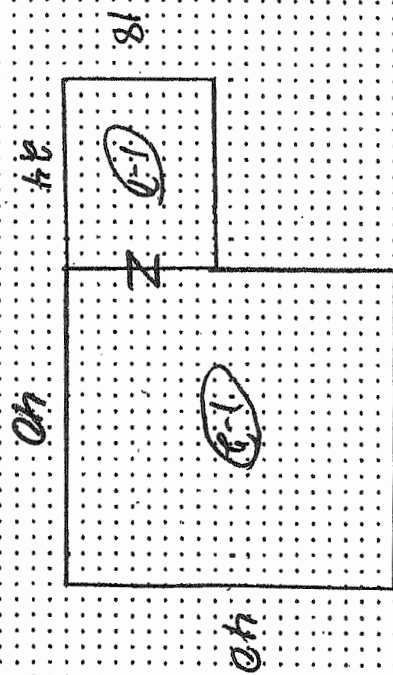
THIS MAP IS PREPARED FOR THE INVENTORY OF REAL PROPERTY FOUND WITHIN THIS JURISDICTION, AND IS COMPILED FROM RECORDED DEEDS, PLATS, AND OTHER PUBLIC RECORDS AND DATA. USERS OF THIS MAP ARE HEREBY NOTIFIED THAT THE AFOREMENTIONED PUBLIC PRIMARY INFORMATION SOURCES SHOULD BE CONSULTED FOR VERIFICATION OF THE INFORMATION CONTAINED ON THIS MAP. THE COUNTY AND MAPPING COMPANY ASSUME NO RESPONSIBILITY FOR THE INFORMATION CONTAINED ON THIS MAP.

*** THIS MAP IS NOT TO BE USED AS A PLAT ***





2



SOUTH CAROLINA

County CALHOUN Card 2 of 3 Cards

MISCELLANEOUS BUILDINGS AND IMPROVEMENTS

Map No. 198 Owners Name MICHAEL P. SHIRER

Bldg No.	Bldg and Impvt.s.	Size	Height	Age	Cond.	Floor	Walls	Roof	Heat	Area	Sq. ft. Rate	Replacement Cost	Dep.	Improvement Value	Remarks
1.	STORAGE BLDG	10X12								120					Pumphouse-don't value
2.	Storage (CCB)	24X24								576	2557	7620	5%	7239	
3.	Shed (CCB)	24X33								792					
4.	Pool House									432					
5.	STORAGE									2000					
6.	SHED									1960					
7.	Metal Bldg over slab									1,020					
8.															
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20.															
21.															

TOTAL

Remarks

SOUTH CAROLINA

County Calhoun Card 3 of 3 Cards

MISCELLANEOUS BUILDINGS AND IMPROVEMENTS

Tax Map No. <u>198-00-00-008</u>	Owners Name <u>Shirer Kristine M</u>
-------------------------------------	---

Bldg No.	Bldg and Impvt s.	Size	Height	Age	Cond.	Floor	Walls	Roof	Heat	Area	Sg. ft. Rate	Replacement Cost	Dep.	Improvement Value	Remarks
1 -	1. Pool House									932		2032	KA		
1 -	2. Addition			2014						1600		2032	KA		R1282-13
3.															
4.															
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TOTAL

Remarks _____

11

OFFICE OF THE ASSESSOR

Courthouse Annex • Suite 107
St. Matthews, SC 29135
(803) 874-3613 • Fax: (803) 874-1242

POLICY STATEMENT

October 21, 2003
(Revised 4/10/08)

To: All Assessor's Office Employees

Subject: Definition of a dwelling unit?

In making a basic determination SC Code of Laws Section 44-53-1320(5) states "*Dwelling*" means a structure, all or part of which is designed or used for human habitation, ... Further, the International Building Code states that in order to be considered a habitable building, a structure MUST have at least one full bath and a minimum of at least one habitable room of 120 sq. ft! Ceiling height must be at least 7'. A dwelling unit must have a kitchen area (of not less than 50 sq. ft. of gross floor area) and the kitchen must have a sink. A sewage disposal system is a must, be it sewer or private septic system.

What is a separate dwelling and can the structure qualify for legal residence? If a site has two separate dwellings on it only one can receive legal residence.

To determine if a structure is a separate dwelling also ask:

Can it support it self as a freestanding dwelling unit?

What kind of installations for sewer, water electricity, telephones, access etc. does it have? Are they separate or shared with another structure?

Is it tied to the existing primary structure's support network?

The definition is a major factor in determining whether it can qualify for legal residence. If it qualifies as a separate dwelling it would not get legal residence since the ALJ decision 01-ALJ-17-0173-CC states: "*In sum, whether an individual has a secondary residence in another state or simply next door, like Petitioners, the law holds that, unless and until abandoned, only that individual's primary residence can be his domicile. Therefore, the requirement in Section 12-43-220(c) that the claimed legal residence be the owner's domicile limits the 4% assessment for an owner-occupied dwelling to a single dwelling.*"



Steve Hamilton
Calhoun County Assessor

Calhoun County, South Carolina • Established 1908



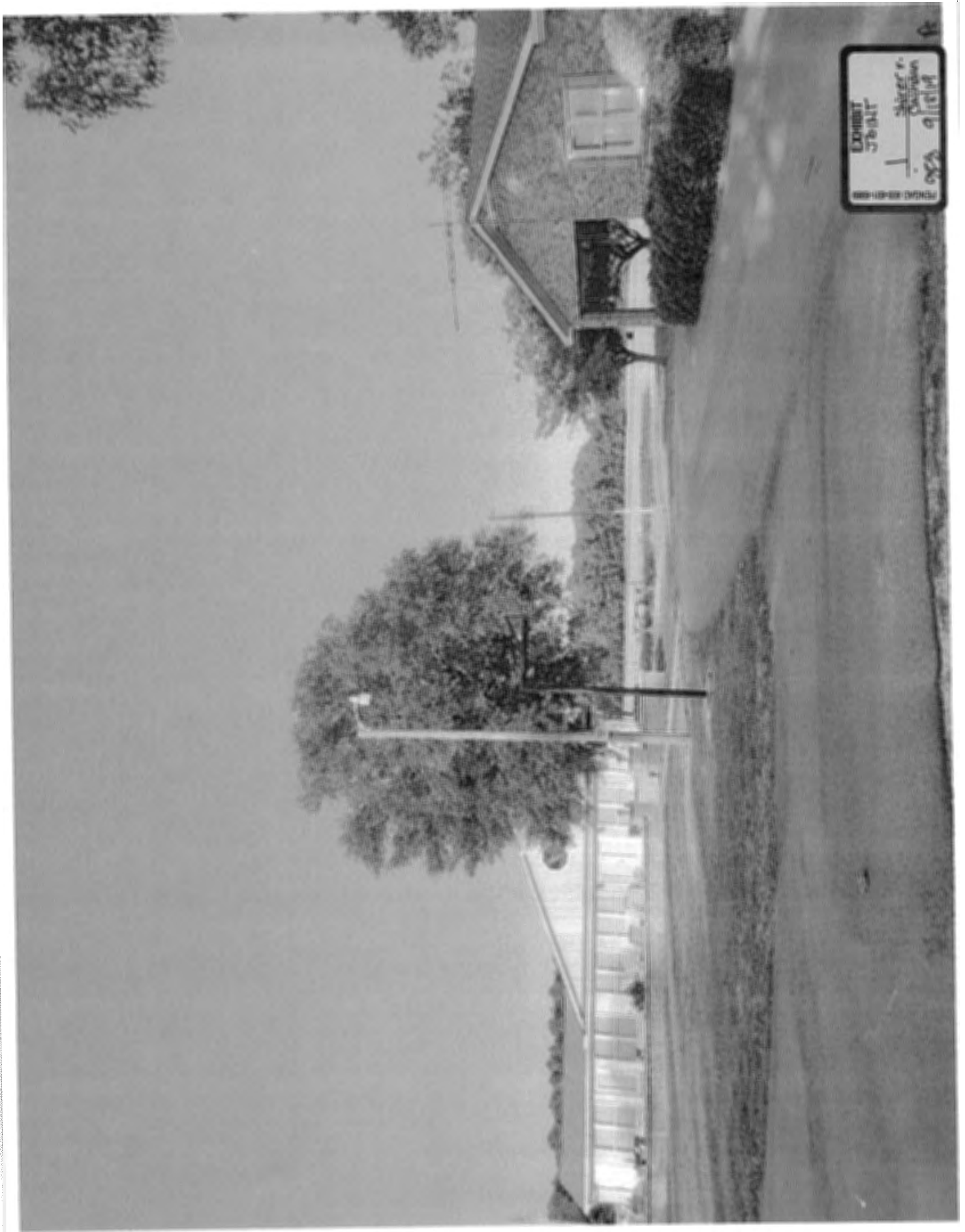
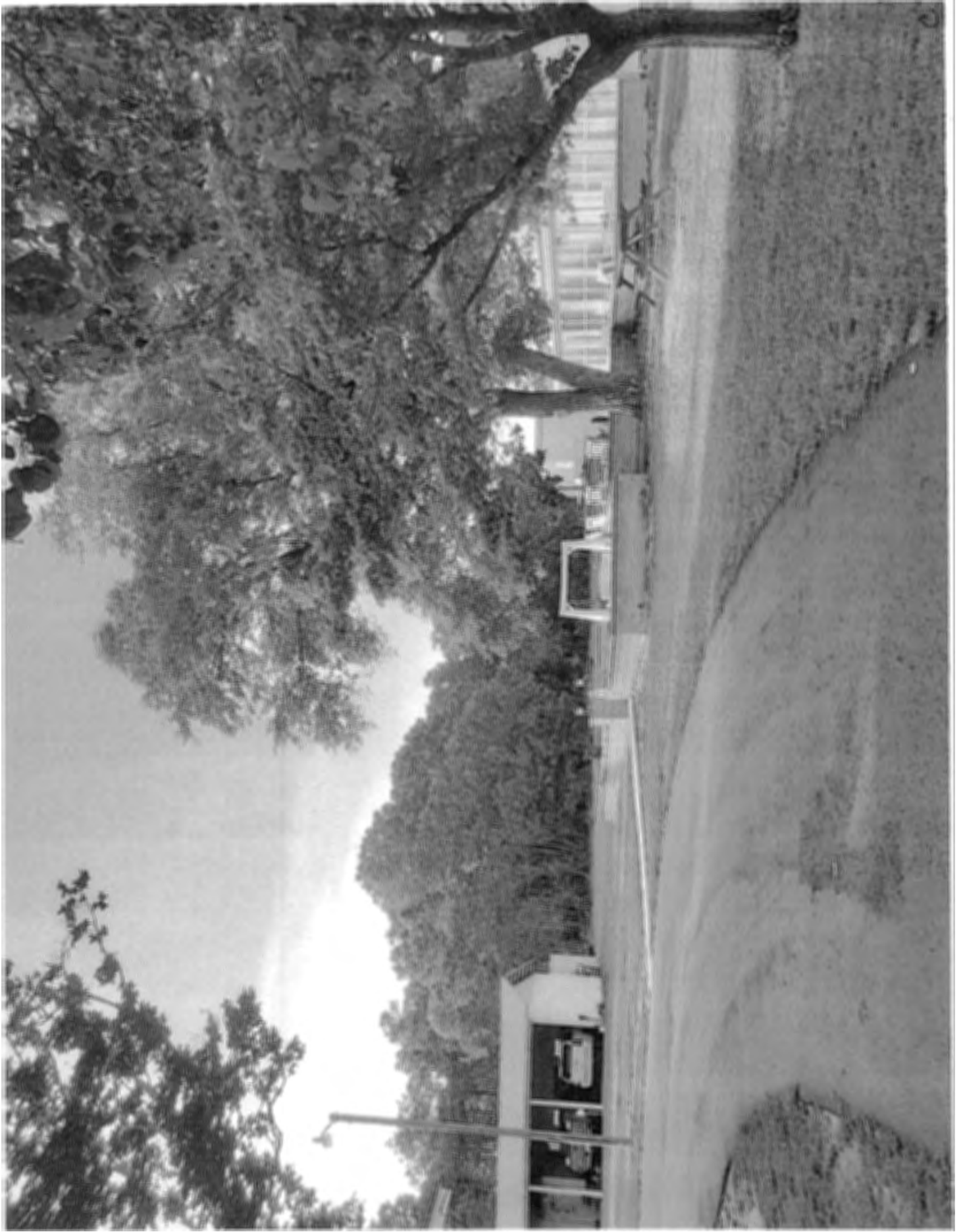


EXHIBIT
75-1117
1
Shirley E.
Cassidy
9/15/14
R



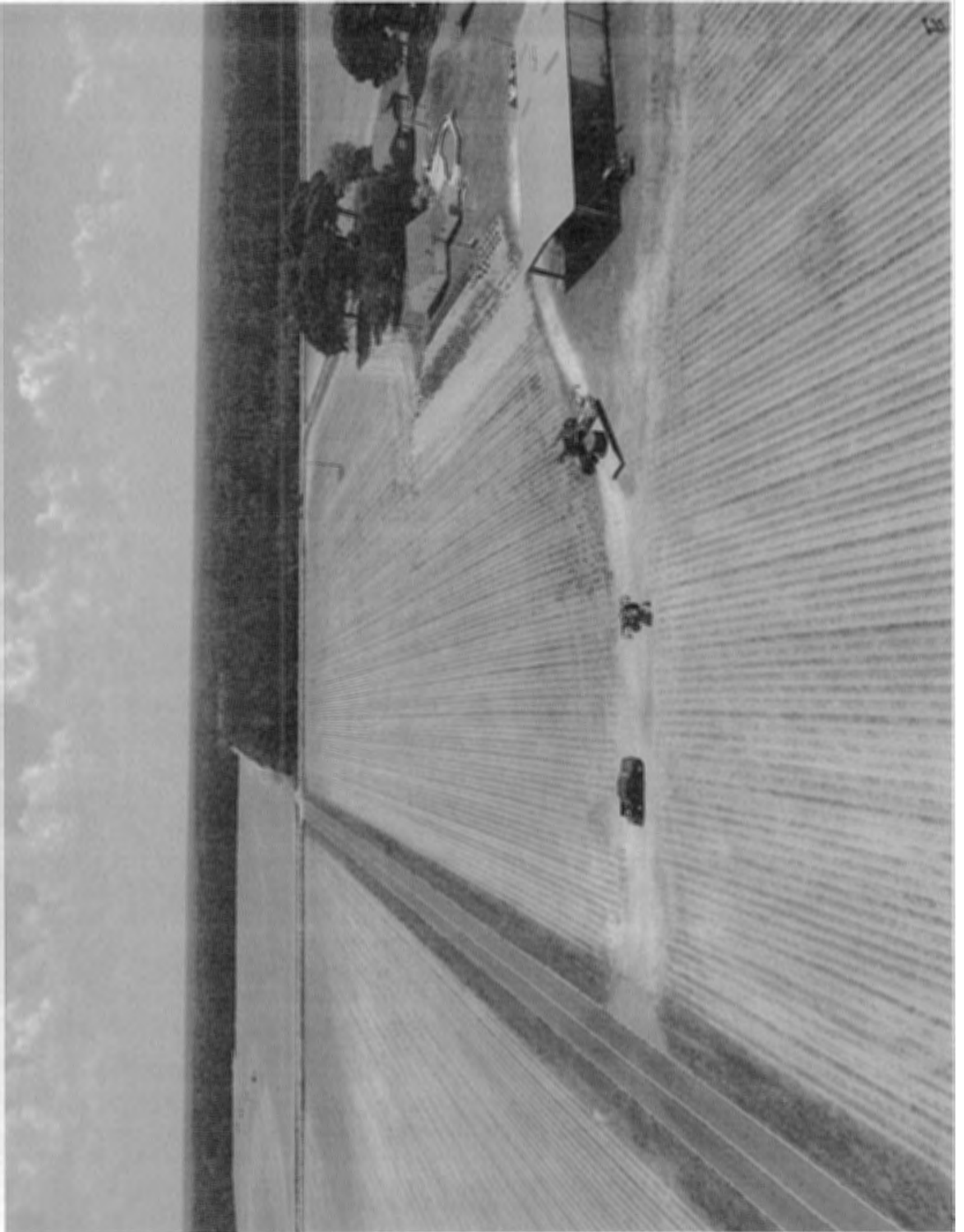
ROA 203



ROA 204



D



ROA 206





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ROA 210



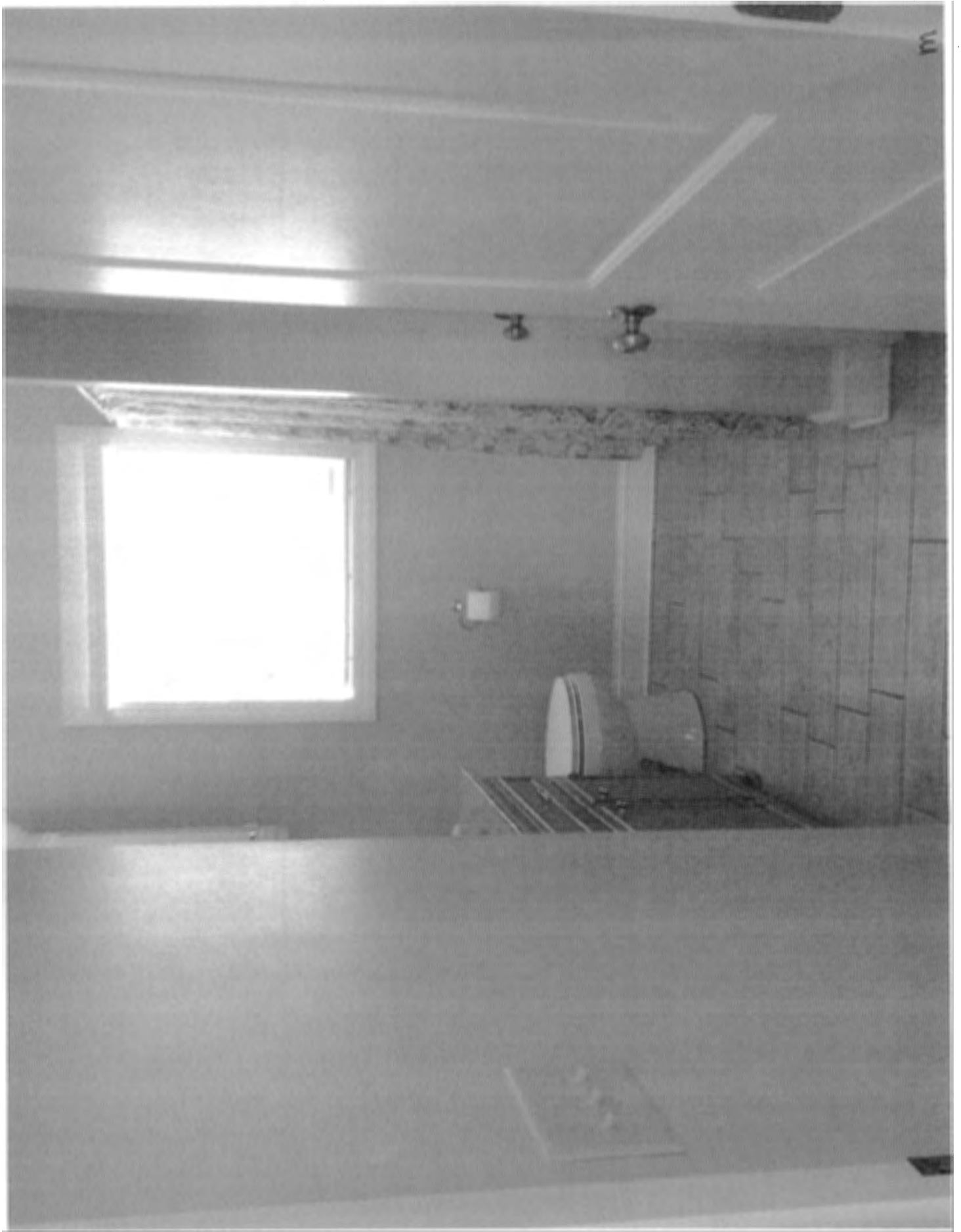
ROA 211



ROA 212



ROA 213



ROA 214

Original Pool House Full-Bathroom (Built in the early 1980's)

Shirer: TM#198-00-00-008



Z



Shower & Linen Closet (Original Pool House Bathroom)

EXEMPT

FILED

STATE OF SOUTH CAROLINA)
)
COUNTY OF CALHOUN)

GENERAL WARRANTY DEED

JUN 13 10 56 AM '00

J. KEITH SWANER
CLERK OF COURT

KNOW ALL MEN BY THESE PRESENTS, That Michael P. Shirer (Grantor) of the State aforesaid, for and in consideration of the sum of Five and No/100 (\$5.00) Dollars of that paid by Christiane M. Shirer ("Grantee"), in the State aforesaid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantee, her heirs, successors and assigns:

TRACT A - All that certain piece, parcel or tract of land, with any and all improvements thereon, situate, lying and being about four (4) miles west of the Town of Lone Star, Pine Grove Township, County of Calhoun, State of South Carolina, containing 254 acres, more or less, and having such shapes, metes, bounds, courses and distances as are more fully delineated on a plat of property surveyed for Jessie D. Shirer by Clifton P. Riley, RLS, dated May 24, 1952 and recorded July 30, 1986 in the office of the Clerk of Court for Calhoun County as Plat Number 2927. The property is bounded as follows: On the Northeast by lands now or formerly of Jones and of Ziegler; on the Southeast by lands now or formerly of Wadford; on the Southwest by lands now or formerly of Way; and on the Northwest by lands now or formerly of Monroe Shirer.

Being the same property conveyed to Michael P. Shirer by deed of Christine Z. Shirer dated July 8, 1997 and recorded in the office of the Clerk of Court for Calhoun County in Deed Book 112 at Page 196.

TMS # 180-00-00-004

TRACT B - All that certain piece, parcel or tract of land, situate, lying and being in Pine Grove Township, Calhoun County, South Carolina, on South Carolina Highway S-9-182 and South Carolina Highway No. 33, containing 75.7 acres, more or less, (3.2 acres thereof being located within the rights-of-way of the aforesaid highways); said parcel is shown and delineated on a plat by E. C. Haff, RLS, dated January 16, 1976, recorded in the office of the Clerk of Court for Calhoun County as Plat 920, which plat is incorporated herein by reference and made a part hereof. Being bounded on the North by lands now or formerly of Mrs. Joe E. Zeigler; East by South Carolina Highway S-9-182; Southeast by South Carolina Highway No. 33; and Southwest by lands now or formerly of D. D. Smith; Northeast, Southwest again and Northwest again by land now or formerly of O. K. Zeagler; Northwest and Southwest again by lands now or formerly of G. W. Zeagler.

Being the same property conveyed to Michael P. Shirer by deed of Jesse D. Shirer dated February 11, 1976 and recorded in the office of the Clerk of Court for Calhoun County as Deed No. 5573.

Also: All that certain piece, parcel or tract of land containing 58.92 acres, more or less, situate, lying and being in Pine Grove Township, Calhoun County, South Carolina, and bounded as follows: on the North by the Creston-Lone Star Public Road; East by a ditch

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separating this tract of land from lands now or formerly of A. T. Jackson; South by lands now or formerly of Riley; and West by a road separating this tract of land from lands now or formerly of J. H. Sandel.

Being a portion of the same property conveyed to Michael P. Shirer by deed of Jesse D. Shirer dated August 2, 1978 and recorded in the office of the Clerk of Court for Calhoun County as Deed No. 7188.

Also: All that certain piece, parcel or tract of land situate and being in Pine Grove Township, Calhoun County, South Carolina, and containing 83.6 acres (3.1 acres being within the right-of-way of S.C. Highway 82), and being bounded on the North by lands now or formerly of the estate of G. W. Zeagler; East by lands now or formerly of W. M. Shirer; South by S.C. Highway 33; and West by S.C. Highway S-9-182. Said parcel is more particularly shown and delineated as all the land west of S. C. Highway S-9-182 on a plat by E. C. Haff, January 16, 1976, recorded in the office of the Clerk of Court for Calhoun County as Plat 921.

Being a portion of the same property conveyed to Michael P. Shirer by deed of Jesse D. Shirer dated August 2, 1978 and recorded in the office of the Clerk of Court for Calhoun County as Deed No. 7188.

TMS # 198-00-00-008

Grantee's Address: Route 1, Box 591, Cameron, SC 29030

Subject to all covenants, easements and restrictive covenants of record and to all governmental statutes, ordinances, rules and regulations. 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 premises before mentioned unto the said Grantee, her heirs, successors and assigns forever, and he does hereby bind himself and his heirs, executors and administrators to warrant and forever defend all and singular the said premises unto the said Grantee, her heirs, successors and assigns, against him and his heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS his Hand and Seal this 28th day of May, 2000.

Charles C. White
Witness

Michael P. Shirer (SEAL)
MICHAEL P. SHIRER, Grantor

Vicki M. Mahoney
Witness by common express
5-19-07

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STATE OF SOUTH CAROLINA)
COUNTY OF CALHOUN)

ACKNOWLEDGEMENT

I, Vicki M. Whitehead, do hereby certify that Michael P. Shirer, Grantor, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this the 28 day of May, 2000.

Vicki M. Whitehead
Notary Public for South Carolina

My Commission Expires: 5-19-07

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STATE OF SOUTH CAROLINA)
COUNTY OF CALHOUN)

AFFIDAVIT FOR EXEMPT TRANSFERS

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

1. I have read the information on the back of this affidavit and I understand such information.
2. The property being transferred is:

Tract A: Located west of the Town of Lone Star, Pine Grove Township, containing 254 acres as shown on a plat prepared by Clifton P. Riley, RLS, dated May 24, 1952 and recorded in the office of the Clerk of Court of Calhoun County as Plat Number 2927, bearing Calhoun County Tax Map Number 180-00-00-004 and was transferred by Michael P. Shirer to Kristiane M. Shirer on 5-28-00.

Tract B: Consisting of three parcels of land located in Pine Grove Township, Calhoun County, containing 75.7 acres, 58.92 acres, and 83.6 acres, respectively, for a total of 218.22 acres, all three parcels of land bearing Calhoun County Tax Map Number 198-00-00-008 and were transferred by Michael P. Shirer to Kristiane M. Shirer on 5-28-00.

3. The deed is exempt from the deed recording fee because (See Information section of affidavit): the consideration paid is less than \$100.00 (South Carolina Code Section 12-24-40(1)).
4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: the Grantor.
5. I understand that a person required to furnish this affidavit who wilfully 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.

Michael P. Shirer
Michael P. Shirer, Grantor

SWORN to before me this 28

day of May, 2000.

William M. Whitehouse
Notary Public for South Carolina

My Commission Expires: 5-19-07

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INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same

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family. A "family trust" is a trust in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A "charitable entity" means an entity, which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);

- (10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
- (11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,
- (12) that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.

I hereby certify that the within Deed was filed for record in my office at Calhoun County, Georgia on the 15th day of June, 2022, and was immediately entered upon the proper indexes duly recorded as

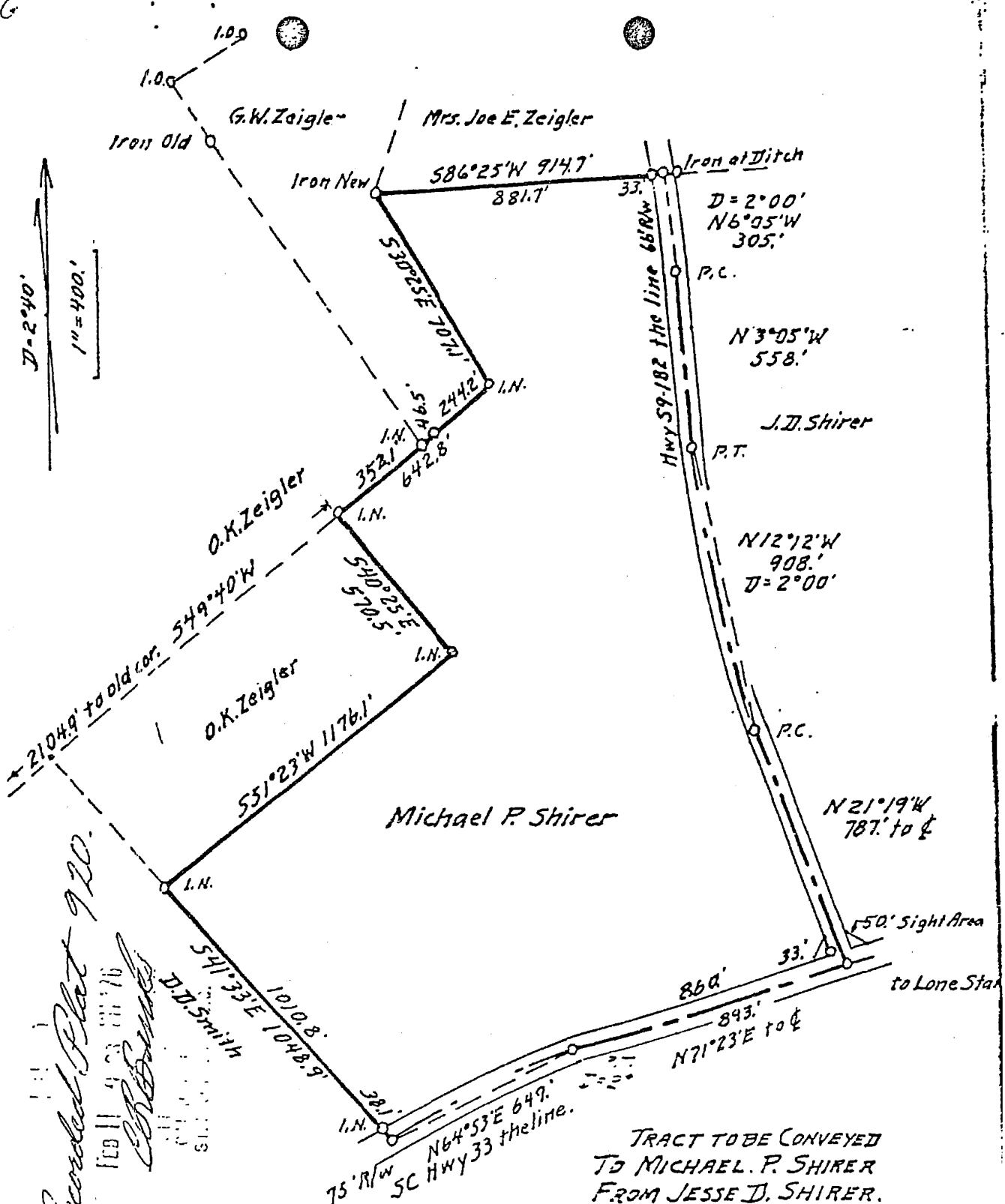
Deed Book 142 Page 246
[Signature]
CLERK OF COURT OF S. C. AND S.E.
FOR CALHOUN COUNTY, S. C.

The within instrument has been received this 15th day of June, 2022 at 2:00 O'Clock PM, in the Assessor's office. Tax map No. 180-00-00-001-198000-008
Assessor's Office-Calhoun County, S. C.
[Signature]

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT HAS BEEN THIS 15th DAY OF June, 2022 A.D. RECORDED IN BOOK 142 OF DEEDS, PAGE 246
[Signature]
AUDITOR FOR CALHOUN COUNTY

BOOK - 142 PAGE 246

G & G



Recorded Plat 920.
 J.D. Shirer
 D.D. Smith

Total Tract 75.7 Ac
 Less Hwy R/W - 3.2
 Net 72.5 Ac.

TRACT TO BE CONVEYED
 TO MICHAEL P. SHIRER
 FROM JESSE D. SHIRER.

PINE GROVE TWP.
 CALHOUN COUNTY, S.C.
 Surveyed Jan. 16, 1976
 RLS. 515

E.C. Hall

PLAT 920

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material. See Rule 210(g), SCACR.

ROBINSON GRAY STEPP & LAFFITTE, LLC

By: s/Benjamin R. Gooding
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Attorneys for Appellant Calhoun County Assessor

RECEIVED
Jun 26 2020
SC Court of Appeals

June 26, 2020