

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

---

Michael G. Nettles, Circuit Court Judge

---

Appellate Case No. 2019-001527

Case No. 2018-CP-21-02662

---

**RECEIVED**

**Jul 24 2020**

**SC Court of Appeals**

Sandy Hill Partners. LLC ..... Appellant,  
v.

Central Palmetto Asset Management, LLC and  
The County of Florence..... Respondents,

---

**FINAL BRIEF OF RESPONDENT**

---

Theodore von Keller #5718  
Crawford & von Keller, LLC  
P.O. Box 4216  
Columbia, SC 29240  
803-790-7444  
803-790-1277 Fax  
Email: ted@crawfordvk.com  
Attorney for Respondent

July 6, 2020

Columbia, South Carolina

TABLE OF CONTENTS

|                                                                                                          | <u>PAGE</u> |
|----------------------------------------------------------------------------------------------------------|-------------|
| TABLE OF CONTENTS.....                                                                                   | i           |
| TABLE OF CASES, STATUTES AND OTHER AUTHORITIES.....                                                      | ii          |
| STATEMENT OF ISSUE ON APPEAL.....                                                                        | 1           |
| STATEMENT OF THE CASE.....                                                                               | 2           |
| STATEMENT OF FACTS.....                                                                                  | 4           |
| ARGUMENT.....                                                                                            | 10          |
| I.    The undisputed facts support the granting of summary judgment as to the propriety of the tax sale. |             |
| 1. The county tax sale file reflects that statutory procedures were strictly followed.....               | 10          |
| CONCLUSION.....                                                                                          | 18          |

TABLE OF CASES, RULES AND OTHER AUTHORITIES

Cases

*Dibble v. Bryant*  
274 S.C. 481, 483, 265 S. E. 2d 673, 675 (1980).....Page 10

*Harris v. Anderson County Sheriff's Office*  
381 S.C. 357, 673 S. E. 2d 423 (S.C. 2009).....Page 9

*M&M Group Inc. v. Holmes,*  
379 S.C. 468, 666 S.E. 2d 262 (Ct. App 2008).....Page 13, 15

*Singleton v. Shearer*  
377 S.C. 185, 659 S. E. 2d 196 (S. C. App 2008).....;.....Page 9,13

*The Forfeited Land Commission of Bamberg County v. Eartha Dean Moody Beard, et al., Ralph Johnson, et al. v. Bank One, et al.*  
2018 S. C. App. Lexis 45 (2018) and Hawkins v. Bruno Yacht Sales, Inc., 353 S. C. 31, 577 S. E. 2d 202 (2002).....Page 10

*USAA Property and Cas. Insurance Co. v. Clegg*  
377 S.C. 643, 661 S. E. 2d 791 (S.C. 2008).....Page 9

STATUTES

S.C. Code Ann. § 12-51-40.....Page 10, 11,12, 13,14,16

S.C. Code Ann § 12-51-120.....Page 8

S.C. Code Ann § 31-17-320.....Page 4, 10,11, 12, 13, 14

S.C. Code Ann § 29-15-10.....Page 17

Rules

Rule 52 SCRCP.....Page 16

Rule 56, SCRCP.....Page 13,17

Rule 59, SCRCP .....Page 9

## **RESPONDENT'S STATEMENT OF ISSUES ON APPEAL**

1. Did the Trial Court err in granting summary judgment where there was no genuine issue of material fact that the Appellate failed to offer any evidence that the tax sale was invalid.
2. Did the Trial Court err in granting summary judgment as to the claim for lot rent where there was no genuine issue of material fact that Appellant failed to offer any evidence of an obligation to pay same?

## STATEMENT OF THE CASE

On October 3, 2016, four (4) mobile homes (“the subject mobile homes”) in Florence County (“Respondent County”) were sold in a tax sale (R.p. 4 ¶ 5). Respondent Central Palmetto Asset Management (“CPAM”) purchased the mobile homes as the high bidder at the tax sale. R. p. 4 ¶ 7). The next day, October 4, 2016, Sandy Hills Partners (“Appellant”) purchased the mobile home park and the subject mobile homes (R.p. 191-193). On February 28, 2017, the Appellant acquired title to the four subject mobile homes at issue (R.p. 199-202).

On October 5, 2018, Appellant commenced this action against CPAM and Respondent County seeking to set aside the above-referenced tax sale (R. p. 13-16). In the alternative, Appellant sought to collect for lot rent from Respondent for the time period while the mobile homes remained at Appellant’s mobile home park after the tax sale. (R. p. 13-16). CPAM filed an answer on December 18, 2018 and an Amended Answer and Counterclaim on January 18, 2019. (R. p.17-20; 24-29). In the Amended Answer and Counterclaim, Respondent CPAM denied the Appellant’s assertion that the tax sale was improper and should be set aside and asserted a counterclaim against Appellant asserting the tort of conversion and seeking an order of possession as to the subject mobile homes. (R.p. 24-29). Appellant filed a Reply to the Counterclaim. The Respondent County filed an Answer on January 11, 2019 (R. pp. 40-42).

The Court conducted a hearing on the motion for summary judgment on April 1, 2019. (R.p. 52-63). No decision was issued; instead, the Court issued a 90-day deadline to conduct discovery. (R. p. 62 ¶ 12). A second hearing was held by the Court on August 26, 2019 (R. p. 64-89). On September 4, 2019, the Court issued an order containing Findings of Facts and Conclusions of Law granting Respondent’s motion for summary judgment (R. p. 3-9). The Court dismissed Appellant’s claims, affirmed the tax sale and awarded possession of the mobile homes to CPAM. (R.p. 3-9). On September 5, 2019, Appellant filed a Motion to Reconsider pursuant to

Rule 59(e), SCRCP. (R.p. 49-51). On September 6, 2019, the Court denied the Motion to Reconsider without holding a hearing. (R.p. 10-12). Plaintiff filed a Notice of Appeal on September 6, 2019 (R. p. 219-220). Appellant filed a Motion to Stay Execution of the Order Granting Possession on September 5, 2019 and an Amended Motion to Stay Execution on September 18, 2019. By order dated October 7, 2019, an Order Staying Execution and ordering an Appeal Bond to Stay the Execution of the court order was filed. No bond was filed and the stay was lifted by the terms of the Order. This appeal followed. Appellant filed an initial brief on February 27, 2020.

## STATEMENT OF FACTS

On October 3, 2016, CPAM purchased four (4) mobile homes (“the subject mobile homes”) as the high bidder at a Florence County Tax sale (R. p. 4 ¶ 5). The four (4) mobile homes were located in Florence County, South Carolina, and are identified as Florence County map block parcel numbers 28000-43-352; 27000-42-956; 27000-43-062; and 25000-40-369. (R. p. 90; 117; 142; 165). Specifically, the four subject mobile homes were a 1995 Sunshine mobile home, a 1997 Bellcrest mobile home, a 2000 Fleetwood mobile home and a 1996 Oakwood mobile home. (R. p. 93; 120; 145; 168).

At the time of the tax sale, the records provided to Florence County, as required by S.C. Code Ann. §31-17-320, indicated that the subject mobile homes were owned by Mark M. Richardson with an address of 1514 Tommy Drive, Florence, SC. (R. p. 207-210).

The subject mobile homes were sold by Florence County due to the non-payment of 2015 property taxes. All required notices prior to the tax sale were mailed to the registered owner of the mobile homes, Mark M. Richardson, including a notice of delinquent taxes, a notice of levy on execution and a notice of the approaching end of the redemption period.

As set forth with specificity in Respondent County’s brief, all statutory procedures and notices as to all four mobile homes were properly performed. In regard to the 1997 Bellcrest mobile home, the Respondent County issued an Execution for failure to pay property taxes dated March 28, 2016. (R. p. 136). On April 12, 2016, the Respondent County mailed to Mark M. Richardson an Official Notice of Delinquent Tax at his address of 1514 Tommy Drive, Florence, South Carolina (R. p. 137). On May 20, 2016, a Notice of Levy was mailed to Mark M. Richardson by certified mail to 1514 Tommy Drive, Florence, South Carolina and signed for by him on June 3, 2016 (R. p. 138). The 1997 Bellcrest mobile home was posted with a Notice of Levy on July 13, 2016 by M. Davenport and A. Ivey. (R. p. 135). On September 21, 2016, the

1997 Bellcrest mobile home was advertised for sale for delinquent taxes in a newspaper of general circulation in Florence County. (R. p. 204). On September 28, 2016, the 1997 Bellcrest mobile home was advertised for sale for delinquent taxes in a newspaper of general circulation in Florence County (R. p. 206). On November 15, 2016, a Right of Redemption letter was sent to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina for the 1997 Bellcrest mobile home. On February 2, 2017, a Right of Redemption letter was mailed to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina for the 1997 Bellcrest mobile home (R. p. 133). An undated letter was sent to RMR Rental and Investment, LLC 3 at 1514 Tommy Drive, Florence, South Carolina, including a redemption notice. (R. p. 123). On May 8, 2017, a redemption letter was sent to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina (R. p. 131). On September 11, 2017, a last date of redemption letter was mailed certified to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina (R. p. 127). It was signed for on September 15 (R. p. 126). On September 11, 2017, a last date of redemption letter was sent to the Appellant by certified mail (R. p. 129). On September 14, 2017 someone on behalf of the Appellant signed for the letter (R. p. 128).

In regard to the 1996 Oakwood mobile home, the Respondent County issued an Execution for failure to pay property taxes dated March 28, 2016 (R. p. 187). On April 12, 2016, the Respondent County mailed to Mark M. Richardson an Official Notice of Delinquent Tax at his address of 1514 Tommy Drive, Florence, South Carolina (R. p. 188). On May 20, 2016, a Notice of Levy was mailed to Mark M. Richardson by certified mail to 1514 Tommy Drive, Florence, South Carolina and signed for by him on June 3, 2016 (R.p.183). The 1996 Oakwood mobile home was posted with a Notice of Levy on July 13, 2016 by M. Davenport and A. Ivey (R. p. 186). On September 21, 2016, the 1996 Oakwood mobile home was advertised for sale for

delinquent taxes in a newspaper of general circulation in Florence County (R. p. 204). On September 28, 2016, the 1996 Oakwood mobile home was advertised for sale for delinquent taxes in the newspaper of general circulation in Florence County (R. p. 206). On November 15, 2016, a Right of Redemption letter was sent to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina for the 1996 Oakwood mobile home. On February 2, 2017, a Right of Redemption letter was mailed to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina for the 1996 Oakwood mobile home. An undated letter was sent to RMR Rental and Investment, LLC 3 at 1514 Tommy Drive, Florence, South Carolina, including a redemption notice. On May 8, 2017, a redemption letter was sent to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina (R. p. 182). On September 11, 2017, a last date of redemption letter was mailed certified to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina (R. p. 178). It was signed for on September 15, 2017 (R. p. 177). On September 11, 2017, a last date of redemption letter was sent to the Appellant via certified mail (R. p. 180). On September 14, 2017 someone on behalf of the Appellant signed for the letter (R. p. 179).

In regard to the 2000 Fleetwood mobile home, the Respondent County, issued an Execution for failure to pay property taxes dated March 28, 2016 (R. p. 151). On April 12, 2016, the Respondent County mailed to Mark M. Richardson an Official Notice of Delinquent Tax at his address of 1514 Tommy Drive, Florence, South Carolina. On May 20, 2016, a Notice of Levy was mailed to Mark M. Richardson by certified mail to 1514 Tommy Drive, Florence, South Carolina and signed for by him on June 3, 2016. The 2000 Fleetwood mobile home was posted with a Notice of Levy on July 13, 2016 by M. Davenport and A. Ivey (R. p. 164). On September 21, 2016, the 2000 Fleetwood mobile home was advertised for sale for delinquent taxes in a newspaper of general circulation in Florence County (R. p. 204). On September 28,

2016, the 2000 Fleetwood mobile home was advertised for sale for delinquent taxes in a newspaper of general circulation in Florence County (R. p. 206). On November 15, 2016, a Right of Redemption letter was sent to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina for the 2000 Fleetwood mobile home (R. p. 162). On February 2, 2017, a Right of Redemption letter was mailed to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina for the 2000 Fleetwood mobile home (R. p. 161). An undated letter was sent to RMR Rental and Investment, LLC 3 at 1514 Tommy Drive, Florence, South Carolina, including a redemption notice (R. p. 160). On May 8, 2017, a redemption letter was sent to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina (R. p. 159). On September 11, 2017, a last date of redemption letter was mailed certified to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina (R. p. 155). It was signed for on September 15, 2017 (R. p. 154). On September 11, 2017, a last date of redemption letter was sent to the Appellant via certified mail (R. p. 157). On September 14, 2017, someone on behalf of the Appellant signed for the letter (R. p. 156).

In regard to the 1995 Sunshine mobile home, the Respondent County, issued an Execution for failure to pay property taxes dated March 28, 2016 (R. p. 113). On April 12, 2016, the Respondent County mailed to Mark M. Richardson an Official Notice of Delinquent Tax at his address of 1514 Tommy Drive, Florence, South Carolina (R. p. 114). On May 20, 2016, a Notice of Levy was mailed to Mark M. Richardson by certified mail to 1514 Tommy Drive, Florence, South Carolina and signed for by him on June 3, 2016 (R. p. 115). The 1995 Sunshine mobile home was posted with a Notice of Levy on July 13, 2016 by M. Davenport and A. Ivey (R. p. 112). On September 21, 2016, the 1995 Sunshine mobile home was advertised for sale for delinquent taxes in a newspaper of general circulation in Florence County. (R. p. 204). On

September 28, 2016, the 1995 Sunshine mobile home was advertised for sale for delinquent taxes in a newspaper of general circulation in Florence County (R. p. 206). On November 15, 2016, a Right of Redemption letter was sent to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina for the 1995 Sunshine mobile home (R. p. 110). On February 2, 2017, a Right of Redemption letter was mailed to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina for the 1995 Sunshine mobile home (R. p. 109). An undated letter was sent to RMR Rental and Investment, LLC 3 at 1514 Tommy Drive, Florence, South Carolina, including a redemption notice (R. p. 108). On May 8, 2017, a redemption letter was sent to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina (R. p. 107). On September 11, 2017, a last date of redemption letter was mailed certified to Mark M. Richardson at 1514 Tommy Drive, Florence, South Carolina (R. p. 103). It was signed for on September 15, 2017 (R. p. 102). On September 11, 2017, a last date of redemption letter was sent via certified mail, to the Appellant (R. p. 105). On September 14, 2017, someone on behalf of the Appellant signed for the letter (R. p. 104).

On September 11, 2017, the County conducted a search of the South Carolina Department of Motor Vehicles and discovered that Sandy Hill Partners, LLC had purchased the subject mobile homes after the tax sale (R. p. 92; 119; 144; 167). Apparently, the tax sale occurred the day prior to Appellant closing on their purchase of the mobile homes and mobile home park. (R. p. 4 ¶ 5). The County thereafter, provided both Appellant and Mark M. Richardson with notice of the approaching end of the redemption period pursuant to S.C. Code Ann. § 12-51-120. (R. p. 103, 105, 127, 129, 155, 157, 178, 180)

In November 2017, after the one-year redemption period had expired and the mobile homes were not redeemed, the County issued a bill of sale to CPAM (R. p. 97, 141, 149, 172).

On October 5, 2018, Appellant commenced this non-jury action seeking to set aside the tax sale, or, in the alternative, for payment of lot rent for the mobile homes purchased by CPAM that remained in the mobile home park after the sale (R. p. 13-16). On January 18, 2018, CPAM filed an Amended Answer and Counterclaim, and then a Motion for Summary Judgment on February 5, 2019. (R. p. 24-29, 43-45). The Court heard the motion for summary judgment on April 1, 2019, then issued a 90-day deadline to conduct discovery instead of issuing a decision at the time. (R. p. 52-63). The Court heard the motion for summary judgment on August 26, 2019, and, subsequently, granted the Respondent's motion for summary judgment on September 4, 2019. (R. p. 64-89, 3-9). Appellant filed a Motion to Reconsider pursuant to Rule 59(e), SCRCPP (R. p. 49-51). On September 6, 2019, the Court denied the motion in a Form 4 order. (R. p. 10-12). This appeal followed.

#### **STANDARD OF REVIEW**

Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Harris v. Anderson County Sheriff's Office*, 381 S.C. 357, 673 S. E. 2d 423 (S.C. 2009). When plain, palpable and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. *USAA Property and Cas. Insurance Co. v. Clegg*, 377 S.C. 643, 661 S. E. 2d 791 (S.C. 2008). Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings but, rather, must come forward with specific facts showing there is a genuine issue for trial. *Singleton v. Shearer*, 377 S.C. 185, 659 S. E. 2d 196 (S.C. App 2008).

## ARGUMENT

**I. The undisputed facts support the granting of summary judgment as to the propriety of the tax sale.**

**1. The county tax sale file reflects that statutory procedures were strictly followed.**

Tax sales of both real and personal property are controlled by S.C. Code Ann. § 12-51-40. Mobile homes, similar to motor vehicles, can also be sold at tax sales for delinquent property taxes. *Id.* Courts have consistently ruled that there must be “strict compliance with all the legal requirements surrounding tax sales.” *Dibble v. Bryant*, 274 S.C. 481, 483, 265 S. E. 2d 673, 675 (1980). In addition, South Carolina courts have ruled consistently that if there was a defective notice to the defaulting taxpayer, then strict compliance was not followed. See, *The Forfeited Land Commission of Bamberg County v. Eartha Dean Moody Beard, et al., Ralph Johnson, et al. v. Bank One, et al.* 2018 S. C. App. Lexis 45 (2018) and *Hawkins v. Bruno Yacht Sales, Inc.*, 353 S. C. 31, 577 S. E. 2d 202 (2002).

Mobile homes are considered personal property for tax purposes. The ability to move a mobile home at will causes a mobile home to be treated similarly to an automobile for property taxes. The owner of the mobile home is responsible for registering it in the county where it is placed and, like a car, if moved, the county must be notified. When the mobile home is moved to a different county, the owner must notify the new county and begin to pay property taxes there. The licensing county is required to obtain a copy of the certificate of title or an application for the certificate of title from the person applying for the license. See *S.C. Code Ann. § 31-17-320 (a)*. As with real property, mobile homes can also be sold at tax sales for delinquent property taxes. See *S. C. Code Ann. § 12-51-40 (2014)*.

S.C. Code Ann. § 31 – 17 – 320 provides in part as follows:

- (A) Within 15 days after... The purchase of a mobile home in the state... For dwelling purposes, the owner, rental agent, or person in possession shall obtain a license from the governing body of the county or its designated agent hereinafter referred to as the licensing agent in which such mobile home is located.
- (B) Before issuing a license for mobile home to be located in the county in the state, the licensing agent shall require from the person applying for the license either a copy of the certificate of title to the mobile home or a copy of the completed application for certificate of title submitted to the Department of Motor Vehicles. Upon satisfaction of all county licensing requirements, including payment of any licensing fee, the county licensing agent shall give the license applicant a certified copy of the application form, indicating that the licensing requirements have been met.

S.C. Code Ann. § 31-17-320 (2007) (emphasis added)

The standard by which the Respondent County's Treasurer must apply in tax sales is mapped in S.C. Code Ann. § 12-51-40, as amended. S.C. Code of Ann. § 12-51-40 as amended sets forth the procedure to be followed by the Treasurer in pertinent part as follows:

- After issuing an execution against the defaulting taxpayer, the Treasurer shall:
- a. On April 1<sup>st</sup> or as soon after that as practicable mail a Notice of Delinquent Property Taxes, Penalties, Assessments and Costs to the defaulting taxpayer and to a grantee of record of the property, whose value generated all or part of the tax. The Notice must be mailed to the best address available, which is either the address shown on the Deed conveying the property to him, the property address, or other corrected or forwarding address...
  - b. If the taxes remain unpaid after thirty (30) days from the date of mailing of the delinquent notice, or as soon thereafter as practicable, take exclusive possession of the property necessary to satisfy the payment of the taxes, assessments, penalties, and costs.... In the case of personal property, exclusive possession is taken by mailing the Notice of Delinquent Property Taxes, Assessments, Penalties, and Costs to the person at the address of the person shown on the tax receipt or to an address of which the officer has actual knowledge. .... The return receipt of the "certified mail" notice is equivalent to "levying by distress".
  - c. If the "certified mail" has been returned, take exclusive physical possession of the property against which the taxes, assessments, penalties, and costs were assessed by posting a notice at one or more conspicuous places on the premises...the posting of the notice is equivalent to levying by distress, seizing, and taking exclusive possession of it, or by taking exclusive of personality... Mobile Homes are considered to be personal property for the purposes of this section unless the owner gives written notice to the auditor of the Mobile Homes annexation to the land on which it is situated.
  - d. The property must be advertised for sale at public auction. The advertisement must be in a newspaper of general circulation within the county or

municipality, if applicable, and must be entitled "Delinquent Tax Sale". It must include the delinquent taxpayer's name and the description of the property, a reference to the county auditor's map book parcel number being sufficient for a description of realty. The advertising must be published for a week before the legal sales date for three (3) consecutive weeks for the sale of real property and two (2) consecutive weeks for the sale of personal property....

In the present case, the complete tax sale of Florence County regarding the four subject mobile homes was submitted as an exhibit to Respondent's Motion for Summary Judgment (R. p. 90-188). The records reflect that for each of the four subject mobile homes, only Mark M. Richardson, with an address of 1514 Tommy Drive, Florence, SC, registered the mobile homes in compliance with S.C. Code Ann. § 31-17-320 (R. p. 207-210). As set forth earlier in the Statement of Facts, the tax sale file of Florence County also reflects that all required notices under Section 12-51-40 regarding the October 3, 2016 tax sale were mailed to the record owner, Mark M. Richardson, at the record address provided by Mr. Richardson in completing the forms required by S.C. Code Ann. § 31-17-320(a), including but not limited to, the notice of delinquent taxes, the notice of levy on execution, and the notice of the approaching end of the redemption period.

Appellant misconstrues the statutory requirements by arguing "however, the evidence demonstrates of the homes were titled in the name of RMR as early as 2008" and asserts that the required tax sale notices should have been set to RMR. (R. p. 71-72 ¶ 24-25, 1-2 emphasis added). As set forth earlier, the Legislature specifically required owners of mobile homes to register the mobile homes with the county and made such registration the official designation of the owner/taxpayer and the official address for the owner for purposes of tax sale. Appellant seeks to impose upon the county an additional duty to examine SCDMV records. No such duty exists under South Carolina law and the applicable statutes and the county's actions in the present case strictly complied with the statute.

Appellant offered no evidence that RMR registered the subject mobile homes as required by S.C. Code Ann. § 31-17-320. To the contrary, the only evidence in the record is that the information given to the Florence County tax assessor (the licensing agent for the County) was that the owner of the four subject mobile homes was Mark M. Richardson with an address of 1514 Tommy Dr., Florence, SC (R. p. 207-210). As set forth in the Statement of Facts, all of the notices required by S.C. Code Ann. § 12-51-40 were mailed to the individual identified to the Respondent County as the owner of record.

Additionally, once the Respondent County learned of the post-tax sale transfer of the mobile home park it sent a Notice of Redemption to Appellant prior to the end of the redemption period, even though they were not required to do so (R. p. 112, 135, 164, 186). Though there was no statutory requirement for the County to send a notice to the Appellant, the County provided Appellant with notice that the property would be lost to the successful tax sale bidder if not redeemed. (R. p. 112, 135, 164, 186). Despite actual notice of the approaching end of the redemption period, Appellant failed to redeem (R. p. 112, 135, 164, 186).

Appellant offered no evidence to counter the facts as set forth in the Respondent County's tax sale file. It is elementary that once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the proponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings, but rather must come forward with specific facts showing there is a genuine issue for trial. *Singleton v. Shearer*, 377 S. C. 185, 659 S. E. 2d 196 (Ct. App. 2008). If he does not so respond, summary judgment, if appropriate shall be entered against him. Rule 56 SCRPC Summary judgment is completely appropriate when a properly supported motion set forth facts that remain undisputed or are contested in a deficient manner. *M&M Group Inc. v. Holmes*, 379 S. C. 468, 666 S. E. 2d

262 (Ct. App 2008). Here, Appellant failed to provide any evidence that Appellant complied with S.C. Code Ann. § 31-17-320 or that Respondent County failed to strictly comply with the statutory procedures of S.C. Code Ann. § 12-51-40. Summary judgment was therefore appropriate.

**a. The notice of delinquent taxes was sent timely.**

In regard to Appellant's specific allegations of impropriety in the tax sale, Appellant contends that the initial notice, the Notice of Delinquent Taxes was mailed on March 28, 2016 whereas S.C. Code Ann. § 12-51-40(a) prohibits notice before April 1, 2016. Appellant is mistaken.

Appellants argument that the initial delinquency notice was mailed improperly misconstrues the Record. The March 28, 2016 document in the Florence County tax file referred to by Appellant is the letter from the Tax Collector for Florence County to the Delinquent Tax Collector commanding the Delinquent Tax Collector to levy by distress and sale on the taxpayer's property (R. p. 113, 136, 187).

The actual notice of delinquent tax was properly and timely mailed (R. p. 114, 137, 188). As reflected in the Statement of Facts herein, the tax sale file of Florence County, submitted in support of the motion for summary judgment reflects that, in each of the four files for the subject mobile homes is a copy of the Official Notice of Delinquent Tax dated April 12, 2016 that was sent to Mark M. Richardson to the record address provided to the county. (R. p. 114, 137, 188). The notice of delinquent tax was properly and timely sent as required by statute and Appellant's assertion of error is mistaken.

**b. Appellant failed to offer any specific evidence that the Notice of Levy was not properly posted.**

As set forth earlier, attached to Respondent's Motion for Summary Judgment was the Florence County tax sale file for the four subject mobile homes. In each specific mobile home tax sale file was a separate Tax Information Sheet. The tax information sheet for each of the four mobile homes reflects the date the Notice of Levy was posted on July 13, 2016 by M. Davenport and A. Ivey, the two individuals who posted it. (R. p. 112, 135, 164, 186). Additionally, the tax sale file for each mobile home contained a copy of the Notice of Levy (R. p. 112, 135, 164, 186).

In opposition to this evidence, in Appellant's Memorandum opposing CPAM's Motion for Summary Judgment, Appellant attached the affidavit of Andrew Nissan. Mr. Nissan, the principal of Appellant, stated in his affidavit "I never observed any notices posted the park" (R. p. 46-48, 189, 191). The failure to observe the notices, however, is not sufficient evidence to counter the evidence introduced by Respondent in support of its motion for summary judgment. Mr. Nissan did not dispute that the notices were posted, but simply stated that he never observed them. Mr. Nissan's affidavit gives no facts as to how often he was present in the location of the posting, where he looked, how often he looked or if he looked at or near the time of posting. This affidavit was insufficient to create a disputed issue of fact. This affidavit is similar to the rejected affidavit of a purported expert medical witness in *David v. McLeod Reg'l Med. Center* where the Supreme Court held that an affidavit that did not set forth the standard of care that affiant alleged was breached, nor provide that affiant was familiar with the standard of care was insufficient to avoid summary judgment. *Id.*, S.C. 242, 626 S.E.2d 1(2006) ("Summary judgment is completely appropriate when a properly supported motion set forth facts that remain undisputed or are contested in a deficient manner"). (emphasis added). See also *M&M Group Inc. v. Holmes*, 379 S. C. 468, 666 S. E. 2d 262 (Ct. App 2008).

**c. The advertisement properly identified the subject mobile homes and exceeded statutory requirements.**

S.C. Code Ann. § 12 – 51 – 40(d) states in part as follows:

the property must be advertised for sale at public auction. The advertisement must be in a newspaper of general circulation within the county or municipality, if applicable, and must be entitled “delinquent tax sale” it must include the delinquent taxpayer’s name and a description of the property, a reference to the County orders map-block-parcel number being sufficient for description of realty”.

In the present case, the parcel numbers listed on each notice of sale corresponded with the mobile homes which were sold at the tax sale (R. p. 91, 118, 143, 166). The statute allows for a reference to the county’s auditor’s map-block-parcel number to be sufficient for a description, but the County went beyond that minimum threshold. The County included the year and make of the mobile homes. (R. p. 93, 120, 145, 168). With the reference to the county auditor’s map-block-parcel, along with a year and make of the mobile homes, the Respondent County provided sufficient information to determine which mobile home was for sale. The County went above and beyond what was required by statute to describe the property and strictly complied with the statute in supplying the Notice of Sale. Appellant’s argument that the Notice of Sale used an incorrect parcel number is mistaken. The map book and parcel numbers used for mobile homes does not describe real property but describes the four (4) subject mobile homes for record keeping purposes by the Respondent County (R. p. 93, 120, 145, 168). S.C. Code Ann. § 12-51-40 does not require the mobile home to be identified with a real property location.

**d. The trial court’s order granting summary judgment properly included Statement of Facts and Conclusions of Law.**

Appellant argues that the trial court found facts, which, under a summary judgment standard, it asserts, if it is not permitted to do. Appellant’s argument is misplaced. Rule 52 SCRPC states that in all actions tried upon the facts without a jury... the court shall find the facts specifically and state separately its conclusions of law thereon. SCRPC 52. While Rule 52

further states that findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 56, they are not prohibited.

**II. The undisputed facts support the grant of summary judgment regarding lot rent.**

In Appellant's complaint, as an alternative cause of action, Appellant sought rental fees from both the Respondent County and CPAM for keeping the mobile homes purchased at the tax sale by CPAM on the mobile home park after the tax sale, stating as follows:

"in the alternative, Central Palmetto Asset Management, LLC or the County of Florence has kept this property at Plaintiff's mobile home park for the last three years without paying rent. In the event the Defendants are the owners of the property, they owe Plaintiff rent plus interest in that the plaintiff has a perfected lien against the property" (R. p. 15-16 ¶ 10).

At no time however, did Appellant offer any evidence that it had ever demanded any rent to be paid for the use of the land or offer any evidence as to what an appropriate amount of rent was. Equally, Appellant offered no evidence that a contract or agreement to pay rent, either oral or written, existed between Appellant and Respondents.

Finally, as Appellant asserted an alleged perfected lien, it appears that Appellant was seeking to invoke a storage lien under the provisions of S.C. Code Ann. § 29-15-10. That statutory storage lien however requires specific procedures and notices which Appellant provided no evidence was complied with. The lower court properly granted summary judgment dismissing this alternative cause of action based on Appellant's failure to offer any evidence in support of its claim.

## CONCLUSION

The trial court correctly concluded there was no genuine issue of material fact and Respondent CPAM and was entitled to judgment as a matter of law affirming the tax sale and awarding possession of the four subject mobile homes to Appellant and the order should be affirmed.

Respectfully submitted by:

---

B. Lindsay Crawford, III,  
Theodore von Keller, SC Bar No.  
B. Lindsay Crawford, IV  
Christopher B. Lusk  
P.O. Box 4216  
Columbia, SC 29240  
(803) 764-7444  
Email: [ted@crawfordvk.com](mailto:ted@crawfordvk.com)  
Attorneys for Respondent

July 2, 2020

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**  
JUL 06 2020  
SC Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Appellate Case No. 2019-001527

Sandy Hill Partners, LLC

Appellant.

v.

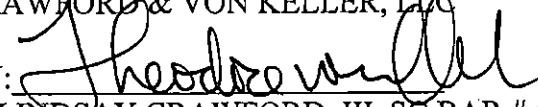
Central Palmetto Asset Management, LLC and  
Florence County

Respondents.

CERTIFICATE OF COUNSEL

The undersigned certified that this Final Brief complies with Rule 211(b), SCACR. December 3, 2019.

CRAWFORD & VON KELLER, LLC

BY:   
B. LINDSAY CRAWFORD, III SC BAR # 6510  
THEODORE VON KELLER SC BAR # 5718  
B. LINDSAY CRAWFORD, IV SC BAR # 101707  
CHRISTOPHER B. LUSK SC BAR # 103221  
CRAWFORD & VON KELLER, LLC  
POST OFFICE BOX 4216  
COLUMBIA, SOUTH CAROLINA 29240  
(803) 790-2626  
ATTORNEYS FOR RESPONDENT