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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

**MILTON G. KIMPSON, JUDGE
SOUTH CAROLINA ADMINISTRATIVE LAW COURT**

**Docket No. 18-ALJ-17-0198-CC
Appellate Case No: 2019-001800**

Habibunnisa Begum Respondent

v.

Florence County Tax Assessor Appellant

RECORD ON APPEAL

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Habibunnisa Begum,	)	Docket No. 18-ALJ-17-0198-CC
	)	
Petitioner,	)	
	)	
v.	)	
	)	FINAL ORDER AND DECISION
Florence County Assessor,	)	
	)	
Respondent.	)	
_____	)	

Appearances: Kevin M. Barth, Esquire, for Petitioner
D. Malloy McEachin, Jr., Esquire, for Respondent

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Request for a Contested Case Hearing filed by Habibunnisa Begum (Begum or Petitioner). Petitioner contests the decision of the Florence County Board of Assessment Appeals (Board), which upheld the Florence County Assessor's (Assessor or Respondent) determination that the property located at 441 Sterling Drive, Florence, South Carolina (Subject Property), did not qualify to be taxed at the assessment ratio of 4% of the property's fair market value (Special Assessment Ratio) accorded legal residences under subsection 12-43-220(c)(1) of the South Carolina Code (Supp. 2018)¹ for tax year 2017. The Court convened a hearing in this matter on February 20, 2019. Upon review of the testimony and evidence presented at that hearing, the Court reverses the Board's decision based on the conclusion that Begum was domiciled at the Subject Property during the applicable tax year and, therefore, qualified for the Special Assessment Ratio.

ISSUE PRESENTED

Whether, for tax year 2017, Petitioner is eligible for the Special Assessment Ratio under subsection 12-43-220(c)(1) for the Subject Property.

¹ Although the instant controversy pertains to tax year 2017, the current version of section 12-43-220 has not been amended since 2016; accordingly, it is proper to cite to the current version of this section throughout the Order. See *State v. Abraham*, 408 S.C. 589, 593 n.3, 759 S.E.2d 440, 442 n.3 (Ct. App. 2014) ("The code provision in effect at the time Abraham committed the offense in 2011 has not since been amended; thus, we cite to the current version of section 56-5-2930."). To the extent later versions of other statutes are cited herein, these statutes fall within this citation principle.

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FINDINGS OF FACT

Having carefully considered the credibility of the testimony, exhibits, and the evidence presented, taking into consideration the burden of persuasion of the parties, the Court makes the following findings of fact by a preponderance of the evidence:

1. On or about July 21, 2016, Begum purchased the Subject Property, a home she shares with her husband and two children.² She has a thirty-year mortgage on the property with South State Bank that will reach maturity in August 2046. The real property associated with the Subject Property is identified by Tax Map Number 9818-01-057. The Subject Property is the only home that Begum owns. In that regard, Begum explained that she purchased the Subject Property to permanently settle down at that location and has no intention to move elsewhere.

2. Begum is employed by the Marion County School District (District or Employer) at Marion High School in Marion, South Carolina, where she teaches biology, advanced placement biology, and chemistry in the school's Science, Technology, Engineering, and Mathematics (STEM) program. Begum also serves as the STEM department chair. The District has successively renewed her annual teaching contracts. As of the date of the hearing, Begum's employment contract with Marion High School ran through the 2018-2019 school year; she expects to receive her teaching contract for the following school year in April of 2019.

3. Begum is a citizen of India and has lived in South Carolina for thirteen years, initially residing in Marion County and, now, in Florence County. She came to the United States in 2005 on what she described as an "exchange visitor visa" to teach for the District. She further explained that the District was pleased with her work and sponsored her for an H-1B visa as a "highly skilled worker."³

4. Currently, Begum is legally present in the United States as the holder of an H-1B visa, that is, a nonimmigrant visa granted to certain individuals classified under 8 U.S.C.A. §

² The couple has two daughters. The older daughter is a student at Francis Marion University; the younger daughter is eight and was born in South Carolina. Begum testified that her daughter at Francis Marion University qualifies for "in-state" tuition. According to guidance published by the South Carolina Commission on Higher Education, among others, holders of H-1B visas living in South Carolina may qualify for in-state resident tuition at state schools. South Carolina Commission on Higher Education, *Determination of Rates of Tuition and Fees Approved Visa Classifications* (June 26, 2003), https://www.chc.sc.gov/CHE_Docs/StudentServices/Residency/Approved_Visa_Classifications.pdf. The in-state resident tuition benefit may also be extended to dependents of H-1B employees. *See id.* As such, this fact does not weigh in the Court's ultimate decision here.

³ Begum referred to the H-1B visa as a "work visa."

1101(a)(15)(H)(i)(b).⁴ Begum provided an approved “Petition for a Nonimmigrant Worker” (Form I-797B) from the United States Citizenship and Immigration Services (USCIS), which she designated as her “renewal visa.” On its face, Form I-797B states that Begum’s H-1B visa is “valid from 08/28/17 to 07/29/2020.” Despite the designated expiration date listed on the form, Begum maintained that her H-1B visa is renewed every three years, where renewal is contingent upon proof that she is still employed.

5. Begum desires to adjust her nonimmigrant status to that of a lawful permanent resident. To enable this pursuit, the District has sponsored Begum’s efforts to obtain a “Permanent Resident Card” (Green Card), which would allow her to live and work permanently in the United States. Begum described the Green Card process to consist of three-steps: (1) the first step was for her Employer to obtain a “labor certification” from the United States Department of Labor (DOL); (2) the second step involved her “highly skilled workers qualifications”; and (3) the third step concerns “family and citizenship status.”

6. Begum declared that her Green Card process remained ongoing, but that the first two steps of the three-step process she identified had been completed. Specifically, for the first step, she testified that the labor certification had been approved by the DOL because there is a “scarcity of science teachers in South Carolina.” As to the second step, she stated that she had received Form I-140 (I-140 Petition) approval as she has two Master’s degrees—a Master’s in science and a Master’s in education and leadership.⁵ Regarding the incomplete third step, Begum related that she is waiting for a “priority date.”⁶ Because of the steps already completed, Begum

⁴ The H-1B classification applies to an alien who is coming temporarily to the United States:

(1) To perform services in a specialty occupation . . . described in section 214(i)(1) of the Act [8 U.S.C. 1184(i)(1)], that meets the requirements of section 214(i)(2) of the Act [8 U.S.C. 1184(i)(2)], and for whom the Secretary of Labor has determined and certified to the Attorney General that the prospective employer has filed a labor condition application under section 212(n)(1) [8 U.S.C. 1182(n)(1)] of the Act;

8 C.F.R. § 214.2(h)(1)(ii)(B)(1) (West 2018). This type of visa has a temporal restriction that limits the nonimmigrant’s period of authorized admission in the United States to six years. *See* 8 U.S.C.A. § 1184(g)(4) (West 2019).

⁵ Although she testified that she had obtained a labor certification from the DOL and her I-40 Petition had been approved, Begum did not submit documentary evidence for either approval.

⁶ “The priority date is used to determine an immigrant’s place in the visa queue. When the priority date becomes available, or is ‘current,’ immigrants may be able to apply for adjustment of status and obtain lawful permanent resident status, if otherwise eligible.” U.S. Citizenship and Immigration Services, *Visa*

insisted that she had “applied for her Green Card” and that the process remained pending.⁷ Although Begum did not specify when the specific items identified in the three-step process were completed, she maintained that her Green Card application had been pending since December 2012.

7. Begum insisted that the continuation of her H-1B visa and the Green Card process go “hand-in-hand.” For instance, Begum maintained that for the Green Card process to advance, the continuation of her H-1B visa must also go forward.

8. At no point did Begum sign any documents indicating that she would not apply for citizenship in the United States and testified that she intends to become a citizen of the United States when eligible. However, she has not renounced her Indian citizenship at this time.

9. Begum has a South Carolina Driver’s License.⁸ She pays income taxes as a South Carolina resident and also pays South Carolina real and personal property taxes. Begum also has a Social Security Card indicating that she is a temporary worker in the United States.

10. On or about March 7, 2017, Begum applied to obtain the Special Assessment Ratio for the Subject Property. The Assessor subsequently denied her application on the basis that “[t]he owners have to be US citizens in order to be approved.”

11. Begum requested an appeals conference with the Assessor, which was held on October 4, 2017. By letter dated November 2, 2017, the Assessor again denied the Special Assessment Ratio for the Subject Property. In contrast to the initial denial, the Assessor reached its conclusion by determining that “[a]liens in the United States illegally or legally on a non-

Availability and Priority Dates, Official Website of the Department of Homeland Security, <https://www.uscis.gov/greencard/visa-availability-priority-dates#Acceptance> (last updated Nov. 5, 2015).

⁷ Apart from referencing the three-steps identified earlier and explaining her status regarding each of those steps, Begum did not offer additional testimony on what efforts either she, or the Employer on her behalf, undertook to apply for a Green Card. To be eligible to receive a Green Card, Begum must file a Form I-485, Application to Register Permanent Residence or Adjust Status (Form I-485). There is no evidence that Begum has filed Form I-485. As will be explained below, however, because Begum is still waiting for a “priority date” or a visa to become available to her, she is not yet able to apply for a Green Card using Form I-485. See 8 U.S.C.A. § 1255(a)(3) (West 2019); *Musunuru v. Lynch*, 831 F.3d 880, 883 (7th Cir. 2016) (“The worker may not file his I-485 application until a visa is immediately available.”) (citation omitted); *Mantena v. Johnson*, 809 F.3d 721, 725 (2d Cir. 2015) (“This final step [submitting an I-485 application] cannot take place until a permanent residency visa is available for the immigrant.”) (citation omitted).

⁸ The Court notes, however, that the driver’s license Begum provided during the hearing was issued on July 19, 2017 and expired on July 19, 2018. Begum testified that her driver’s license is successively renewed on a one year basis as long as she continues to be employed.

immigrant or temporary visa cannot form the requisite intent to remain in the United States permanently and therefore, do not qualify for the 4% legal residence assessment ratio.”

12. Begum appealed the Assessor’s denial to the Board. By letter dated May 17, 2018, the Board again denied her application for the Special Assessment Ratio for the Subject Property. Thereafter, Begum filed a Request for Contested Case Hearing with this Court on June 4, 2018.

CONCLUSIONS OF LAW/DISCUSSION

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

The Court has jurisdiction over this matter pursuant to S.C. Code Ann. §§ 12-60-2540(A) (2014) and 1-23-600 (Supp. 2018). When, as here, a property tax assessment matter reaches the ALC for a contested case hearing, the Court serves as the finder of fact and conducts a *de novo* review. *See, e.g., Reliance Ins. Co. v. Smith*, 327 S.C. 528, 534, 489 S.E.2d 674, 677 (Ct. App. 1997) (“[A]lthough a case involving a property tax assessment reaches the AL[C] in the posture of an appeal, the AL[C] is not sitting in an appellate capacity and is not restricted to a review of the decision below. Instead, the proceeding before the AL[C] is in the nature of a *de novo* hearing.”) (citation omitted). As the trier of fact, the weight and credibility assigned to evidence presented at the hearing of a matter are within the province of the Court. *See S.C. Cable Television Ass’n v. S. Bell Tel. & Tel. Co.*, 308 S.C. 216, 222, 417 S.E.2d 586, 589 (1992) (citation omitted); *Doe v. Doe*, 324 S.C. 492, 502, 478 S.E.2d 854, 859 (Ct. App. 1996).

The applicable standard of proof in this matter is by a preponderance of the evidence. *See* S.C. Code Ann. § 1-23-600(A)(5) (Supp. 2018) (“Unless otherwise provided by statute, the standard of proof in a contested case is by a preponderance of the evidence.”); *Anonymous v. State Bd. of Med. Exam’rs*, 329 S.C. 371, 378, 496 S.E.2d 17, 20 (1998). “A preponderance of the evidence is evidence which convinces the fact finder as to its truth.” *Pascoe v. Wilson*, 416 S.C. 628, 640, 788 S.E.2d 686, 693 (2016) (citing *Gorecki v. Gorecki*, 387 S.C. 626, 633, 693 S.E.2d 419, 422 (Ct. App. 2010)). The burden of proof is on the party challenging the Board’s decision. *See Cloyd v. Mabry*, 295 S.C. 86, 88, 367 S.E.2d 171, 173 (Ct. App. 1988) (“A taxpayer contesting an assessment has the burden of showing that the valuation of the taxing authority is incorrect.”) (citation omitted). In the case *sub judice*, Begum, as the petitioner requesting the contested hearing, has the burden of proving eligibility for the Special Assessment Ratio for the Subject Property.

When interpreting tax statutes, the usual rules of statutory construction apply. *E.g.*, *Greenville Baptist Ass'n v. Greenville Cty. Treasurer*, 281 S.C. 325, 328, 315 S.E.2d 163, 165 (Ct. App. 1984) (citing *Meredith v. Elliott*, 247 S.C. 335, 346, 147 S.E.2d 244, 249 (1966)). It is elementary that “[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” *Alltel Commc’n Inc. v. S.C. Dep’t of Revenue*, 399 S.C. 313, 320, 731 S.E.2d 869, 873 (2012) (quotation omitted). To that end, “[w]hat a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature.” *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) (quoting Norman J. Singer, *Sutherland Statutory Construction* § 46.03 at 94 (5th ed. 1992)). When interpreting statutory language, a “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.” *S.C. State Ports Auth. v. Jasper Cty.*, 368 S.C. 388, 398, 629 S.E.2d 624, 629 (2006) (citation omitted). “Under the plain meaning rule, it is not the court’s place to change the meaning of a clear and unambiguous statute.” *Bessinger v. R-N-M Builders & Assocs., LLC*, 421 S.C. 349, 358, 806 S.E.2d 731, 735 (Ct. App. 2017) (quoting *Hodges*, 341 S.C. at 85, 533 S.E.2d at 581). Rather, “[w]here the statute’s language is plain, unambiguous, and conveys a clear, definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.” *State v. Jacobs*, 393 S.C. 584, 587, 713 S.E.2d 621, 622 (2011) (quoting *Hodges*, 341 S.C. at 85, 533 S.E.2d at 581). A court will look “beyond a statute’s plain language only when applying the words literally would lead to a result so patently absurd that the General Assembly could not have intended it.” *S.C. Dep’t of Soc. Servs. v. Boulware*, 422 S.C. 1, 8, 809 S.E.2d 223, 226 (2018) (citing *Cabiness v. Town of James Island*, 393 S.C. 176, 192, 712 S.E.2d 416, 425 (2011)).

“When faced with an undefined statutory term, [courts] must interpret the term in accord with its usual and customary meaning.” *Branch v. City of Myrtle Beach*, 340 S.C. 405, 409–10, 532 S.E.2d 289, 292 (2000) (citation omitted); *see also Santee Cooper Resort v. S.C. Pub. Serv. Comm’n*, 298 S.C. 179, 184, 379 S.E.2d 119, 122 (1989) (“Words used in a statute should be taken in their ordinary and popular significance unless there is something in the statute requiring a different interpretation.”) (citation omitted). Courts should consider not merely the language of the particular clause being construed, but the undefined word and its meaning in conjunction with the whole purpose of the statute and the policy of the law. *Whitner v. State*, 328 S.C. 1, 6, 492 S.E.2d

777, 779 (1997); *see also* *S. Mut. Church Ins. Co. v. S.C. Windstorm & Hail Underwriting Ass'n*, 306 S.C. 339, 342, 412 S.E.2d 377, 379 (1991) (“[T]he meaning of particular terms in a statute may be ascertained by reference to words associated with them in the statute.”) (citing 73 Am. Jur. 2d *Statutes* § 213 (1974)).

In conjunction with these rules of statutory construction, the Court must remain mindful that the legal residence classification in subsection 12-43-220(c) has been interpreted as a tax exemption statute and should, thus, be strictly construed against the taxpayer. *See CFRE, LLC v. Greenville Cty. Assessor*, 395 S.C. 67, 716 S.E.2d 877 (2011); *see also* *TNS Mills, Inc. v. S.C. Dep't of Revenue*, 331 S.C. 611, 618, 503 S.E.2d 471, 475 (1998) (“The burden is on claimants to prove their rights to an exemption by bringing themselves clearly within the conditions imposed by the statute.”) (citation omitted). Notwithstanding, “[t]his rule of strict construction simply means that constitutional and statutory language will not be strained or liberally construed in the taxpayer’s favor. It does not mean that [courts] will search for an interpretation in [tax collector’s] favor where the plain and unambiguous language leaves no room for construction.” *Se. Kusan, Inc. v. S.C. Tax Comm’n*, 276 S.C. 487, 489, 280 S.E.2d 57, 58 (1981).

I. Eligibility for the Special Assessment Ratio.

Resolution of this matter centers upon application of section 12-43-220 of the South Carolina Code (2014 & Supp. 2018), which initially states: “Except as otherwise provided, the ratio of assessment to value of property in each class shall be equal and uniform throughout the State. All property presently subject to ad valorem taxation shall be classified and assessed as [provided in this section].” Against this background, when a property is classified as a legal residence, it receives a special assessment ratio of 4% of the fair market value of the property rather than the default 6% ratio. *See id.* § 12-43-220(c)(1). This classification is explained as:

The legal residence and not more than five acres contiguous thereto, when owned totally . . . in fee . . . and occupied by the owner of the interest . . . are taxed on an assessment equal to four percent of the fair market value of the property. . . . [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. (emphasis added). To fall within the ambit of the legal residence classification, certain requirements must be met:

(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. . . .

(ii) This item does not apply unless the owner of the property or the owner's agent applies for the four percent assessment ratio before the first penalty date for the payment of taxes for the tax year for which the owner first claims eligibility for this assessment ratio. In the application the owner or his agent shall provide all information required in the application, and shall certify to the following statement:

"Under penalty of perjury[,] I certify that:

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

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

Id. § 12-43-220(c)(2)(i)-(2)(ii) (2014 & Supp. 2018) (emphasis added).⁹

There is no dispute that Begum owned and occupied the Subject Property during tax year 2017. Instead, the sole controversy is whether Begum can establish that the Subject Property was her legal residence and domicile for this period. The terms "legal residence" and "domicile" are not defined for purposes of section 12-43-220; however, it is well-established that these terms are equivalent in substance. *See, e.g., Gasque v. Gasque*, 246 S.C. 423, 426, 143 S.E.2d 811, 812 (1965) (construing statutory residence requirement as equivalent in substance to domicile); *Phillips v. S.C. Tax Comm'n*, 195 S.C. 472, 12 S.E.2d 13, 16 (1940) (recognizing that "[t]he phrase 'legal residence' is sometimes used as the equivalent of domicile") (quotation omitted); *Estate of Nicholson ex rel. Nicholson v. S.C. Dep't of Health & Human Servs.*, 377 S.C. 590, 597, 660 S.E.2d 303, 306 (Ct. App. 2008) (noting that a person's "legal residence" is often determined by his or her domicile). In fact, the regulatory definition for "legal residence" specifically references an individual's domicile: "For property tax purposes the term 'Legal Residence' shall mean the

⁹ In addition to the application and its accompanying certification, certain items provided by the applicant assist the Assessor in determining whether the applicant is domiciled at the property in question. These items include, but are not limited to:

- (A) a copy of the owner-occupant's most recently filed South Carolina individual tax return;
- (B) copies of South Carolina motor vehicle registrations for all motor vehicles registered in the name of the owner-occupant;
- (C) other proof required by the assessor necessary to determine eligibility for the assessment ratio allowed by this item.

S.C. Code Ann. § 12-43-220(c)(2)(iv)(A)-(C) (2014 & Supp. 2018).

permanent home or dwelling place owned by a person and occupied by the owner thereof and where he or *she is domiciled*.” S.C. Code Ann. Regs. 117-1800.1(2) (2012) (emphasis added). Consequently, the Court’s inquiry on whether Begum met the requirements for the Special Assessment Ratio turns on whether she has adequately proven that she was domiciled at the Subject Property during tax year 2017.¹⁰

In *Gasque v. Gasque*, our Supreme Court defined domicile as “the place where a person has his true, fixed and permanent home and principal establishment, to which he has, whenever he is absent, an intention of returning. The true basis and foundation of domicile is the intention, the *quo animo*, of residence.” 246 S.C. 423, 426, 143 S.E.2d 811, 812 (1965) (citation omitted); *accord O’Neill’s Estate v. Tuomey Hosp.*, 254 S.C. 578, 583, 176 S.E.2d 527, 530 (1970). The court further explained that “[t]he question of domicile is largely one of intent to be determined under the facts and circumstances of each case.” *Id.* at 427, 143 S.E.2d at 812; *see also Ravenel v. Dekle*, 265 S.C. 364, 379, 218 S.E.2d 521, 528 (recognizing that “intent is a most important element in determining the domicile of any individual.”). Expanding on the principle that intent is the touchstone for determining an individual’s domicile, in *Ravenel*, the court provided an analytical framework for evaluating an individual’s intent: “any expressed intent on the part of a person must be evaluated in the light of his conduct which is either consistent or inconsistent with such expressed intent.” 265 S.C. at 379, 218 S.E.2d at 528.

Gasque and *Ravenel* establish that the question of domicile is unique to each instance and profoundly dependent upon the “facts and circumstances of each case.” Here, there is little dispute

¹⁰ The Court is mindful that the General Assembly’s use of the terms “legal residence” and “domiciled” in subsection 12-43-220(c)(2)(i) suggests that said terms are not synonymous, and the Court must assume that the General Assembly did not intend to carry out a futile act. *See State v. Sweat*, 379 S.C. 367, 377, 665 S.E.2d 645, 651 (Ct. App. 2008), *aff’d as modified*, 386 S.C. 339, 688 S.E.2d 569 (2010) (“When interpreting a statute, courts must presume the legislature did not intend to do a futile act.”) (citation omitted); *see also Matter of Decker*, 322 S.C. 215, 219, 471 S.E.2d 462, 463 (1995) (“A statute should be so construed that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous....”) (quoting 82 C.J.S. *Statutes* § 346). Notwithstanding, based on the case law outlined above and given that this Court is also bound by S.C. Code Ann. Regs. 117-1800.1(2), which defines “legal residence,” in part, with reference to “domicile,” resolution of this matter depends on whether Begum was domiciled at the Subject Property. Furthermore, it is presumed that the General Assembly’s use of the terms “domicile” and “domiciled” in section 12-43-220 is in the formal, legal sense. *See Grier v. AMISUB of S.C., Inc.*, 397 S.C. 532, 536, 725 S.E.2d 693, 696 (2012) (“In ascertaining the meaning of language used in a statute, we presume the General Assembly is ‘aware of the common law, and where a statute uses a term that has a well-recognized meaning in the law, the presumption is that the General Assembly intended to use the term in that sense.’”) (quoting *State v. Bridgers*, 329 S.C. 11, 13, 495 S.E.2d 196, 198 (1997)).

regarding the facts of the instant case; facts, which would ordinarily lend themselves toward a determination that Begum was domiciled at the Subject Property during tax year 2017. To wit, Begum has lived in the state for over thirteen years and has resided in the Subject Property, the only home she owns, along with her family since July 2016. Begum also has a South Carolina driver's license listing her address as the Subject Property, pays taxes to the State as a resident on her income, pays taxes for her real and personal property, and is firm and compelling in her testimony that, since purchasing the Subject Property, she intends this property to be her permanent home. *But see Ravenel, supra* (recognizing that expressed intent is not dispositive as "any expressed intent on the part of a person must be evaluated in the light of his conduct which is either consistent or inconsistent with such expressed intent.").

Nevertheless, the Court's examination cannot end there as, unlike the cases outlined *supra*, the fundamental question presented here is whether, as a matter of South Carolina law, an H-1B visa holder who has taken certain steps towards obtaining a Green Card as of the relevant taxing date can demonstrate an essential element of domicile—the intent to make the Subject Property her permanent home during tax year 2017. Begum contends that her nonimmigrant status as an H-1B visa holder, *ipso facto*, is not dispositive of the question. Rather, Begum avers that a totality of circumstances review, to include her expressed intent, the steps she has completed in the Green Card process, and her conduct while in South Carolina requires the Court to answer this question in the affirmative as she has satisfied the requisite intent. Conversely, the Assessor contends that this query must be answered in the negative as Begum's temporary status in the United States—a nonimmigrant holding an H-1B visa—acts as a legal impediment to her being a domiciliary of the Subject Property for the purposes of the Special Assessment Ratio under subsection 12-43-220(c)(1).¹¹ Simply put, the Assessor posits that Begum could not, and cannot, form the requisite intent to remain permanently at the Subject Property when her immigration status forecloses her from such.¹² The Assessor further discounts the steps Begum has completed in route to ultimately

¹¹ This issue is not "citizenship"; instead, it is whether Begum can legitimately form the intent to remain permanently when she lacks permanent status in the United States. In fact, the Assessor admitted that its initial denial notice, wherein its conclusion was grounded in the determination that "[t]he owners have to be US citizens in order to be approved," was incorrect. Once an alien obtains a Green Card and becomes a lawful permanent resident, he or she is not a citizen of the United States but must meet additional requirements through the naturalization process to attain citizenship status.

¹² The Court is aware of other definitions of domicile, which characterize the necessary intent as the intent to remain "indefinitely" instead of "permanently." *See, e.g., Barfield v. J.L. Coker & Co.*, 73 S.C. 181, 53 S.E. 170, 171 (1906) ("One of the essential elements to constitute a particular place as one's domicile or

obtaining a Green Card by reiterating its position that this legal impediment prevents her from qualifying for the Special Assessment Ratio and contends it will remain an obstacle until “the impediment” is removed—i.e., her receipt of a Green Card.

At first glance, Begum’s nonimmigrant status appears incompatible, as a matter of law, with being able to possess the requisite intent to make the Subject Property her “true, fixed and permanent home.” Although South Carolina’s appellate courts have yet to address this issue, the Assessor points to a 2006 decision from a sister state, *DeQuervain v. Desguin*, 927 So.2d 232 (Fla. 2d DCA 2006), for use as persuasive authority to support its position. In *DeQuervain*, a Florida district court addressed whether two homeowners who had immigrated from Switzerland and were lawfully in the United States on temporary visas could qualify for the Florida homestead exemption.¹³ The homeowners had “lived and worked in Charlotte County for at least five years” and “held social security numbers and drivers’ licenses, paid federal income taxes, and had filed a Declaration of Domicile in Florida.” *Id.* at 233. The homeowners had also filed their applications for Green Cards, which remained pending at the time they sought the exemption. *See id.* Nevertheless, the trial court granted summary judgment to the taxing authority under the rationale that, as holders of temporary visas, the homeowners could not form the requisite intent to become permanent residents for purposes of the homestead exemption. *Id.* The district court affirmed,

principal place of residence is an intention to remain permanently, or for an indefinite time, in such place.”) (emphasis added). Aside from the fact that *Gasque* sets the touchstone for domicile in South Carolina as the intent to remain “permanently,” the Court believes that for the purposes of this case, the terms “indefinite” and “permanent” are essentially synonymous and that any variation is inconsequential.

¹³ According to the opinion, the Florida Constitution creates a homestead exemption for “every person who has legal or equitable title to real estate on which he or she maintains a permanent residence.” *Id.* at 233 (citing Art. VII, § 6(a), Fla. Const. (1968)). Under the implementing statute, “permanent residence” is defined as:

[t]hat place where a person has his or her true, fixed and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning. A person may have only one permanent residence at a time; and, once a permanent residence is established in a foreign state or country, it is presumed to continue until the person shows that a change has occurred.

Id. at 233-34 (citing Fla. Stat. Ann. § 196.012(18) (West)). Florida’s definition of the term “permanent residence” is certainly similar to the South Carolina regulatory definition of “legal residence” and the definition of domicile established in *Gasque*. Compare S.C. Code Ann. Regs. 117-1800.1(2) (“For property tax purposes the term ‘Legal Residence’ shall mean the permanent home or dwelling place owned by a person and occupied by the owner thereof and where he or she is domiciled.”) and *Gasque*, 246 S.C. at 426, 143 S.E.2d at 812 (defining domicile as “the place where a person has his true, fixed and permanent home and principal establishment, to which he has, whenever he is absent, an intention of returning.”).

observing, *inter alia*, that it was required to follow the applicable section of the Florida Administrative Code, Fla. Admin. Code Ann. R. 12D-7.007(3) (2002), which provided in pertinent part that: "A person in this country under a temporary visa cannot meet the requirement of permanent residence or home and, therefore, cannot claim homestead exemption." *Id.* at 235-36.¹⁴

Despite ultimately affirming that the homeowners, as temporary visa holders, were not eligible for the homestead exemption, the *DeQuervain* court distinguished the homeowners' situation from an exception established in *Lisboa v. Dade County Property Appraiser*, 705 So.2d 704 (Fla. 3d DCA 1998), wherein the court ruled that an immigrant living in Florida who had applied for asylum status qualified for Florida's homestead exemption even though no "permanent resident status" had been granted. In reaching that conclusion, the *Lisboa* court observed that because asylum seekers were "present in [this country] with no defined end or defined purpose as set out by Congress regarding temporary aliens . . . [t]he status of [Lisboa] will not change until [he] chooses to leave this county or INS acts on the application for asylum." *Id.* at 707 (alterations in original) (quoting *Dep't of Health & Rehab. Servs. v. Solis*, 580 So. 2d 146, 149-50 (Fla. 1991)).

Recently, the ALC has cited *DeQuervain* in ruling that an alien in the United States under the Deferred Action for Childhood Arrivals (DACA) program was not eligible for the Special Assessment Ratio for her real property because she had "no documentation to define her immigration status." *Richland Cty. Assessor v. Herrera*, No. 18-ALJ-17-0006-CC, 2018 WL 5114185 (S.C. Admin. L. Judge Div. Oct. 9, 2018). The DACA program allowed undocumented aliens who came to the United States as minors to remain in the country to work, go to school, and own property as long as certain conditions continued to be met. *Id.* at *1. The ALC observed that DACA did not, however, confer any legal status or a path to citizenship to its recipients; rather, it grants the recipients a legal presence. *Id.* In reversing a determination of the Richland County Board of Assessment Appeals, the ALC found that without documentation that would define her immigration status, the alien could not "form the requisite intent to make the property in South Carolina her domicile for purposes of the tax exemption" *Id.* at *6. As a result, the ALC determined that the alien did not meet the statutory requirements of subsection 12-43-220(c)(2)(i) and, therefore, could not qualify for the Special Assessment Ratio. *Id.*

¹⁴ The *DeQuervain* court did not identify what type of visas the homeowners held. The relevant portion of the Florida administrative code, however, did not distinguish between the types of visas, using only the blanket term "temporary visa."

The *DeQuervain* and *Herrera* cases are persuasive and illustrate that, without more, the subjective intent of an individual cannot overcome a legal inhibition preventing him from obtaining a tax exemption. Nevertheless, there are stark and consequential differences between those cases and the instant matter. Unlike the alien in *Herrera*, Begum has documented immigration status as an H-1B visa holder. Moreover, unlike *DeQuervain*, South Carolina does not have a statute or regulation similar to Fla. Admin. Code Ann. R. 12D-7.007(3), which specifies that “[a] person in this country under a temporary visa cannot meet the requirement of permanent residence or home and, therefore, cannot claim homestead exemption.” Therefore, while useful, *Herrera* and *DeQuervain* do not fully address the issues present here so that the Court must turn its attention elsewhere in determining the central question presented.

To further support its position, the Assessor introduced an April 20, 2018, letter from the South Carolina Department of Revenue (Department). Within this letter, the Department opined that an individual in the United States temporarily, that is, as a nonimmigrant holding a temporary visa, cannot qualify for the Special Assessment Ratio under section 12-43-220. In reaching this conclusion, the Department remarked:

Although the individuals in question may have every intent to make South Carolina their home, the fact that they are in the United States on a “non-immigrant” visa obviates any local intent. Stated differently, because these applicants have told their home country, the federal entity that issued their visa, that they will not emigrate to the United States, that federal statement overrides any individual intent that the applicant may have.^[15]

Begum disagreed with the Department’s opinion and testified that at no point did she sign any documents indicating that she would not seek to become a citizen of the United States.¹⁶ In *Elkins v. Moreno*, 435 U.S. 647 (1978),¹⁷ a case involving eligibility for in-state resident tuition at the University of Maryland, the United States Supreme Court recognized that Congress explicitly conditioned admission for some groups of nonimmigrant aliens on an intent to not abandon their foreign residences or, via implication, on an intent not to seek domicile in the United States. After

¹⁵ Apart from this letter, the Court notes that the Department has not issued any regulation or formal policy guidance on the issue considered herein.

¹⁶ While “citizenship” itself is not the issue here, it is a fair inference that Begum has also not signed any document indicating that she will not seek to become a permanent resident of the United States.

¹⁷ Following a tortured procedural history, the *Elkins* case was twice revisited by the United States Supreme Court in *Toll v. Moreno*, 441 U.S. 458 (1979) (per curiam), and *Toll v. Moreno*, 458 U.S. 1 (1982).

further observing that nonimmigrant classification is heterogeneous concerning the terms on which a nonimmigrant enters the United States under the Immigration and Nationality Act of 1952, the Court determined that, with respect to federal law, a nonimmigrant holder of a G-4 visa¹⁸ was not precluded from adopting the United States as his domicile:

By including restrictions on intent in the definition of some nonimmigrant classes, Congress must have meant aliens to be barred from these classes if their real purpose in coming to the United States was to immigrate permanently. Moreover, since a nonimmigrant alien who does not maintain the conditions attached to his status can be deported it is also clear that Congress intended that, in the absence of an adjustment of status (discussed below), nonimmigrants in restricted classes who sought to establish domicile would be deported.

But Congress did *not* restrict every nonimmigrant class. In particular, no restrictions on a nonimmigrant's intent were placed on aliens admitted under § 101(a)(15)(G)(iv). Since the 1952 Act was intended to be a comprehensive and complete code, the conclusion is therefore inescapable that, where as with the G-4 class Congress did not impose restrictions on intent, this was deliberate. Congress' silence is therefore pregnant, and we read it to mean that Congress, while anticipating that permanent immigration would normally occur through immigrant channels, was willing to allow nonrestricted nonimmigrant aliens to adopt the United States as their domicile. Congress' intent is confirmed by the regulations of the Immigration and Naturalization Service, which provide that G-4 aliens are admitted for an indefinite period—so long as they are recognized by the Secretary of State to be employees or officers (or immediate family members of such employees or officers) of an international treaty organization. Whether such an adoption would confer domicile in a State would, of course, be a question to be decided by the State.

Under present law, therefore, were a G-4 alien to develop a subjective intent to stay indefinitely in the United States he would be able to do so without violating either the 1952 Act, the Service's regulations, or the terms of his visa. Of course, should a G-4 alien terminate his employment with an international treaty organization, both he and his family would lose their G-4 status. Nonetheless, such an alien would not necessarily be subject to deportation nor would he have to leave and re-enter the country in order to become an immigrant.

Id. at 665-67 (alteration in original) (footnote omitted) (citations omitted).

¹⁸ The Supreme Court described a G-4 visa as "a nonimmigrant visa granted to 'officers, or employees of . . . international organizations, and the members of their immediate families' pursuant to 8 U.S.C. § 1101(a)(15)(G)(iv) (1976 ed.)." *Id.* at 652.

While the Supreme Court ultimately certified the question—whether G-4 aliens have the capacity to become domiciliaries of Maryland—to the Maryland Court of Appeals to clarify Maryland law regarding this issue,¹⁹ the analytical approach used in *Elkins* is important to the outcome here. Crucially, the United States Supreme Court did not rest with the fact that nonimmigrant aliens can generally be viewed as temporary visitors to the United States but instead reviewed the statutory basis of the G-4 visa which authorized their presence in the country. It is, therefore, necessary for the Court here, like in *Elkins* and in *Lisboa*, to examine the statutory and regulatory nature of an H-1B visa, which authorizes Begum's presence in the United States, and the representations made, if any, by the holder of such a visa with regard to domicile.²⁰

a. Nature of H-1B Visa and Duration of Stay

H-1B visas provide a form of legal nonimmigrant status. See 8 U.S.C.A. § 1101(a)(15)(H)(i)(b) (West 2019).²¹ This type of visa permits, *inter alia*, nonimmigrant foreign

¹⁹ Stated fully, the certified question read: “Are persons residing in Maryland who hold or are named in a visa under 8 U.S.C. § 1101(a)(15)(G)(iv) (1976 ed.), or who are financially dependent upon a person holding or named in such a visa, incapable as a matter of state law of becoming domiciliaries of Maryland?” *Id.* at 668–69. The Maryland Court of Appeals ultimately answered this question in the negative, meaning that G-4 aliens were not precluded from becoming Maryland domiciliaries under state law. *Toll v. Moreno*, 284 Md. 425, 444, 397 A.2d 1009, 1019 (1979) (“Since nothing in the general Maryland law of domicile renders G-4 visa holders, or their dependents, incapable of becoming domiciled in this State, the answer to the certified question is ‘No.’”)

²⁰ As a corollary to the central issue here, the Court’s inquiry must necessarily dovetail into the nature of an H-1B visa as the H-1B category represents only one of the numerous and diverse categories of nonimmigrant aliens. See generally *Mathews v. Diaz*, 426 U.S. 67, 79 n.13 (1976) (recognizing the different nonimmigrant classifications). Furthermore, because the Assessor relies on the Department’s April 20, 2018, opinion for the proposition that “[a]pplicants have told their home country, the federal entity that issued their visa, that they will not emigrate to the United States, that federal statement overrides any individual intent that the applicant may have[.]” the Court must examine what representations were made, if any, by the holder of an H-1B visa with regard to domicile. This analysis will include whether Congress conditioned Begum’s admission into the United States “on an intent not to abandon a foreign residence” or otherwise “on an intent not to seek domicile in the United States.”

²¹ In pertinent part, the H-1B classification is described thusly:

(B) An H-1B classification applies to an alien who is coming temporarily to the United States:

(1) To perform services in a specialty occupation . . . described in section 214(i)(1) of the Act [8 U.S.C. § 1184(i)(1)], that meets the requirements of section 214(i)(2) of the Act [8 U.S.C. § 1184(i)(2)], and for whom the Secretary of Labor has determined and certified to the Attorney General that the prospective employer has filed a labor condition application under section 212(n)(1) [8 U.S.C. § 1182(n)(1)] of the Act;

8 C.F.R. § 214.2(h)(1)(ii)(B)(1) (West 2018).

workers to come temporarily to the United States to perform services in a “specialty occupation”²² after the “prospective employer has filed a labor condition application” that has been approved by the Secretary of Labor. *See* 8 U.S.C.A. §§ 1101(a)(15)(H)(i)(b), 1182(n), 1184(i)(1). As specified in 8 U.S.C.A. § 1101(a)(15)(H)(i)(b) and 8 C.F.R. § 214.2(h)(1)(ii)(B)(1), the duration of an H-1B visa holder’s lawful stay in the United States is limited to a temporary basis. This finite period is explained as: “An approved petition classified under section 101(a)(15)(H)(i)(b) [H-1B petition in a specialty occupation] of the Act for an alien in a specialty occupation shall be valid for a period of up to three years but may not exceed the facility period of the labor condition application.” 8 C.F.R. § 214.2(h)(9)(iii)(A)(1) (West 2018); *see also* 8 C.F.R. § 214.1(l)(1) (West 2018) (“An alien admissible in . . . H-1B . . . classification and his or her dependents may be admitted to the United States or otherwise provided such status for the validity period of the petition”); *see generally* 8 U.S.C.A. § 1201(c)(2) (West 2019) (“A nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed.”).

The holder of an H-1B visa may lengthen the duration of his authorized admission through an extension under 8 C.F.R. § 214.2(h)(15)(ii)(B)(1) (West 2018). However, the H-1B visa holder’s period of authorized admission in the United States is subject to the overall six-year limit imposed by 8 U.S.C.A. § 1184(g)(4) (West 2019): “In the case of a nonimmigrant described in section 1101(a)(15)(H)(i)(b) of this title [H-1B nonimmigrant], the period of authorized admission as [sic] such a nonimmigrant may not exceed 6 years.” While reiterating the six-year time limit, the Code of Federal Regulations details the extension as:

(B) H-1B extension of stay—

- (1) [A]n extension of stay may be authorized for a period of up to three years for a beneficiary of an H-1B petition in a specialty occupation
The alien’s total period of stay may not exceed six years.

8 C.F.R. § 214.2(h)(15)(ii)(B)(1).

²² “Specialty occupation” is defined as:

- (1) Except as provided in paragraph (3), for purposes of section 1101(a)(15)(H)(i)(b) of this title . . . the term “specialty occupation” means an occupation that requires--

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor’s or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

8 U.S.C.A. § 1184(i)(1) (West 2019) (emphasis added).

Begum, the holder of an H-1B visa, has been in South Carolina for thirteen-years, which is considerably longer than the six-year period normally afforded holders of H-1B visas under 8 U.S.C.A § 1184(g)(4). Indeed, the “end date” listed on her Form I-797B is July 29, 2020. Although Begum did not offer further evidence to explain the length of her stay in the United States or exactly how she has been able to stay past the six-year time period generally authorizing admission for H-1B visa holders, she maintained that her H-1B visa is renewed every three years by the District, where renewal is contingent upon proof that she is still employed. Begum also offered that the Green Card process and the continuation of her H-1B visa go “hand-in-hand.” As will be more fully explored below, Begum’s testimony becomes clear as it appears that under applicable law, exemptions may be available for certain qualifying individuals who hold H-1B visas, are beneficiaries of approved I-140 petitions, and are awaiting a priority date to adjust their status.

In pertinent part, 8 C.F.R. § 214.2(h)(13)(iii)(E) (West 2018) provides as follows:

(E) Per-country limitation exemption from section 214(g)(4) of the Act [8 U.S.C. § 1184(g)(4)]. An alien who currently maintains . . . H-1B status, who is the beneficiary of an approved immigrant visa petition for classification under section 203(b)(1), (2), or (3) of the Act [8 U.S.C. § 1153(b)(1),(2), or (3)], and who is eligible to be granted that immigrant status but for application of the per country limitation, is eligible for H-1B status beyond the 6-year limitation under section 214(g)(4) of the Act [8 U.S.C. § 1184(g)(4)]. The petitioner must demonstrate such visa unavailability as of the date the H-1B petition is filed with USCIS.

(1) Validity periods. USCIS may grant validity periods for petitions approved under this paragraph in increments of up to 3 years for as long as the alien remains eligible for this exemption.

(2) H-1B approvals under paragraph (h)(13)(iii)(E) of this section may be granted until a final decision has been made to:

(i) Revoke the approval of the immigrant visa petition; or

(ii) Approve or deny the alien's application for an immigrant visa or application to adjust status to lawful permanent residence.

(6) Exemption eligibility. Only the principal beneficiary of an approved immigrant visa petition for classification under section 203(b)(1), (2), or (3) of the Act [8 U.S.C. § 1153(b)(1),(2), or (3)] may be eligible under paragraph (h)(13)(iii)(E) of this section for an exemption to the maximum period of admission under section 214(g)(4) of the Act [8 U.S.C. § 1184(g)(4)].

(Emphasis added).

Additional exemptions were established by the American Competitiveness in the Twenty-First Century Act of 2000, Pub. L. No. 106-313, §§ 104, 106, 114 Stat. 1251 (Oct. 17, 2000)

(hereinafter “AC 21”).²³ See *Sage IT, Inc. v. Cissna*, 314 F. Supp. 3d 203, 205 (D.D.C. 2018) (acknowledging that under AC 21 “Congress created two mechanisms to allow H-1B visa holders to extend their nonimmigrant status beyond the limit [of 8 U.S.C. § 1184(g)(4)].”); Austin Fragomen et al., *H-1B Handbook* § 4:4 (2019 ed.) (“Legislation enacted in 2000 [AC 21] provides two circumstances in which an H-1B worker may apply for an extension of stay beyond the usual limit of six years—one based on per-country limitations and the other based on long-pending labor certification or immigrant petition.”). Although non-precedential, on December 5, 2006, the USCIS issued a policy memorandum clarifying the exemptions established by the AC 21:

B. Periods of Stay in H-1B Status Beyond the Six Year Maximum

In sections 106 and 104(c) of AC21, Congress provided exemptions to the six-year maximum period of stay rules [under 8 U.S.C. § 1184(g)(4)] for certain H-1B aliens who were being sponsored by employers for permanent residence and were subject to lengthy processing delays.

(4) Exemptions to Limitations of Stay.

The limitation on the total period of stay does not apply to H-1B aliens when:

(C) The alien is the beneficiary of an approved EB [employment based] immigration petition and is not able to file to adjust status to U.S. permanent legal residence based on the unavailability of an immigrant visa number.

Michael Aytes, *Guidance on Determining Periods of Admission for Aliens Previously in H-4 or L-2 Status, Aliens Applying for Additional Periods of Admission beyond the H-1B Six Year Maximum and Aliens Who Have Not Exhausted the Six-Year Maximum But Have Been Absent*

²³ In relevant part, AC 21 enabled an extension of status for certain nonimmigrants beyond the six-year period established in 8 U.S.C. § 1184(g)(4):

(c) ONE-TIME PROTECTION UNDER PER COUNTRY CEILING.—Notwithstanding section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)), any alien who—

(1) is the beneficiary of a petition filed under section 204(a) of that Act [8 U.S.C. § 1154(a)] for a preference status under paragraph (1), (2), or (3) of section 203(b) of that Act [8 U.S.C. § 1153(b)(1), (2), or (3)]; and

(2) is eligible to be granted that status but for application of the per country limitations applicable to immigrants under those paragraphs,

may apply for, and the Attorney General may grant, an extension of such nonimmigrant status until the alien's application for adjustment of status has been processed and a decision made thereon.

American Competitiveness in the Twenty-First Century Act of 2000, Pub. L. No. 106-313, § 104(c), 114 Stat. 1251 (Oct. 17, 2000).

from the United States for Over One Year, at 3, 7 (Dec. 5, 2006), <https://www.hsdl.org/?view&did=21214> (emphasis added). Similarly, on May 30, 2008, the USCIS issued additional guidance on the exemptions established by section 104(c) of the AC 21, elucidating:

Pursuant to AC21 §104(c), an alien is eligible for an extension of H-1B status if the alien is the beneficiary of an I-140 petition and would be eligible to be granted immigrant status but for the application of per country limitations applicable to immigrants under INA § 203(b)(1), (2) or (3) [8 U.S.C. § 1153(b)]. Despite the title of AC21 §104(c), referring to “one-time” protection, USCIS may grant such H-1B extensions, in a maximum of three year increments, until such time as the alien’s application for adjustment of status has been processed and a decision made thereupon.

AC21 § 104(c) is applicable when an alien, who is the beneficiary of an approved I-140 petition, is eligible to be granted lawful permanent resident status but for application of a per country limitation to which that alien is subject or, alternatively, if the immigrant preference category applicable to that alien is, as a whole, “unavailable”. Any petitioner seeking an H-1B extension on behalf of an H-1B alien beneficiary pursuant to AC21 §104(c) must thus establish that at the time of filing for such extension, the alien is not eligible to be granted lawful permanent resident status on account of the per country immigrant visa limitations or, alternatively, because the immigrant preference classification applicable to the alien is “unavailable”.

Donald Neufeld, *Supplemental Guidance Relating to Processing Forms I-140 Employment-Based Immigrant Petitions and I-129 H-1B Petitions, and Form I-485 Adjustment Applications* (May 30, 2008), https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/Static_Files_Memoranda/Archives%201998-2008/2008/ac21_30may08.pdf (emphasis added). In other words, “an H-1B worker who has an approved I-140 employment-based petition and is otherwise eligible for adjustment of status except for the unavailability of an immigrant visa because of per country limits may obtain an extension of status without regard to the six-year limit.” Austin Fragomen et al., *H-1B Handbook* § 1:22 (2019 ed.).

As such, the law allows Begum, an H-1B visa holder who is the beneficiary of an approved I-140 Petition and is awaiting a priority date to file her Form I-485 application, to remain in the United States beyond the six-year limitation normally allowed for holders of H-1B visas under 8 U.S.C.A. § 1184(g)(4). Significantly neither the Code of Federal Regulations nor the USCIS guidance referenced above seem to impose any limit on the length of time the H-1B holder can remain in the United States under the exemption as long as the beneficiary remains eligible for said exemption.

This extension beyond the general six-year admission period for H-1B visa holders has been recognized in *Maghu v. Singh*, 2018 VT 2, ¶ 20, 206 Vt. 413, 181 A.3d 518. In *Maghu*, the Vermont Supreme Court upheld a lower court decision that the husband, the holder of an H-1B visa, was a domiciliary [resident] of Vermont for purposes of maintaining a divorce action against his wife in state court. *See id.* at 425, 181 A.3d at 527. In doing so, the court observed the following concerning the husband's nonimmigrant visa status:

¶ 19. Our conclusion on this point [that husband has established domicile] is supported by a review of husband's immigration status, and the steps he has taken toward establishing permanent residence. As noted above, the USCIS originally granted husband an employer-sponsored H-1B nonimmigrant visa. . . . [H]usband's employer had to receive this H-1B approval from the USCIS prior to husband's relocation to Vermont in 2011. The H-1B visa allows husband to remain in the United States for up to three years, with the possibility of his employer filing for a three-year extension—making the potential stay six years in total. Employer's petition for husband's three-year extension was approved in 2014, which meant that husband had an end-date on his H-1B visa of August 2017.

¶ 20. To receive a permanent resident visa, husband will have to complete three steps—two of which he has already completed. First, the employer files with the U.S. Department of Labor to certify that the “prospective employer needs a worker with certain qualifications and that it cannot fill the need with a United States worker.” In 2015, husband's employer received this approval from the U.S. Department of Labor. Second, the employer files, on behalf of the employee, an I-140 visa application with the USCIS for a permanent employment-based visa. The trial court found that husband had attained USCIS approval of employer's I-140 immigrant petition. Third, once the I-140 application is approved by USCIS, “the petition will be forwarded to the Department of State for the allotment of a [permanent resident] visa number.” The I-140 approval allows the employee—in this case, husband—to file an I-485 application to be a lawful permanent resident, 8 U.S.C. § 1255(a), and it allows the employee to forgo the normal H-1B six-year time limitation. There is no evidence that husband has filed his I-485 application. But, as noted above, husband's I-140 application was approved in 2016, which allows him to remain in Vermont indefinitely while awaiting his allotment of a permanent resident visa number

¶ 21. Given the above, the trial court could properly conclude that, while in Vermont on a temporary H-1B visa, husband took substantial steps toward obtaining a permanent resident visa by applying for, and receiving, his I-140 status. As a result, husband is now in line for a permanent resident visa and is no longer subject to the H-1B visa time limitation.

Id. at 422-24, 181 A.3d at 525-26 (emphasis added) (citations omitted).²⁴

²⁴ When read in the context of the immigration discussion provided in *Maghu*, the import of Begum's testimony that the continuation of her H-1B visa and her Green Card application process “working hand-

Begum is similarly situated to the husband in *Maghu*. Like the husband, Begum has completed two of the three steps involved to become a permanent resident. Specifically, Begum has received her labor certification approval from the DOL and is the beneficiary of an approved I-140 Petition. Again, like the husband in *Maghu*, the third step of the permanent resident process has yet to be completed as Begum testified that she has been waiting since December 2012 on a “priority date.” See *Sage IT*, 314 F. Supp. 3d at 208 (“When the I-140 is approved, the beneficiary is certified as eligible for preference status and must wait until the agency reaches his priority date in the backlog of petitions.”).²⁵

in-hand” becomes clear. Given the approval of Begum’s I-140 Petition, she is eligible for continued extensions on her H-1B visa until a final decision is made regarding the allotment of her permanent resident visa number.

²⁵ In *Musunuru v. Lynch*, 831 F.3d 880 (7th Cir. 2016), the United States Court of Appeals for the Seventh Circuit gave the following explanation of “priority date” in the context of a case challenging a decision to revoke an immigrant’s Green Card status:

The Immigration and Nationality Act (“INA”) provides a three-step process by which an alien who is already lawfully present in the United States through a nonimmigrant worker visa or status (commonly called H1-B) may become a permanent resident. The first two steps are completed by the worker’s employer so that the employer may hire the worker on a permanent basis, rather than the temporary basis permitted by the worker’s H1-B status.

.....
The third and final step must be completed by the worker: he must apply for, and be granted, an adjustment of status to permanent resident. The application is also called an I-485 after the form used to file the application: Form I-485, Application to Register Permanent Residence or Adjust Status. The worker may not file his I-485 application until a visa is immediately available. Visas are issued to eligible workers as the visas become available and in the order in which the workers’ employers filed their I-140 petitions. To maintain the proper order, USCIS assigns each approved I-140 petition a priority date based on the date the petitioning employer filed its labor certification application.

Id. at 882-83 (emphasis added) (citations omitted).

While an alien’s “priority date” is actually assigned at the time his or her employer’s I-140 petition is approved, the alien may not file the I-485 application to adjust status to permanent residence until a visa becomes immediately available, i.e., when the “priority date” is reached. See 8 U.S.C.A. § 1255(a) (cloaking the Attorney General of the United States with the discretionary authority to adjust an alien’s status to lawful permanent resident provided that “(1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.”) (emphasis added). Thus, here, Begum must wait until her priority date is reached to file her I-485, which, unfortunately, may take a protracted period of time. See *Mantena*, 809 F.3d at 725 (“This final step [submitting form I-485] cannot take place until a permanent residency visa is available for the immigrant. Because there are limits on the number of such visas in each category and from each country, immigrants must often wait many years for a permanent residency visa, especially if they are from a country, like India, that sends a large number of immigrants to the United States.”) (internal citation omitted).

Accordingly, based on the facts that Begum maintains H-1B status, has attained I-140 Petition approval, is awaiting her priority date to become current or visa to become available to her, and has been in the United States for at least two, six year stints, the Court can reasonably conclude that her presence in the country has been extended as described in 8 C.F.R. § 214.2(h)(13)(ii)(E) and the USCIS' guidance referenced earlier. Furthermore, these facts also lead to the conclusion that Begum's stay in the United States is no longer fixed by a definite end date.²⁶

b. Representations About Domicile

The various classes of nonimmigrant aliens, including the H-1B class, are established under 8 U.S.C.A. § 1101(a)(15)(A)-(V). *See* 8 U.S.C.A. § 1101(a)(15) (defining "immigrant" as every alien except an alien falling within one of the classes of nonimmigrant aliens carved out under U.S.C.A. § 1101(a)(15)(A)-(V)). For many of these nonimmigrant classes, Congress has circumscribed the covered alien's intent. Indeed, in 8 U.S.C.A. §§ 1101(a)(15)(B), (F), (H)(ii)(a), (J), (M), (O)(ii), (P), and (Q), Congress explicitly limited eligibility for nonimmigrant status to those aliens having "a residence in a foreign country which the alien has no intention of abandoning" or "foreign residence which the alien has no intention of abandoning."

Contrarily, no restrictions on intent were imposed on H-1B nonimmigrant aliens, like Begum, admitted into the United States under the current version 8 U.S.C.A. § 1101(a)(15)(H)(i)(b):

(H) an alien (i) . . . (b) subject to section 1182(j)(2) of this title, who is coming temporarily to the United States to perform services . . . in a specialty occupation described in section 1184(i)(1) of this title . . . and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed with the Secretary an application under section 1182(n)(1) of this title

Significantly, however, the pertinent part of a former version of this statutory provision applying to the H-1B category did contain such restrictive language:

(H) an alien having a residence in a foreign country which he has no intention of abandoning . . . [(i)](b) who is of distinguished merit and ability and who is coming temporarily to the United States to perform services (other than services as a registered nurse) of an exceptional nature requiring such merit and ability, and who,

²⁶ As will be discussed, the Court is well aware that Begum's eligibility to lawfully remain in the United States could be ended for a plethora of reasons, including, among others, revocation of her I-140 Petition. *See Maghu*, 206 Vt. at 425 n.4, 181 A.3d at 527 n.4 (acknowledging that if an approved I-140 Petition is revoked, hypothetically, the beneficiary of the petition could be subject to deportation from the United States).

in the case of a graduate of a medical school coming to the United States to perform services as a member of the medical profession, is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency;

8 U.S.C.A § 1101(a)(15)(H) (West 1991) (emphasis added).²⁷

In the April 20, 2018, Department opinion relied upon by the Assessor, the Department references assertions potentially made by nonimmigrants to their home countries that they will not change domiciles: “Stated differently, because these applicants have told their home country, the federal entity that issued their visa, that they will not emigrate to the United States, that federal statement overrides any individual intent that the applicant may have [to stay in the United States].”²⁸ Here, no evidence exists of what statements, if any, Begum made to India regarding her intent to remain a domiciliary of that country. However, Begum remained adamant that she did not sign any documents attesting that she would not seek citizenship in the United States, and thus, by extension, not leave India permanently. It is also significant that, following the Immigration Act of 1990, Pub. L. No. 101-649, § 205(e), 104 Stat. 4978 (Immigration Act of 1990), the H-1B

²⁷ Effective October 1, 1991, Congress amended various portions of the former version of 8 U.S.C. § 1101(a)(15)(H) through the Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978. Notably, the Act removed “having a residence in a foreign country which he has no intention of abandoning.” Immigration Act of 1990, Pub. L. No. 101-649, § 205(e), 104 Stat. 4978. In addition, Congress made the following amendments:

Subclause (b) of section 101(a)(15)(H)(i) (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking “who is of distinguished” and all that follows through “such institution or agency” and inserting the following: “who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1), who meets the requirements for the occupation specified in section 214(i)(2), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed with, and had approved by, the Secretary an application under section 212(n)(1).

Immigration Act of 1990, Pub. L. No. 101-649, § 205(c), 104 Stat. 4978.

²⁸ In a later section of the opinion, the Department posits that “if the home country can require that the applicant return to the home country, or if the applicant has certified to the home country that the applicant will not apply for citizenship in the United States in order to be granted the visa to the home country, then those federal interests will trump the individual’s personal intent to remain in the United States.” As noted above, Begum denied signing any document(s) indicating that she would not apply for citizenship in the United States. Furthermore, despite acknowledging that she was required to return to India to renew her passport, Begum testified that India cannot force her to return to that country.

classes' admission to the United States is not conditioned on accepting these kinds of restrictions to enter the United States.

Moreover, as referenced earlier, the United States Supreme Court in *Elkins* found that Congress had placed no restrictions on G-4 aliens' intentions which would require them to maintain a foreign residence. 435 U.S. at 666. In spite of the G-4 classification differing from Begum's, the *Elkins* Court's observation that Congress had deliberately declined to "impose restrictions on intent," thereby permitting G-4 nonimmigrant aliens to "adopt the United States as their domicile," is instructive. Because Congress removed restrictions on the intent of H-1B nonimmigrant aliens like Begum in the Immigration Act of 1990, the conclusion here, like in *Elkins*, is evident that Congress's failure to require this class of nonimmigrants to maintain a foreign residence must have been deliberate. *Id.* ("Since the [Immigration and Nationality Act of 1952] was intended to be a comprehensive and complete code, the conclusion is therefore inescapable that, whereas with the G-4 class Congress did not impose restrictions on intent, this was deliberate."); see also *Carlson v. Reed*, 249 F.3d 876, 882 (9th Cir. 2001) (holding "Congress's failure to expressly require R nonimmigrants [nonimmigrant aliens holding R visas] to maintain a foreign residence must have been deliberate."). As a result, at least as it relates to federal immigration law, Begum's H-1B status does not preclude her from forming the intent to become a domiciliary of the Subject Property. *Cf. State, Dep't of Revenue v. Andrade*, 23 P.3d 58, 73 (Alaska 2001) (construing the lack of preclusion under federal law, where Congress has not precluded some aliens not admitted for lawful permanent residence from intending to remain indefinitely, "to mean that an alien who fits within that classification is able, for the purposes of PFD [permanent fund dividend] eligibility, to form the intent to remain in Alaska indefinitely.").

c. Eligibility Under South Carolina Law

Notwithstanding the Court's conclusion that federal immigration law does not prohibit Begum from forming the requisite intent to be domiciled at the Subject Property, just as in *Elkins*, this determination is not dispositive as the question remains whether Begum has the capacity to establish this intent under South Carolina law. As laid out earlier, Begum contends that her expressed intent, the steps she has completed in the Green Card process, and her conduct while in South Carolina, requires the Court to answer that question in the affirmative. While acknowledging the actions Begum has taken, the Assessor insists that she simply cannot establish domicile until she has received a Green Card. To this point, absent obtaining a Green Card, the Assessor generally

maintains that Begum is legally incapable of forming the requisite intent to establish domicile because most nonimmigrants are neither expected nor permitted to remain indefinitely or permanently. The Assessor's position proves too much.

To obtain the Special Assessment Ratio, Begum must prove that she: (1) owns and occupies the Subject Property, as her legal residence during the taxable year; (2) has been domiciled at the Subject Property for some period during the taxable year; and (3) no member of her household is a legal resident of a jurisdiction other than South Carolina for any purpose. *See* S.C. Code Ann. § 12-43-220(c)(2)(i)-(2)(ii). In addition, the Court remains mindful that subsection 12-43-220(c) is a tax exemption statute and, therefore, must be construed against the taxpayer. *See, e.g., CFRE, LLC*, 395 S.C. at 74-75, 716 S.E.2d at 881. As stated earlier, however, all this means is "that constitutional and statutory language will not be strained or liberally construed in the taxpayer's favor. It does not mean that [courts] will search for an interpretation in the [tax collector's] favor where the plain and unambiguous language leaves no room for construction." *Se.-Kusan, Inc.*, 276 S.C. at 489, 280 S.E.2d at 58.

While there is no dispute that Begum owned and occupied the Subject Property during the applicable tax year, the Assessor, relying on the Department's April 20, 2018, opinion, points to the certification contained in the legal residence application under subsection 12-43-220(c)(2)(ii):

"Under penalty of perjury[,] I hereby certify that:

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

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

The Assessor then relies on the Department's opinion that "the fact that the applicant holds a visa from another country is evidence of the applicant claiming to be a 'legal resident of a jurisdiction other than South Carolina'" and that "[s]uch evidence would preclude the applicant from truthfully signing the certification required for legal residence in South Carolina." This position, however, fails to take into account the ability of nonimmigrant H-1B visa holders, like Begum, to form the intent to become South Carolina domiciliaries after their arrival in the United States.

As stated earlier, not only does the current version of 8 U.S.C.A § 1101(a)(15)(H)(i)(b) not require an H-1B visa holder to assert that he or she has a legal residence in another country and will not relinquish residency in that home country, an H-1B visa holder may take certain steps to

obtain a Green Card without voiding his or her nonimmigrant status. Begum testified to obtaining a labor certification approval by the DOL and an I-140 Petition approval. At present, she is waiting for her priority date to become current or visa to become available to take further action. When viewed in light of her conduct in South Carolina—the purchase and occupation of the Subject Property with her family, payment of income, real property, and personal property taxes, stable, long-term employment with the District, and other factors as enumerated herein—evidence clearly exists that she has taken discrete action to change her domicile to the Subject Property. *See Gasque*, 246 S.C. at 427, 143 S.E.2d at 812 (finding that change of domicile requires “clear proof of an intent to abandon the old domicile and acquire a new one.”). To this extent, the Court agrees with the principle stated in *Maghu*:

Wife argues that, although husband physically lives and intends to stay in Vermont, he is not a domiciliary of Vermont because the United States Citizenship and Immigration Service (USCIS) has not granted him permission to remain here permanently. Because husband's temporary nonimmigration visa has a set end-date, wife contends that “all the intent in the world does not make him a permanent resident.” We disagree. Although husband's status may support the inference that at the time he accepted the nonimmigrant visa he intended to return to his home country, it does not prevent him from subsequently forming a bona fide intent to remain in Vermont indefinitely. For this reason, we join those jurisdictions that allow for domicile despite a party's presence in the state on a temporary nonimmigrant visa.

206 Vt. at 421, 181 A.3d at 524 (emphasis added).

As previously indicated, the facts and circumstances of this case would typically be sufficient to prove that Begum was domiciled at the Subject Property during the applicable tax year but for the legal question of her nonimmigrant status. Although the Court does not diminish the relevancy of either Begum's nonimmigrant status or that she has yet to obtain a Green Card for purposes of determining whether she was domiciled at the Subject Property during the applicable tax year, to view her status as disqualifying, without more, would constitute a gross oversimplification. Taken to its logical conclusion, accepting such a constricted view would not only force the Court to ignore the marked differences between the various nonimmigrant classes but to also overlook the discrete actions Begum has taken in pursuit of adjusting her status. Suffice it to say, the Court is unwilling to view Begum's status through such a narrow lens.

To avoid such a perfunctory process as advocated by the Assessor, the Court believes that Begum's nonimmigrant status cannot be viewed in isolation, as a proper review necessarily

includes consideration of her respective H-1B status and the steps she has taken towards adjusting her status through initiation of the Green Card process to become a permanent resident of the United States. Given the previous determinations that Begum's presence in the United States is no longer fixed by a definite end date and that federal immigration law does not prohibit her from forming a legitimate intent to be domiciled at the Subject Property, when viewed in conjunction with Begum's expressed intent, the affirmative steps she has completed to become a permanent resident, and her conduct while in South Carolina, the Court finds that Begum was domiciled at the Subject Property during the applicable tax year.²⁹

The Court is cognizant that Begum has yet to receive a Green Card and her status in the United States could, conceivably, become clouded for a myriad of reasons, including, but not limited to: revocation of her I-140 Petition or denial of her Green Card application after a visa has become immediately available to her and when her priority date is current. However, given the Court's conclusions that her nonimmigrant status does not preclude a change in domicile and, further, that the grant of the Special Assessment Ratio is not precluded under South Carolina law, the possibility that she may have to leave the United States no longer negates her expressed intent to be domiciled at the Subject Property. *See Maghu*, 206 Vt. at 425, 181 A.3d at 527 (finding "no reason to discount husband's intent to remain in Vermont merely because it is technically possible for him to lose his I-140 approval."). Thus, the Court declines to venture into such uncertainty regarding the possibility of a future revocation or denial and has instead focused its determination on whether Begum possessed the requisite intent to be domiciled at the Subject Property during tax year 2017, which she has established.³⁰

²⁹ The Court would further note that under the totality of the circumstances here, to include, but not limited to, the actions of the District to foster her continued employment, Begum's intent to remain in South Carolina is not unreasonable or unrealistic. In that regard, the Maryland Court of Appeals' observation is helpful in ascertaining what, if any, factors would produce an unrealistic subjective intent:

If under federal law a particular individual must leave this country at a certain date, or cannot remain here indefinitely, then he could not become domiciled in Maryland. Any purported intent to live here indefinitely would be inconsistent with law. It would at most be an unrealistic subjective intent, which is insufficient under Maryland law to establish domicile.

Moreno, 284 Md. at 442-43, 397 A.2d 1017-18 (emphasis added).

³⁰ The observations by the court in *Maghu* are instructive on this point:

Any domiciliary—whether a resident alien or not—could potentially leave the state one day due to unforeseen, or even foreseen, circumstances. It is not for our family courts to

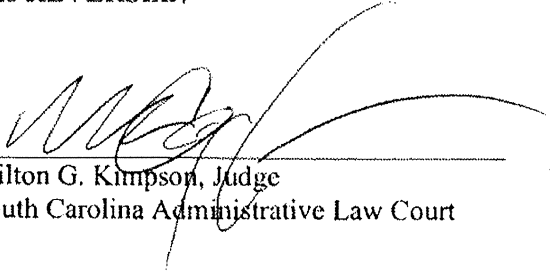
Under the circumstances exclusive to this matter and given the numerous classes of nonimmigrant aliens established under U.S.C.A. §§ 1101(a)(15)(A)-(V) combined with the diverse makeup of each class, as well as the jurisdictional limitations of this Court, the outcome reached here does not create any bright-line rule regarding whether an alien's nonimmigrant status, in and of itself, acts a legal impediment for purposes of establishing domicile under section 12-43-220.³¹ Notwithstanding, the Court believes evaluation of whether a nonimmigrant can obtain the Special Assessment Ratio must include a review of the nonimmigrant's objective manifestations of his or her expressed intent to establish domicile in South Carolina. Accordingly, the Court reiterates the well-established principle that, ascertaining domicile is largely one of intent and that such a determination is unique to the individual facts and circumstances of the case. *See, e.g., Gasque*, 246 S.C. at 427, 143 S.E.2d at 812 ("The question of domicile is largely one of intent to be determined under the facts and circumstances of each case").

ORDER

For the reasons specified herein, it is therefore **ORDERED** that Begum is eligible for the Special Assessment Ratio on the Subject Property for tax year 2017. As such, the Assessor's denial of her application for the Special Assessment Ratio is **REVERSED**.

AND IT IS SO ORDERED.

October 2, 2019
Columbia, S.C.


Milton G. Kimpson, Judge
South Carolina Administrative Law Court

forecast this possibility, but rather to decide whether the evidence supports a party's stated intent to remain in Vermont as of the time of divorce.

Id. at 424-25, 181 A.3d at 527 (2018) (footnote omitted).

³¹ Nevertheless, at minimum, it would seem that certain general legal predicates are fundamental to a nonimmigrant alien legitimately forming the requisite intent necessary to satisfy domiciliary status for the Special Assessment Ratio: (1) a nonimmigrant must be present in the United States lawfully; (2) the duration of his or her stay must not have a definite, fixed end date or federal law must not otherwise foreclose the nonimmigrant from remaining here indefinitely; and (3) the terms of his or her status in the United States under federal immigration law must not preclude the formation of an intent to become a South Carolina domiciliary. While these criteria are non-exhaustive, the absence of any of them would seem to result in the nonimmigrant having an unrealistic subjective intent to make the property at issue his or her "true, fixed and permanent home," and, as such, would be insufficient to establish domicile. *See Moreno*, 284 Md. at 442-43, 397 A.2d 1017-18.

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: Begum First: Habibunnisa Middle: ☐ Mr. ☐ Miss ☒ Mrs. ☐ Ms. Docket No. (To Be Completed by ALC)
Mailing Address: 441 Sterling Drive City: Florence State and Zip: SC 29501
Home Number: 843-765-4730 Work Number: 843-423-2571 Cell Number: 843-245-8879 *E-Mail Address: kshaik@marion.k12.sc.us

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

REPRESENTATION

Are you representing yourself? ☐ Yes ☒ No

Are you represented by an Attorney? ☒ Yes ☐ No

Name of Attorney: Kevin M. Barth

Attorney Mailing Address:

City, State and Zip:

P.O. Box 107

Florence, SC 29503

Attorney Work Number and Cell Number:

Attorney E-Mail Address:

843-662-6301; 843-230-3521

kbarth@bbllawsc.com

CASE INFORMATION

Name of Agency that Issued the Decision: Florence County Board of Assessments
(Example - Dept. of Revenue, Dept. of Insurance, DHEC)

In order to have your case processed, **you must attach** the agency decision. Is it attached? If no, please explain:

☒ Yes ☐ No

Date the decision was issued: May 17, 2018

Date the decision was received: May 18, 2018

Please provide a brief statement regarding why the hearing is being requested and the relief sought:

Homeowner was denied the 4% residential assessment because she lives here under an H1B special visa, and is not a U.S. citizen yet. She is requesting that she be granted the 4% assessment as this is her permanent and only residence, and intends on staying in this residence on a permanent basis.

Payment via ☒ Check ☐ Money Order ☐ Cash for \$ 75.00 (applicable **filing fee pursuant to ALC Rule 71**) is being submitted today to the Administrative Law Court via ☒ U.S. Postal Service ☐ Hand-delivery

X Your Signature or Signature of Attorney

Date

PROOF OF SERVICE (MUST BE COMPLETED)

Your Name: Kevin M. Barth

Date: June 4, 2018

City: Florence

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):

Florence Co. Board of Assessments 180 N. Irby Street, MSC-A

Florence, SC 29501

Name and/or Agency Name

Address

City, State and Zip

Name and/or Agency Name

Address

City, State and Zip

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.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Habibunnisa Begum,	)	DOCKET NO. 18-ALJ-17-0168-CC
	)	
Petitioner,	)	
	)	
vs.	)	
	)	
Florence County Assessor,	)	RESPONDENT'S PRE-HEARING
	)	STATEMENT
Respondent.	)	
	)	

TO: THE HONORABLE MILTON G. KIMPSON, ADMINISTRATIVE LAW JUDGE

Pursuant to the Court's Order for Pre-Hearing Statements filed June 18, 2018, and subject to the Parties continuing obligation to update the information during the course of the proceedings.

Respondent submits the following:

1. The nature of this proceeding:

The proceeding is a contested case arising from an appeal of the decision of the Florence County Board of Assessment Appeals, affirming the Assessor's denial of the four percent legal residence special exemption ratio to an individual who is present in the United States pursuant to an H-1B visa for her employment in the United States.

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

The Administrative Law Court has subject matter jurisdiction pursuant to SC Code Ann. Section 12-60-10 et seq. Applicable statutes include SC Code Ann. Sections 12-60-2540 (A) 12-43-220(c) (2).

3. The issues presented for determination:

- (a) Whether the Petitioner, Habibunnisa Begum, qualifies for the four percent legal residence tax exemption pursuant to S.C. Code Ann. Section 12-43-220 (c) (2). If she is not a permanent legal resident of South Carolina; and
- (b) If permanent legal residency is a prerequisite for the four percent legal residence tax exemption, does this prerequisite violate the Privileges and Immunities, Equal Protection and Commerce clauses of the United States Constitution.

4. The action requested of the Court, if any:

The Florence County Assessor requests that the Court find that Petitioner does not qualify for the four percent legal residence tax exemption and the prerequisite of permanent legal residence for the four percent legal residence tax exemption is constitutional.

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

Ms. Begum purchased property located at 441 Sterling Drive, TM# 09818-01-057, in Florence County on July 21, 2016 for \$216,500. Ms. Begum submitted a legal residence (four percent special assessment application) on March 7, 2017. Mrs. Begum's application was denied on March 8, 2017. Mrs. Begum notified the Florence County Tax Assessor that she currently holds an H-1B Visa. She is employed as a school teacher. Her H-1B Visa allows entities in the United States to employ workers and specialty operations that require theoretical or technical expertise in specialized fields such as in IT, finance, accounting, architecture, engineering, mathematics, science, medicine, etc. It does not allow its holder to remain in the United States permanently, as an immigrant, but instead, the Visa expires after a specified period of time. When the Visa expires, the H-1B worker must either leave the United States, obtain an extension of the Visa or apply for a different status.

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

The County expects to file a Motion for Summary Judgment in accordance with Rule 56 of the South Carolina Rules of Civil Procedure and Rule 19 of the Rules of Procedure for the Administrative Law Court.

The County expects to file a Motion to Enlarge the scope of discovery in accordance with Rules 26 and 19 of the Rules of Procedure for the Administrative Law Court.

7. A list of proposed witnesses and exhibits;

Witnesses:

(1) Jamie Floyd, Assistant County Assessor

Exhibits:

(1) Exchange of Evidence of Respondent presented to the Florence County Board of Assessment Appeals

(2) Decision of the Florence County Board of Assessment Appeals

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

The County will perform discovery pursuant to Rule 21 of the Rules of Procedure for the Administrative Law Court. In order to develop the facts regarding Petitioner status at the time of her application for the four percent legal residence tax exemption and unique character of the issue regarding her status in the United States at that time, the County will move this Court to enlarge the scope of Discovery beyond the standard interrogatories.

9. The estimated length of the hearing:

The County estimates the hearing will take 4 hours.

10. Any dates in the next 120 days when you will not be available for trial:

July 9-13, 16-20, 23-27, 30-31

August 1-3, 6-10, 13-17, 20-24

September 3, 7, 20, 27

October 10, 18

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

malloy@mceachinlawfirm.com



Florence County Tax Assessor by D. Malloy
McEachin, Jr., Attorney for Florence County
McEachin & McEachin, P.A.
323 S. McQueen Street
Florence, SC 29501
843-665-0135
malloy@mceachinlawfirm.com

Attorneys for Respondent

July 9 2018

Florence, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Habibunnisa Begum,	)	Docket No. 18-ALJ-17-0198-CC
	)	
Petitioner,	)	
	)	
Vs.	)	PETITIONER'S PRE-HEARING
	)	STATEMENTS
Florence County Assessor,	)	
	)	
Respondent.	)	

1. The nature of this proceeding;

ANSWER: This is an appeal from the Florence County Tax Board of Appeals wherein the Petitioner was denied the 4% legal residence assessment.

2. The statutory provision(s) conferring subject matter jurisdiction to the Administrative Law Court (Court) and other applicable statutes and regulations - be specific, not general;

ANSWER: This Administrative Law Court has subject matter jurisdiction pursuant to S.C. Code Ann., Section 12-60-10, et.seq. This particular matter also involves S.C. Code Ann, Sections 12-60-2540 and 12-43-220(c)(2).

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

ANSWER:

(1) Whether or not Petitioner is entitled to the 4% legal residence assessment?

(2) Whether or not Petitioner must be a citizen of the United States in order to qualify for the 4% legal residence assessment?

(3) Whether Petitioner can claim this property as her permanent and only residence and domicile when she is living there under an H1-B Visa issued to persons with special occupations, and is currently applying for citizenship?

#1
KMB

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

ANSWER: Petitioner applied to the Florence County Tax Assessor's office for the 4% legal residence assessment upon her purchase of the residence. Petitioner has been in the United States for 13 years under an H1-B Visa for special occupations. She is a science teacher in the Marion County School District and is under contract with them to continue teaching in that District. Petitioner has been in the process of applying for citizenship since 2012 and is still involved in that process. The type of Visa she and her husband are operating under allows them to remain in the United States as long as they are employed (which they have been since arriving 13 years ago). While in the United States under this type of special Visa, their country of origin cannot require them to return to their country and our country cannot deport them as long as they continue to be employed. These Visas are automatically renewed at their expiration date upon proof that the applicant is employed. Additionally, people in this country under temporary Visas certify that they will not apply for citizenship in the United States. This Petitioner is not required to certify this, as she is currently applying for citizenship.

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

ANSWER: Petitioner is requesting that this Court reverse the denial of the 4% legal residence assessment, and instead, approve it.

6. A summary of any motions expected to be raised at the hearing and the appropriate authority underlying the motion; (In the interest of judicial expediency, all motions

should be submitted to the Court at least fifteen (15) days before the date of the scheduled hearing. Returns should be submitted at least five (5) days before the scheduled hearing.)

ANSWER: None.

7. A list of proposed witnesses and exhibits;

ANSWER: Petitioner expects to present herself and her husband as witnesses, as well as her CPA, Harold Kornblut. The exhibits to be presented will be the Petitioner's Visa, South Carolina Drivers License, Petitioner's employment contract, and the letters from the Florence County Tax Assessor's office denying her request based upon the fact that she must be a "citizen of the United States in order to be approved" and the one denying her request claiming that one cannot form the requisite intent to permanently reside here if one is here on a temporary Visa and is not a citizen of the United States.

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

ANSWER: The Petitioner may wish to conduct some limited discovery to determine how County Tax Assessors are handling similar applications in their counties.

9. Whether the party deems it necessary by the undersigned Judge to conduct a Pre-Hearing Scheduling Conference or issue an order regarding motions, discovery, etc.;

ANSWER: Not necessary.

10. The estimated time required for the hearing;

ANSWER: ½ day.

11. Any unavailable dates in the next 120 days when you will not be available for trial:

ANSWER:

August 1-2

August 6

August 8-10

August 20- September 7 (Trial in Federal Court in Charleston)

September 17-21 (Day Certain Trial in Florence CP)

September 26 (Speaking at CLE Webcast)

#3
KMB

October 8
November 5

12. An e-mail address that the Court can use for e-mail correspondence.

ANSWER: kbarth@bblawsc.com



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kbarth@bblawsc.com

Florence, South Carolina
July 11, 2018

#4

1 THE COURT: Uh-huh.

2 MR. MCEACHIN: --- then the interpretation of
3 statutes and the interpretation of the law is
4 to be strictly construed against the tax payer.
5 And that's the law and standard in our Supreme
6 Court as set here in South Carolina. So we're
7 here, Your Honor, to present our case and
8 hopefully we won't be too long in doing that.
9 Thank you, sir.

10 THE COURT: You're welcome. Mr. Barth?

11 MR. BARTH: May it please the Court, Your Honor, we
12 would call the Petitioner.

13 THE COURT: Good morning.

14 MS. BEGUM: Good morning.

15 THE COURT: The court reporter will swear you in.

16 HABIBUNNISE BEGUM, having been duly sworn, testifies
17 as follows:

18 THE COURT: Okay, have a seat. And if I could ask
19 you to speak up, please.

20 MS. BEGUM: Yes, sir.

21 MS. BEGUM - DIRECT EXAMINATION BY MR. BARTH:

22 MR. BARTH: May it please the Court, Your Honor.

23 THE COURT: Uh-huh.

24 Q: Ms. Begum, can you give us your full name and
25 be sure and speak up so that he can take down



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1 what you're saying.

2 A: Habibunnise Begum.

3 Q: Okay. And Habib is what you go by?

4 A: Yes, sir.

5 Q: Ms. Begum?

6 A: Yes, sir.

7 Q: And where do you live?

8 A: In Florence, South Carolina.

9 Q: And how long have you lived there?

10 A: In Florence I've lived for six years, in Marion

11 I lived before that and in total I've been

12 living in South Carolina for 13 years.

13 Q: 13 years?

14 A: Yes, sir.

15 Q: And you bought a house in Florence County,

16 what, a couple years ago?

17 A: Yes, sir.

18 Q: And I'm gonna show you what's been marked as

19 Plaintiff's Exhibit Number 4. Is this the tax

20 bill for the home you bought?

21 (Petitioner's Exhibit Number 4 was introduced into

22 the record at this time.)

23 A: Yes, sir.

24 Q: Okay. And can you tell the Judge what the

25 address is, please?



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1 A: 421 Sterling Drive, Florence 29501.

2 Q: And, Ms. Begum, who lives there with you?

3 A: My husband and my two daughters.

4 Q: All right. And can you tell us your oldest
5 daughter, where is she now?

6 A: She's a freshman in college. She was accepted
7 into Clemson and University of South Carolina.
8 But since the fees are so high and we have to
9 pay the fee, for the first two semesters I
10 planned to return her to Frances Marion and
11 then transfer her after this semester into
12 either Clemson or USC.

13 Q: Does she pay instate tuition?

14 A: Yes, sir. She pays instate tuition.

15 Q: All right. Now can you tell the Court a little
16 bit about what you do for a living please,
17 ma'am?

18 A: I teach at a high school in Marion County.

19 Q: What do you teach?

20 A: I teach science, it's in the STEM.

21 Q: In the STEM program?

22 A: Yes, sir. Science, technology, engineering and
23 mathematics. Under that I teach high school
24 science. I teach biology, chemistry and AP
25 biology.



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- 1 Q: And how long have you been doing that?
- 2 A: I've been in the same county for 13 years.
- 3 Q: All right.
- 4 A: From 2005 until today.
- 5 Q: All right. And you are employed by the school
- 6 district?
- 7 A: Yes, sir.
- 8 Q: All right. Now can you tell the Court your
- 9 status, how you are here in America?
- 10 A: Yes, sir. I was first hired based on an
- 11 exchange visitor's visa. And then the County
- 12 liked my work and they sponsored me for a work
- 13 visa. And then they were so impressed with my
- 14 work that they proceeded for the citizenship
- 15 papers or they sponsored me for a green card.
- 16 The green card process is a very very long
- 17 process as I do not know how many people are
- 18 aware of the process. So while that is going
- 19 on in hand to stay here legally and to work,
- 20 the County also has to keep a work visa, which
- 21 is nothing but an H1B visa. So these two go
- 22 hand in hand. So as that process is going on
- 23 to stay here, we are supposed to be on H1B
- 24 visa, that's what I am now, and then the green
- 25 card process is also going on.



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1 Q: Okay. Ms. Begum, let me show you Plaintiff's
2 Exhibit Number 5.

3 (Petitioner's Exhibit Number 5 was introduced into
4 the record at this time.)

5 Q: This is the document Mr. McEachin was talking
6 about.

7 A: Yes, sir.

8 Q: Can you tell the Court what that is, please?

9 A: This is my renewal visa, renewal of my H1B visa
10 for this term of 2017 to 2020. So every three
11 years it is renewed by the school district
12 because for the green card process to go on
13 this has to be going on.

14 Q: Uh-huh.

15 A: So this is -- the employment or the employer
16 sponsors it and the attorney renews the
17 process. And then I'm a legal resident or
18 legal person working here based on that.

19 Q: All right. Now as far as citizenship goes or
20 the green card, where is that in the process
21 and how does that work with your H1B?

22 A: The green card process is actually a three step
23 process, and I'm done with two steps.

24 Q: Okay.

25 A: We are waiting for the priority date, which is



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1 the third step.

2 Q: What are the two steps you've accomplished so
3 far?

4 A: First is the labor. What you'd say the
5 Department of Labor has approved for the labor
6 that we are specialty workers under STEM
7 program.

8 Q: All right.

9 A: Since there's a scarcity of science teachers
10 and math teachers in South Carolina, there's a
11 lot of requirement there. That is the reason
12 I'm there.

13 Q: And you've been approved for that?

14 A: Yes, sir.

15 Q: And the second step would be what?

16 A: A high skilled immigrant or high skilled
17 immigrant workers. So I have two masters, I
18 have a masters in science and I also have a
19 masters in educational leadership. So based on
20 my high skills and high qualifications I140,
21 what they call it.

22 Q: Okay.

23 A: So I'm done with that also.

24 Q: Okay. And the third step is what?

25 A: The family and the citizenship status. So we



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1 are waiting for a priority date for that.

2 Q: And if you would, please, can you tell the
3 Court when it is all of that was filled out and
4 applied for?

5 A: 2012, December.

6 Q: Okay. 2012?

7 A: Yes, sir.

8 Q: Since then, is there anything that you have to
9 do or supposed to do to formalize the process?

10 A: I mean that just goes on. The District has
11 done it and the paper work, it's just a wait
12 time for now.

13 Q: Okay. And as far as the visa you're on, that
14 is renewed?

15 A: Yes, sir.

16 Q: Do you have to do anything to renew it?

17 A: I have employment every year, or the school
18 offers me an employment and that itself is
19 enough for it to be renewed.

20 THE COURT: And does the employer submit something
21 to the immigration service to renew it?

22 A: That I have an employment.

23 THE COURT: Uh-huh.

24 A: My employment offer every year what they give
25 me is what they need.



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BEGUM V. FLORENCE COUNTY ASSESSORS

18

1 THE COURT: Please, go ahead.

2 MR. BARTH: Thank you, Your Honor.

3 Q: Other than the employment in the high skills
4 area, is there anything else that needs to be
5 provided?

6 A: I mean there's a requirement that the proof of
7 the requirement and the need in that specialty
8 area is supposed to be submitted.

9 Q: All right. As long as you're employed in a
10 high skill area and a needs -- not special
11 needs school, but a school that needs high
12 skill teachers, as long as you're employed with
13 that, can your government of India force you
14 back home?

15 A: No, sir.

16 Q: Can our government put you out?

17 A: Until I have a legal status here they cannot.

18 Q: Okay.

19 A: I'm legally working here so ...

20 Q: Uh-huh. What does your husband do, Ms. Begum?

21 A: He's an EAD, that's is employment authorization
22 since he's on a dependant visa. He works part-
23 time because he has to also take care of my
24 children, pick them up, and especially with my
25 18-year-old being sick for past three months,



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1 it's been a very rough time for us. So he's
2 working part-time too.

3 Q: She's actually been in MUSC for a period of
4 time, hasn't she?

5 A: She was 98 days in MUSC. She just came back
6 home on February 9th.

7 Q: Okay. After 98 days?

8 A: Yes, sir.

9 Q: And your husband's home taking care of her
10 right now?

11 A: Yes, sir.

12 Q: All right. Now do either you or your husband
13 own a home anywhere else other than the one you
14 live in?

15 A: No, sir.

16 Q: Do you consider this to be your home?

17 A: Yes, sir. It's been a family. Especially
18 during the rough time past three months what
19 we've gone through, my school, my peers, my
20 District has been so supportive. I really
21 appreciate that. And there was a staff meeting
22 just two weeks ago and then I bursted out into
23 tears because they have been a real tremendous
24 support to me, and this is my family, my false
25 family.



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1 Q: Uh-huh. And is there any intent on your part
2 or anyone in your household to move anywhere
3 else?

4 A: No, sir. My older one was here when she was
5 seven, she has her house, her friends, her
6 peers, her teachers and everything. And then
7 she was born here, so she doesn't know anybody
8 or any other people other than people here in
9 South Carolina.

10 Q: Do you have any plans other than to permanently
11 live where you are and teach where you are?

12 A: No, sir. That's the reason why I bought the
13 house so I can permanently settle here.

14 Q: Okay.

15 **THE COURT:** You said your second daughter was born
16 here?

17 A: Yes, sir.

18 Q: Do you have a driver's license?

19 A: Yes, sir.

20 Q: What state issued that, please?

21 A: South Carolina.

22 Q: Can you identify Plaint- -- Petitioner's
23 Exhibit Number 1 please?

24 (Petitioner's Exhibit Number 1 was introduced into
25 the record at this time.)



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1 A: Yes, sir.

2 Q: What is that?

3 A: My driver's license.

4 Q: All right. And that's issued for how long?

5 A: As my legal residency goes on it gets renewed.

6 Q: Okay. So it renews as your H1 renews?

7 A: Yes, sir.

8 Q: Okay. Is there anything else you have to do

9 other than go to DMV and renew it?

10 A: I just have to produce my renewal for my

11 residency, that's it.

12 Q: And your family owns vehicles?

13 A: Yes, sir.

14 Q: And they're registered where?

15 A: My husband and my daughter both have driver's

16 license from South Carolina, Florence County.

17 Q: And the vehicles are registered in Florence

18 County?

19 A: Yes, sir.

20 Q: Property taxes on the vehicles paid ---

21 A: Yes, sir.

22 Q: --- in Florence County?

23 A: Yes, sir.

24 Q: Do you file income tax returns?

25 A: Yes, sir.



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- 1 Q: Have you done that every year since you've been
2 here?
- 3 A: From 2006 on.
- 4 Q: From 2006 on?
- 5 A: Yes, sir.
- 6 Q: And if you would, tell me what state you
7 consider to be your residency ---
- 8 A: South Carolina.
- 9 Q: --- for purposes of taxes.
- 10 A: Yes, sir.
- 11 Q: You file your tax returns in South Carolina?
- 12 A: Yes, sir.
- 13 Q: Have you ever filed them anywhere else other
14 than here?
- 15 A: No, sir.
- 16 Q: At any point, Ms. Begum, did you sign any
17 document that says you would not apply for
18 citizenship in America?
- 19 A: No, sir.
- 20 Q: Okay. That's been your intent throughout?
- 21 A: Yes, sir.
- 22 Q: Now you applied for the four percent legal
23 residence exemption ---
- 24 A: Uh-huh.
- 25 Q: --- did you not?



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1 A: Yes, sir.

2 Q: All right. And if you would, look at
3 Petitioner's Exhibit Number 2.

4 (Petitioner's Exhibit Number 2 was introduced into
5 the record at this time.)

6 A: Yes, sir. This is mine.

7 Q: That's your's?

8 A: Yes, sir.

9 Q: All right. And you were denied your request,
10 were you not?

11 A: Yes, sir.

12 Q: And can you tell the Court or read the Court
13 what the basis for the denial is?

14 A: It says, therefore our office to able to
15 process this form as required by law we need
16 the following documentation as -- to be a US
17 citizen in order to be approved. That's what
18 it says.

19 Q: So you had to prove that you were a US citizen
20 or you didn't qualify?

21 A: Yes, sir.

22 Q: All right. And then after that did you have a
23 representative contact the County on your
24 behalf?

25 A: Yes, sir.



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- 1 Q: And who was that?
- 2 A: You.
- 3 Q: Mr. Kornblut first?
- 4 A: Yes, sir. Yes, Kornblut.
- 5 Q: All right. That's the CPA, isn't it?
- 6 A: Yes, sir.
- 7 Q: All right. And did he discuss your situation
- 8 with the County?
- 9 A: Yes, sir. He did.
- 10 Q: And ask them to reconsider their decision?
- 11 A: Yes, sir.
- 12 Q: Look at Plaintiff -- Petitioner's Exhibit
- 13 Number 3 please.
- 14 (Petitioner's Exhibit Number 3 was introduced into
- 15 the record at this time.)
- 16 A: Yes, sir.
- 17 Q: All right. And is that another denial letter?
- 18 A: Yes, sir.
- 19 Q: All right. And do you know the reason they
- 20 denied that one?
- 21 A: Same thing, sir, as they say that she has to
- 22 prove her citizenship based on insufficient
- 23 information about her citizenship. That's what
- 24 it says.
- 25 THE COURT: Mr. Barth?



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1 MR. BARTH: Yes, sir?

2 THE COURT: Before we go any further, and I
3 certainly don't mean to disrupt, would you move
4 those exhibits into evidence and I can then
5 hear from them.

6 MR. BARTH: Yes, ma'am -- yes, sir, I'm sorry.

7 THE COURT: That's quite all right.

8 MR. MCEACHIN: We've reviewed them, Your Honor. I
9 have no objection to any of the exhibits.

10 THE COURT: If you would then just itemize them so
11 the record ---

12 MR. BARTH: I asked your clerk and then did it wrong
13 anyway, sorry. Petitioner's Exhibit Number 4
14 is the Petitioner's property tax notice, we
15 move to introduce that, Your Honor.

16 THE COURT: List them all as a group, each one and I
17 will just admit them. But if you'll -- I'm not
18 going -- so if you'll just go ahead and
19 continue to identify them.

20 MR. BARTH: Petitioner's Exhibit Number 5 is the
21 I797B notice of action. We'd move to introduce
22 that into evidence, Your Honor. The
23 Petitioner's Exhibit Number 1 is Ms. Begum's
24 South Carolina driver's license. We'd move to
25 introduce that. Petitioner's Number 2 is the



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1 original tax assessor's denial letter and we
2 would move to introduce that. And Petitioner's
3 Number 3 is the reconsideration by the tax
4 assessor also denying the claim. And we would
5 move to introduce that.

6 **THE COURT:** Just to recap, that's Petitioner's 1
7 through 5.

8 **MR. BARTH:** Yes, sir. 1 through 5.

9 **THE COURT:** Hearing no objection, and actually
10 Respondent has indicated there is no objection,
11 Petitioner's 1 through 5 are admitted into
12 evidence.

13 (Petitioner's Exhibit Numbers 1 through 5 were
14 admitted into evidence.)

15 **THE COURT:** Everybody's got copies of those?

16 **MR. BARTH:** Yes, sir. You need a copy to work on?

17 **THE COURT:** If you have a copy I can get it from the
18 ...

19 **MR. BARTH:** Yes, sir. I actually do.

20 **THE COURT:** Thank you, sir.

21 **MR. BARTH:** There you go, Your Honor.

22 **THE COURT:** Thank you.

23 **MR. BARTH:** We didn't put stickers on the copies.
24 And that one, Your Honor.

25 **Q:** Ms. Begum, when you went to talk to the



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1 Florence County tax people, did they ask you
2 for documentation about where you lived and if
3 this was your legal residence?

4 A: Yes, sir.

5 Q: All right. And did you provide them with a
6 bank statement and a driver's license showing
7 them that you actually do live in that
8 residence?

9 A: Yes, sir.

10 Q: Take a look at Plaintiff's Exhibit Number 6,
11 please.

12 (Petitioner's Exhibit Number 6 was introduced into
13 the record at this time.)

14 Q: Is that some of the documentation you provided
15 to the tax assessor?

16 A: Yes, sir.

17 Q: All right.

18 MR. BARTH: I move to introduce that, Your Honor.

19 MR. MCEACHIN: No objection, Your Honor.

20 THE COURT: Thank you.

21 MR. BARTH: It's a South State Bank bank statement,
22 Your Honor.

23 THE COURT: Exhibit 6 is admitted into evidence with
24 no objection from the Respondent and, Mr.
25 Barth, you've redacted any ---



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1 MR. BARTH: Yes, sir.

2 THE COURT: --- information you would not want to be
3 ...

4 MR. BARTH: Yes, sir. We redacted the account
5 number, which I believe, I can check it again,
6 but I think that's the only identifying
7 information. We did the same with the I797 as
8 well, Your Honor, and the driver's license
9 number.

10 THE COURT: Thank you.

11 (Petitioner's Exhibit Number 6 was admitted into
12 evidence.)

13 THE COURT: Please continue.

14 MR. BARTH: Thank you.

15 Q: And, Ms. Begum, you mentioned earlier that you
16 are under contract with the Marion County
17 School District?

18 A: Yes, sir.

19 Q: Can you take a look at this document, please,
20 and tell me what that is?

21 (Petitioner's Exhibit Number 7 was introduced into
22 the record at this time.)

23 A: My employment contract.

24 Q: Runs through when?

25 A: 2019.



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1 Q: Would that be the end of this school year?

2 A: Yes, sir.

3 Q: When do you sign next year's contract?

4 A: We'll be getting them in the month of April.

5 Q: Okay.

6 A: Before or after Easter break.

7 Q: Okay. Any reason to believe you're not going
8 to be renewed for next year?

9 A: I don't have any. I'm the Department chair
10 over there right now.

11 Q: Okay.

12 MR. BARTH: Your Honor, we'd move to introduce
13 Petitioner's Number 7.

14 MR. MCEACHIN: No objection, Your Honor.

15 MR. BARTH: And I would note, Your Honor, this one
16 does not have Ms. Begum's signature on it. The
17 original does and I've shown it to Mr. McEachin
18 and they are the same. We just don't want to
19 give up the original if we don't have to.

20 THE COURT: That's fine.

21 MR. BARTH: Thank you, Your Honor.

22 THE COURT: And I'm sorry. That's exhibit ---

23 MR. BARTH: 7.

24 THE COURT: Exhibit 7 is admitted into evidence.

25 (Petitioner's Exhibit Number 7 was admitted into



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1 evidence.)

2 Q: Ms. Begum, is there anything else you want the
3 Court to understand or know as it relates to
4 your home and the residence you live in?

5 A: I don't know if this will be good information,
6 but I would like to say something. I do not
7 know how much you're aware of the payments what
8 we get as teachers in South Carolina,
9 especially in a county like Marion County.
10 With respect to the Florence County or Horry
11 County beside us we are paid much more lesser
12 than that. And my paycheck is not as much
13 after paying the six percent and paying my
14 daughter's fee and then running my house
15 successfully, especially with my little one's
16 medical situation, I do not know how I'm going,
17 but I'm going. But I just wanted to bring this
18 to your notice. I apologize.

19 THE COURT: No, that's quite all right. Thank you
20 for your testimony.

21 Q: And, Ms. Begum, one other question. How have
22 you been able to appeal this?

23 A: To be honest I really want to appreciate Mr.
24 Barth and Mr. Kornblut in front of everybody
25 because Mr. Kornblut, my CPA has been so



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1 helpful, and then Mr. Barth has not charged me
2 a penny to just do this. Attorneys charge so
3 much money, he's been so nice. And both of
4 them have helped me so much. The two percent
5 might sound very little and meager but that
6 will really help me a lot in my payment of my
7 older daughter's fee or my expenses or my
8 payments of my bills and other stuff. I try to
9 crimp as much expense as possible and we live
10 in a normal very mediocre life. But still to
11 meet the ends, it is difficult, sir. And I
12 hope you understand. The only thing -- the
13 only reason why we bought home or house here
14 was to settle down here and how many months are
15 we going to pay the rent? So the rent can be
16 a saving for us. That was the intention. And
17 we wanted to settle down here as a family ---

18 Q: Uh-huh.

19 A: --- and with the kids, everywhere they go they
20 come back. This is home for us. That's the
21 only request what I have, sir.

22 Q: Thank you very much. Answer any questions Mr.
23 McEachin or the Judge might have for you, okay?

24 A: Yes, sir.

25 THE COURT: I'd like to go forward with cross-



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1 examination. I do have some questions at the
2 end but please go ahead with cross.

3 MR. MCEACHIN: Thank you, Your Honor.

4 MS. BEGUM - CROSS-EXAMINATION BY MR. MCEACHIN:

5 Q: Good morning, Ms. Begum.

6 A: Morning, sir.

7 Q: The country of your birth is India, is that
8 correct?

9 A: Yes, sir.

10 Q: And you lived there until about 12 years ago?

11 A: Yes, sir.

12 Q: Okay. And your able to come to the United
13 States on a non-immigrant visa, is that
14 correct?

15 A: Yes, sir.

16 Q: And that's your current status, on a non-
17 immigrant visa?

18 A: Apart from where the County has also applied
19 for the citizenship. Two things go hand in
20 hand, sir.

21 Q: All right. But we don't have any of those
22 documents here today, do we?

23 A: Because we're not given those documents because
24 the County has them and I do have the second
25 stage confirmation letter that's called I140.



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1 Q: Right. But those aren't in evidence, isn't
2 that correct?

3 A: I guess. But I think you should have them in
4 -- if not I can get them. I have them at home,
5 I could scan it and send it to you or I can
6 produce a copy to you.

7 Q: All right. And they weren't provided to
8 Florence County, to the tax assessor either,
9 were they?

10 A: They ---

11 Q: In other words the only document is your
12 Exhibit 5 I think. I'll just show you my copy.
13 That's the only document from the US
14 Immigration -- involving US Immigration Service
15 that was presented to the tax assessor,
16 correct?

17 A: This is the current one, sir.

18 Q: Right.

19 A: But then I do have the I140 which is the second
20 stage of the green card or it's essential
21 process.

22 Q: Okay.

23 A: And since in the tax office they did not ask
24 for all these, they just asked for three
25 things, driver's license, Social Security



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1 number and your property detail. These were
2 the only things which I submitted.

3 Q: Right. But you did submit this ---

4 A: This when they asked me.

5 Q: --- Petitioner's Number 5 when you were asked
6 by the tax assessor, you have him this?

7 A: Yes.

8 Q: But this was the only one you gave him, right?

9 A: Yes, sir.

10 Q: Okay. And the -- I'm gonna let you hold onto
11 mine, let me get Number 5.

12 **THE COURT:** And again, Mr. McEachin, if you would
13 clearly identify for the record what documents
14 you showed ---

15 **MR. MCEACHIN:** It's Petitioner's Number 5, Your
16 Honor.

17 **THE COURT:** Okay. Thank you.

18 Q: Ms. Begum, if you would look at that
19 Petitioner's Number 5. It says that you are
20 able to remain in the United States from August
21 28, 2017 to July 29, 2020, correct?

22 A: Yes, sir.

23 Q: Okay. And you'll have to file another petition
24 to extend your ability to stay in the United
25 States before July the 29th, 2020, isn't that



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1 correct?

2 A: Yes, sir.

3 Q: Okay. And there's no guarantee that
4 immigration will approve a further extension.
5 You're hoping that but there's no guarantee is
6 there?

7 A: When we filed for the green card this is an
8 automatic guarantee that, yes, there is
9 approval for that because there is a need for
10 the STEM teachers and also my green card
11 process is going hand in hand. So for that to
12 be active this has to be active.

13 Q: Right. Well let's look at the language in
14 here. It says, the above petition has been
15 approved for the classification request, and
16 that would be the H1B, correct?

17 A: Uh-huh.

18 Q: And then the next sentence says, it has been
19 determined that the named worker is not
20 eligible for the requested extension of status.
21 Isn't that correct?

22 A: It says that. That's what I'm saying, sir.
23 These two go hand in hand. And this is for
24 other people like the IT workers or other
25 people who stay for a smaller shorter period of



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- 1 time. But since I'm a STEM worker in need or
2 requirement for teaching highly skilled
3 workers, these two go hand in hand. And for me
4 to stay here legally with the green card
5 process going hand in hand this has to be done.
- 6 Q: All right. And let's look at the next
7 paragraph in the I797B notice. It says, since
8 the worker has been found ineligible for an
9 extension of stay we have sent notification to
10 the consulate shown above. And that would be
11 your consulate, isn't that correct?
- 12 A: Consulate in India because I had to go and get
13 it stamped.
- 14 Q: Right. So you had to go back and get approval
15 from your country for the extension of this H1B
16 status, isn't that correct?
- 17 A: There was a reason for that, sir. Because my
18 passport had expired. Since I still don't have
19 an American, Indian passport, I still don't
20 have an American passport because I'm not a
21 citizen here yet.
- 22 Q: Right. I'm sorry, go ahead.
- 23 A: Sorry. Because my passport had expired and I
24 had to renew that on time and then these two
25 timings didn't work out, so I had to go for an



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1 extension for the renewal.

2 Q: Right. To remain in the United States you had
3 to go back to your country, India, to get
4 India's permission, isn't that what this form
5 is saying?

6 A: It's not a permission, sir. It's my renewal of
7 my passport. That's what I meant to say.

8 Q: But you had to go back to your consulate,
9 India?

10 A: Yes, sir.

11 Q: Okay. Your driver's license is -- that's
12 permission for you to operate a vehicle in the
13 state of South Carolina, isn't that correct?

14 A: Yes, sir.

15 Q: And that's all a driver's license is, isn't it?

16 A: Uh-huh.

17 Q: All right. Now if for some reason your H1B
18 status is not extended beyond July the 29th,
19 2020, the US Immigration Service would cause
20 you to leave the United States, isn't that
21 correct?

22 A: My green card process is going on, sir. Since
23 that is current, this will be current, sir.

24 Q: But my question is if you're H1B status is not
25 extended beyond July the 29th, 2020, then the



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1 Immigration Service would require you to leave
2 the country, isn't that correct?
3 A: Yeah, maybe.
4 Q: I beg your pardon.
5 A: Yes, sir. Maybe.
6 Q: Okay. Now when you filed your application for
7 an H1B visa, you stated in that application
8 that you are a resident of the country of
9 India, isn't that correct?
10 A: Yes, sir.
11 Q: You didn't state you're a resident of South
12 Carolina?
13 A: I was asked by the attorney because I did not
14 get my citizenship status yet.
15 Q: Right. And to get that H1B visa, you had to
16 give proof of your citizenship of the country
17 of India, isn't that correct?
18 A: My Indian passport itself is proof, sir.
19 Q: Sir -- ma'am?
20 A: My Indian passport itself is a proof.
21 Q: Right. But that showed you were a resident of
22 the country of -- and citizen of the country of
23 India, correct?
24 A: As we're -- yes, sir. As we're waiting for the
25 citizenship.



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1 Q: You're not registered to vote in South
2 Carolina?

3 A: No, sir.

4 Q: And you have to be a citizen to get a voter's
5 registration, isn't that correct?

6 A: Yes, sir.

7 Q: And your Social Security card is for work
8 purposes only, isn't that correct?

9 A: Yes, sir.

10 Q: Your daughter, did she apply for any state
11 scholarships for college?

12 A: Yes, sir.

13 Q: She wasn't able to take advantage of those?

14 A: No, sir.

15 Q: And that was because she was not a citizen of
16 South Carolina?

17 A: She's considered a citizen of South Carolina
18 but not a national citizen. Since she's
19 considered a citizen of South Carolina she's
20 paying instate tuition, sir.

21 Q: Right. But she was unable to qualify for any
22 of the scholarships that are offered?

23 A: Yeah. Because at the end of every scholarship
24 requirements or eligibility they say, should be
25 a citizen of the United States.



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1 Q: Right. And she is not?

2 A: No, sir. Not yet.

3 MR. MCEACHIN: May I have one second, Your Honor?

4 THE COURT: Of course.

5 MR. MCEACHIN: That's all I have, Your Honor.

6 Q: Thank you, ma'am.

7 A: Thank you.

8 MR. BARTH: Brief redirect? Oh, I'm sorry.

9 THE COURT: I'll let you go ahead and then I will
10 have some questions.

11 MR. BARTH: I'm sorry, Your Honor.

12 THE COURT: No, that's quite all right.

13 MS. BEGUM - REDIRECT EXAMINATION BY MR. BARTH:

14 Q: Ms. Begum, did you explain your visa and work
15 status to Mr. Floyd when you were talking about
16 the four percent assessment?

17 A: Yes, sir. I did.

18 Q: Did he ask you for any additional information
19 other than the I797 that you provided him?

20 A: No, sir.

21 Q: And as long as you continue to be employed as
22 you are and will be next year, is the renewal
23 or extension of this status automatic?

24 A: Yes, sir.

25 Q: All right.



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1 A: The County does it.

2 Q: The County takes care of that?

3 A: Yes, sir.

4 Q: You don't do anything?

5 A: No, sir.

6 Q: All right. Do you even have copies of what the

7 County files with the government?

8 A: They do sent it to us.

9 Q: Okay. Good. Thank you, ma'am. I think the

10 Judge has some questions for you.

11 **MS. BEGUM - CLARIFICATION BY THE COURT:**

12 **THE COURT:** Thank you for your testimony. And I've

13 got a couple of questions.

14 A: Yes, sir.

15 **THE COURT:** And then, of course, the lawyers will be

16 able to ask questions. Now you have applied

17 for your green card ---

18 A: Yes, sir.

19 **THE COURT:** --- is that right? Tell me about that

20 process.

21 A: The green card process is tends to be basically

22 on five categories. One is a very very special

23 category, it's rare skill work, like very high

24 tech doctors and stuff. And the second

25 category would be under highly skilled



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1 immigrants like me.

2 THE COURT: And so you applied for the second
3 category?

4 A: Yes, sir. The County applies for it because
5 they consider us as a highly skilled immigrant
6 worker.

7 THE COURT: So the County as your employer has ---

8 A: Yes, sir.

9 THE COURT: Okay. And where are you in that
10 process?

11 A: Second process is completed, sir. I'm waiting
12 for the third process.

13 THE COURT: So that application has been submitted
14 to INS?

15 A: Yes, sir. You call it USCIS immigration
16 services.

17 THE COURT: Do you have any indication of how long
18 that it's going to take for approval or some
19 answer from the green card process?

20 A: That's a difficult thing to answer, sir,
21 because these are political issues and I have
22 no -- I don't know at this time.

23 THE COURT: So you are currently here on the H1B
24 visa and what I understand is that although it
25 has an expiration date, your school district



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1 applies for, essentially, renewal?

2 A: Uh-huh. Yes, sir.

3 **THE COURT:** Now do you do anything with regard to
4 the renewal process or does the school district
5 handle that?

6 A: The school district handles everything. The HR
7 person at school district handles everything.
8 They give the attorney our employment, our
9 continued employment. They give the attorney
10 the work which I do during my Summers. I work
11 as an intern -- research intern at Frances
12 Marion University to keep up myself with
13 professional development. They turn in those
14 papers and then they turn in also the STEM
15 requirements the District has. All of these
16 are important for them to be submitted for the
17 renewal.

18 **THE COURT:** Now in answering the questions of the
19 lawyers, the term citizenship has also been
20 thrown out. If you were to be granted your
21 green card status, how do you then apply for
22 citizenship or is it the same?

23 A: No, sir. After three years or I'm assuming
24 it's after two to three years. I'm not sure on
25 this, sir. After two to three years we have to



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1 give away the Indian citizenship and apply for
2 this citizenship and take oaths. And that's
3 when I get my voting eligibility or voter's
4 card and everything.

5 **THE COURT:** So the process is you are here currently
6 on the H1B visa.

7 A: Yes, sir.

8 **THE COURT:** You have applied for your green card.

9 A: Yes, sir.

10 **THE COURT:** That is still pending?

11 A: Yes, sir.

12 **THE COURT:** Once a green card is established, at
13 some point later you will apply for
14 citizenship?

15 A: Yes, sir.

16 **THE COURT:** Okay. You mentioned something about
17 another form. I think you called it an I40,
18 now what is that?

19 A: That's the second step of green card, sir. The
20 first one is the labor, where the labor -- the
21 Division of Labor approves that there is a
22 requirement in this particular skill, and says
23 that, yes, there is an eligibility and that you
24 can hire this applicant. They approve that and
25 that is approved. And then the second stage is



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1 I140 based on which the highly skilled
2 immigrant workers are eligible for applying for
3 the green card or full residency and
4 citizenship. The years of experience and
5 evaluations and assessments and the
6 qualifications of the people, and working
7 together that would be approved.

8 **THE COURT:** And you said you have a copy of that?

9 A: I have -- not right now on me.

10 **THE COURT:** The County, you've not see that
11 document?

12 **MR. MCEACHIN:** No, sir, Your Honor.

13 **THE COURT:** And at the end of the hearing I'd like
14 to take that matter up with counsel. Would
15 anybody have any objection to my leaving the
16 record open for a day until she can get me that
17 document?

18 **MR. BARTH:** No, Your Honor.

19 **MR. MCEACHIN:** Well, I don't know what's going to be
20 on the document, Your Honor. And then she's
21 gone. I can't ask any questions about it. I
22 think the record is -- the record's been
23 established. That'd be my concern, if there's
24 something on there that I need to ask her
25 about, I won't be able to do that.



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1 A: I can add something, sir. I might have it in
2 my flash drive. I will check after this
3 session is over. I might have it in my flash
4 drive because we have to send a copy of that.
5 So if I have it now I can give it to you now.
6 But if it's at home I'll scan it and send it to
7 you.

8 THE COURT: What I'll do if, when we take a break,
9 if you can check your flash drive. I don't
10 know if you can do that. And if you don't have
11 it I'll take the issue up -- the legal issue up
12 with the lawyers.

13 A: Yes, sir.

14 THE COURT: Exhibit 5 please. Thank you. Counsel,
15 the Exhibit 5 that I have, both the copy that
16 I have and the one that's been provided I'm
17 sure to each of you is -- the first paragraph
18 is not completely legible. The above petition
19 has been approved for the classification
20 requested. It has been determined that the
21 named worker is not eligible for the requested
22 extension of status. The next sentence I'm
23 unable to read. Can either of you shed any
24 light on that for me?

25 MR. MCEACHIN: He's looking, Your Honor to see if



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1 this -- what he's got is more legible. I don't
2 have it.

3 **MR. BARTH:** I don't have a more legible copy, I'm
4 sorry.

5 **THE COURT:** One second. My law clerk whose eyes are
6 better than mine says he thinks he has figured
7 it out. I don't know if you can see it well
8 enough but we think the sentence says, you will
9 be -- you will receive ...

10 **MR. GOLDMAN:** You will receive separate notice
11 explaining the reasons for this determination.

12 **THE COURT:** Can you all make that out? You will
13 receive separate notice explaining the reasons
14 for this determination.

15 **MR. BARTH:** That looks like what it says.

16 **MR. MCEACHIN:** Looks right to me, Your Honor.

17 **THE COURT:** Ma'am, when you got this I797B notice of
18 action, did you get any additional document
19 explaining what the INS has done or why they
20 made this determination?

21 A: No, sir.

22 **THE COURT:** Okay.

23 A: Your Honor, can I add something?

24 **THE COURT:** One second, please. Yes, ma'am.

25 A: It's just a request. I just wanted to say



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1 this. When I'm paid as a paycheck, I have
2 federal deductions, Social Security deductions,
3 State deductions and all these deductions. So
4 I'm being deducted on the basis that I'm a
5 normal person like a person in the United
6 States. Then when it comes to the -- and I pay
7 taxes for everything. And when it comes to my
8 benefits of four percent, why am I exempted
9 that? If it was a case of, since I'm an alien
10 why should I be paying all this?

11 **THE COURT:** I understand.

12 A: Because if they think that I'm an alien and I
13 will not be getting any benefit, then I will not
14 be eligible for my Social Security or any of
15 the benefits, then why am I paying that? I
16 apologize if I've said anything wrong, but this
17 was a question which was burning in my heart.

18 **THE COURT:** You've not said anything wrong. You've
19 not said one thing wrong. I appreciate your
20 testimony. Mr. Barth, anything else right now?

21 **MR. BARTH:** Only one question, Your Honor.

22 **MS. BEGUM - REDIRECT EXAMINATION BY MR. BARTH:**

23 Q: Ms. Begum, the application for a green card,
24 can you apply for that green card without these
25 first two steps being completed and approved?



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1 A: No, sir.

2 Q: Okay. So the fact that you've already applied
3 for the green card means the other things have
4 been applied for and approved?

5 A: Yes, sir.

6 Q: Anything else you need to do -- is there
7 anything else you need or have to do for the
8 green card application to be processed?

9 A: No, sir.

10 Q: Thank you.

11 A: Green card can be of three kinds, sir. The
12 first is either you have an employee based,
13 employer based. EB is what you call it. A
14 family based or a business based. I'm not rich
15 enough to have a business and I don't have any
16 family here other than my friends and family
17 what I made in 13 years. So my employer has
18 applied for my green card.

19 THE COURT: I understand. I'd like to take about a
20 10 minute break if that's okay with everyone.
21 Would you have an opportunity to look for that
22 form on your flash drive during that 10
23 minutes?

24 A: If anybody has a laptop I can look.

25 MR. BARTH: I have one.



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1 THE COURT: If we can try to come back -- let's say
2 it's 11:00 o'clock now, if we can try to get
3 back at 10 minutes after 11:00. We'll be in
4 recess until that time.

5 (Off the Record)

6 THE COURT: Back on the record. Ms. Begum --
7 pronounce it for me again.

8 MS. BEGUM: Begum.

9 THE COURT: Begum. Well I'm close. And I
10 apologize. If you would resume the stand, and
11 remember you're under oath. And Mr. McEachin,
12 if you would ask your question, please.

13 MR. MCEACHIN: It's McEachin, Your Honor. I know
14 it's -- I know names are a little bit of an
15 issue I guess this morning.

16 THE COURT: No, that's quite all right.

17 MR. MCEACHIN: Thank you.

18 THE COURT: I'll share something with you at the
19 end. Yes, sir.

20 MS. BEGUM - RECROSS-EXAMINATION BY MR. MCEACHIN:

21 Q: Ms. Begum, you'd agree with me that the green
22 card that you've been asked about, that's a
23 permanent status once you get that, correct?

24 A: Yes, sir.

25 Q: All right. But the H1B, which is your status



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1 now is not permanent. It has to be renewed
2 periodically, isn't that correct?

3 A: Yes, sir.

4 Q: Thank you. That's all I have.

5 THE COURT: Mr. Barth, anything based on that?

6 MR. BARTH: No, sir, Your Honor. Thank you.

7 THE COURT: Ms. Begum, if you can return to your
8 seat. Thank you so much. Yes, sir?

9 MR. MCEACHIN: Can I ask -- I don't know if there's
10 anything we've really got to add to all this.
11 I do need to put him up just briefly, Your
12 Honor. Won't take but a second.

13 THE COURT: Yes, sir. Please come forward and the
14 court reporter will swear you in.

15 JAMIE H. FLOYD, having been duly sworn, testifies as
16 follows:

17 THE COURT: Please have a seat, sir.

18 MR. FLOYD: Thank you, sir.

19 THE COURT: If you would, answer any questions your
20 counsel has.

21 MR. FLOYD - DIRECT EXAMINATION BY MR. MCEACHIN:

22 THE COURT: Sir, if you would, of course have him
23 introduce himself for the record.

24 MR. MCEACHIN: All right. I will, Your Honor.

25 THE COURT: Okay.



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- 1 Q: Will you give your full name for the record,
2 please, sir.
- 3 A: Jamie H. Floyd.
- 4 Q: And what is your occupation?
- 5 A: I'm the assessor for Florence County.
- 6 Q: All right, sir. And how long have you been the
7 assessor for Florence County?
- 8 A: Since -- officially since October of 2018.
- 9 Q: And before that did you work in the tax
10 assessor's office?
- 11 A: Yes, sir.
- 12 Q: And what were your duties at that -- before
13 becoming the tax assessor?
- 14 A: Pretty much the same, but my title was the
15 assistant assessor.
- 16 Q: Okay. And you were involved in Ms. Begum's
17 application for a assessment ratio of four
18 percent rather than six percent on her home?
- 19 A: Yes, sir.
- 20 Q: Okay. Now in your conversation with Ms. Begum,
21 did you ask her to bring you all of her
22 information concerning her status in the United
23 States?
- 24 A: Yes, sir.
- 25 Q: Did you limit her to just this one document



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1 that's been introduced as Petitioner's Number
2 5?

3 A: No, sir.

4 Q: What did you ask her for?

5 A: I asked her for any additional documents that
6 would apply to her application for legal
7 residence. We asked for the actual visa card
8 and any other documents of application.

9 Q: And the -- what we have here today is all that
10 you -- all that we've got, right?

11 A: Yes, sir.

12 Q: All right. I do need to -- what's been
13 previously marked as Respondent's Exhibit
14 Number 1. Can you identify that document for
15 me, please, sir?

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

18 A: Yes, sir. That is a letter that was sent from
19 the Department of Revenue signed by Mr.
20 Meredith Cleland in reference to this specific
21 issue.

22 Q: All right, sir. And it was dated -- what's the
23 date of that letter?

24 A: April 20th, 2018.

25 Q: Very good.



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1 MR. MCEACHIN: Your Honor, we would move this in

2 MR. BARTH: No objection.

3 THE COURT: Hearing no objection we would admit
4 Respondent's Exhibit 1 into evidence.

5 (Respondent's Exhibit Number 1 was admitted into
6 evidence.)

7 THE COURT: Is this a copy that I may have?

8 MR. MCEACHIN: Bed your pardon.

9 THE COURT: Is this a ---

10 MR. MCEACHIN: I've got a copy for you. I'm sorry.
11 Let's see, Your Honor.

12 THE COURT: Thank you, sir.

13 MR. MCEACHIN: Thank you.

14 Q: Tell me the process that was involved in
15 considering Ms. Begum's application.

16 A: Customer service, as she approached the window,
17 she and her husband --

18 Q: If you could speak into the microphone just a
19 little bit.

20 A: Yes, sir. Apologies. She came into fill out
21 an application for legal residence. They have
22 a list of information that is provided at the
23 window there to ask for driver's license,
24 vehicle registration, voter registration,
25 Social Security card, that is the initial



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1 requirement. If there's any other questions
2 that we may have we might ask for other
3 identification. She filled out the application
4 and we saw that there was some additional
5 information that we needed as the Social
6 Security revealed that they were for work
7 purposes only. At that point that's when we
8 began to ask other questions of her status.
9 And as the conversations carried on then the
10 797 was presented. And then eventually the tax
11 returns were presented.

12 Q: All right. And as a result of the information
13 that was presented by Ms. Begum, was a decision
14 made regarding her request for a four percent
15 assessment ratio versus a six percent
16 assessment ratio on her property?

17 A: Yes, sir.

18 Q: And what was that decision?

19 A: That decision was it was denied based on that
20 she could not prove that she was domiciled
21 within the County.

22 Q: All right. Thank you, sir. That's all I have.

23 MR. MCEACHIN: Thank you, Your Honor.

24 MR. BARTH: May it please the Court?

25 THE COURT: Yes, sir.



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1 MR. FLOYD - CROSS-EXAMINATION BY MR. BARTH:

2 Q: Jamie, if she had brought you the H1B visa and
3 shown it to you and you had a chance to look at
4 it, that would not have changed your decision,
5 would it?

6 A: No, sir. As it being a non-immigrant visa, no,
7 sir.

8 Q: So the fact that she didn't produce the actual
9 visa for you doesn't really affect what we're
10 doing today, does it?

11 A: No, sir.

12 Q: Okay. Now the way I understand it, and do
13 correct me if I'm wrong, is you guys follow
14 some of the guidelines and opinions of the
15 Department of Revenue?

16 A: Yes, sir.

17 Q: And you looked to that for guidance in deciding
18 one way or another how to handle certain
19 issues, right?

20 A: Yes, sir.

21 Q: All right. And one of those issues is exactly
22 what we're talking about today, isn't it?

23 A: Yes, sir.

24 Q: All right. Now you don't dispute at all that
25 this is Ms. Begum and her family's home, do



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- 1 you?
- 2 A: We -- I do believe it is her residence, yes,
- 3 sir.
- 4 Q: Okay. And you don't have any information that
- 5 leads you to believe she has one anywhere else,
- 6 do you?
- 7 A: Yes, sir.
- 8 Q: You do?
- 9 A: Yes, sir.
- 10 Q: Where does she own a home?
- 11 A: I feel that -- not that she may own a home. I
- 12 don't know as -- I have no way of acquiring
- 13 that information. I do know that she is a
- 14 citizen of another country.
- 15 Q: Okay. All right. But as far as house,
- 16 residence, where I live, this is it, isn't it,
- 17 in Florence as far as you know?
- 18 A: In Florence, yes, sir.
- 19 Q: And if you would, can you look in -- do you
- 20 have the statute we're talking about or do you
- 21 know it?
- 22 A: 12-43-220?
- 23 Q: Yes, sir.
- 24 A: Yes, sir.
- 25 Q: You have that in front of you?



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- 1 A: Yes, sir.
- 2 Q: Can you tell me in that statute where it says
- 3 you have to be a United States citizen to
- 4 qualify for the four percent?
- 5 A: It does not. The word citizen is not there.
- 6 Q: The word citizenship is not in the statute at
- 7 all, is it?
- 8 A: Not that I can tell, no, sir.
- 9 Q: All right. And so as a result of that, when
- 10 you guys decided to deny her status because she
- 11 was not a United States citizen, you based that
- 12 on what, legal residence?
- 13 A: Could you -- I'm not understanding your
- 14 question.
- 15 Q: It's probably a bad one. When you guys decided
- 16 to deny her request for the four percent
- 17 assessment, right?
- 18 A: Yes, sir.
- 19 Q: The first time you guys denied it it was
- 20 because she was not a US citizen, correct?
- 21 A: That was the letter that went out.
- 22 Q: Right. From your office.
- 23 A: That was an error.
- 24 Q: It was an error?
- 25 A: Yes, sir.



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- 1 Q: Okay. Because that's not a sufficient ground,
2 is it?
- 3 A: No, sir.
- 4 Q: Okay.
- 5 A: Not as far as we're concerned at this point.
- 6 Q: Okay. So what you did was you met with Ms.
7 Begum's representative and clarified it a
8 little bit, right?
- 9 A: Yes, sir. We did.
- 10 Q: And instead of saying she couldn't qualify
11 because she wasn't a US citizen, you guys
12 flipped the other side of the coin and said she
13 could not prove -- she didn't have sufficient
14 proof that her legal residence was in South
15 Carolina.
- 16 A: Not her legal residence, but that she did not
17 have a permanent residence card or legal
18 residence card, green card.
- 19 Q: Okay.
- 20 A: The residence -- she proved that she was a
21 resident there.
- 22 Q: But legal resident she couldn't prove?
- 23 A: She could not prove that she was domiciled.
- 24 Q: Isn't domicile and legal residence the same
25 thing?



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- 1 A: No, sir.
- 2 Q: Domicile is the place where a person has the
3 true, fixed and permanent home to which he has
4 whenever absent and intention of returning.
5 That is the basis and foundation of domicile.
6 The intent, right?
- 7 A: That is correct.
- 8 Q: Okay. So what actually the letter you guys
9 were written by -- or written from Meredith
10 Cleland that you put into evidence addresses
11 that very issue, doesn't it?
- 12 A: Yes, sir.
- 13 Q: Okay. And as a matter of fact, if you wouldn't
14 mind looking with me, it says, the concept of
15 domicile has been identified as the place you
16 live permanently and the place you intend to
17 return to when away, right?
- 18 A: Yes, sir.
- 19 Q: You agree with that?
- 20 A: Yes, sir.
- 21 Q: This requirement in essence requires the county
22 assessor to ascertain the applicant's
23 domiciliary intent, right?
- 24 A: Yes, sir.
- 25 Q: Okay. So you're trying to figure out what Ms.



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1 Begum and her family's intent is as it relates
2 to staying there?

3 A: No, sir. I cannot discern her intent. I can
4 only look at the facts and show that she is a
5 citizen of another country and that her status
6 is non-immigrant.

7 Q: Okay. So the decision wasn't made based on
8 anything -- any intent other than the fact that
9 she was a citizen of another country and
10 therefore could not be a legal resident of
11 South Carolina?

12 A: No, sir. It was also based on her status, that
13 she is a non-immigrant.

14 Q: Okay. Do you know what that means?

15 A: She does not intend to immigrate.

16 Q: Okay. Well how do you -- how do you look at
17 that when she already has applied for
18 citizenship and a green card?

19 A: I can apply for a lot of different things but
20 that doesn't mean that I'm going to be
21 accepted.

22 Q: Well do you have any information that she
23 signed any kind of certification that she would
24 not immigrate to the United States?

25 A: No, sir. I do not have that information.



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- 1 Q: All right. And you heard her ---
- 2 A: Just the H1B ---
- 3 Q: --- testify ---
- 4 A: --- visa.
- 5 Q: Okay. And you heard her testify from the very
- 6 beginning that her intent was to immigrate to
- 7 America and she has already applied for it,
- 8 hasn't she?
- 9 A: That's what she said. Yes, sir.
- 10 Q: Okay. And that's one of the things Meredith
- 11 Cleland addressed in her letter, right? It
- 12 says, because these applicants have told their
- 13 home country that they will not immigrate to
- 14 the United States. Because of that federal
- 15 statement overrides individual intent, right?
- 16 A: Yes, sir.
- 17 Q: That's what y'all were told by Cleland?
- 18 A: Yes, sir.
- 19 Q: Okay. So you know that if she has applied for
- 20 citizenship and a green card then she hasn't
- 21 told a country she wouldn't immigrate because
- 22 she did, right?
- 23 A: I'm not understanding. Could you please ...
- 24 Q: Yeah. One of the things you're supposed to
- 25 look at is whether or not they have certified



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1 that they would not ever apply to become an
2 immigrant citizen, right?

3 A: That's what he has in the letter, yes, sir.

4 Q: That's what's in the letter. And the fact that
5 she has applied and is pending approval tells
6 you that that's -- she has not told anyone she
7 wouldn't apply, correct?

8 A: I don't have that information.

9 Q: She's told the United States government she's
10 applying to be a permanent resident citizen,
11 isn't she? Isn't that what applying for
12 citizenship is?

13 A: She's applied, yes, sir. She's made
14 application.

15 Q: Okay. So at least that part of Cleland's
16 letter doesn't apply to this situation, does
17 it? The part that says federal overrides
18 individual intent where they swear the won't
19 immigrate to the United States, right? And she
20 has applied which ought to tell you she intends
21 on staying here, right? And making this her
22 domicile?

23 A: Could be, yes, sir.

24 Q: Okay. And let me ask you a couple other
25 questions. In that -- part of what they said,



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1 the power of the federal government to forcible
2 remove these people from their home would trump
3 domiciliary intent, do you see that?

4 A: Yes, sir.

5 Q: Is it -- you have any information that the
6 federal government can forcible remove this
7 lady as long as she's teaching in the STEM
8 program?

9 A: I don't know if they can or if they can't.

10 Q: Okay. Says, in other words if the home country
11 can require that the applicant return to the
12 home country, number one, or if the applicant
13 is certified that they will not apply for
14 citizenship in the United States, then the
15 federal interest will trump personal intent,
16 right?

17 A: Yes, sir.

18 Q: All right. And we now know that as long as
19 she's employed, the home country cannot require
20 her to return, right? That's what the H1B
21 says, right? Long as she applies -- as long as
22 she's employed as she is, they can't make her
23 come home, can they?

24 MR. MCEACHIN: Your Honor, that evidence is not in
25 the record. I mean that -- he's asking



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1 concerning evidence that's not in the record.

2 MR. BARTH: It is in the record, Your Honor. She
3 testified as to that and that was the way the
4 visa worked. Mr. Mceachin asked her a lot of
5 questions about that as well.

6 THE COURT: Do you have a copy, can you show the
7 witness that statement that you ---

8 MR. BARTH: Yes.

9 THE COURT: --- just referred to?

10 MR. BARTH: Oh, yes, sir. It's in Respondent's
11 Exhibit Number 1.

12 THE COURT: So at this point the objection is
13 overruled. But of course you can renew it if
14 ...

15 Q: In Respondent's Number 1, that's the letter you
16 guys are talking about, right?

17 A: Yes, sir.

18 Q: Okay. If you would, can you read, starting
19 right there read that out loud?

20 A: In that letter we concluded that despite the
21 individual's intent to make -- okay, this is
22 not the letter to Florence.

23 Q: Yes it is. They just referenced it.

24 A: Okay. I apologize.

25 Q: That's okay.



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1 A: In that letter we concluded that despite the
2 individual's intent to make Lancaster County
3 their home the power of the federal government
4 to forcibly remove this individual/individuals
5 from their home would trump whatever
6 domiciliary intent the individual may have.

7 Q: Okay. Let me just stop you right there. Do
8 you know or have anything to the contrary Ms.
9 Begum's testimony that as long as she's
10 employed she cannot be forcibly removed here
11 and return to India. You have Anything that
12 says that's not true?

13 A: That letter states that the power that the
14 federal government has can remove her.

15 Q: Okay. Keep reading if you would.

16 A: We believe that a similar analysis would apply
17 in this case with the obvious substitution of
18 the home country's federal government for the
19 power of the United States. In other words if
20 the home country can require that the applicant
21 return to the home country or if the applicant
22 has certified to the home country that the
23 applicant will not apply for citizenship in the
24 United States in order to be granted the visa
25 to leave the home country then those federal



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1 interests would trump the individual's personal
2 intent to remain in the United States.

3 Q: Okay. And you heard Ms. Begum's testimony that
4 she did not tell India she was not going to be
5 -- apply for citizenship here because she can.
6 You heard that.

7 A: I heard her say that, yes, sir.

8 Q: Okay. And number two says the home country
9 cannot require the applicant to return as long
10 as she qualifies and is employed, right?

11 A: I heard her say that, yes, sir.

12 Q: Okay. So if you assume that the home country
13 can't send her home, that we can't toss her out
14 as long as she complies and that she did not
15 tell India in order to get over here, she
16 didn't tell that country she wouldn't apply
17 over here as a citizen 'cause she did, right?

18 A: She did.

19 Q: Okay. So if all those things are true, they
20 can't send her home, we can't send her home,
21 and she has applied for citizenship, why
22 wouldn't she qualify for the four percent,
23 'cause it all boils down to intent, right?

24 A: Because all that you're saying is I'm assuming.

25 Q: Oh, I know that. But if the Judge believes



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- 1 that to be true, believes her testimony to be
2 true that that's how it is, would she qualify
3 for the four percent in your opinion?
- 4 A: At that point she still applying. Nothing has
5 been approved so until it is approved, no, sir.
6 She would not qualify.
- 7 Q: Till she gets a green card or a visa or a ---
- 8 A: Permanent residence card.
- 9 Q: Permanent residence card.
- 10 A: Naturalization, yeah.
- 11 Q: All right. Regardless of what her intent is?
12 Regardless of what she tells you her intent is?
- 13 A: I have to prove that -- I have to prove that --
14 I have to prove a lot of things and those
15 things I can't. The intent, I can't look into
16 somebody's mind and read their mind. So
17 therefore I have to look at the facts.
- 18 Q: Okay. That's actually what one of this says.
19 Intent is a question to be determined on a case
20 by case basis. That's true, isn't is?
- 21 A: Yes, sir.
- 22 Q: And you have to make your best judgement as to
23 a person's intent?
- 24 A: In some cases, yes, sir.
- 25 Q: Okay. And this was one of them, right?



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1 A: This is a case based on where I believe that
2 any intent that she might have had, though she
3 may state it, is overridden by her citizenship
4 and then her status as a non-immigrant.

5 Q: And that status is what you base your opinion
6 on? Regardless of her actual intent?

7 A: Her status and the facts that I had.

8 Q: Okay. In your opinion does status override
9 someone's domiciliary intent under the statute?

10 A: I think that helps prove her domiciliary
11 intent.

12 Q: Okay. Thank you, Jamie. I don't think I have
13 anything else.

14 MR. MCEACHIN: I don't have any other questions,
15 Your Honor.

16 THE COURT: One second please, Mr. Floyd.

17 MR. FLOYD: Yes, sir.

18 MR. FLOYD - CLARIFICATION BY THE COURT:

19 THE COURT: Mr. Floyd, in the letter from the
20 Department of Revenue April 20th, 2018 Florence
21 specifically asked DOR to opine on this
22 situation or to render an opinion on Ms.
23 Begum's situation?

24 A: Yes, sir.

25 THE COURT: Did the Department ever provide you with



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1 it's November 2014 letter to Lancaster?

2 A: Yes, sir.

3 **THE COURT:** Do you have that available?

4 A: Let me say I knew of it. I don't know if I
5 actually received that letter.

6 **MR. MCEACHIN:** I've got a copy.

7 **THE COURT:** Would you show it to Mr. Barth, and Mr.
8 Barth, would you have any objection to the
9 Court receiving that as a Court Exhibit?

10 **MR. BARTH:** No, sir, Your Honor. I've seen it.

11 **THE COURT:** Mr. McEachin, is that your only copy of
12 that?

13 A: I have it here, sir.

14 **THE COURT:** Okay. May I keep that copy then?

15 **MR. MCEACHIN:** That's fine.

16 **THE COURT:** And we'll mark that as a Court Exhibit.
17 (Court Exhibit Number 1 was marked for identification
18 purposes.)

19 **THE COURT:** Thank you. Mr. Floyd, do you know if
20 Mr. Cleland or anyone over at the Department of
21 Revenue has any particularized knowledge about
22 immigration law?

23 A: Not specifically.

24 **THE COURT:** Okay. But the County does regularly
25 consult with the Department of Revenue about



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1 taxation matters?

2 A: Yes, sir.

3 **THE COURT:** And I think you cleared up my other
4 question about the original letter talked about
5 -- stated that you denied the tax payer's
6 application because of citizenship. But the
7 second letter talked about -- I'm referring now
8 to letter dated November 2nd, 2017.

9 A: Might I explain a little bit more on that, sir?

10 **THE COURT:** Yes, sir. Please.

11 A: The previous tax assessor, Mr. Jack Newsome had
12 his assistant type the letter up. She typed it
13 up under that pretense and she didn't include
14 the other as far as the permanent residence.

15 **THE COURT:** Okay. And this letter of course, again
16 this November 2nd, 2017 letter, Petitioner's
17 Exhibit 3, exemption was denied based on
18 insufficient information that Ms. Begum, her
19 permanent residence and domicile at 441
20 Sterling drive, not based on her citizenship?

21 A: Yes, sir.

22 **THE COURT:** I don't think I have anything further.
23 Thank you, sir.

24 A: Thank you.

25 **THE COURT:** Based on my questions? Yes, sir?



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1 MR. BARTH: Just one, Your Honor.

2 MR. FLOYD - RECROSS-EXAMINATION BY MR. BARTH:

3 Q: Jamie, in any of these letters -- let me ask
4 you this. Do you know the difference between
5 the various kinds of specialty visas?

6 A: I'm familiar with some.

7 Q: Okay. And when you guys asked for this letter
8 from the Department of Revenue in April of
9 2018, docs -- did it reference an H1B visa?

10 A: It did not specifically name that although I
11 did let them know of the type of visa she told
12 me she had.

13 Q: It says, you have asked for guidance from DOR
14 regarding aliens who are in South Carolina
15 legally on a non-immigrant or temporary visa
16 who apply for legal residence in South
17 Carolina. The question they pose and their
18 answer to you doesn't specifically reference
19 the kind of visa we're talking about in this
20 case, does it?

21 A: Not specifically.

22 Q: Okay. Do you know if the rule is the same?

23 A: Yes, sir. It's based off of non-immigrant.

24 Q: Have you seen an opinion on H1B visas?

25 A: When you say opinion, you mean of any other



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- 1 court cases?
- 2 Q: At DOR or anything? 'Cause that's who you look
- 3 to, right?
- 4 A: Yes, sir.
- 5 Q: Okay. Have you seen one?
- 6 A: An opinion?
- 7 Q: Yes. Where somebody's answered your question
- 8 specifically as it relates to an H1B visa.
- 9 A: Could you be a little bit more specific? I'm
- 10 sorry.
- 11 Q: Yeah. There are different classes of visas.
- 12 A: Yes, sir.
- 13 Q: Some specialty, some other ones. She mentioned
- 14 two or three, right?
- 15 A: Yes, sir.
- 16 Q: And the way this questions was posed by
- 17 Florence County you lumped it all together as
- 18 someone on a non-immigrant or temporary visa,
- 19 right?
- 20 A: Yes, sir.
- 21 Q: Did not specify the classification of visa or
- 22 anything, right?
- 23 A: That letter did not specify the actual visa,
- 24 no, sir.
- 25 Q: Do you have anything where they said, Mr. Jack



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1 Newsome, Florence County assessor, this is our
2 answer regarding H1B visa?

3 A: No, sir.

4 Q: Thank you.

5 MR. FLOYD - REDIRECT EXAMINATION BY MR. MCEACHIN:

6 Q: When you call Meredith Cleland, did you tell
7 him that it was an H1B visa you were inquiring
8 about?

9 A: He -- I actually spoke with someone else.

10 Q: Well whomever you spoke to at the Department of
11 Revenue, did you inform them ---

12 A: Yes.

13 Q: --- that it was an H1B visa that was involved
14 in this case?

15 A: And I named it a specialty visa, yes, sir.

16 Q: I beg your pardon.

17 A: A specialty visa.

18 Q: But did you use the designation H1B?

19 A: Yes, sir.

20 Q: Okay. That's all I have.

21 THE COURT: Anything else for the witness?

22 MR. BARTH: No, Your Honor.

23 THE COURT: Sir, if you would -- thank you for your
24 testimony. If you would resume your seat.
25 Counsel, may I ask you to come up for a second?



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INVENTORY of EXHIBITS

Page 1 of 1

Caption:	Habibunnisa Begum v Florence County Assessor	Date/Time:	2/20/19 10:00
Docket No:	19-ALJ-17-0198-CC	Judge:	Kimpson

[illegible]

South Carolina SC **DRIVER'S LICENSE**

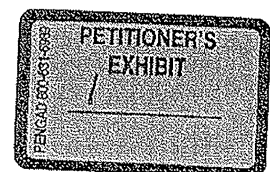
DL# **1051100000** **REGUM HABIBUNNISA**
441 STERLING DR
FLORENCE SC 295017660

DOB: 11-26-1975
ISSUED: 07-18-2017
EXPIRES: 07-10-2018
CLASS: D
SEX: F
WEIGHT: 155
HEIGHT: 5-01
RESTRICTION: None
ENDORSE: None

11-26-1975

210021 R02

Governor





Elbert J. Newsome
Assessor

Florence County Assessor's Office

180 N Irby Street, MSC-A

Florence, SC 29501

843-665-3056

843-676-1100 Fax

Name: Habibunnisa Begum

441 Sterling Dr

Florence SC 29501

RE: Legal Residence Classification

Tax Map Number: 9818-01-057

Dear Property Owner,

Your application for legal residence

could not be processed.

was denied.

Our office receives over 12,000 legal residence applications per year that have to be processed. Therefore, we rely heavily on the applicant to complete the application to the best of his or her ability. If further information is needed to process the application, the requested information should be provided by the applicant in a timely manner to ensure that the tax bill is prepared correctly. Failing to respond in a timely manner will affect your tax bill.

Based on South Carolina Code of Law section 12-43-220(2)(ii-vii), the burden of proof for eligibility for the four percent assessment ratio is on the owner-occupant and the applicant may be required to provide proof to the Assessor. For example, a copy of a current driver's license, a copy of the voter's registration, the vehicle registration of the owner-occupant or a copy of the most recently filed individual tax return could be requested.

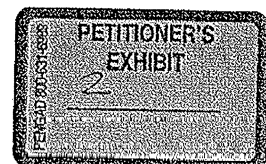
Therefore, for our office to be able to process this form as required by law, we need the following documentation:

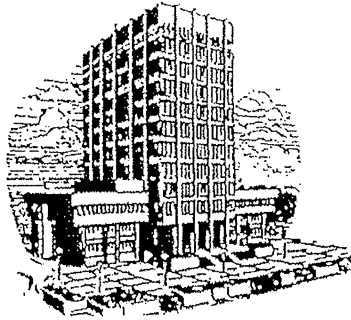
* The owners have to be US Citizens in order to be approved.

If you have any questions, you can telephone or you may fax the requested information to my attention at 676-1100. If mailing the information would work best for you, our address is at the top of the letter.

Sincerely,

Florence County Tax Assessor's Office





Florence County Assessor's Office

City-County Complex
180 N Irby St MSC-A
Florence, SC 29501-3456
Jack Newsome, Assessor

November 2, 2017

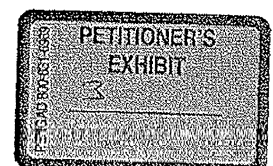
Mr. Harold J Kornblut
111 West Main Street
Latta, SC 29565

RE: Habibunnisa Begum TM# 09818-01-057 – Conference Decision

Dear Mr. Kornblut;

Thank you for visiting our office October 4th to discuss the denial of legal residence on tax map # 09818-01-057. Prior to our conference our decision to grant Ms. Habibunnisa the legal residence exemption was denied based on insufficient information to prove Ms. Habibunnisa and her husband are permanent residents and domiciled at 441 Sterling Dr. Florence, SC 29501, not based on her citizenship as stated on the denial letter, as we discussed at conference.

After our discussion at conference and careful consideration, our decision to deny 4% legal residence stands. We find that Aliens in the United States illegally or legally on a non-immigrant or temporary visa cannot form the requisite intent to remain in the United States permanently and therefore, do not qualify for the 4% legal residence assessment ratio.



If you choose to appeal our decision please send a written appeal to the Florence County Board of Assessment Appeals 180 N Irby St MSC-A Florence, SC 29501 within 30 days.

Sincerely,

Jamie Floyd
Assistant Assessor

REAL PROPERTY TAXES

TAX NOTICE FLORENCE COUNTY, SOUTH CAROLINA

THIS 2017 TAX BILL DOES NOT REFLECT ANY TAXES YOU MIGHT OWE FOR PREVIOUS YEARS.

Taxes for Year ending DEC 31, 2017 Tax District 100 Tax Year 2017 Millage 335.5 Tax Bill Date 9/16/17

NOTICE NO. 17-004542

LAND			IMPROVEMENTS		Total	Assessment
Type	Acres	Lots	Tax Value	Number	Tax Value	Taxable Value
Other		1	26000	1	190500	216500

Map Block Parcel
09818-01-057

Property Description
HOFFMEYER CROSSING LT57

Prior Year Tax
3,590.96

MORTGAGE CODE / ID CODE
CORELOGIC

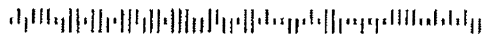
##Includes a surcharge of \$5.19 to comply with state mandates



009405
1/2



009405
1/2



9405 1 AV 0.373 T26 5DG29501 PL2 S296
BEGUM HABIBUNNISA
441 STERLING DR
FLORENCE SC 29501-0000

This Bill Was Prepared For You By The County AUDITOR'S OFFICE.
Mills *BREAKDOWN OF COUNTY MILLAGE

Mills	Description	Taxes
13.5	County General Fund	\$111.91
45.4	County General Fund/Public Safety	\$377.28
7.5	County General Fund/Library	\$62.33
.8	County General Fund/Senior Citizen Center	\$6.65
12.7	County Bonds(Jail,Library,Capital Projects)	\$105.53
8.4	Unfunded State Mandates ##	\$69.63

TAX BEFORE CREDITS	4,358.15
HOMESTEAD EXEMPTION	0.00
SCHOOL TAX CREDIT SAVINGS	0.00
PROPERTY TAX CREDIT - County	413.69
PROPERTY TAX CREDIT - City	0.00
NET PROPERTY TAX	3,944.46
SOLID WASTE HOUSEHOLD USAGE FEE	74.50
SOLID WASTE HOUSEHOLD AVAILABILITY FEE	25.00
(525 LATE FEE IF PAID AFTER MARCH 16TH.)	



17004542

PAY THIS AMOUNT →

(on or before Jan. 15th) 4,043.96

Amount Due After Jan. 15th 4,162.29

Amount Due After Feb. 1st 4,438.41

After Mar.16th call Delinquent Tax Office for Amount Due

ON-LINE SERVICES AVAILABLE AT www.florenceco.org

WILL ONLY ACCEPT CASH, CASHIER'S CHECK OR MONEY ORDER FOR DELINQUENT PAYMENT.

Questions...		
Tax Calculation	Auditor	(843) 665-3088
Millage Questions	Auditor	(843) 665-3088
Real Estate Value	Assessor	(843) 665-3056
Address/Ownership	Assessor	(843) 665-3056
Verify Tax Payment	Treasurer	(843) 665-3041

MILLS	TAXES	DISTRIBUTION OF YOUR TAX DOLLARS	PERCENT
197.5	\$2,565.53	School Operating Taxes (District One)	65.04
32.0	\$415.68	School Bond Taxes (District One)	10.53
0.0	\$0.00	City Taxes	0.00
88.3	\$733.33	County Taxes *##	18.61
4.9	\$63.65	Florence-Darlington TEC Taxes	1.61
12.8	\$166.27	Fire District Taxes (West Florence Rural)	4.21
0.0	\$0.00	Watershed Taxes	0.00
335.5	\$3,944.46		100.00

RETURN BOTTOM PORTION OF NOTICE(S) WITH PAYMENT. WRITE NOTICE NUMBER(S) ON CHECK.

Map Block Parcel
09818-01-057

BRING NOTICE(S) IF PAYING IN PERSON.
Property Description
HOFFMEYER CROSSING LT57

TAX BILL SENT TO COMPANY ABOVE. IF
INCORRECT, FORWARD TO CORRECT MORT-
GAGE COMPANY. IF YOUR TAXES ARE NOT
ESCROWED, YOU MUST PAY THIS BILL.

NOTICE NO. 17-004542

BEGUM HABIBUNNISA

Pay this Amount

(on or before Jan. 15th) 4,043.96

Amount Due After Jan. 15th 4,162.29

Amount Due After Feb. 1st 4,438.41

After Mar.16th call Delinquent Tax Office for Amount Due



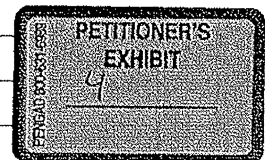
17004542

MAKE PAYMENTS TO: COUNTY TREASURER
LAURIE WALSH CARPENTER
P.O. BOX 100501
FLORENCE, SC 29502-0501

Address
Change

Signature

Phone #



NO DEBIT OR CREDIT CARDS ACCEPTED IN THE OFFICE.

ONLINE PAYMENTS: www.florenceco.org

WILL ONLY ACCEPT CASH, CASHIER'S CHECK OR MONEY ORDER FOR DELINQUENT PAYMENT.

WELCOME TO THE UNITED STATES OF AMERICA

Receipt Number WAC1716951350		Case Type I129 - PETITION FOR A NONIMMIGRANT WORKER
Received Date 05/30/2017	Priority Date	Petitioner MARION COUNTY SCHOOL DISTRICT
Notice Date 08/31/2017	Page 1 of 2	Beneficiary A205 960 458 BEGUM, HABIBUNNISA

MARION COUNTY SCHOOL DISTRICT
c/o MRS PAULA GRANT DIRECTOR OF HR
719 NORTH MAIN STREET
MARION SC 29571

Notice Type: Approval Notice
Class: H1B
Valid from 08/28/2017 to 07/29/2020
Consulate: HYDERABAD

The above petition has been approved for the classification requested. It has been determined that the named worker(s) is (are) not eligible for the requested extension of status. You will receive a separate notice explaining the reasons for this determination.

Since the worker(s) has (have) been found ineligible for an extension of stay, we have sent notification to the consulate shown above. If you have any questions about visa issuance, please contact the consulate directly.

If a visa is issued, upon admission in this classification the worker(s) will be authorized to be employed by the petitioner for the authorized period pursuant to the terms and conditions of the petition. When seeking admission to the United States, the following classifications may be eligible for a grace period of up to 10 days before, and up to 10 days after the petition validity period: CW-1, E-1, E-2, E-3, H-1B, H-2B, H-3, L-1A, L-1B, O-1, O-2, P-1, P-2, P-3, TN-1, and TN-2. H-2A nonimmigrants may be eligible for a grace period of up to one week before and 30 days after the petition validity period. If provided at admission, this grace period will be annotated on the beneficiary's I-94 by Customs and Border Protection (CBP). The grace period is a period of authorized stay but does not provide the beneficiary authorization to work beyond the petition validity period. The petitioner should keep the upper portion of this notice and forward the lower portion to the worker(s) for presentation at the U.S. Consulate.

If any of the named worker(s) will apply for a visa at a consulate other than the one listed above, the petitioner should file Form I-824, Application for Action on an Approved Application or Petition, to request us to notify the new consulate.

Please read the back of this form carefully for more information. If you have questions about tax withholding, please contact the Internal Revenue Service.

The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for an extension, change, or adjustment of status.

THIS FORM IS NOT A VISA AND MAY NOT BE USED IN PLACE OF A VISA.

Number of workers: 1

Name BEGUM, HABIBUNNISA	DOB ~~XXXXXXXXXX~~	COB INDIA	Class H1B	Consulate/POE HYDERABAD	OCC 091
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Please see the additional information on the back. You will be notified separately about any other cases you filed.

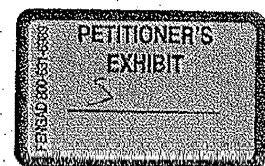
California Service Center
U.S. CITIZENSHIP & IMMIGRATION SVC.
P.O. Box 30111
Laguna Niguel CA 92607-0111
Customer Service Representative (800) 375-5283

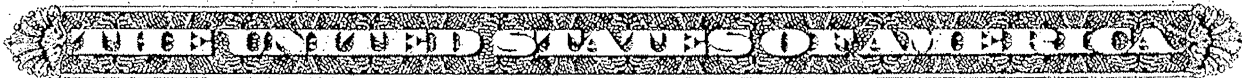


Please tear off portion below and forward it to the alien worker.

The alien may use this portion when applying for a visa at an American consulate abroad, or if no visa is required, when applying for admission to the U.S.

Receipt#: WAC1716951350	Case Type: I129				
Notice Date: August 31, 2017	Petitioner: MARION COUNTY SCHOOL DISTRICT				
Petitioner Validity Dates: Valid from 08/28/2017 to 07/29/2020 Number of Workers: 1					
Name BEGUM, HABIBUNNISA	DOB ~~XXXXXXXXXX~~	COB INDIA	Class H1B	Consulate/POE HYDERABAD	OCC 091





Receipt Number WAC1716951350		Case Type H29 - PETITION FOR A NONIMMIGRANT WORKER
Received Date 05/30/2017	Priority Date	Petitioner MARION COUNTY SCHOOL DISTRICT
Notice Date 08/31/2017	Page 2 of 2	Beneficiary A205 960 458 BEGUM, HABIBUNNISA

The Small Business Regulatory Enforcement and Fairness Act established the Office of the National Ombudsman (ONO) at the Small Business Administration. The ONO assists small businesses with issues related to federal regulations. If you are a small business with a comment or complaint about regulatory enforcement, you may contact the ONO at www.sba.gov/ombudsman or phone 202-205-2417 or fax 202-481-5719.

NOTICE: Although this application or petition has been approved, USCIS and the U.S. Department of Homeland Security reserve the right to verify this information before and/or after making a decision on your case so we can ensure that you have complied with applicable laws, rules, regulations, and other legal authorities. We may review public information and records, contact others by mail, the internet or phone, conduct site inspections of businesses and residences, or use other methods of verification. We will use the information obtained to determine whether you are eligible for the benefit you seek. If we find any derogatory information, we will follow the law in determining whether to provide you (and the legal representative listed on your Form G-28, if you submitted one) an opportunity to address that information before we make a formal decision on your case or start proceedings.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

California Service Center
U. S. CITIZENSHIP & IMMIGRATION SVC.
P.O. Box 30111
Fayette, NJ 07034-0111
Customer Service Telephone: (800) 375-5283



Please tear off portion below and forward it to the alien worker.

The alien may use this portion when applying for a visa at an American consulate abroad, or if no visa is required, for admission to the U.S.

VOID
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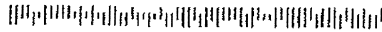
VOID
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SOUTH STATE BANK

1 Mortgage Lane
Suite 300
Lake Zurich, IL 60047-8945

Statement Date: 03/13/2017

* 0741936 000000504 095551 00917624
HABIBUNNISA BEGUM
441 STERLING DR
FLORENCE SC 29501-7566



Account Information	
Outstanding Principal Balance	\$210,112.12
Current Escrow Account Balance	\$2,142.35
Maturity Date	August 2046
Interest Rate	3.250%
Prepayment Penalty	No

Property Address:	441 STERLING DR FLORENCE SC 29501
Account Number	1000000000
Payment Due Date	04/01/2017
Amount Due	\$1,895.37
If payment is received after 04/16/2017, a \$37.01 late fee will be charged.	

Contact Us 1-877-592-4003

Explanation of Amount Due	
Principal	\$350.10
Interest	\$569.05
Escrow (for Taxes and Insurance)	\$970.22
Regular Monthly Payment	\$1,895.37
Total Fees Charged	\$0.00
Overdue Payment	\$0.00
Total Amount Due	\$1,895.37

Housing Counselor Information: If you would like counseling or assistance, you can contact the following: US Department of Housing and Urban Development (HUD): For a list of homeownership counselors or counseling organizations in your area, go to <http://www.hud.gov/offices/h60/eth/heshc.htm> or call 800-568-4287.

Transaction Activity (2/14/2017 to 03/13/2017)			
Date	Description	Charges	Payments
02/22	Special Deposit to Escrow Account	\$0.00	\$623.51
03/02	Dist. of MIP/PMI	\$0.00	\$-146.64
03/13	Payment - Thank you	\$0.00	\$1,218.74

Past Payments Breakdown		
Description	Paid Last Period	Paid Year to Date
Principal	\$350.13	\$1,062.83
Interest	\$570.02	\$1,712.92
Escrow (Taxes and Insurance)	\$293.59	\$889.77
Fees	\$0.00	\$0.00
Partial Payment (Unapplied)*	\$0.00	\$0.00
Total	\$1,218.74	\$3,656.22

IMPORTANT MESSAGES:

* Partial payments: Any partial payments that you make are not applied to your mortgage, but instead are held in a separate suspense account. If you pay the balance of a partial payment, the funds will then be applied to your mortgage.

For a list of HUD approved Housing Counseling Agencies, go to www.hud.gov or call HUD toll free at 1-800-569-4287.

NOTICE TO CUSTOMERS WHO ARE IN BANKRUPTCY OR WHOSE OBLIGATION HAS BEEN DISCHARGED AND NOT REAFFIRMED: TO THE EXTENT YOUR ORIGINAL OBLIGATION WAS DISCHARGED, OR IS SUBJECT TO AN AUTOMATIC STAY OF BANKRUPTCY UNDER TITLE 11 OF THE UNITED STATES CODE, THE INFORMATION IN THIS MORTGAGE STATEMENT IS FOR REGULATORY COMPLIANCE AND INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE A DEMAND FOR PAYMENT IN VIOLATION OF THE AUTOMATIC STAY OR THE DISCHARGE INJUNCTION OR AN ATTEMPT TO IMPOSE PERSONAL LIABILITY FOR SUCH OBLIGATION. HOWEVER, CREDITOR RETAINS RIGHTS UNDER ITS SECURITY INSTRUMENT, INCLUDING THE RIGHT TO FORECLOSE ITS LIEN.

PLEASE SEE REVERSE FOR ADDITIONAL IMPORTANT NOTIFICATIONS.

Please note: If you have enrolled in our automatic payment service, your payment will process as scheduled pursuant to the terms of the service agreement. This statement is provided for informational purposes pursuant to regulatory requirements established by the CFPB.

HABIBUNNISA BEGUM
441 STERLING DR
FLORENCE, SC 29501 -

PAYMENT COUPON

Return This Partial
With Your Payment

Loan Number: 1020000000
Next Payment Due: 04/01/2017

☐ CHECK HERE IF YOUR ADDRESS INFORMATION HAS CHANGED AND COMPLETE FORM ON REVERSE SIDE.

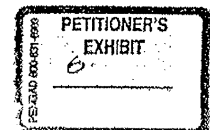
SOUTH STATE
BANK

Make Check Payable To:
South State Bank

South State Bank
P.O. Box 371306
Pittsburgh PA 15250-7306



Amount Due	
Due By 04/01/2017:	\$1,895.37
If payment is received after 04/16/2017, a \$37.01 late fee will be charged.	
Please designate how you want us to apply any additional funds.	
Additional Principal	\$
Additional Escrow	\$
Total Amount Enclosed	\$



143809605701932380189537110401178

STATE OF SOUTH CAROLINA
MARION COUNTY SCHOOL DISTRICT

CONTRACT FOR EMPLOYMENT
2018-2019

This agreement is entered into by and between Marion County School District hereinafter referred to as the District and Habibunnisa Begum hereinafter referred to as the employee. This agreement is a/an Continuing GBE contract as defined in Section 59-26-40 of the Code of Laws of South Carolina.

The employee will possess throughout the term of this agreement a valid and appropriate certificate to teach in the schools of the State of South Carolina and in the position to which the employee is assigned. Proof of these qualifications shall be filed by the employee in the Human Resources office by July 1, 2018 unless a later date is approved in writing by the superintendent or his/her designee. Failure to maintain such certification during the contractual period may, at the discretion of the District, act to invalidate this contract.

Subject to any special conditions set forth below, the employee agrees to discharge faithfully for the term of this contract all the duties imposed on a teacher by the laws of South Carolina. During the term of this contract, the employee shall abide by all policies and administrative rules and procedures of the District.

In consideration of this agreement and, pursuant to the salary schedule adopted by the board, the District promises to pay the above named employee for professional services rendered during the life of this contract the sum to which he/she is entitled under local, state, and federal allotments or any combination of these. The District represents that said schedule will be adopted and published as soon as practical.

Loss or reduction in any amount of anticipated or appropriated local, state or federal funding may, at the discretion of the District, require a percentage reduction of salary, a reduction in the term of this contract (and pro-rata reduction of salary) or a termination of this contract.

The employee will discharge acceptable service projected at 190 days (or as prescribed by State Law) (2 additional days for NEW teachers to the District) in addition to regular staff development programs carried on in the individual schools and at District or area levels during the year.

In the event it becomes necessary to close schools temporarily because of severe weather conditions or on account of an epidemic disease or for any other reason, and the termination of the employee's services occurs before the days lost are made up, no payment will be due or made to the employee for the days lost on account of the closing of the school to which the employee is assigned.

TENTATIVE ASSIGNMENT: Teacher LOCATION: Marion High School

During the life of this contract, the Superintendent has the right to reassign the employee at any time based on the needs of the District.

The administration may assign reasonable extra-curricular activities to teachers. The assignment of such activities (including all coaching assignments) shall be for the school year for which the assignment is made and for that year ONLY. No expectations are created concerning such assignments for future years. All extra-curricular assignments are discretionary with the administration. Accordingly, notice and opportunity for hearing shall not be required to terminate these assignments.

Salary: *According to Board Approved Teacher Salary Scale for 2018-2019

Special Conditions:

The employer's offer shall remain open through April 9, 2018. This offer may be accepted by signing and depositing the original in the office of your building level administrator. Failure to return the contract by the indicated date may be deemed a rejection of the offer of employment.

I hereby certify that I am physically and mentally able to perform the duties for the position for which I have been elected. (A REQUIREMENT BY STATE LAW)

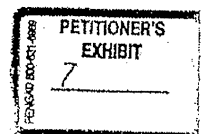
Signature of Employee

Kandace R. Bothea

Superintendent

Date: _____

Date: March 22, 2018



INVENTORY of EXHIBITS

Page 3 of 4

Caption:	Habibunisa Begum v Florence County Assessor	Date/Time:	2/20/19 10:00
Docket No:	18-ALJ-17-0198-CC	Judge:	Kimpson

[illegible]



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

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

April 20, 2018

Mr. Jack Newsome, Florence County Assessor
Office of the County Assessor
180 North Irby St., MSC-A
Florence, SC 29501

Re: Legal Residence for Aliens with Temporary Visas

Dear Mr. Newsome:

You have asked for guidance from the SC Department of Revenue regarding aliens who are in South Carolina legally on a non-immigrant or temporary visa who apply for legal residence in South Carolina.

The application for legal residence, as provided for in S.C. Code Ann. §12-43-220, grants a 4% assessment ratio to those properties approved for the legal residence rate. As part of the application and certification for legal residence in South Carolina, the statute requires that the applicant certify the following statements:

Under penalty of perjury I certify that:

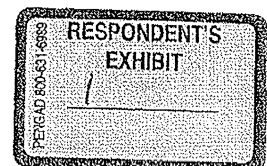
(A) the residence which is the subject of this application is my legal residence and where I am domiciled at the time of this application and that neither I, nor any member of my household, claim to be a legal resident of a jurisdiction other than South Carolina for any purpose; and

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

12-43-220(c)(2)(ii). The statute also requires that the applicant 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." The concept of "domicile" has been identified in South Carolina as the place you plan to live permanently and the place you intend to return to when away.¹ The requirements of this statute in essence require that the county assessor ascertain the applicant's domiciliary intent.

You are asking whether an individual who is in the United States on a temporary basis can qualify for the legal residence rate as required by the terms of this statute. It is our

¹ See Nicholson v. SC Dept. Health and Human Svcs., 377 SC 590, 660 SE2d 303 (Ct. App. 2008) and Gasque v. Gasque, 246 SC 423, 143 S.E. 2d 811 (1965).



contention that they cannot. Although the individuals in question may have every intent to make South Carolina their home, the fact that they are in the United States on a "non-immigrant" visa obviates any local intent. Stated differently, because these applicants have told their home country, the federal entity that issued their visa, that they will not emigrate to the United States, that federal statement overrides any individual intent that the applicant may have.

As you may be aware, the SC Department of Revenue issued a letter in November 2014 to the Lancaster County Administrator on the issue of illegal aliens applying for legal residence rates in the county. In that letter, we concluded that despite the individuals' intent to make Lancaster County their home, the power of the federal government to forcibly remove these individuals from their home would trump whatever domiciliary intent the individual may have. We believe that a similar analysis would apply in this case, with the obvious substitution of the home country's federal government for the power of the United States. In other words, if the home country can require that the applicant return to the home country, or if the applicant has certified to the home country that the applicant will not apply for citizenship in the United States in order to be granted the visa to leave the home country, then those federal interests will trump the individual's personal intent to remain in the United States.

In addition, the statute cited above requires that the applicant certify that, "neither I, nor any member of my household, claim to be a legal resident of a jurisdiction other than South Carolina for any purpose." Clearly the fact that the applicant holds a visa from another country is evidence of the applicant claiming to be a "legal resident of a jurisdiction other than South Carolina." In order to qualify for and receive that visa, the applicant would have had to present proof of citizenship to that issuing country. Such evidence would preclude the applicant from truthfully signing the certification required for legal residence in South Carolina.

As always, thank you for seeking the Department's analysis in this matter. If you have any further questions on this or any other topic, please let us know.

Very Truly Yours,



Meredith Cleland,
Deputy Director
Government Services Division
Meredith.Cleland@dor.sc.gov
803-898-5402

MC/af

INVENTORY of EXHIBITS

Page 1 of 1

Caption:	Habibunnisa Begum v Florence County Assessor	Date/Time:	2/20/19 10:00
Docket No:	19-ALJ-17-0198-CC	Judge:	Kimpson

Court

[illegible]



State of South Carolina
Department of Revenue

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

November 18, 2014

Mr. Steve Willis
County Administrator
PO Box 1809
Lancaster, SC 29721

Re: Legal Residence Applications by Illegal Immigrants

Dear Mr. Willis:

Thank you for seeking guidance from the South Carolina Department of Revenue on the above referenced issue. As I understand your question, the Lancaster County Assessor's Office has been contacted by certain individuals, including the Southern Poverty Law Center, concerning whether an individual who is in the county "illegally" can qualify for the legal residence rate provided by S.C. Code Ann. § 12-43-220 (c)(2). Specifically, you're asking whether individuals who are in the United States without the benefit of a valid, unexpired Visa or Permanent Residence Card can qualify for this special assessment rate. It is the position of the Department of Revenue that these individuals cannot qualify for the legal residence rate.

A little background is in order to analyze this question. The statutory basis for the legal residence rate is S.C. Code Ann. § 12-43-220 (c)(2). Subpart (i) of this section provides:

(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. ...

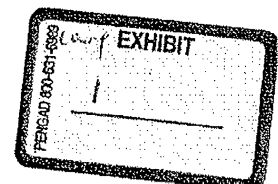
This section identifies the legal residence as the "domicile" of the applicant. "Domicile" has been defined by SC Courts as the place where you intend to return to when away, the place you plan to live permanently. See, e.g. Gasque v. Gasque, 246 SC 423, 143 S.E. 2d 811 (1965) and Nicholson v. SC Dept. Health and Human Svcs., 377 SC 590, 660 S.E. 2d 303 (Ct. App. 2008). This definition means that the county assessor is trying to discern the applicant's intent, which can be a very difficult task.

In the current situations in question, however, the individuals applying for legal residence cannot form the requisite intent to remain in the United States permanently. Even though these people may "intend" to make Lancaster County their permanent home and domicile, the federal authorities can forcibly remove them from their home and send them back to their home country. Because the power of the federal government to remove these applicants would trump whatever domiciliary intent these folks may have, it is our belief that these applicants cannot qualify for legal residence in South Carolina.

Very Truly Yours,

Meredith Cleland

MC/af



CERTIFICATE OF COUNSEL

The undersigned certifies, pursuant to Rule 210(g) of the South Carolina Rules of Appellate Practice the Record on Appeal contains no matter which is irrelevant to the Appeal.

RECEIVED
Jul 28 2020
SC Court of Appeals

Florence, SC

July 28, 2020

s/ D. Malloy McEachin, Jr.

D. Malloy McEachin, Jr.

D. Malloy McEachin, Jr., P.A.

180 N. Irby Street, MSC-XX

Florence, South Carolina 29501

Phone: (843) 665-0135

Fax: (843) 665-0716

malloy@mceachinlawfirm.com

SC Bar No: 3794

Attorney for Appellant, Florence County
Tax Assessor

