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Feb 18 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable Harold W. Funderburk, Jr.
Trial Court Case No. 2019-ALJ-17-0372-CC

Appellate Case No. 2020-001462

Aiken Golf Club, Inc.....Appellant-Respondent,

v.

Aiken County AssessorRespondent-Appellant.

REPLY BRIEF OF RESPONDENT-APPELLANT

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STATEMENT OF THE CASE

Respondent-Appellant Aiken County Assessor (the Assessor) incorporates herein the Statement of the Case in his Brief on the cross-appeal in this matter, with one correction as explained below.

The purpose of this Statement is to address one point in the Statement of the Case in the Brief of the Appellant-Respondent, Aiken Golf Club, Inc., (Aiken Golf Club) on the cross-appeal and correct one date referenced in the Notice of Cross-Appeal and Statements of the Case in the Briefs of the Assessor.

In the second paragraph of its Statement of the Case, Aiken Golf Club asserts that a "Notice of Assessed Value for Ad Valorem Tax Purposes for Tax Year 2018" was received by Aiken Golf Club. Any such document was not in the record of the case before the Administrative Law Judge when he considered and ruled on the Assessor's Motion for Summary Judgment. Further, Assessor has a motion pending before this Court to strike the designation of the aforementioned item from Aiken Golf Club's Designation of Matter to be Included in the Record on Appeal. That motion was filed February 3, 2021.

In the Assessor's Notice of Cross-Appeal [Notice of Cross-Appeal filed November 9, 2020] and the Statement of the Case in the Assessor's Briefs in this matter, his counsel, through a clerical error, stated that Aiken Golf Club's Notice of Appeal was received by him on November 1, 2020, a Sunday. The correct date that should have been stated in those documents is November 2, 2020, a Monday.

ARGUMENT

Based on the *de novo* nature of the proceedings before the Administrative Law Court and the uncontested record before the Administrative Law Court, the Administrative Law Judge erred in failing to grant the Assessor's Motion for Summary Judgment on the value of the subject property for purposes of *ad valorem* taxation.

Aiken Golf Club in its Brief on the cross-appeal does not appear to address, or at least to address adequately, the main arguments asserted by the Assessor in his Brief on the cross-appeal.

The first argument that is not addressed is that the case before the Administrative Law Judge as a matter of law was a *de novo* proceeding triggered by Aiken Golf Club's filing of a Request for Contested Case Hearing. [Request for Contested Case Hearing, South Carolina Administrative Law Court, filed November 4, 2019.] This argument is presented in Argument I of the Assessor's Brief on the cross-appeal.

Second, Assessor's Motion for Summary Judgment asked the Administrative Law Judge to conclude as a matter of law or uncontested fact that based on the Prior Litigation the "fair market value of the subject property as of December 15, 2015, was determined to be \$1,067,960 by the Order of The Honorable Shirley C. Robinson, Administrative Law Judge filed August 2, 2018." [Aiken County Assessor's Motion for Summary Judgment, dated July 15, 2020; Memorandum in Support of Aiken County Assessor's Motion for Summary Judgment, Exhibit 1, Final Decision and Order filed August 2, 2018.] This argument is presented in Argument II of the Assessor's Brief on the cross-appeal. The Prior Litigation is defined in the Statement of Facts in the same Brief.

Further, with respect to Argument II noted above, the record properly before this Court on appeal does not contain any evidence that an event recognized by the relevant South Carolina statutes occurred during the current quadrennial reassessment period on this matter, which ends in tax year 2020, to trigger a new assessment and date of valuation of the subject property. [Memorandum in Support of Aiken County Assessor's Motion for Summary Judgment dated July 15, 2020, Exhibit 5, Affidavit of Leslie A. Ratliff, Assessor.] Thus, the valuation of the subject property as of December 31, 2015, set in the Order issued in the Prior Litigation is still in effect.

CONCLUSION

Assessor respectfully submits that the relief requested in his Brief on the cross-appeal should be granted.

Respectfully submitted,



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PROOF OF SERVICE BY MAIL

I, James M. Holly, attorney for the Respondent-Appellant, do hereby certify that on February 18, 2021, the attached Reply Brief of Respondent-Appellant was served on counsel of record for Appellant-Respondent by placing a copy thereof in the United States Mail, postage prepaid, addressed to Daryl L. Williams, Esquire, Gertz & Moore, LLP, P. O. Box 456, Columbia, SC 29202 and also by emailing the same to the aforesaid counsel of record at dwilliams@gertzandmoore.com.

Respectfully,



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