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Apr 21 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Deborah Brooks Durden, Administrative Law Judge

Appellate Case No. 2019-001867

Denis Yeo,

Appellant,

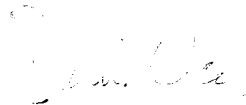
v.

Lexington County Assessor,

Respondent.

PETITION TO REHEAR

April 21, 2022



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Pro Se

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Attorney for Respondent

Denis Yeo, Appellant, petitions the honorable Court to rehear the above captioned Case *en banc*.

The Court erred in not giving due deference to the Department of Revenue's construction in its Regulation 117-1800 of what constitutes the "legal residence" when it states, "Yeo was not entitled to the four-percent ratio on neighboring property. Yeo resides at main property, not neighboring property. Further, main property and neighboring property are separate properties with different tax map numbers." Here the Court has imposed its own construction of what constitutes the legal residence to be taxed at 4%, restricting it to the "main property" and not including the "neighboring property" which is contiguous. In so doing, the Court has placed itself at odds with the Department's interpretation of the Statute which states, "The legal residence includes not more than five acres contiguous to the actual residence . . ." Thus the legal residence encompasses the "actual residence" (the Department's terminology) and up to five acres contiguous. Any portion of the contiguous property which is owned and occupied for residential purposes qualifies for the 4% assessment. There are no disqualifying facts in the Department regulation that would disqualify Appellant's property. The Respondent and the Court are not at liberty to impose their own.

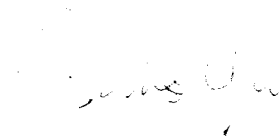
The Court erred in not recognizing Appellant's "neighboring property" as contiguous, and hence a part of the legal residence which is to be accorded the 4% assessment. Conspicuous by its absence is the word contiguous which does not appear at all in the Court's decision, other than in the citation of § 12-43-220(e)(1). The Court is in error when it states, "Yeo resides at main property, not neighboring property." Appellant resides at his legal residence (terminology of the Statute) which includes the contiguous "neighboring property" as per the Department regulation

cited above. The Court is in error in stating, "Further, main property and neighboring property are separate properties with different tax map numbers." While it is true that there are separate tax map numbers, they are contiguous, and hence not separate, for taxation purposes. It is to be noted that the Department regulation does not require that the properties have one tax map number.

The Court erred in not giving due deference to the Supreme Court opinion in the Sonoco case, *Sonoco Products Company v. South Carolina Department of Revenue South Carolina, Supreme Court Decision 26502 (2008)* where it established as a general proposition ". . . that where lots or lands are contiguous and in one ownership they may be assessed as a unit." Appellant's two lots are contiguous; they are used for residential purposes as required by the Department regulation and should be assessed as a unit. Appellant has met all the requirements set forth in that regulation.

For these reasons, the subject Case should be reheard, *en banc*.

Respectfully submitted,



Denis Yeo

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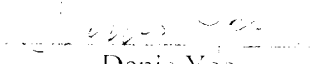
Lexington County Assessor

Respondent

PROOF OF SERVICE

I certify that I have served the Petition To Rehear on the Lexington County Assessor, Respondent by emailing a copy of it to his attorney of record, Mr. Jeff M. Anderson, Davis Frawley LLC, 140 East Main Street, Post Office Box 489, Lexington, SC 29071-0489.

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