



ALAN WILSON
ATTORNEY GENERAL

January 28, 2019

The Honorable Con Chellis
S.C. House of Representatives
P.O. Box 11867
Columbia, SC 29211

Dear Representative Chellis:

This Office received your letter dated December 17, 2018 requesting a legal opinion. The following is this Office's understanding of your question and our opinion based on that understanding.

Issue (as quoted from your letter):

"Please consider this letter as my formal request for an opinion regarding the property tax appeals process - specifically, 'determining the proper procedure under state law for a property owner to appeal tax valuations/assessments as it relates to properties obtained through a County's delinquent tax sale.' ... My constituent, ... feels he has a legal right to challenge the value of a property that he purchased through a delinquent tax sale but is being denied that right due to the timeline in which the County processes the deed and its policy for allowing appeals based on that timeline (I have enclosed an email for your reference) ... I request your assistance in determining the proper procedure under state law for a property owner to appeal tax valuations/assessments as it relates to properties obtained through a County's delinquent tax sale. In South Carolina, County tax sales are usually held during the last three months of the calendar year. Defaulting taxpayers continue to hold title after a tax sale, but the title is defeasible upon failure to redeem within twelve months from the date of the sale. Upon the failure to redeem the property within the time period allowed for redemption, the person officially charged with the collection of delinquent taxes (County Tax Collector), within thirty days or as soon after that as possible, shall issue a tax title (tax deed) to the purchaser. In Dorchester County, those deeds are not only not executed within the thirty day period but are also not executed until the following calendar year. The Dorchester County Tax Assessor refuses to allow appeals of the property tax valuations/assessments by the purchaser at the tax sale for the year the redemption period expires unless the tax deed is actually issued in that year. As a result, the Dorchester County Tax Assessor's interpretation of the law deprives the tax sale purchaser of the right to appeal resulting solely from Dorchester County's failure to promptly issue a deed. I believe that the tax sale owner should be treated as the equitable owner of the property and allowed to appeal."

Law/Analysis:

This Office answered a similar question in 2014 where we concluded that "a court will likely follow the finding in the Taylor [v. Aiken County Assessor], 402 S.C. 559, 741 S.E.2d 31 (Ct. App. 2013)] case to find a property owner who acquires the property after December 31 of the preceding tax year also has standing to appeal an assessment" pursuant to South Carolina Code Ann. § 12-37-610. See Op. S.C.

Att’y Gen., 2014 WL 1398580 (S.C.A.G. March 18, 2014). The March 18, 2014 opinion stated the following:

Looking to the plain and ordinary meaning of the SCRPA's provisions, we find that section 12-60-2510(A)(4) allows a property taxpayer to appeal the fair market value and resulting assessment of property at any time in years when a new countywide assessment is not taking place. Turning to the language of section 12-60-30(22), we interpret the definition of property taxpayer to include individuals fitting into two categories: (1) “a person who is liable for ... any property tax imposed by this title”; and (2) “a person ... whose property or interest in property [] is subject to ... a property tax imposed by this title.” S.C.Code Ann. § 12-60-30(22).

Op. S.C. Att’y Gen., 2014 WL 1398580, at *3 (S.C.A.G. Mar. 18, 2014) (quoting Taylor v. Aiken County Assessor, 402 S.C. at 563, 741 S.E.2d at 33). In Taylor, the South Carolina Court of Appeals answered a similar question to the one you ask where it concluded that a taxpayer who had purchased a property at a foreclosure sale “qualified as a ‘property taxpayer,’ in that his property was subject to property tax by virtue of a tax lien for unpaid property taxes, and as such, he had standing to appeal the valuation and tax assessment” for the property purchased at the tax sale pursuant to South Carolina Code Ann. § 12-60-2510(A)(4). Taylor v. Aiken County Assessor, 402 S.C. 559, 741 S.E.2d 31 (Ct. App. 2013). Quoting from the case, the Court of Appeals reasoned as follows concerning a purchaser at a delinquent tax sale:

Even if we considered the statute's terms ambiguous, we find our rules of statutory construction would necessitate allowing Taylor the right to appeal. “All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in light of the intended purpose of the statute.” *Sonoco Prod. Co. v. S.C. Dep’t of Revenue*, 378 S.C. 385, 391, 662 S.E.2d 599, 602 (2008) (internal quotation marks omitted). The legislative intent behind section 12-60-2510(A)(3)-(4) is to provide property owners who are subject to a property tax with an avenue to appeal the valuation and resulting assessment. We find this legislative intent is defeated by interpreting this statute to afford an appeal only to property owners as of the date when the assessment was levied but to disallow appeals from subsequent owners. *See Ray Bell Constr. Co. v. Sch. Dist. of Greenville Cnty.*, 331 S.C. 19, 26, 501 S.E.2d 725, 729 (1998) (“[T]he courts will reject [a] meaning when to accept it would lead to a result so plainly absurd that it could not possibly have been intended by the Legislature or would defeat the plain legislative intention.”). We do not believe the General Assembly intended such a result. Therefore, we construe the statute to provide subsequent owners, who ultimately bear the economic burden of the overvalued taxes, with the ability to appeal such an assessment. *See id.* (“If possible, the court will construe the statute so as to escape the absurdity and carry the [legislature's] intention into effect.”).

Taylor v. Aiken Cty. Assessor, 402 S.C. 559, 564, 741 S.E.2d 31, 34 (Ct. App. 2013). Thus, it appears your constituent is correct in believing a purchaser at a delinquent tax sale would have legal standing to challenge an assessment, even though a deed from a delinquent tax sale is not issued to a purchaser until “thirty days or as soon after that as possible” (S.C. Code Ann. § 12-51-130) after the twelve-month

redemption period (S.C. Code Ann. § 12-51-90), which can cause the purchaser's deed to be issued after the deadline to submit property tax appeals in years where there is no notice of property tax assessment pursuant to South Carolina Code Ann. § 12-60-2510(A)(4) *et seq.* See also Von Elbrecht v. Jacobs, 286 S.C. 240, 332 S.E.2d 568 (1985). Nevertheless, as we noted in the 2014 opinion, the Supreme Court of South Carolina has ruled that real property tax liability and exemptions therefrom are determined based on the owner as of December 31st of the preceding year. Hampton Friends of Arts v. S.C. Dept. of Revenue, 401 S.C. 372, 737 S.E.2d 628 (2013).

Conclusion:

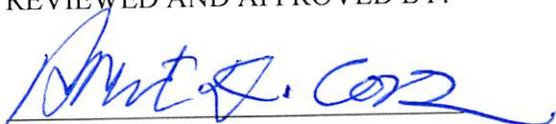
This Office believes our March 18, 2014 opinion answers your question and that a court will find that a purchaser at a delinquent tax sale would have legal standing to challenge an assessment, even though a deed from a delinquent tax sale is not issued to a purchaser until “thirty days or as soon after that as possible” (S.C. Code Ann. § 12-51-130) after the twelve-month redemption period (S.C. Code Ann. § 12-51-90), which can cause the purchaser's deed to be issued after the deadline to submit property tax appeals in years where there is no notice of property tax assessment pursuant to South Carolina Code Ann. § 12-60-2510(A)(4) *et seq.* Op. S.C. Att’y Gen., 2014 WL 1398580 (S.C.A.G. March 18, 2014); S.C. Code Ann. § 12-60-30(22), (29). Nevertheless, as this Office stated above, the South Carolina Department of Revenue has the statutory authority to “prescribe rules, procedures, forms, and instructions it considers appropriate and that are consistent with this Article [Article 9. Property Tax Protest, Appeal, and Refund Procedures]” and “assessors, auditors, and taxpayers shall comply with the [D]epartment’s regulations, rules, and procedures....” S.C. Code Ann. § 12-60-1720. Thus, we would refer you to the Department of Revenue’s statutory authority to discuss the matter further. Moreover, this Office is only issuing a legal opinion based on the current law at this time and the information as provided to us. This opinion is not an attempt to comment on any pending litigation or criminal proceeding. Until a court or the General Assembly specifically addresses the issues presented in your letter, this is only an opinion on how this Office believes a court would interpret the law in the matter. This opinion only addresses some of the sources in the subject area, but we can address other authority or additional questions in a follow-up opinion. Additionally, you may also petition the court for a declaratory judgment, as only a court of law can interpret statutes and make such determinations. See S.C. Code Ann. § 15-53-20. If it is later determined otherwise, or if you have any additional questions or related issues, please let us know.

Sincerely,



Anita (Mardi) S. Fair
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General