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"GOLDEN RULE" - GEORGIA COURT OF APPEALS

- **'Golden Rule'** ...requires us to follow the literal language of the statute unless it produces contradiction, absurdity or such an inconvenience as to insure that the legislature meant something else.



Cite: MORETON ROLLESTON, JR. LIVING TRUST v. GLYNN COUNTY BOARD OF TAX ASSESSORS
(228 Ga. App. 371) (491 SE2d 812), (1997)

"GOLDEN RULE" - GEORGIA COURT OF APPEALS

When literal reading of the statute produces such an absurdity,



the [court] must then seek to make sense out of the statute, while being faithful to the legislative intent.

Cite: MORETON ROLLESTON, JR. LIVING TRUST v. GLYNN COUNTY BOARD OF TAX ASSESSORS
(228 Ga. App. 371) (491 SE2d 812), (1997)

"GOLDEN RULE" - GEORGIA COURT OF APPEALS

- *To define the legislative intent, the court considers the purpose of the statute and its impact on the body of law as a whole*



Cite: MORETON ROLLESTON, JR. LIVING TRUST v. GLYNN COUNTY BOARD OF TAX ASSESSORS
(228 Ga. App. 371) (491 SE2d 812), (1997)

"GOLDEN RULE" - GEORGIA COURT OF APPEALS

- *The court also considers the law as it existed before the statute was passed and identifies the mischief sought to be corrected.*



Cite: MORETON ROLLESTON, JR. LIVING TRUST v. GLYNN COUNTY BOARD OF TAX ASSESSORS
(228 Ga. App. 371) (491 SE2d 812), (1997)

"GOLDEN RULE" - GEORGIA COURT OF APPEALS

- *Finally, when a taxing statute has doubtful meaning, it must be construed liberally in favor of the taxpayer and against the State.*



Cite: MORETON ROLLESTON, JR. LIVING TRUST v. GLYNN COUNTY BOARD OF TAX ASSESSORS
(228 Ga. App. 371) (491 SE2d 812), (1997)

DEFINITIONS OF WORDS

- 1-3-1 Construction of statutes generally
 - (b) In all interpretations of statutes, *the ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter,*
 - which shall have the signification attached to them by experts in such trade or with reference to such subject matter.
- 13-2-2 Rules for interpretation of contracts generally
 - (2) Words generally bear their usual and common signification;
 - but technical words, words of art, or words used in a particular trade or business will be construed, generally, to be used in reference to this peculiar meaning.
 - *The local usage or understanding of a word may be proved in order to arrive at the meaning intended by the parties;*

1-3-2 CONSTRUCTION OF DEFINITIONS

As used in a Code or any other law:

- defined words shall have the meanings specified,
 - *unless the context in which the word or term is used clearly requires that a different meaning be used.*

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1-3-6 WHEN LAWS BECOME OBLIGATORY; EFFECT OF IGNORANCE

- After they take effect, the laws of this state are obligatory upon all the inhabitants thereof.

**Ignorance of the law excuses
no one**

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1-3-1 CONSTRUCTION OF STATUTES GENERALLY

Return deadline for 2023 (Saturday, April 1)

- **(3) Computation of time.** Except as otherwise provided by time period computations specifically applying to other laws, when a period of time measured in days, weeks, months, years, or other measurements of time except hours is prescribed for the exercise of any privilege or the discharge of any duty, the first day shall not be counted but the last day shall be counted; and, **if the last day falls on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise the privilege or to discharge the duty.**
- When the **last day prescribed for such action falls on a public and legal holiday** as set forth in Code Section 1-4-1, **the party having the privilege or duty shall have through the next business day to exercise the privilege or to discharge the duty.** When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

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48-5-299 (c)

48-5-299 (C)

When the value of real property is reduced or is unchanged from the value on the initial annual notice of assessment or a corrected annual notice of assessment issued by the board of tax assessors and such valuation has been established as the result of an appeal decision rendered by the board of equalization, hearing officer, arbitrator, or superior court pursuant to [Code Section 48-5-311](#)...

Notice that in the very beginning of 48-5-299 (c) it states...

When the value of real property is reduced or is unchanged from the value on the initial annual notice of assessment or a corrected annual notice of assessment

Refer to **48-5-311(e)(9)**

48-5-311 (E) APPEAL

(9) Notwithstanding any other provision of law to the contrary, on any real property tax appeal made under this Code section on and after January 1, 2016, **the assessed value being appealed may be lowered by the deciding body based upon the evidence presented but cannot be increased from the amount assessed by the county board of tax assessors.** This paragraph shall not apply to any appeal where the taxpayer files an appeal during a time when subsection (c) of [Code Section 48-5-299](#) is in effect for the assessment being appealed.

- ...or stipulated by written agreement signed by the board of tax assessors and taxpayer or taxpayer's authorized representative, the new valuation so established by appeal decision or agreement may not be increased by the board of tax assessors during the next two successive years, **unless otherwise agreed in writing by both parties**

APPEAL WAIVER AND RELEASE

Date: November 05, 2018 Parcel # 1350 017
Assessor # 10623

Owner: MCLINN MEGAN M P & BLAIR J Address: 108 PALMETTO ST
SAINT MARYS, GA 31558

I, the undersigned after consulting with all parties do hereby waive and release any appeal filed with the Camden County Board of Tax Assessors for tax year 2018 and do not wish to pursue any further action for this year.

Signed: _____ Date: _____
(Taxpayer or Taxpayer's Agent)

Both parties (County and taxpayer) agree that:

the fair market value to be:	<input type="checkbox"/> taxable	<input type="checkbox"/> not taxable
the property to be assessed:	<input type="checkbox"/> uniform	<input type="checkbox"/> not uniform
the property for homestead exemption sought:	<input type="checkbox"/> qualifies	<input type="checkbox"/> does not qualify
the property for special assessment sought:	<input type="checkbox"/> qualifies	<input type="checkbox"/> does not qualify
the property for covenant:	<input type="checkbox"/> has occurred	<input type="checkbox"/> has not occurred
Submitted Appeal:	<input checked="" type="checkbox"/> accepted	<input type="checkbox"/> rejected

Does this agreement constitute a 290(c) event? ☐ Yes, for ten years ☐ No

Value Information: Original FMV 125,348
Adjustment 20,248

Approved by Chief Appraiser:
Signed: _____ Date: _____
(Chief Appraiser)

Approved by board of tax assessors:
Signed: _____ Date: _____
(Chairman)

Copy to be mailed to property owner; original to be filed in the appeal file.
Date Mailed to Property Owner: _____
Via: ☐ Mail ☐ Hand Delivery ☐ Electronic

...subject to the following exceptions:

48-5-299 (C)

- **(1)** This subsection shall not apply to a valuation established by an appeal decision if the taxpayer or his or her authorized representative failed to attend the appeal hearing or provide the board of equalization, hearing officer, or arbitrator with some written evidence supporting the taxpayer's opinion of value;



What is written evidence?

The Weight of Evidence



24-4-401. "RELEVANT EVIDENCE" DEFINED

"relevant evidence"

- evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

24-4-402. RELEVANT EVIDENCE GENERALLY ADMISSIBLE; IRRELEVANT EVIDENCE NOT ADMISSIBLE

- All relevant evidence shall be admissible,
 - *except as limited by constitutional requirements or as otherwise provided by law or by other rules, as prescribed pursuant to constitutional or statutory authority, applicable in the court in which the matter is pending.*
- Evidence which is not relevant shall not be admissible.

24-4-403. EXCLUSION OF RELEVANT EVIDENCE ON THE GROUNDS OF PREJUDICE, CONFUSION, OR WASTE OF TIME

Relevant evidence may be excluded if its:

- probative value is substantially outweighed by the danger of unfair prejudice,
- confusion of the issues, or
- misleading the jury or by considerations of undue delay,
- waste of time, or
- needless presentation of cumulative evidence.

24-10-1001. DEFINITIONS

- (1) **"Writing" or "recording"** means letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, magnetic impulse, or mechanical or electronic recording or other form of data compilation.
- (2) **"Photograph"** includes still photographs, X-ray films, video recordings, and motion pictures.
- (3) **"Original"** means the writing or recording or any counterpart intended to have the same effect by a person executing or issuing it. An original of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an original.
- (4) **"Duplicate"** means a counterpart produced by the same impression as the original or from the same matrix or by means of photography, including enlargements and miniatures, or by mechanical or electronic rerecording, chemical reproduction, or other equivalent techniques which accurately reproduce the original.
- (5) **"Public record"** shall have the same meaning as set forth in [Code Section 24-8-801](#).

- (2) This subsection shall not apply to a valuation established by an appeal decision or agreement if the taxpayer files a return at a different valuation during the next two successive years;

TAXPAYER'S RETURN OF REAL PROPERTY
CAMERON COUNTY, TEXAS
TAX YEAR 2018

Due Date: April 1, 2019

SECTION A: PROPERTY INFORMATION

SECTION B: OWNER INFORMATION

SECTION C: FAIR MARKET VALUE INFORMATION

SECTION D: TAXPAYER'S OATH

SECTION E: FOR TAX ASSESSOR'S OFFICE USE ONLY

Camden County Board of Assessors
(912)576-3241 / FAX: (912)576-3014
APPEAL OF ASSESSMENT FOR DISSEY YEAR: 2011
Appeal No: 10798

Name: MCLAREN MEDAN M P - & BLAIR J
Address: 108 PALMETTO ST
City: SAINT MARYS State: GA Zip: 31558
Home Phone: _____
Work Phone: _____
Email Address: _____

Property / Appeal Type (Check One)
☒ Real ☐ Personal ☐ Motor Vehicle ☐ Manufactured Home

Property ID Number: 1290 017 Account Number: 19821
 Property Description: 1/4 S FINE LANE S/D

Specify Grounds for Appeal:
☐ Value ☐ Uniformity ☐ Taxability ☐ Exemption Denied ☐ Breach of Covenant ☐ Error of Computation

You must select only one of the following options:
☐ BOE appeal to the county board of equalization with appeal to the superior court (80% / 80% gross)
☒ ARBITRATION to arbitration with an appeal to the superior court (valuation only)
☐ HEARING OFFICER for (1) nonhomesteaded real property (and contiguous real property) or (2) homesteaded personal property (contiguous real property) in excess of \$500,000, to a hearing officer with appeal to superior court (value and uniformity only)
☒ SC Directly to Superior Court (requires consent of BOA) (any / all grounds)

Additional Cost / Fee (if any): _____

Owner's value assessment (required)
 2011 Final value per BOE decision on 12/16/11 (888a12 - 888a12)
 2011 appeal filed 5/25/11

Property Class ☐ Residential ☐ Commercial ☐ Industrial ☐ Agricultural ☐ Other _____

Signature of Property Owner or Agent _____ Date _____
 NOTE: If the appeal form is signed by an agent, a letter of authorization must accompany the filing of the appeal.
 Agent's Address: _____ Agent's Phone #: _____
 Agent's Email Address: _____

NOTE: Filing of this document will create a review of the county's assessment. Reasonable notice is hereby provided that an on-site inspection of the subject property by a member of the county assessor staff may be performed.

Assessors Use Only	Previous Year Value	Taxpayer's Reported Value	Current Year Value
100%	113,103	125,245	105,000
40%	45,241	50,090	42,000

Date Received: _____ Received By: _____

- (3) Unless otherwise agreed in writing by both parties, if the taxpayer files an appeal pursuant to Code Section 48-5-311 during the next two successive years, the board of tax assessors, the board of equalization, hearing officer, or arbitrator may increase or decrease the value of the real property based on the evidence presented by the taxpayer during the appeal process; and

48-5-299 (C)

- (4) The board of tax assessors may increase or decrease the value of the real property if, after a **visual on-site inspection** of the property, it is found that there have been ***substantial*** additions, deletions, or improvements to such property...

299(c) Removal Request Form			
Parcel Number:	031-4-130-00-0	Appraisal Year:	2021
Realkey:	11451	Appeal Year:	2020
Owner:	FHRC LLC	Date of Inspection:	09/29/2020
Address:	869 Wimbledon Dr	Inspected By:	S.Moore

Check which of the following reasons justify the removal of the 299(c):

☒ A. Substantial additions have taken place at the property since the last valuation/appeal year.

☐ B. Substantial deletions have occurred at the property since the last valuation date/appeal year.

☒ C. Substantial improvements have taken place at the property since the last valuation date/appeal year.

☐ D. A substantial error was found in the property characteristics or description that would substantially affect the FMV.

☐ E. A return was filed on the property with a different value than the prior appeal value.

☐ F. Value decreased based on market conditions or other conditions.

☐ G. Removed per agreement on prior year appeal (agreement attached).

Description of the above checked changes:

The initial valuation for the 2020 tax year was based upon an income approach due to the revaluation of all multi-family properties in Augusta-Richmond county. The income valuation of \$18,334,707 did consider the ongoing rehabilitation and took into account that the property was not stabilized for that year. There was an appeal filed in the 2020 tax year in which the appellant claimed that 48 out of the 207 total units were vacant due to renovations. During the appeal process, the Board of Equalization made an adjustment and set the value at \$13,000,000. The reason for the adjusted valuation was to maintain equity among similar properties in the area. The renovations to the property began in 2018, in which the work was being completed in phases. The remodel was reaching its final phase in 2020, in which, after inspection later in the year, was deemed completed. This rehabilitation included an extensive remodel of all units, clubhouse and amenities. Per a prior on-site inspection, the property manager estimated that the renovations would cost \$40,000 per unit (for an estimated total cost of \$8.3 million). The apartment units received new roofs, drywall, paint, flooring, wiring and HVAC units, along with new appliances. The clubhouse was reconfigured to accommodate administrative personnel, as well as, leasing operations for the complex. Paint, flooring and lighting were upgraded within the facility. A new pool and tennis courts were installed. Also, a new deck and common area were created for social gatherings within the complex. Rents have increased due to the renovations to match the market of higher class multifamily properties. Due to the renovations being completed, and the property being stabilized as of January 1st, the income approach was applied, and the valuation of \$25,124,380 takes into account the new rents/amenities offered at the property. The completion of the substantial improvements resulted in the removal of the 299(c) valuation applied to the property.

2021 BOA Notice Value (Current Year):	\$25,124,380
299(c) Value:	\$13,000,000
2020 BOA Notice Value (Prior Year):	\$18,334,707

Substantial

- (2)(c)(2) Reassessments
-the term 'substantial'; when making determinations of whether to **increase** a recently appealed property the appraiser shall consider:
 - the subject property components since the time of the appeal/appeal hearing date):
 - value of new improvements
 - value of additions to existing improvements (footprint of **appealed** structure has been altered)
 - major remodeling or renovations to existing structures (footprint of **appealed** structure has not been altered)
 - adjustments to land due to consolidation of tracts
 - new surveys
 - zoning changes
 - land use changes

Rule 560-11-10-.09. Real Property Appraisal

DEFINE SUBSTANTIAL!



5% 10% 15% 20%
25% 30% 40% 50%

- Establish a fair and equitable procedure that sets a precedence of when the term “Substantial” is being applied

48-5-299 (C)(4) CONTINUED

...or that there are errors in the board of tax assessors' records as to the description or characterization of the property,...

What is ERROR?

A mistaken judgment or incorrect belief as to the existence or effect of matters of fact, or a false or mistaken conception or application of the law. Such a mistaken or false conception or application of the law to the facts of a cause as will furnish ground for a review of the proceedings upon a writ of error; a mistake of law, or false or irregular application of it, such as vitiates the proceedings and warrants the reversal of the judgment.

Error is also used as an elliptical expression for “writ of error;” as in saying that error lies; that a judgment may be reversed on error.

<https://thelawdictionary.org/error/>

...or the board of tax assessors finds an occurrence of other material factors that substantially affect the current fair market value of such property.

What is MATERIAL?

- Important;
- more or less necessary;
- having influence or effect;
- going to the merits;
- having to do with matter, as distinguished from form.

An allegation is said to be material when it forms a substantive part of the case presented by the pleading. Evidence offered in a cause, or a question propounded, is material when it is relevant and goes to the substantial matters in dispute, or has a legitimate and effective influence or bearing on the decision of the case.

<https://thelawdictionary.org/material/>

RULE 560-11-10-.09 (2)(C) REAL PROPERTY APPRAISAL

2. Changing assessment of recently appealed real property...

- The appraisal staff may recommend, consistent with the provisions of this subparagraph, to the board of tax assessors a change of assessment on the property that was the subject of the appeal when an appraisal **based on current market conditions** indicates the value has changed **substantially** from the value established by the recent appeal.
- Such appraisal shall be accompanied by a **written statement** attesting to the fact that an appraiser has conducted the required on-site inspection of the subject property
 - and setting forth the reasons why the appraiser believes that a change of assessment is authorized under Code section **48-5-299(c)** and this subparagraph.

RULE 560-11-10-.09 (2)(C)(2) REAL PROPERTY APPRAISAL

The written statement shall attest to at least one of the following:

1. **Substantial** additions, deletions, or improvements to such property has occurred since January 1 of the appeal year;
2. An **error** has been discovered in the property records regarding the description or characteristics of the subject property;
3. An occurrence of other **material factors** that substantially affect the current fair market value of the subject property.

2019 - COURT DECISION



DEKALB COUNTY BOARD OF TAX ASSESSORS VS
CWS SGARR BROOKHAVEN, LLC. (A19A1541)
&
WRH AZTEC, LLLP. (A19A1618)

BOA Claim

According to the BOA, because the statute is clear and unambiguous, and the plain language of the statute does not exclude “market conditions” as a material factor affecting the current fair market value of property...

48-5-299 (c)(4)

DEKALB COUNTY BOARD OF TAX ASSESSORS vs
CWS SGARR BROOKHAVEN, LLC. (A19A1541)
&
WRH AZTEC, LLLP. (A19A1618)

Judgement reason

48-5-299 (c)(4)

- Thus, to resolve any doubts ... And because we are dealing with a general term of enlargement (“other material factors”), we apply the rule of ***ejusdem generis***. (Latin for “of the same kind.”)
- Under that rule, when a statute enumerates by name or description several particular things and then concludes with a general term of enlargement – such as “other factors” – the term of enlargement *“is to be construed as being . . . Of the same kind or class with the things specifically named unless, of course, there is something to show that a wider sense was intended.”*...

RULE 560-11-10-.09 (2)(C)(2) REAL PROPERTY APPRAISAL

- In the event an appealed property is renovated or remodeled, the term 'substantial'
- shall be construed such that both the property owner and BOA would reasonably conclude a major renovation/remodeling has occurred.
- Any modifications made to the appealed property after the appeal hearing date that result in a lower value of the appealed property shall be considered in the final valuation of property for the subsequent January 1 assessment.

WHAT ABOUT THE SALE OF THE PROPERTY WHILE UNDER 299 (C)?



DEKALB COUNTY V. WELLBORN RD.
COMMON TENANCY, 276 GA. APP. 14
 OCTOBER/19/2005

The 2001 299c value = \$ 692,664

The owner sold 8.3418 acres of the parcel, leaving 14.79 acres remaining...

The county reassessed the property for the 2002 and 2003 tax years at \$ 1,318,690, an amount substantially greater than the 2001 value found by the jury.

- it was undisputed that part of the property was sold, a change in valuation under O.C.G.A. § 48-5-299(c) or the relevant rules and regulations was authorized only if the sale affected the fair market value of the property retained by the ownership.
- Although the BOA argued throughout its brief that the sale of a portion of the property substantially changed the value of the remaining portion,

**these statements were not supported by
evidence in the record.**

What if the sale of the property is less than the 299 (c) value, what value do I use?



REMEMBER THE "GOLDEN RULE"



Georgia Department of Revenue

"Golden Rule" - Georgia Court of Appeals

- "...revenue statutes are to be construed liberally in favor of the property owner and strongly against the taxing authority."
- ***Cite:*** MORETON ROLLESTON, JR. LIVING TRUST v. GLYNN COUNTY BOARD OF TAX ASSESSORS (228 Ga. App. 371) (491 SE2d 812), (1997)



WHAT ABOUT A 30 DAY CORRECTED NOTICE, DOES THAT GET A 299 (C) VALUE?

48-5-311(e)(2)(C) If changes or corrections are made by the county BOA, the board shall notify the taxpayer in writing of such changes.

...the taxpayer shall, within 30 days of the date of mailing of the change notice, notify the county board of tax assessors to continue the taxpayer's appeal to the county board of equalization...

WHAT IF THE APPEAL DEADLINE FALLS ON A SATURDAY?

1-3-1(3) Computation of time.

...if the last day falls on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise the privilege or to discharge the duty. When the last day prescribed for such action falls on a public and legal holiday as set forth in Code Section 1-4-1, the party having the privilege or duty shall have through the next business day to exercise the privilege or to discharge the duty.

Clinch County Board of Assessors
25 Court Square Suite D
Homerville GA 31634
(912)497-2561

MOORE LARRY K ET AL
322 MUD CREEK RD
LAKELAND GA 31635

PT 306C (revised Jan 2016)
Official Tax Matter - 2022 Tax Year
This correspondence constitutes an official notice of ad valorem assessment for the tax year shown above.
Assessment Notice Date: 4/27/2023
Last date to file a written continuation of appeal: 05/29/2023
*** This is not a tax bill - DO NOT SEND PAYMENT ***
County property records are available online at: apdclink.net/ga/clinch

The Board of Assessors has reviewed your appeal of the valuation or denial in question and has made adjustments in the current year assessment. The adjusted current year assessment is indicated in "BOX B" of this notice. You have the right to continue your appeal to the previously selected appellant entity by filing a written request for appeal continuation, to the County Board of Assessors at the address shown above, no later than the date shown above as the "Last date to file written continuation of appeal".

All documents and records used to determine the current value are available upon request. For further information regarding this assessment and filing a continuation of the appeal, you may contact the county board of tax assessors which is located at 25 Court Square Suite D - Homerville, GA 31634 and which may be contacted by telephone at: (912) 487-2561.

Your appraisal staff contacts are NELSON and STANLEY.

If you are satisfied with the adjusted value on this notice, no action is required. The amount of your final ad valorem tax bill for the tax year shown will be based on the adjusted values specified in this notice.

Additional information on the appeal process may be obtained at <http://dor.ga.gov/property-tax-real-and-personal-property>

Account Number	Property ID Number	Assessed	Tax Due	Committed Year	Homestead
1603	004 008	33.71	05	CUV 2022	None

Property Description: LL 390 393 7TH

Property Address: D

	Exempted Return Value	Previous Year Fair Market Value	Current Year Fair Market Value	Current Year Other Value
100% Assessed Value	0	46,800	46,800	22,216
40% Assessed Value	0	18,720	18,720	8,889

Reasons for Assessment Notice

The estimate of year ad valorem tax bill for the current year is based on the previous or most applicable year's millage rate and the fair market value contained in this notice. The actual tax bill you receive may be more or less than this estimate. This estimate may not include all eligible exemptions.

Taxing Authority	Other Exempt	Homestead Exempt	Net Taxable	Millage	Estimated Tax
STATE	9.834	0	0	0.00000	0.00
COUNTY	9.834	0	8,889	10.54000	97.24
DEVELOPMENT	9.834	0	8,889	0.50000	4.44
HOSPITAL	9.834	0	8,889	4.00000	35.54
SCHOOL COUNTY	9.834	0	8,889	17.88000	158.61
Total Estimated Tax					\$296.79

What if the property has a SB346 value, could that get a 299 (c) value if there was an appeal filed?

And...

Would that lock in the SB346 value for 2 more years?

48-5-299(c) When the value of real property is reduced or is unchanged from the value on the initial annual notice of assessment or a corrected annual notice of assessment issued by the board of tax assessors and **such valuation has been established as the result of an appeal decision rendered by the board of equalization, hearing officer, arbitrator, or superior court pursuant to Code Section 48-5-311...**

What if a taxpayer files an appeal w/in the 2 successive years? Does 299c immediately get removed?

Georgia Ct. of Appeals / Oct. 25 2021 : DEKALB COUNTY BOARD OF TAX ASSESSORS v. BARRETT

Overview

HOLDINGS: [1]-Under [O.C.G.A. § 48-5-299\(c\)](#), the taxpayer was entitled to a two-year freeze on the taxable values of his various properties for the 2019 and 2020 tax years because the decision of the DeKalb County Board of Tax Assessors (Board) to increase the values of the taxpayer's properties for the 2018 taxable year was done in contravention of the agreement he reached with the DeKalb County Board of Equalization (BOE) for the 2017 taxable year and in violation of [O.C.G.A. § 48-5-299\(c\)](#); and, when the taxpayer was forced to pursue a second appeal to the BOE to challenge the Board's new, increased assessments for 2018, the taxpayer was entitled to a two-year freeze on the value of his properties following the 2018 taxable year.

Appeal

WHAT ABOUT A NEW VALUE BASED ON THE INCOME APPROACH?



DEKALB COUNTY BOARD OF TAX ASSESSORS
VS
CWS SGARR BROOKHAVEN, LLC. (A19A1541)

HN9 Real Property Taxes, Assessment & Valuation

...Additionally, any new assessment based on other material factors must be based on current market conditions — i.e., the conditions at the time of the reappraisal, rather than the market conditions at the time of the previously-appealed appraisal. **A general rise in market forces is not an exception to the general two-year freeze outlined in O.C.G.A. § 48-5-299(c).** Examples of material factors meeting this definition could include things such as the removal or abatement of a nuisance adjacent to the property and which impacted the property directly.

DEKALB COUNTY BOARD OF TAX ASSESSORS
VS
CWS SGARR BROOKHAVEN, LLC. (A19A1541)

HN10 Legislation, Interpretation

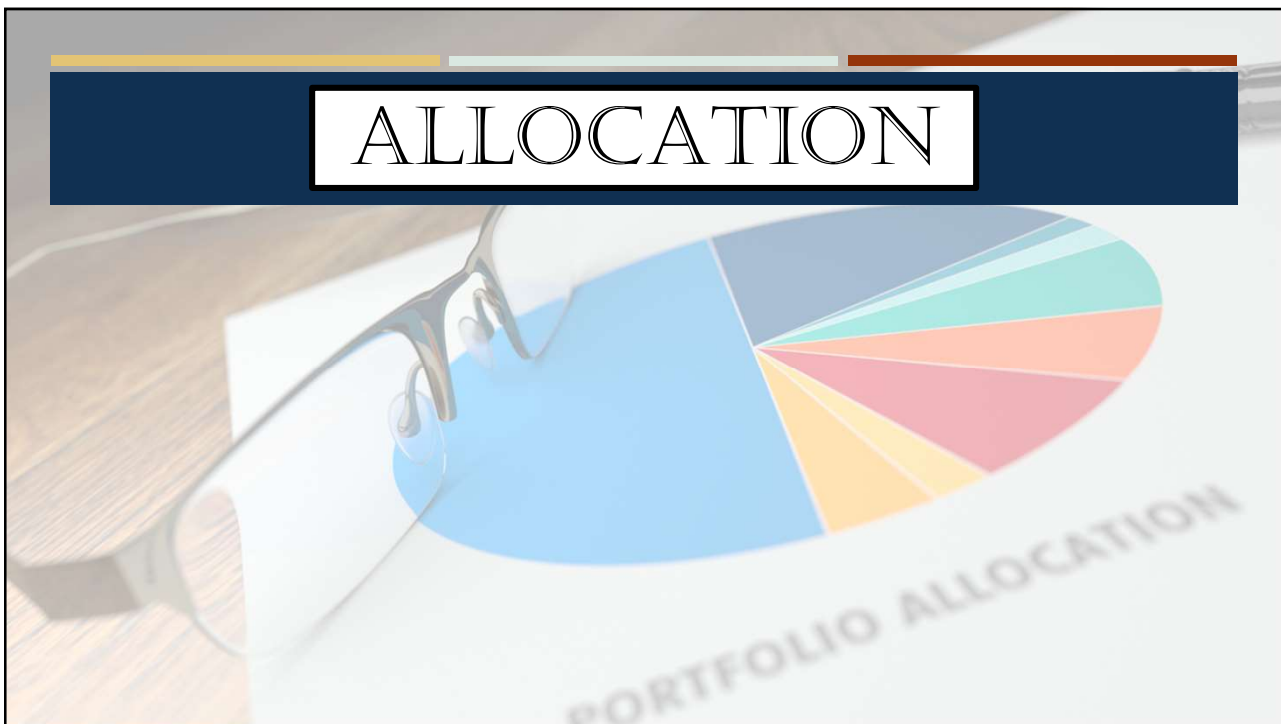
Notably, neither changes in market conditions (including a marked rise in the sales of comparable properties in the same neighborhood) nor a general rise in the value of real estate in a particular neighborhood would be discernable from a visual, on-site inspection of the property. **Nor would such factors be specific to a particular piece of property. Accordingly, we find that these factors do not constitute material factors affecting the fair market value of property within the meaning of O.C.G.A. § 48-5-299(c)(4).**

- ...The statute's focus is to afford some short period of relief from reassessment (and therefore from having to appeal repeatedly from annual reassessments) after the value of the taxpayer's property was established by an appeal.
- To interpret the phrase other material factors as including general market forces or the general rise of real estate values in a certain area, however, would allow the exception to swallow the rule.

WHAT IF AN ADDITION WAS MISSED DURING THE HEARING, CAN WE ADD IT NEXT YEAR?

- **48-5-299(a)** - It shall be the duty of the county BOA to investigate diligently
- **48-5-306(a)** - The board shall examine all the returns...if any taxpayer has omitted any property that should be returned or has failed to return any property at its fair market value, the board shall correct the assessment and fix the FMV on the property
- **48-5-311(e)(4)** - The determination by the county BOA of questions of factual characteristics of the property under appeal, as opposed to questions of value, shall be prima-facie correct in any appeal to the county BOE.
 - *Pima-facie: "sufficient to establish a fact or raise a presumption unless disproved or rebutted."*
- **560-11-10-.09(c)** - The appraisal staff may not recommend to the BOA a reassessment of the same real property for which a final assessment has already been made by the board. For the purposes of this subsection, the appraisal staff **shall presume that a final assessment on real property includes both the land and any improvements to the land.**
- **560-11-10-.02 (1)(i)** - "Final assessment" means the assessed value of real property as stated on the Annual Notice of Assessment as approved by the Board of Assessors. **Amendments to "Final assessment" for real property are prohibited absent a clerical error or some other lawful basis...**
- **560-11-10-.09 (2)(c)(2)** - The written statement shall attest to at least one of the following: substantial additions, deletions, or improvements to such property **has occurred since January 1 of the appeal year**; an error has been discovered in the property records regarding the description or characteristics of the subject property; or an occurrence of other material factors that substantially affect the current fair market value of the subject property.

ALLOCATION



CALCULATING A 299(C) VALUE

What is the 299c value for the house?

What is the 299c value for the land?

- Assessors FMV= **200,000**
 - House = 150,000
 - Land = **50,000**
- BOE decision
 - FMV = **150,000**



CALCULATING A 299(C) VALUE

Assessor's FMV

Assessor's FMV =

200,000

House = 150,000

Land = 50,000

299c value using "Allocation"

Find the percentage of Value

HSE = $150,000 / 200,000 =$
75%

Land = $50,000 / 200,000 =$
25%

299C VALUE USING "ALLOCATION" PERCENTAGE

BOE FMV = 150,000

Hse = $150,000 \times 75\% (.75) =$ 112,500

Land = $150,000 \times 25\% (.25) =$ 37,500

299c Value = $112,500 + 37,500 =$ 150,000

299C: ALLOCATION

- Assessor's Digest Value = 400,000
 - House Value = 275,000
 - Land Value = 100,000
 - Accessory Buildings = 25,000
- BOE FMV= **325,000**
- What are the 299c allocation values for the:
 - House = **224,250**
 - Land = **81,250**
 - Acc. buildings = **19,500**

43-39A-2 Definitions

Appraisal

- **(3)** or "real estate appraisal" means an analysis, opinion, or conclusion prepared by an appraiser relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis.



CONSTITUTION OF THE STATE OF GEORGIA

ARTICLE I. BILL OF RIGHTS SECTION I.
RIGHTS OF PERSONS
PARAGRAPH XII. Right to the courts

No person shall be deprived of the right to prosecute or defend, either in person or by an attorney, that person's own cause in any of the courts of this state.

LOSS OF RIGHT TO HEARING NOT DENIAL OF DUE PROCESS WHEN DUE TO TAXPAYER'S ACTION

Allowing taxpayer's right to a hearing on the assessment of the taxpayer's property to be cut off by passage of time, or the independent action of other parties, violates the taxpayer's due process rights unless caused by culpable or negligent conduct on the part of the taxpayer.

Ward v. Landrum, 140 Ga. App. 497, 231 S.E.2d 347 (1976)

Wilkes v. Redding, 242 Ga. 78

Supreme Court of Georgia
July 7, 1978

*“The board was the appropriate forum for **deciding the taxpayer's constitutional and procedural issues** as well as questions of uniformity, valuation, and taxability.”*

DURING THE 30 DAY NOTICE, CAN THE TAXPAYER CHANGE THEIR APPEAL PATHWAY, LIKE WHEN APPEALED TO HEARING OFFICERS OR ARBITRATION?



Georgia Department of Revenue

48-5-311(e)(2)(C) Appeal to BOE (30 day notice)

- If changes or corrections occur:
 - A notice in writing shall be sent by regular mail (*Form is developed by the Commissioner*)
 - Notification shall be sent to taxpayer or representative if requested
 - If the taxpayer is dissatisfied with the changes or corrections, they will have **30 days** to notify the BOA
 - Written notice of **continuation of appeal** may be received by:
 - Email (if the BOA adopted a policy to receive)
 - Mailing
 - Filing within the assessor's office



A GREAT STATE TO SERVE

48-5-311(E)(6)(B) APPEAL TO BOE

- Within **30 days** of the date of notification to the taxpayer of the hearing required in this paragraph but not earlier than **20 days** from the date of such notification to the taxpayer, the county board of equalization shall hold such hearing to determine the questions presented.



ROLLESTON V. GLYNN CTY. BD. OF TAX ASSESSORS, 240 GA. APP. 405, 523 S.E.2D 600 (1999)

Overview:

- *...Because the court found that the language in a statute that commands the doing of a thing within a certain time, when not accompanied by negative words restraining the doing of the thing afterward, is construed as merely directory and not as a limitation of authority...*

JANUARY

Prospective Appraisal

- A professionally derived estimate of value based on some expected future event.



Retrospective Appraisal

- An opinion of value as of a specific date in the past.

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2020-2021 USPAP ADVISORY OPINION 34 RETROSPECTIVE APPRAISALS

- ...Data subsequent to the effective date may be considered in developing a retrospective value as a confirmation of trends that would reasonably be considered by a buyer or seller as of that date.
- The appraiser should determine a logical cut-off for the data to be used in the analysis because at some point distant from the effective date, the subsequent data will no longer provide an accurate representation of market conditions as of the effective date. This is a difficult determination to make. Studying the market conditions as of the date of the appraisal assists the appraiser in judging where to make this cut-off. **With market evidence that data subsequent to the effective date was consistent with market expectations as of the effective date, the subsequent data should be used.**

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USPAP
Uniform Standards of Professional Appraisal Practice

ISA
INTERNATIONAL SOCIETY OF APPRAISERS

City of Long Branch v. Angelides
New Jersey Superior Court, Appellate Division
Nov 17, 2010

Jewison v. County of Freeborn
Minnesota Tax Court
Mar 17, 1994

S & R Realty v. Town of Kearny
New Jersey Tax Court
Aug 7, 2001

Almax Builders, Inc. v. City of Perth Amboy
New Jersey Tax Court
Feb 26, 1980

W. Grant Props. v. County of Hennepin
Minnesota Tax Court
Feb 8, 1983

Lane v. Supervisor of Assessments
Maryland Court of Appeals
May 3, 2016

Harder v. Deschutes Cnty. Assessor
Oregon Tax Court
Jan 31, 2022

Vaccaro v. Ho-Ho-Kus
New Jersey Tax Court
Nov 20, 2015 | 2015 N.J.

Carl v. Department of Revenue
Oregon Tax Court
Mar 10, 1976

50-18-99

RECORDS MANAGEMENT PROGRAMS FOR LOCAL GOVERNMENTS

- (f) The Board of Regents of the University System of Georgia, through the division, shall coordinate all records management matters for purposes of this Code section. The division shall provide local governments with a list of common types of records maintained together with recommended retention periods and shall provide training and assistance as required. The division shall advise local governments of records of historical value which may be deposited in the state archives. All other records shall be maintained by the local government.
- (g) Except as otherwise provided by law, ordinance, or policy adopted by the office or officer responsible for maintaining the records, all records shall be open to the public or the state or any agency thereof.

GEORGIA ARCHIVES
UNIVERSITY SYSTEM OF GEORGIA

About Us | Visit | Research | Educators | Government Agencies | Partners | Caring for Records

Retention: 1 year

178 | Assessment Appeals Case Files, Closed
Description: Appeals by taxpayers for reconsideration of the assessed value of their property.
Retention: 3 years

179 | Assessment Notices
Description: Legal notices to taxpayers that their property will be reassessed for its tax value.
Retention: 3 years

396 | Bankruptcies
Description: Records relating to claims against bankrupt property owners for taxes due to local government.
Retention: Dismissed cases: 3 years. Discharged cases: 5 years.

LG-22-002 | Board of Equalization Appeals
Description: Records documenting appeals by citizens to the Board of Tax Equalization.

https://www.georgiaarchives.org/records/local_government/schedules/42

If it is not written in law, is it legal?



If something is not explicitly written in the law, it may still be legal or illegal depending on the circumstances and the interpretation of the law by the courts or other legal authorities.

In many cases, laws are written broadly, and it is up to the courts to interpret and apply them to specific situations. The courts may look to legal precedents, legislative intent, and other factors to determine the legality of a particular action or behavior. Additionally, laws may be vague or open to interpretation, and it may be up to the courts to provide clarity on what is legal or illegal in a particular situation.

However, if something is explicitly prohibited by the law, then it is generally considered illegal. Conversely, if something is explicitly allowed by the law, then it is generally considered legal. It's important to note that laws can vary depending on the jurisdiction, and what is legal in one place may not be legal in another.

<https://chat.openai.com/?model=text-davinci-002-render>