

- (4) The assessor should provide the Board with evidence to support the property tax assessment. The assessor's evaluation, supported by the evidence he presents, is normally presumed to be correct, unless proved otherwise.
- (5) The property taxpayer shall state his reasons for protesting the property tax assessment and provide evidence supporting his claim of value.

The taxpayer's appraiser is a witness and it is his or her testimony which gives evidence of the taxpayer's assertion of the value of the property in question. It is incumbent upon the taxpayer to produce evidence to support his assertion of value. It is insufficient to merely challenge the appraisal as void or illegal. In the absence of some other "actual" value, the value set by the (assessor) must normally stand. See *Newberry Mills, Inc. v Dawkins*, 259 S.C. 7, 190 SE2d 503 (1972).

- (6) The property taxpayer may provide the Board with evidence to support amending, modifying, or rescinding the property tax assessment.
- (7) The assessor may rebut information and arguments presented by the taxpayer or intervener.
- (8) The taxpayer may rebut information and arguments presented by the assessor.

THE DECISION

The Boards may affirm, increase or decrease the assessment that is the subject of the appeal. The Board shall make its decision based upon the evidence before it. The Board shall state the basis of its conclusions. The findings of facts shall be stated in such detail as is necessary to adequately reflect the same and to support the basis or grounds for the Board's conclusions.

The decision must be made by a majority vote of the board members present at the Hearing. (See Quorum, above.) In case of a tie, the assessor's determination of value is upheld.

At the conclusion of the Hearing, the decision may be announced orally or it may be reserved for consideration. In either event, the Board shall mail a written decision to the parties within fifteen (15) days after the date of the Hearing, or as soon thereafter as practical.

The written decision of the Board shall:

- Explain the basis for the decision;
- State that if the decision is not appealed, it must be certified to the county auditor for entry upon the property tax assessment rolls or tax duplicate; and
- Inform the parties of their right to request a contested case hearing before the Administrative Law Judge Division.

APPEALS TO THE ADMINISTRATIVE LAW JUDGE DIVISION

Within thirty (30) days after the date of the Board's written decision, a taxpayer or an assessor may appeal a decision made by the Board by requesting a contested case hearing before the Administrative Law Judge (ALJ) Division in accordance with the rules of the ALJ Division. The County Board establishes no record. The ALJD hearing is an entirely new hearing. Further the ALJD is finder of fact and its record becomes the record for appeals. A ALJ Division fee may apply.

If the taxpayer requests a contested hearing with the ALJD without exhausting his pre-hearing remedies because he failed to file a protest or attend a Hearing with the County Board, the ALJD will dismiss the action without prejudice.

If the taxpayer failed to provide facts or law to support his position to the County Board and seeks to provide those facts or argue that legal position to the ALJD, the ALJD will return the case to the County Board to reconsider the case in light of the new facts or law.

If an appeal extends, or is expected to extend, beyond December 31, the taxpayer must pay a portion of the tax equal to 80% of the protested assessment and may agree, in writing, to pay a higher amount. (See South Carolina code 12-60 -2550)

This is only a draft copy.

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Berkeley County
Real Property Services
PO Box 6122
1003 Highway 52
Moncks Corner SC 29461
Visit us @ www.berkeleycountysc.gov



Property Tax Appeals

SOUTH CAROLINA
DEPARTMENT OF
REVENUE

Berkeley County
Real Property Services

(843) 719-4061
(843) 723-3800 ext 4061
(843) 567-3136 ext 4061
(843) 719-4271 Fax #

e-mail:
assessor@berkeleycountysc.gov

The Appeals Process

APPEALS TO THE COUNTY ASSESSOR

South Carolina Code 12-60-2510 and 12-60-2520 establish the initial steps necessary to appeal an assessment made by a county assessor:

- (1) Whenever a property's value is increased by \$1,000, the assessor must give written notice to the taxpayer by July first or as soon thereafter as practical.
- (2) If the taxpayer objects to the assessment, i.e., the value, the taxpayer must give written notice of objection to the assessor within 90 days of the **mailing** of the assessment notice. If the taxpayer fails to file written objection within the 90 day period, he forfeits his right to appeal the valuation. (Don't count the first day, count the last day.)
- (3) In tax years in which a property's fair market value has not been increased by \$1,000, **no notice** by the assessor is required. In these years (generally years for which there is no county-wide reassessment program), the taxpayer must object to the appraisal, i.e., the value, by filing a written objection with the Assessor by January 15th of the following year. If the taxpayer fails to file a written objection by January 15th of the following year, he forfeits his right to appeal the

Note: Under Code Section 12-60-1750, no refund of property taxes must be given for errors in valuation **unless** the assessment was appealed in accordance with Section 12-60-2510 [assessments made by county assessor].

valuation.

- (4) After receiving the property taxpayer's objection, if the assessor agrees with the taxpayer, the county assessor must correct the error. If the county assessor does not agree with the taxpayers, the assessor must schedule a conference with the taxpayer within 30 days of the date of a

- (5) If the matter is not resolved at the conference, the **taxpayer** must file a **written protest** with the assessor **within 30 days of the conference**.
- (6) The assessor must respond to the protest in writing within 30 days of the date of receipt of the written protest, or as soon thereafter as practical

APPEALS TO THE COUNTY BOARD OF ASSESSMENT

South Carolina Code 12-60-2530 establishes the procedures for administrative appeal of the Assessor's decision to the County Board of Assessment Appeals:

PRE-HEARING MATTERS

Note: The statute actually refers to the hearing as a "conference." For simplicity, we refer to it in this publication as a "Hearing".

- (1) The taxpayer may appeal the assessor's decision by giving a written notice of intent to appeal to the assessor within 30 days of the date of the assessor's response. See Code Section 12-60-2530(A).
- (2) The appeal must be conducted by the County Board of Assessment Appeals.
- (3) At least fifteen (15) days before the Board Hearing, the taxpayer and the assessor must exchange lists of document, witnesses and other evidence that they anticipate presenting to the County Board, and they must provide copies to the County Board.
- (4) The assessor shall file with the board:
 - A copy of the original property tax assessment for the subject property.
 - The written reponse of the taxpayer.
 - Written response to the taxpayer's protest;and
 - Copies of documents, including appraisals, property sales, and a brief description of other evidence to be presented by him. Copies of the documents filed with the board must be mailed or delivered to the property taxpayer at the same time.

The board may waive the requirement that the taxpayer file the material with the board and mail or deliver it to the assessor.

- (5) Seven (7) days before the conference, the taxpayer or the assessor may file a reponse with the County board to the exchanged information. This response must also be mailed to the other party.

QUORUM

All board members present at the Hearing must consider each appeal. The lesser of a majority of the members or three members of the board are a quorum, unless the assessor and the taxpayer agree to a lesser number.

THE HEARING

Representation:

Only those persons permitted to practice before the county boards by South Carolina Code 12-60-90© may practice before the board of appeals, i.e., attorneys, CPA's, enrolled agents, licensed appraisers, and the taxpayer and employees of the taxpayer (in-house counsel).

The attorney or representative is an **advocate** of the taxpayer's position. His or her **arguments** are not testimony and are therefore not given any evidentiary value. Administrative practice is also to allow attorneys licensed in any state to represent a taxpayer before a county board.

Hearing:

South Carolina Code 12-60-2530 specifies the procedures of the Hearing. The Hearing must be held as follows:

- (1) The Hearing is open to the public.
- (2) The Board may meet in closed session to consider evidence, which has been presented at the Hearing.
- (3) The assessor shall explain the property tax assessment and his response to the taxpayer's written protest.