

THIS DOCUMENT IS A GENERAL UPDATE ON 2012 PROPERTY TAX DEVELOPMENTS INTENDED TO ASSIST INDIVIDUALS CONSIDERING 2012 BEAUFORT COUNTY PROPERTY TAX APPEALS. THERE ARE UNIQUE CHARACTERISTICS TO EVERY PROPERTY SO THIS DOCUMENT IS NOT INTENDED NOR DOES IT OPERATE AS A SUBSTITUTE FOR LEGAL ADVICE.

Developments that are likely relevant to tax payers evaluating their 2012 property tax appeal prospects or residency status include an amendment to the South Carolina Code passed in the 2012 Legislative Session that will affect some property tax owners seeking the 4% Special Assessment Ratio and the upcoming County-wide reassessment scheduled to be implemented in 2013. Circumstances differ on an annual basis, and some of the factors to consider in evaluating present circumstances include the fact that we are another year into the application of Act 388. Act 388, passed in 2006, implemented a point-of-sale adjustment for purposes of establishing a value used to calculate property tax bills. As a result, recent purchasers of Beaufort County properties are getting the benefit of decreased values for property tax purposes, whereas purchasers that acquired their properties in 2007 and 2008 are often frustrated that they are paying property taxes based upon their purchase prices that are typically in excess of current market value. This is somewhat unique to Beaufort County since each County reassesses properties on different schedules, though all counties are required to do so at least once every five years.

Act 179

Act 179 was passed in the 2012 Legislative Session and implemented as of May 31, 2012 ("Act 179"). It has a number of implications. For owners with 10 or more lots, it expands the opportunity to obtain the Multiple Lot Discount. It also has significant implications for second homeowners that previously used what many perceived as "loopholes" through which the Code allowed owners to obtain the 4% Special Assessment Ratio. Act 179 addresses the following:

- (1) codifies the long-held position of the Assessor that a married couple may not maintain separate legal residences without a legal separation agreement;
- (2) negates some actions undertaken specifically by property owners to trigger a reassessment of property value, such as conveying portions of a property to children; and
- (3) provides that the occupancy of a single owner, where the property is owned by multiple individuals, qualifies for 4% Special Assessment Ratio only to the extent of the ownership maintained by the occupant. This targets property owners that were conveying 1% interests in their second homes to their children that occupied them. The Code previously provided that this arrangement made a property eligible for the 4% Special Assessment Ratio. A child's ownership interest may still qualify if the interest is at least a 25% interest in the subject property and meets other requirements. Act 179 provides that only the interest maintained by the occupant is subject to the reduced rate (1% in the example above, while 99% of the property would be taxed at the higher rate and subject to school operating charges).

Act 179 generally advances the premise under the Code that owners using a property as their primary residence obtain the 4% Special Assessment Ratio. Many of the non-traditional ownership structures set up to obtain the 4% Special Assessment Ratio no longer qualify as a result of Act 179.

Notices of Reassessment

Notices of reassessment on the basis of 2011 “assessable transfers of interest” have recently been remitted by Beaufort County to owners. Recipients should include all 2011 purchasers (refinances do not suffice). This notice of reassessment establishes a new value on which the property will be taxed in this year’s property tax bills.

Owners have ninety (90) days to appeal the value established in the notice of reassessment. Owners should review the value provided in the notice of reassessment and consider how it compares to (1) their 2011 purchase price and (2) the appraised value, if applicable, as set forth in an appraisal that they may have obtained in the course of securing financing for their purchase. If the three values are similar or the same, there is not likely much basis for an appeal. However, where the reassessed value as determined by Beaufort County differs substantially from the 2011 purchase price or the value established in an appraisal, there is reason to consider an appeal.

Appraisals undertaken by a licensed appraiser at the time of purchase or new appraisals with an effective date of December 31, 2011, are typically more persuasive to Beaufort County personnel than are comparable sales cited by an owner or owner’s representative. Owners should also account for the fact that the price established in this reassessment will be applicable for 2012 property taxes only, as Beaufort County is due to implement a County-wide reassessment in 2013 based upon values as of December 31, 2012.

2012 Property Tax Bills

Property tax bills will be sent out to owners in November, and payment is late after January 15, 2012. This is consistent with prior years. Owners are reminded that, in many instances, they are paying their property taxes into escrow funds with their lenders. Beaufort County typically mails the bill to the lender, and a copy to owners. Every year, some property owners confuse the “copy” for an invoice, and they pay Beaufort County. Their lender also pays Beaufort County with funds that this same owner paid into escrow. Beaufort County ultimately refunds the double payment though there is a delay.

McNair Law Firm and its predecessor firm have provided real estate closing services for over 30 years in Hilton Head Island and Bluffton areas. McNair Law Firm's real estate clients are welcome to call with inquiries about their property tax issues, generally at no charge initially, which is part of the value in working with McNair Law Firm, P.A. Any comments or questions relating to property taxes can be directed to Bret Pruehs at 843.785.2171 regardless of prior affiliation with McNair Law Firm, P.A. Please feel free to call.



Bret T. Pruehs

Attorney
Hilton Head Island, SC
Shelter Cove Executive Park
23-B Shelter Cove Lane
Suite 400
Hilton Head Island, SC 29928
bpruehs@mcnair.net
843.785.2171 *Main*

Bret Pruehs works in the Real Estate and Corporate law departments specializing in real estate, real estate development and corporate matters. Bret handles transactional residential and commercial real estate matters, general corporate representation including asset and stock sales, and represents horizontal property regimes and owners associations.