



MEMORANDUM

TO: The Landings Association’s Board of Directors
FROM: Benjamin M. Perkins, Esq.
DATE: January 24, 2019
RE: Stephens Day Analysis

Introduction

The purpose of this memo is to provide a legal opinion regarding the comments Mr. Vaquer made regarding the Stephens-Day homestead exemption at the Skidaway Island Republican Club’s “True Perspectives” forum held on January 22, 2019.

Legal Analysis

The Stephens-Day Act (“Act”) provides that “**Each resident of Chatham County** is granted an exemption on that person’s homestead from **all Chatham County ad valorem taxes for county purposes**, Chatham County and City of Savannah School District taxes for educational purposes, and **municipal ad valorem taxes for municipal purposes** in an amount equal to the amount of the assessed value of that homestead that exceeds the assessed value of that homestead for the taxable year immediately preceding the taxable year in which this exemption is first granted to such resident.” (emphasis added by me). It further provides that “Ad valorem taxes for municipal purposes’ means all municipal ad valorem taxes for municipal purposes, levied by, for, or on behalf of each municipality in Chatham County, except for taxes to pay interest on and to retire municipal bonded indebtedness.”

Since the Act defines “ad valorem taxes for municipal purposes” to encompass “all municipal ad valorem taxes” levied by “each municipality in Chatham County” without excluding future cities, and since legislation looks forward to encompass future events, and since a referendum has already been held, there is a legitimate argument that the Stephens-Day Act would apply to the City of Skidaway Island regardless of any Charter provision.

However, to address any alleged uncertainty, the Charter (i.e., Act No. 427 (House Bill No. 618) from the 2018 Session of the Georgia General Assembly, Ga. Laws 2018, p. 3784 et seq., as proposed to be amended by House Bill 29) contains the same exemption (see HB 29 at Sec. 14). Mr. Vaquer claims that a 2/3 vote of the Legislature is required to make the exemptions effective. Sec. 19 of HB 29 expressly provides that it “shall not become law unless it receives the requisite

two-thirds' majority vote in both the Senate and House of Representatives.” The bill contains the Stephens-Day exemption, and thus if it passes by a 2/3 vote, then the 2/3 vote requirement referenced by Mr. Vaquer will be satisfied. While Mr. Vaquer, who is not an attorney, claims a separate vote of the Legislature is required (i.e., one vote on the Charter, and even though the Charter contains the exemption, a separate vote on a separate bill only containing the exemption), I am aware of no legal authority supportive of his contention.

Mr. Vaquer also contends that if the incorporation referendum is approved by the residents of Skidaway Island, a separate referendum on the exemptions set forth in the Charter must be held. This contention ignores the language of the referendum ballot, which provides that “The ballot shall have written or printed thereon the words:

() YES Shall the Act incorporating the City of Skidaway Island in Chatham County
() NO and granting the homestead exemptions described therein be approved?”
HB 29 at Sec. 16.

Thus it is a referendum both on incorporation and on the homestead exemptions set forth in the Charter. In other words, to the extent a referendum on the exemptions is required, it will be held concurrent with the referendum on incorporation.

Finally, Mr. Vaquer stated that the base year for the Stephens Day exemption “would be 2019, as stated in the Charter.” This contention is false. It ignores the language of the Charter, which, as proposed to be amended, will provide, in pertinent part,

Each resident of the City of Skidaway Island is granted an exemption on that person's homestead from City of Skidaway Island ad valorem taxes for municipal purposes in an amount equal to the amount by which the current year assessed value of that homestead exceeds the base year assessed value of that homestead.

HB 29 at Sec. 14 (amending subsection (b) of Sec. 8.12 of Act No. 427, Ga. Laws 2018, p. 3784 et seq.).

The key language of the foregoing provision for analyzing Mr. Vaquer’s contention is the phrase “base year.” That phrase is defined at Sec. 8.12(a)(2):

“Base year” means the taxable year immediately preceding the taxable year in which the exemption under subsection (b) of this section is first granted to the most recent owner of such homestead, provided that, for any resident who is receiving a base year homestead exemption from Chatham County taxes on January 1, 2019, **the base year for such Chatham County base year homestead exemption shall be the base year for the exemption under subsection (b)** of this section . . .

Act No. 427, Ga. Laws 2018, p. 3784 et seq. at Sec. 8.12 (emphasis added by me).

Thus, the Charter expressly provides that if a person is receiving a Stephens-Day homestead exemption from Chatham County taxes as of January 1, 2019, then the base year for the City of Skidaway Island’s exemption shall be the same as the base year for the Chatham County exemption that person is receiving. For example, if a resident is receiving the Stephens-Day exemption from Chatham County with a base year of 2012, then 2012 will be the base year for the purpose of

calculating the Skidaway exemption. The language of those sections is clear and I am unable to discern how Mr. Vaquer interprets them in any other way.