

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE
STATE BOARD OF EQUALIZATION AND REVIEW

IN THE MATTER OF THE APPEAL OF:

**BRIAN A. JONES and
ELLEN B. JONES,**

21 PTC 0335

Appellants,

From the decision of the Forsyth County
Board of Equalization and Review

FINAL DECISION

This matter came on for hearing before the North Carolina Property Tax Commission (“Commission”), sitting as the State Board of Equalization and Review, in Raleigh, North Carolina on Monday, March 7, 2022, pursuant to the Appellants’ appeal from the decision of the Forsyth County Board of Equalization and Review (“Board”).

Vice Chairman Terry L. Wheeler presided over the hearing, with Commission Members William W. Peaslee, Alexander A. Guess, and June W. Michaux participating.

Attorney Fred Johnson appeared on behalf of Forsyth County (“County”). The Appellants Brian A. Jones and Ellen B. Jones appeared *pro se*.

STATEMENT OF THE CASE

The property under appeal consists of a residential lot that is improved by a single family residence, located at 330 Coventry Park in Winston-Salem, and identified by the County by Parcel ID number 6805-83-5702.000 (“subject property”). The County conducted its most recent countywide reappraisal with an effective date of January 1, 2021.

The Appellants disputed the January 1, 2021 assessed value of the property as determined by the County, and appealed said value to the Forsyth County Board of Equalization and Review (“Board”). On June 17, 2021, the Board determined the value of the subject property to be \$463,500. The Appellants appealed from this decision of the Board, contending that the true value of the subject property, as of January 1, 2021, is actually \$407,400.

ANALYSIS AND ISSUES

A county's ad valorem tax assessment is presumed to be correct.¹ A taxpayer may rebut this presumption by producing "competent, material, and substantial" evidence that tends to show that: "(1) [e]ither the county tax supervisor used an *arbitrary method* of valuation; or (2) the county tax supervisor used an *illegal method* of valuation; AND (3) the assessment *substantially* exceeded the true value in money of the property".² N.C. Gen. Stat. §105-283 requires all taxable property to be valued for tax purposes at its "true value," as that term is defined in the same section.

If the taxpayer produces the evidence required to rebut the presumption, then the burden shifts to the taxing authority to demonstrate that its methods produce true values.³

Under this analysis, the Commission must consider the following issues:

1. Whether the Appellants carried their burden of producing competent, material and substantial evidence tending to show that:
 - (a) The County employed an arbitrary or illegal method of valuation in determining the assessed value of the Appellants' property; and
 - (b) The assessed value substantially exceeded the true value of the property for the year at issue.
2. If the Appellants produced the evidence required to rebut the presumption, then whether the County demonstrated that its appraisal methods produced a true value for the property, considering the evidence of both sides; its weight and sufficiency and the credibility of witnesses; the inferences drawn therefrom; and the [evaluation] of conflicting and circumstantial evidence.⁴

FROM THE EVIDENCE PRESENTED AND ALL DOCUMENTS OF RECORD, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. At the hearing, the Appellants offered testimony and documentation as to their opinion of the true value of the subject property. The primary evidence offered by the Appellants as to the subject property's value was that they had purchased the subject property on February 19, 2021

¹ *In re AMP, Inc.*, 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

² *Id.* (capitalization and emphasis in original).

³ *In re Appeal of S. Ry. Co.*, 313 N.C. 177, 323 S.E.2d 235 (1985). *In re IBM Credit Corporation, (IBM Credit II)*, 201 N.C. App. 343, 689 S.E.2d 487 (2009), disc. review denied and appeal dismissed, 363 N.C. 854, 694 S.E.2d 204 (2010).

⁴ *In re Parkdale Mills*, 225 N.C. App. 713, 741 S.E.2d 416 (2013).

for \$407,400. The Appellants testified further that the subject property was listed for sale on December 16, 2020 for \$479,900 and offered evidence as to their opinion that the subject property was in need of various repairs and renovations as of the date of the sale. Although the Appellants offered evidence as to the cost to cure at least some of the repairs and renovations that they believe are needed for the subject property, the Appellants testified under cross-examination that the costs were obtained as of 2022. We note here that there is no evidence that would enable us to determine whether the indicated repairs and renovations represent market-based expectations or are simply representative of the individual desires or expectations of the Appellants. Furthermore, even if the indicated repairs and renovations do in fact impact the market value of the subject property, there is no evidence before us that would enable us to apply current costs of the renovations to the January 1, 2021 appraisal date. Accordingly, we give no weight to the evidence concerning repairs and renovations submitted by the Appellants with respect to the subject property.

2. The Appellants did not offer evidence as to the sale of comparable properties or other market-based evidence that would indicate the value of the subject property as of the January 1, 2021 appraisal date. While the Appellants offered evidence as to the price they paid for the property, we note that the purchase occurred after the appraisal date of January 1, 2021, and we note further that there is no market-based evidence before us that would enable us to determine whether the price paid is typical for the market. For these reasons, we give no weight to the purchase price paid by the Appellants for the subject property.
3. The Appellants offered evidence of a discrepancy in the measured square footage of the residence situated on the subject property as of the date of the reappraisal, indicating that the square footage as determined by the County was 3,200 square feet, whereas the listing for the sale of the subject property indicated its true square footage at 3,717 square feet. The Appellants offered evidence that the County adjusted the square footage measurement to 3,717, but then later determined the square footage to be 3,798 square feet, pursuant to a field measurement. The Appellants testified that they had obtained the services of Brian Davidson with Triad Measuring to calculate the square footage of the residence, and offered evidence that Mr. Davidson's measurement was reported as 3,763 square feet. Although there was no evidence offered correlating the subject property's square footage to its market value, we note that the sale listing described the residence as having 3,717 square feet, which is greater than the square footage listed in the County's records at the time, and that the parties independently arrived at ultimate square footage calculations that differed by only 35 square feet, which we

find to be insignificant, given that the County's measurements were obtained from the exterior of the residence and the Appellants' measurements were obtained from the interior. Accordingly, we give no weight to the evidence involving square footage of the residence.

4. There is no evidence before us that the County failed to consider all relevant factors in its appraisal of the subject property, and there is no evidence before us that the County's value was arbitrarily or illegally determined. For all of the reasons given, we give no weight to the Appellants' opinion of value for the subject property.
5. We find, therefore, that there is insufficient evidence before us that would enable us to conclude that the County's valuation of the subject property is arbitrary or illegal, and that the County's value of the subject property substantially exceeds its true value.
6. At the close of the Appellants' evidence, the County moved to dismiss the Appellants' appeal, arguing that the Appellants had failed to meet his burden to produce "competent, material and substantial evidence" that the County's values were either arbitrary or illegal, and substantially in excess of true value.

BASED UPON THE FOREGOING FINDINGS OF FACT, THE PROPERTY TAX COMMISSION CONCLUDES AS A MATTER OF LAW:

1. The Commission has jurisdiction over the parties and the subject matter of this appeal and has the authority to correct any assessment of real property when it is shown to be based upon an arbitrary or illegal method of valuation and that the valuation substantially exceeds the true value in money.
2. "True value" is defined in N.C. Gen. Stat. §105-283, and N.C. Gen. Stat. §105-317(a) provides specific elements of value that are to be considered when appraising real property in order to determine its true value. More specifically, N.C. Gen. Stat. §105-317(a) provides in pertinent part as follows:

"Whenever any real property is appraised it shall be the duty of the persons making appraisals:

- (1) In determining the true value of land, to consider as to each tract, parcel, or lot separately listed at least its advantages and disadvantages as to location; zoning; quality of soil; waterpower; water privileges; dedication as a nature preserve; conservation or preservation agreements; mineral, quarry, or other valuable deposits; fertility; adaptability for agricultural, timber-producing,

commercial, industrial, or other uses; past income; probable future income; and any other factors that may affect its value except growing crops of a seasonal or annual nature.

(2) In determining the true value of a building or other improvement, to consider at least its location; type of construction; age; replacement cost; cost; adaptability for residence, commercial, industrial, or other uses; past income; probable future income; and any other factors that may affect its value.”

3. Because the County’s value is presumed correct, it must follow that the County’s value is also presumed to be true value, and that the value was therefore developed in full compliance with the statutes. Accordingly, all factors relevant to the value of the subject property are inherently reflected in the County’s value.
4. The Appellants offered no evidence indicating that they had considered all of the elements of value that are statutorily required to be considered when appraising real property in order to determine its true value.
5. N.C. Gen. Stat. §105-317 “has been interpreted as authorizing three methods of valuing real property: the cost approach, the comparable sales approach, and the income approach.”⁵ The Appellants offered no evidence regarding any of the three authorized methods of valuing real property.
6. With regard to the Appellants’ evidence regarding the purchase price paid for the subject property, we note that North Carolina’s Supreme Court has held that a post-reappraisal sale of a property is not a statutorily permissible basis for valuation adjustment.⁶
7. Because the Appellants did not provide competent, material, and substantial evidence regarding any of the three authorized methods of valuing real property, and because the Appellants offered no evidence indicating that they had considered the impact, if any, of the elements listed in N.C. Gen. Stat. §105-317(a), the Appellants have not produced “competent, material and substantial” evidence regarding the true value of the subject property, and have therefore not met the burden established for the two prongs of the *AMP* test.
8. The Appellants did not meet their burden of producing competent, material and substantial evidence tending to show that: (a) the County employed an arbitrary or illegal method of

⁵ *In re Greens of Pine Glen Ltd.*, 356 N.C. 642, 648, 576 S.E.2d 316, 320 (2003)

⁶ See, e.g., *In re Allred*, 351 N.C. 1, 519 S.E.2d 52 (1999)

valuation in determining the assessed value of the Appellants' property; and (b) the assessed value substantially exceeded the true value of the property as of January 1, 2021.

WHEREFORE, the Commission orders and decrees that the Appellants' appeal should be and is hereby dismissed; and that the decision of the Forsyth County Board of Equalization and Review, determining the value of the subject property to be \$463,500, is affirmed.



NORTH CAROLINA PROPERTY TAX COMMISSION

Terry L. Wheeler, Vice Chairman

Commission Members Peaslee, Guess, and Michaux concur.

ATTEST:

Stephen W. Pelfrey, Commission Secretary

Date Entered:

5-31-2022