

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:

**MICHAEL E. BERLIN and
MARIA I. BERLIN,
Appellants**

20 PTC 0384

From the decision of the Cherokee County
Board of Equalization and Review for tax
year 2020

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, via Webex on Monday, February 15, 2021, pursuant to the Appellants’ appeal from the decision of the Cherokee County Board of Equalization and Review (“Board”).

Chairman Robert C. Hunter presided over the hearing, with Vice Chairman Terry L. Wheeler and Commission Members William W. Peaslee and June W. Michaux participating.

Attorney Darryl B. Brown appeared via Webex on behalf of Cherokee County (“County”). Appellant Michael Berlin appeared via Webex *pro se*.

STATEMENT OF THE CASE

The property under appeal is a vacant residential parcel of land situated adjacent to the Hiwassee River and located on Laurel Ridge Lane, Murphy, Cherokee County, North Carolina. The County identifies the subject property with Parcel ID #5511-03-30-4735.-000. The County conducted its most recent countywide reappraisal with an effective date of January 1, 2020.

The Appellants disputed the January 1, 2020 assessed value of the property as determined by the County, and appealed said value to the Cherokee County Board of Equalization and Review (“Board”). On June 25, 2020, the Board determined the value of the property to be \$45,000, and the Appellants appealed the decision of the Board to the Commission. In the Notice of Appeal and Application, the Appellants stated their opinion that the true value of the property is actually \$32,500.

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. The Appellants contend initially that the County's (2020) value for the subject property is approximately 80% higher than the price paid for the property in 2014. We note that a change in value, whether from the purchase price, from the prior county appraised value, or from any other historical number, is not by itself evidence that the new value is wrong. No sales

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).

comparison evidence has been offered by the Appellant to suggest that the 80% difference is inaccurate. Accordingly, we give no weight or further consideration to this contention.

2. The Appellants further contend that their use of the property is determinative of its value, offering testimony that the subject lot is used only as a buffer on one side of the adjoining lot that includes their residence, and that the subject lot is not used for “building, timber, cattle,” or other such uses. In support of their contention, the Appellants offered testimony and written statements as to their understanding that H.R.2570 and/or H.R. 2475 (1991), relating to the Columbia Hospital in Washington, D.C., “states that the intended use of property can effect the value of the land” [phrase quoted as presented]. We note that these H.R. numbers appear to be references to bills introduced, but not passed, during the 102nd session of the United States Congress (1991-1992). Accordingly, we give no weight to these bills in addressing the issue of use.
3. N.C. Gen. Stat. 105-317 provides that “adaptability for agricultural, timber-producing, commercial, industrial, or other uses,” is to be considered when appraising real property. This adaptability for other uses, along with multiple other factors, are presented in the statute as being the minimum considerations that must be made when appraising real property. The use that a particular owner chooses to make of their property is largely irrelevant to determining the true value of the property. Accordingly, we give no weight to the Appellants’ contention regarding the use of the subject property.
4. The Appellants contended at the hearing that the County had appraised several nearby properties for \$45,000, just like the subject property, but noted that the properties each had their own varying characteristics. Although the Appellants noted that, for example, the subject lot was somewhat smaller than and not as flat as the adjoining lot containing their residence, they conceded that the subject lot was suitable for building a residence. The primary distinction made by the Appellants as to the properties that were similarly valued by the County was that the properties were not all the same size, resulting in varying values when considered on a per-acre basis. From an appraisal perspective, we note that vacant residential properties are frequently bought and sold for their utility as building lots, without significant price differences based on size or other variations. There is no evidence in this matter that the market for residential properties that includes the subject property is influenced more by size than by utility. Furthermore, we find no evidence to indicate that the subject property was inappropriately appraised either as to method or as to value. Accordingly, we find that \$45,000 is the true value for the subject lot.

5. At the close of the Appellants' evidence, the County moved to dismiss the Appellants' appeal, arguing that the Appellants had failed to meet their burden to produce competent, material and substantial evidence that the County's values were wither 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.
3. 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
4. The Appellants provided no evidence regarding any of the three authorized methods of valuing the subject property. Accordingly, the Appellants have not carried their burden of producing competent, material and substantial evidence that the County's values were wither arbitrary or illegal, and substantially in excess of true value.

WHEREFORE, the Commission orders and decrees that the Appellants' appeal should be and is hereby dismissed, and the decision of the Cherokee County Board of Equalization and Review, determining the true value of the subject property to be \$45,000, is hereby affirmed.



NORTH CAROLINA PROPERTY TAX COMMISSION

Robert C. Hunter

Robert C. Hunter, Chairman

Vice Chairman Wheeler and Commission Members Peaslee and Michaux concur.

ATTEST:

Stephen W. Pelfrey

Stephen W. Pelfrey, Commission Secretary

Date Entered: 4.27.2021

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