

STATE OF NORTH CAROLINA  
WAKE COUNTY

BEFORE THE PROPERTY TAX COMMISSION  
SITTING AS THE STATE BOARD OF  
EQUALIZATION AND REVIEW  
11 PTC 944

IN THE MATTER OF:  
THE APPEAL OF: **109**

**Kinsale Land Trust**  
from the decision of  
the Durham County  
Board of Equalization  
and Review regarding  
the valuation of certain  
real property for tax year 2011.

**FINAL DECISION**

This matter came on for hearing before the Property Tax Commission (“Commission”) sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina at its regularly scheduled session of hearings on Thursday, August 16, 2012, pursuant to the appeal of **109 Kinsale Land Trust** (“Appellant”). Appellant is appealing the decision of the 2011 Durham County Board of Equalization and Review (“County Board”) not to reduce the tax value from the value established in the 2008 general reappraisal of real property in Durham County.

Chairman Terry L. Wheeler presided over the hearing with Vice Chairman Paul Pittman and Commission members Aaron W. Plyler, Georgette Dixon and William W. Peaslee participating.

Mr. Lee Lawrence appeared at the hearing on behalf of Appellant;<sup>1</sup> Marie Inserra, Esquire, appeared at the hearing as counsel for Durham County.

**STATEMENT OF THE CASE**

The property under appeal is a residential lot, improved with a single-family residence located at 109 Kinsale Drive, Durham County, served by a Chapel Hill post office. As of the January 1, 2008 countywide reappraisal, Durham County assessed the subject property at a total value of \$1,086,842. In tax year 2011, Appellant challenged Durham County’s assessment of his property by filing an appeal with the Durham County Board of Equalization and Review (“County Board”). On October 6, 2011, the County Board issued its decision assigning a total value of \$914,684 to the subject property. From this decision, Appellant filed an appeal with the Commission.

Appellant challenges the County Board’s decision assigning a total value of \$914,684 to the subject property by contending that the true value of the property was \$587,000. In support of this opinion of value, Appellant points to: (a) the failure of the property to sell

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<sup>1</sup> See 17 NCAC 11 .0214

when listed; (b) the final sale purchase price of \$525,000 on January 13, 2011; and (c) the sale of the property for \$522,500 on February 26, 1999.

Durham County contends that the subject property has been appraised in accordance with the 2008 duly adopted schedule of values, standards and rules. Durham County further contends, based on its analysis of sales of comparable properties, that the subject property has not been appraised in excess of market value.

### ANALYSIS AND ISSUES

A county's *ad valorem* tax assessment is presumptively correct.<sup>2</sup> The taxpayer rebuts this presumption by presenting "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.<sup>3</sup> If the taxpayer rebuts the initial presumption, then the burden shifts to the taxing authority to demonstrate that its methods produce true values.<sup>4</sup>

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

1. Did the Appellant carry its burden of producing competent, material and substantial evidence tending to show that:
  - (a). Durham County employed an arbitrary or illegal method of appraisal in reaching the property tax value for the Appellant's property as of January 1, 2008, and
  - (b). The County Board assigned a value that is substantially greater than the true value of the subject property as of January 1, 2008?
2. If the Appellant produces evidence as to both (a) and (b) above, then what was the true value in money of the subject property as of January 1, 2008?

**FROM APPELLANT'S APPLICATION FOR HEARING, ANY STIPULATIONS AND EVIDENCE PRESENTED, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:**

1. The property under appeal is a residential lot, improved with a single-family residence located at 109 Kinsale Drive, Durham County, served by a Chapel Hill post office, which identified on the county tax records as parcel number 140362. As of the January 1, 2008 countywide general reappraisal, Durham County assessed the subject property at a total value of \$1,086,842.

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<sup>2</sup> In re Amp, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975).

<sup>3</sup>Id.

<sup>4</sup>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).

2. Appellant challenged Durham County's assessment in tax year 2011 by filing an appeal with the Durham County Board of Equalization and Review ("County Board"). On October 6, 2011, the County Board issued its decision assigning a total value of \$914,684 to the subject property. From this decision, Appellant filed an appeal with the Commission.
3. The primary evidence offered by Appellant at the hearing was the testimony of Mr. Brett Leyburn.<sup>5</sup> Mr. Leyburn testified as to his opinion of the market value for the subject property as of January 1, 2008, and prepared a written appraisal report showing an opinion of value of \$610,000 as indicated by the sales comparison approach to value.<sup>6</sup>
4. The primary evidence offered by Durham County at the hearing was the testimony of Ms. Shelia Thompson.<sup>7</sup> At the hearing, Ms. Thompson testified that Durham County's assessment of the subject lot at a value of \$149,316, as of January 1, 2008, exceeds market value for the lot because the subject lot is the least valuable property in the subject subdivision known as "The Oaks 3 PH B5B," and that Durham County's assessment of the subject improvement at a value of \$765,368 exceeds market value because Durham County made an adjustment for the ceiling heights; did not consider that the brick exterior of residence is bowed; and there are cracks in the brick resulting from construction defects. Accordingly, Appellant's appraiser arrived at an opinion of value of \$610,000 as of January 1, 2008.
5. At the hearing, Ms. Shelia Thompson, residential appraiser for Durham County, testified that she made a quality adjustment to the subject property, namely she changed the property's classification from good to fair in order to reduce the value of the property due to the quality of construction. Ms. Thompson also testified that Durham County would make a further adjustment to the assessment when Appellant produces documentation by an engineer showing the constructional condition of the subject residence, including cost to cure. As such, Durham County did consider certain relevant factors, as required by N.C. Gen. Stat. § 105-317, when it assessed the subject lot and residence located at 109 Kinsale Drive, Durham County, Durham County, North Carolina.
6. Further, Ms. Thompson testified that Durham County's 2008 schedule of values, standards and rules were considered when arriving at the total value of \$914,684 assigned to the subject property by the County Board, and that she reviewed comparable sales in Durham County and not Orange County because those sales were comparable to the property and provide supporting evidence that Durham County

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<sup>5</sup>Mr. Leyburn is a North Carolina State Certified Residential Real Estate Appraiser.

<sup>6</sup>See appraisal report prepared by Brett J. Leyburn for the subject property and offered as evidence at the August 16, 2012 hearing.

<sup>7</sup>Ms. Thompson is a North Carolina State Certified Residential Real Estate Appraiser.

properly assessed the subject property at a total value of \$914,684, as of January 1, 2008.

**BASED UPON THE FOREGOING FINDINGS OF FACT, THE COMMISSION MAKES THE FOLLOWING CONCLUSIONS OF LAW:**

1. A county's *ad valorem* tax assessment is presumptively correct.<sup>8</sup> The taxpayer rebuts this presumption by presenting "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.<sup>9</sup> If the taxpayer rebuts the initial presumption, the burden shifts to the taxing authority to demonstrate that its methods produce true values.<sup>10</sup>
2. After the appellant produces such evidence as outlined above, the burden of going forward with the evidence and of persuasion that its methods would in fact produce true value then rests with the County; and it is the Commission's duty to hear the evidence of the credibility of witnesses, to draw inferences, and to appraise conflicting and circumstantial evidence, all in order to determine whether the County met its burden.<sup>11</sup>
3. After considering all the evidence, the exhibits and all matters of record and after determining its weight and sufficiency and the credibility of witnesses, and appraising conflicting and circumstantial evidence, the Commission concludes that Durham County did properly assess the subject property at market value when the County Board assigned a total value of \$914,684 to the subject property.<sup>12</sup>

**THE COMMISSION THEREFORE ORDERS AND DECREES** that the decision of the County Board assigning a total value of \$914,684 to the subject property is affirmed; and Durham County's motion to dismiss this appeal, at the close of all the evidence, is granted when Durham County met its burden of going forward with the evidence and of persuasion that its valuation method did in fact produce true value of the property as that term is defined by N.C. Gen. Stat. § 105-283.

This final decision was ordered by the Commission during the August 2012 session of hearings on Thursday, August 16, 2012.

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<sup>8</sup>In re IBM Credit Corp. (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).

<sup>9</sup>*Id.* (quoting *In re AMP*, 287 N.C. at 563, 215 S.E.2d at 762).

<sup>10</sup>*Id.*

<sup>11</sup>In re IBM Credit Corp. (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).



NORTH CAROLINA PROPERTY TAX COMMISSION

Terry L. Wheeler, Chairman

Vice Chairman Pittman and Commission members Plyler, Dixon  
and Peaslee concur.

Entered: December 10, 2012

ATTEST:

Janet L. Shires, Secretary and General Counsel