

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
14 PTC 0423

IN THE MATTER OF:
APPEAL OF:

DLP Wilson Medical Center, Inc.

FINAL DECISION

from the decision of the Wilson County
Board of County Commissioners
Concerning the valuation of certain
real property for tax year 2014.

This appeal was heard before the North Carolina Property Tax Commission (“Commission”) sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina on Wednesday, December 9, 2015, and Thursday, December 10, 2015 pursuant to the appeal of **DLP Wilson Medical Center, Inc.** (“Appellant” or “Taxpayer”). Appellant is appealing the decision of the Wilson County Board of County Commissioners (“County Board”) concerning the valuation of certain real property for tax year 2014.

Chairman William W. Peaslee¹ initially presided over the hearing with Vice Chairman Terry L. Wheeler and Commission Members David A. Smith, Jack C. (Cal) Morgan III and Alexander A. Guess participating.

Reed J. Hollander, Esquire appeared at the hearing on behalf of the Appellant. Charles C. Meeker, Esquire appeared at the hearing on behalf of Wilson County.

STATEMENT OF THE CASE

Appellant, DLP Wilson Medical Center, Inc., appeals from the valuation decision of the County Board concerning Appellant’s property tax assessment for tax year 2014. The property subject to this appeal is a medical center (“Wilson Medical Center”) located at 1705 Tarboro Street, Wilson, Wilson County, North Carolina. The Wilson Medical Center is an independent health system that is anchored by the Acute Care Hospital that has 294 licensed beds including 271 acute care beds and 23 psychiatric beds (i.e. with 251 operating acute care beds only) that total approximately 429,341± square feet. The improvements are situated on 31.78 acres or 1,384,337± square feet and the Wilson County Tax Office identifies the subject property as Parcel Number 3711-38-5367.000. This facility was originally built in 1963 with additions through 2004.

¹ Chairman Peaslee was not available for the full hearing and deliberation of this appeal.

For tax year 2014, the subject property was assigned a total value of \$74,905,040 by the County Board.² The Appellant challenged the County Board's decision by filing an appeal with the Commission and requesting a hearing as provided in N.C. Gen. Stat. § 105-290. The Commission conducted a hearing concerning the Appellant's appeal on Wednesday, December 9, 2015, and Thursday, December 10, 2015.

On appeal, DLP Wilson Medical Center, Inc. ("DLP Wilson Medical") argued that: (1) the County used an arbitrary or illegal method of appraisal in reaching its assessed value for the subject property; and (2) the County assigned a value to the subject property that substantially exceeded its true value in money.

ISSUES

In the Order on Final Pre-Hearing Conference, the parties presented different versions of the issues to be decided by the Commission. Noting that the North Carolina Supreme Court has established guidelines for property tax appraisal appeals in In re Amp, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975), the Commission decided the issues relevant to this appeal were:

1. Did Appellant carry its burden of producing competent, material and substantial evidence tending to show that Wilson County employed an arbitrary or illegal method of appraisal in reaching the property tax value for Appellant's property for the year at issue, and that the assessment thereof substantially exceeded the true value of the subject property?
2. If so, did Wilson County demonstrate that its assessment equated to the true value of the subject property?
3. If not, what is the true value of the subject property as of the valuation date?³

FROM THE NOTICE OF APPEAL AND APPLICATION FOR HEARING FILED IN THIS MATTER, STIPULATIONS, IF ANY, AND EVIDENCE PRESENTED, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Commission has jurisdiction over the parties and the subject matter of this appeal.
2. The property subject to this appeal is an acute care hospital known as the Wilson Medical Center that is located at 1705 Tarboro Street SW, Wilson, Wilson County, North Carolina 27893.
3. The Wilson Medical Center is an independent health system anchored by the Acute Care Hospital that has 294 licensed beds including 271 acute care beds and 23 psychiatric

² See County Board's decision of October 4, 2014, attached to Appellant's Notice of Appeal and Application for Hearing.
³ In re Parkdale Mills & Parkdale Am., 225 N.C. App. 713, 741 S.E.2d 416 (2013)

beds. The improvements are situated on 31.78 acres or 1,384,337± square feet, and the Wilson County Tax Office identifies the subject property as Parcel Number 3711-38-5367.000.

4. This facility was originally built in 1963 with additions through 2004. The campus additionally includes an urgent care center, skilled nursing and day care building, oncology building, imaging center and other ancillary and medical space buildings that are not subject to the valuation of the real property under appeal. The hospital is constructed of steel and brick, and is a Class C hospital⁴ with a construction quality of average.

5. This six-story acute care hospital totals approximately 429,341± square feet of gross building area,⁵ with 277,105 square feet of functional building area. There are only 251 acute hospital beds in operation, with only 162 functional acute care hospital beds. The Appellant does maintain the subject acute care hospital.

6. Wilson County's most recent reappraisal of all real property in the county was effective as of January 1, 2008. The County Tax Assessor ("Assessor") assessed the subject property at a total value of \$74,905,040, as existing on January 1, 2014 as of January 1, 2008.

7. DLP Wilson Medical Center challenged the County Assessor's assessment of the subject property by filing an appeal with the County Board in tax year 2014. On October 6, 2014, after conducting a hearing on the subject appeal, the County Board approved and adopted the County Assessor's assessment of \$74,905,040 for the subject property.

8. Subsequent to determining the assessed value and in preparation for the hearing of this appeal before the Commission, the County engaged Mr. James W. Lynch.⁶ Mr. Lynch reached an opinion of value of \$67,935,000 for the subject property as existing on January 1, 2014 as of January 1, 2008. Based on Mr. Lynch's opinion of value, the County now contends that the value should be \$67,935,000 as of the valuation date.

9. Taxpayer's appraiser, Mr. Neil Salzgeber, MAI, appraised the subject property as of the valuation date. Mr. Salzgeber reached an opinion of value of \$32,000,000 for the subject property. Based on Mr. Salzgeber's opinion of value, the Taxpayer contends that the assessed value of the subject property should be \$32,000,000.

10. In North Carolina, all property, real and personal, is required to be valued or appraised at its true value in money, which is "market value." [N.C. Gen. Stat. § 105-283]. Market value is defined in the statute as:

"the price estimated in terms of money at which the property would change hands between a willing and financially able

⁴ Reference is made to Marshall Valuation Services ("MVS").

⁵ See Marshall Valuation Services, the study of hospital space utilization indicates a mean per bed allocation of 1,225 feet per bed, with a range of 630 to 2,475 square feet per bed. See page 50 of Mr. Salzgeber's appraisal report concerning the valuation of the subject property.

⁶ Mr. Lynch was received as an expert in the appraisal of the subject property.

buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all the uses to which the property is adapted and for which it is capable of being used.” Id.

11. To determine the market value of the subject property, it is imperative for an appraiser to apply a method of valuation that will show what a willing and financially able buyer will pay for the subject property and what a willing seller would expect to receive from the buyer. An important factor in determining the subject property’s market value is to determine the highest and best use of the subject property. Highest and best use is defined as the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value.⁷

12. When determining the highest and best use of the subject site consisting of 31.78 acres, an appraiser considers that the site is zoned O&R-2, Office & Residential, by the City of Wilson. This zoning permits uses such as retail, professional offices, including medical, convalescent homes, senior housing and hospitals. Since the subject site is served by all public utilities including public water and sewer, gas, electric, Mr. Salzgeber determined that the highest and best use of the site, as vacant, is for institutional development.

13. When determining the highest and best use of the subject site, as improved, an appraiser also considers that the property is zoned O&R-2, the use of the property, and the property’s location among other health care facilities as well as the state of the local acute care hospital market. Based on his highest and best analysis, Mr. Salzgeber⁸ determined that the highest and best use of the subject site, “as improved” would be its continued use as an acute care hospital campus when the subject property is in a favorable location for its current use with good access to most services and amenities needed to support a healthcare facility.

14. When determining the market value for the subject property, an appraiser should rely upon the appraisal approach that will best determine the market value for the subject property. The cost approach, sales comparison approach, and income approach are the three accepted valuation methods in North Carolina.

15. When appraising real property in North Carolina, N.C. Gen. Stat. § 105-317(a) provides that it is the duty of the persons making the appraisal to consider the specific factors set forth in this statute. As to land, parcels and lots, the advantages and disadvantages as to location, zoning, quality of soil, water etc.; and as to buildings and improvements to consider at least its location, type of construction, age, replacement cost; cost, adaptability for residence, commercial, industrial or other uses, income; and other factors that may affect its value.

16. At the hearing, the Appellant offered the written appraisal report and testimony of Neil F. Salzgeber, MAI, who was received as an expert in the appraisal of the subject property.

⁷ See *Dictionary of Real Estate Appraisal*, Eleventh Edition.

⁸Id.

Based on his testimony and the analysis set forth in his appraisal report, Mr. Salzgeber arrived at an opinion of value of \$32,000,000 for the real property as of the valuation date.

17. To arrive at his opinion of value for the subject property, Mr. Salzgeber considered the following: (a) the highest and best use of the subject property as an acute care hospital campus; (b) the three approaches to value; and (c) the characteristics, factors, and obsolescence that may affect its value.

18. As stated in Mr. Salzgeber's appraisal report, the subject acute care hospital is licensed for 294 acute care beds (i.e. totaling 271 acute care beds and 23 psychiatric), but currently staffs (i.e. 2008) 251 acute care hospital beds.

19. As provided in his report, the subject physical facility is too significant to support the current and projected operation of the subject property. Much of the hospital facility is super-adequate. Approximately 20% of the sixth floor is unused, and is vacant with portions of the patient tower not being used for acute care rooms. Instead, this area is used for various other uses that were not associated with the acute care of patients (i.e. general or medical office area).

20. As provided in his report, Mr. Salzgeber determined the functional size for the hospital by using an average size per bed as currently existing and a market based assumption for a functional number of beds. As such, the subject property is at 40.3% utilization with the state overall closer to 60% utilization of the staffed beds. Mr. Salzgeber determined that the subject property would staff 162 beds, which does yield 60% utilization as of 2008. As such, 162 beds times the current square footage per bed space of 1,711 square feet indicates a functional and efficient building area of 277,105 square feet, with the remainder of the current 429,341 square feet being super-adequate.⁹ As such, Mr. Salzgeber used this functional building area of 277,105 square feet for each of the appraisal approaches to value in his report.

21. Concerning the three accepted approaches to value; namely, the cost approach, the sales comparison approach, and the income approach, Mr. Salzgeber did consider and develop the cost approach when there was adequate data to develop a land value and the depreciation to the improvements. Mr. Salzgeber did consider and develop the sales comparison approach because there was adequate data to develop a value estimate and this approach reflects market behavior for this type of property. Lastly, Mr. Salzgeber did consider and develop the income approach because there was adequate data to develop a value estimate.¹⁰

22. When considering all three approaches to value, the highest and best use of the subject real property, and the characteristics, factors,¹¹ and functional obsolescence that affects the subject property's value, Mr. Salzgeber determined that the true value of the subject property was \$32,000,000 as existing on January 1, 2014, but valued as of January 1, 2008.

⁹ See Taxpayer's Exhibit 1, appraisal report prepared by Mr. Salzgeber, at page 52.

¹⁰ *Id.*, at page 4.

¹¹ See N.C. Gen. Stat. § 105-317(a).

23. At the closure of the Taxpayer's evidence, the Commission denied the County's motion to dismiss the Appellant's appeal. As such, the Commission determined that the Taxpayer did produce competent, material and substantial evidence tending to show that Wilson County employed an arbitrary or illegal method to appraise the subject property; and that the value assigned to the subject property was substantially greater than the true value of the subject property. First, Mr. Salzgeber determined the highest and best use of the subject property. Then Mr. Salzgeber considered all three approaches to value to reach his opinion of value of \$32,000,000 for the property. Lastly, Mr. Salzgeber considered the characteristics, factors, and obsolescence that affected the valuation of the subject property. These factors consisted of the hospital facility being super-adequate when approximately 20% of the sixth floor is unused, and that the unused portions of the patient tower are not used for acute care rooms, but are used for other various uses that are not associated with the acute care of patients (i.e. functional obsolescence).

24. Once the Taxpayer rebutted the presumption of correctness of the County's assessment of the subject property, the burden then shifted to Wilson County to demonstrate that its assessment equated to the true value of the subject property as of the valuation date.

25. When the burden shifted to Wilson County, the County did not demonstrate that its assessment equated to the true value of the subject property by offering the testimony of Mr. James W. Lynch,¹² who arrived at an opinion of value of \$67,935,000 for the subject property as of the valuation date.

26. Mr. Lynch's opinion of value of \$67,935,000 for the subject property does not equate to the true value of the subject property. The valuation of \$67,935,000 does not equate to the true value of the subject property when Mr. Lynch gave the greatest weight to the cost approach to value and used the Reproduction Cost New to reach his opinion of value. Mr. Lynch's opinion of value does not equate to the true value of the property because the opinion is based on the hospital's operation of 294 acute care beds, with no adjustment for functional obsolescence (i.e. the number of functional beds were 162 acute care hospital beds). Mr. Lynch's opinion of value does not equate to the true value of the subject property when he did not consider the changes to health care. Mr. Lynch's opinion of value does not equate to the true value of the subject property when he did not apply the standard highest and best use principles (i.e. willing buyer and willing seller). Mr. Lynch's opinion of value does not equate to the true value of the property when he did not consider the factors set forth in N.C. Gen. Stat. § 105-317.

27. Accordingly, Wilson County did not demonstrate that its assessment equated to the true value of the subject property.

28. The true value of the subject property was \$32,000,000 as January 1, 2014.¹³

¹² Mr. Lynch was received as an expert in the appraisal of the subject property.

¹³ Valuation of Main acute care hospital and the 31.78 acres (i.e. Parcel Number 3711-38-5367.000).

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

1. "It is ... a sound and a fundamental principle of law in this State that ad valorem tax assessments are presumed correct."¹⁴ Yet, "the presumption is only one of fact and is therefore rebuttable."¹⁵

2. As to this appeal, the Taxpayer did rebut the presumption of correctness of the County's assessment of the subject property by producing competent, material and substantial evidence tending to show that Wilson County employed an arbitrary or illegal method of appraisal; and that the assessment thereof substantially exceeded the true value of the subject property. Taxpayer rebutted the presumption of correctness of the county's assessment by showing that the highest and best use of the subject property would be its continued use as an acute care hospital campus. Taxpayer rebutted the presumption of correctness of the county's assessment since its appraiser considered all three approaches to value to reach his opinion of value of \$32,000,000 for the subject property. Taxpayer rebutted the presumption of correctness of the county's assessment since its appraiser considered the characteristics, factors, and the obsolescence that affected the valuation of the subject property.

3. When the burden shifted to Wilson County, Wilson County did not demonstrate that its assessment equated to the true value of the subject property as of the valuation date. The County's witness gave the greatest weight to the cost approach and then used the Reproduction Cost New to reach his opinion of value. As such, the County's expert witness did not use the best method to determine the true value of the subject property. His classification of the subject hospital as a B Class property instead of a C Class property, within the category of General Hospitals, does not equate to the true value of the subject property. His appraisal that is based on 294 acute care beds in operation, with no adjustment for functional obsolescence, does not equate to the true value of the subject property. Thus, the County did not demonstrate that its assessment equated to the true value of the subject property when its appraiser did not consider the changes to health care, the highest and best use principles and the factors set forth in N.C. Gen. Stat. § 105-317.

4. The Commission, in view of both sides' evidence and the weight and sufficiency of the evidence, the credibility of the witnesses, and the inferences as well as conflicting and circumstantial evidence,¹⁶ concluded that Wilson County did not demonstrate that its assessment equated to the true value of the subject property.

5. As such, the true value of the subject property was \$32,000,000 as of the valuation date.

¹⁴ In re Appeal of Amp, Inc., 287 NC 547, 562, 215 S.E.2d 752, 761 (1975).

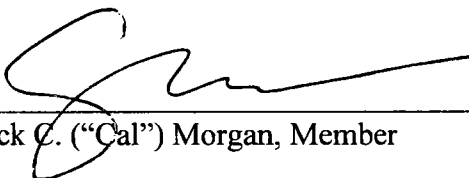
¹⁵ *Id.* at 563, 215 S.E.2d at 762.

¹⁶ *Id.*

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION THEREFORE ORDERS that the decision of the 2014 County Board is modified; and Wilson County is instructed to revise its tax records as necessary to reflect the Findings of Fact and Conclusions of Law of the Commission determining that the value for the subject property was \$32,000,000 for the year at issue.

NORTH CAROLINA PROPERTY TAX COMMISSION



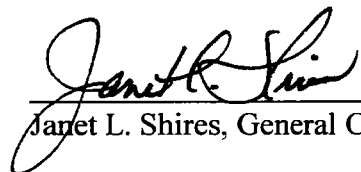


Jack C. ("Cal") Morgan, Member

Commission Members Smith and Guess concur. Vice Chairman Wheeler respectfully dissents. Chairman Peaslee did not participate in the full hearing and the deliberation of this appeal.

Entered: July 29, 2016

Attest:



Janet L. Shires, General Counsel