

STATE OF NORTH CAROLINA

BEFORE THE PROPERTY TAX COMMISSION

COUNTY OF WAKE

SITTING AS THE STATE BOARD OF

EQUALIZATION AND REVIEW

13 PTC 0463

IN THE MATTER OF:

APPEAL OF:

Linda R. Sharp

FINAL DECISION

from the decision of the
Dare County Board
of Equalization and Review
concerning the valuation
of certain real property
for tax year 2013.

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 Thursday, March 17, 2016, pursuant to the appeal of **Linda R. Sharp** (“Appellant”). Appellant is appealing the decision of the Dare County Board of Equalization and Review (“County Board”) not to reduce the assessment of her property for tax year 2013.

Chairman William W. Peaslee presided over the hearing with Commission Members David Smith, Jack C. (Cal) Morgan III and Alexander A Guess participating.

Linda R. Sharp appeared at the hearing pro se. Charles C. Meeker, Esquire appeared at the hearing on behalf of Dare County.

STATEMENT OF THE CASE

The parcel under appeal is a single-family dwelling located at 5114 Radcliff Court, Kitty Hawk, Dare County, North Carolina.

As of January 1, 2013, Dare County conducted its most recent general reappraisal of all real property in the county. Effective for the January 1, 2013 general reappraisal, the Dare County Assessor (“County Assessor”) assessed the subject property at a total value of \$183,300. The Appellant challenged the County Assessor’s assessment of her property by filing an appeal with the County Board. After conducting a hearing, the County Board rendered its decision affirming the County Assessor’s assessment of the subject property at a total value of \$183,300. From that decision, the Appellant appealed to the Commission and requested a hearing as provided in N.C. Gen. Stat. § 105-290.

In the Application for Hearing, the Appellant provided that the subject property has been appraised in excess of its true value in money and that the true value of the subject property was \$0 as of January 1, 2013.

The County contends that the subject property was appraised in accordance with the County's duly adopted schedule of values for the 2013 reappraisal. The County further contends, based on its analysis of sales and comparably assessed properties, that the subject property has not been appraised in excess of its true value. The County asserts that in its appraisal of the subject property, all important factors affecting the value of the property have been considered.

ANALYSIS AND ISSUES

A county's ad valorem tax assessment is presumptively correct.¹ 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."² If the taxpayer rebuts the initial 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. Did Appellant carry her burden of producing competent, material and substantial evidence tending to show that:
 - (a) Dare County employed an arbitrary or illegal method of appraisal in reaching the property tax value for Appellant's property as of January 1, 2013, and (b) The County Board assigned a value that is substantially greater than the true value of the subject property as of January 1, 2013?
2. If the above issues are answered in the affirmative, did Dare County demonstrate that its appraisal methodology produced a true value in view of both sides' evidence and the weight and sufficiency of the evidence, the credibility of the witnesses, and inferences as well as conflicting and circumstantial evidence?⁴

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, 420 (2013).

**FROM THE NOTICE OF APPEAL AND APPLICATION FOR HEARING FILED
IN THIS MATTER, ANY STIPULATIONS 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 parcel under appeal is a single-family dwelling located at 5114 Radcliff Court, Kitty Hawk, Dare County, North Carolina.
3. Dare County's most recent general reappraisal of all real property in the county was effective as of January 1, 2013.
4. As of January 1, 2013, the County Assessor assessed the subject property at a total value of \$183,300.
5. The Appellant challenged the County Assessor's assessment of her property by appealing to the County Board. After conducting a hearing, the County Board mailed its decision to the Appellant affirming the Tax Assessor's assessment of \$183,300 for the subject property for tax year 2013.
6. On appeal to the Commission, the Appellant relies on an opinion of value of \$0 for the subject property as of January 1, 2013.
7. At the hearing, Appellant testified that the subject property's value was \$0 for the year at issue because she cannot occupy the residence since there are major construction defects associated with the subject residence such the design, building materials, workmanship, and structure quality.
8. Even though the Appellant testified and presented photographs concerning the condition of the subject residence, there was no independent analysis by a competent appraiser showing that the market value for the subject property should be \$0 as of January 1, 2013.
9. As a result, Appellant failed to produce competent, material and substantial evidence tending to show that the county tax supervisor used an arbitrary method of valuation; or the county tax supervisor used an illegal method of valuation; and the county's assessment substantially exceeded the true value in money of the property.⁵
10. Appellant's opinion of value for the subject property does not constitute the property's true value in money as of January 1, 2013 when her evidence was not supported by any accepted appraisal method or particular appraisal practice or procedure.

⁵Id.

11. Accordingly, Appellant failed to rebut the presumption of correctness of Dare County's assessment of the subject property when Appellant failed to present "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.⁶

BASED UPON 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."⁷ Yet, "the presumption is only one of fact and is therefore rebuttable."⁸
2. In order for taxpayer to rebut the presumption, he must produce competent, material, and substantial evidence tending to show that: (1) [e]ither the county tax supervisor used an arbitrary method of valuation; (2) or the county tax supervisor used an illegal method of valuation; and (3) the assessment substantially exceeded the true value in money of the property. Simply stated, it is not enough for the taxpayer to show that the means adopted by the tax supervisor were wrong, he must also show that the result arrived at is substantially greater than the true value in money of the property assessed, i.e. that the valuation was unreasonably high.⁹
3. Appellant did not present any competent, material and substantial evidence regarding these points.
4. As such, the appeal is subject to dismissal at the close of Appellant's evidence when Appellant did not produce competent, material and substantial evidence tending 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.¹⁰
5. Therefore, the Commission granted Dare County's Motion to Dismiss the subject appeal at the close of Appellant's evidence since there was no competent, material and substantial evidence offered by the Appellant to rebut the presumptions of correctness of Dare County's assessment of \$183,000 for the subject property as of January 1, 2013.

WHEREFORE THE PROPERTY TAX COMMISSION THEREFORE ORDERS that the decision of the 2013 Dare County Board of Equalization and Review is affirmed; and Appellant's appeal is hereby dismissed.

⁶Id.

⁷ In re Appeal of Amp, Inc., 287 NC 547, 562, 215 S.E.2d 752, 761 (1975).


⁸ Id. at 563, 215 S.E.2d at 762.

⁹ In re Appeal of Amp, Inc., 287 NC 547, 215 S.E.2d 752 (1975).

¹⁰Id.



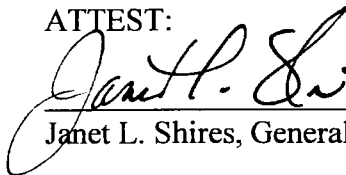
NORTH CAROLINA PROPERTY TAX COMMISSION



William W. Peaslee, Chairman

Commission Members Smith, Morgan and Guess concur. Vice Chairman Wheeler did not participate in the hearing or deliberation of this appeal.

ENTERED: July 19, 2016

ATTEST:


Janet L. Shires, General Counsel