

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 appeals of Paul H. Hendrix and)
Glenn E. Hendrix from the valuation)
of their property at Caswell Beach)
by the Brunswick County Board of)
Equalization and Review for 1975, a)
revaluation year.)

FINAL

DECISION

This matter coming on to be heard, and being heard, before the Property Tax Commission, sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina, on September 2, 1976 pursuant to the appeals of the above taxpayers from the valuation of their property at Caswell Beach by the Brunswick County Board of Equalization and Review for 1975.

STATEMENT OF CASE

Under the provisions of G. S. 105-286, Brunswick County revalued all real property in its jurisdiction as of January 1, 1975. In the revaluation, the subject properties were appraised by the County as follows:

Paul H. Hendrix	
Four 75' X 196' ocean front lots @ \$25,000 ea.	- \$100,000
Improvements (Beach cottage)	<u>24,140</u>
Total Valuation	- <u>\$124,140</u>
Glenn E. Hendrix	
One 75' X 169' second row vacant lot	- <u>\$ 12,000</u>

In appealing his valuation, Paul H. Hendrix contended that the appraisal had been made in early 1974 when property values were at an all time high and had not been adjusted to conditions on January 1, 1975. He also contended that his property was appraised at a higher level than certain other property in the county.

Glenn E. Hendrix contended that his lot was appraised on the same basis as lots at Long Beach and Yaupon Beach and that lots at those beaches would sell for 25% to 40% more than lots at Caswell Beach.

At the request of the appellants and without objection by the County, the two appeals were consolidated for hearing. The County did move to dismiss the appeal of Paul H. Hendrix on the ground that he had not filed an application for hearing as provided in the Commission's rules. The motion was denied, however, because all of the essential information required in the application for hearing was

contained in other correspondence from Mr. Hendrix to the Commission. Based upon this correspondence also, there is some question as to whether Mr. Hendrix was ever officially notified of the action taken by the county board of equalization and review on his appeal to that body.

ISSUES

- (1) Are the valuations of the subject properties by Brunswick County in excess of their true value in money? Or
- (2) Are the subject properties unequally assessed when compared with the valuations of other comparable properties in the county?

APPLICABLE LAW

The law governing the taxation of property in the State of North Carolina is found in the "Machinery Act" N. C. General Statute 105-271, et seq.

G. S. 105-286(a) provides in pertinent part as follows:

" 105-286. Time for general reappraisal of real property. — (a) Octennial Plan. — Unless the date shall be advanced as provided in subdivision (a)(2), below, each county of the State, as of January 1 of the year prescribed in the schedule set out in subdivision (a)(1), below, and every eighth year thereafter, shall reappraise all real property in accordance with the provisions of G. S. 105-283 and 105-317.

- (1) Schedule of Initial Reappraisals. —

.....

Division Four—1975: Alleghany, Bladen, Brunswick, Cabarrus, Catawba, Dare, Halifax, Macon, New Hanover, Surry, Tyrrell and Yadkin

G. S. 105-283 provides as follows:

" 105-283. Uniform appraisal standards.— All property, real and personal, shall as far as practicable be appraised or valued at its true value in money. When used in this Subchapter, the words "true value" shall be interpreted as meaning market value, that is, the price estimated in terms of money at which the property would change hands between a willing and financially able 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."

G. S. 105-317 provides in pertinent part as follows:

" 105-317. Appraisal of real property; adoption of schedules, standards, and rules. — (a) 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; 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.

.....

(b) In preparation for each revaluation of real property required by G. S. 105-286, it shall be the duty of the tax supervisor to see that:

- (1) There be developed and compiled uniform schedules of values, standards, and rules to be used in appraising real property in the county. (The schedules of values, standards, and rules shall be prepared in sufficient detail to enable those making appraisals to adhere to them in appraising the kinds of real property commonly found in the county; they shall be:
 - a. Prepared prior to each revaluation required by G. S. 105-286;
 - b. In written or printed form; and
 - c. Available for public inspection upon request.)"

G. S. 105-290 provides in pertinent part as follows:

" 105-290. Appeals to Property Tax Commission. -- (a) Duty to Hear Appeals. -- In its capacity as the State board of equalization and review, the Property Tax Commission shall hear and adjudicate appeals from boards of county commissioners and from county boards of equalization and review as provided in this section.

(b) Appeals from Appraisal and Listing Decisions. -- It shall be the duty of the Property Tax Commission to hear and to adjudicate appeals from decisions made by county boards of equalization and review and boards of county commissioners under the provisions of G. S. 105-286, 105-287, 105-322, 105-325, and 105-312, whether the decisions be made by such a board upon appeal from the tax supervisor or upon such a board's own motion.

.....

(3) On the basis of the findings of fact and conclusions of law made after any hearing provided for by this subsection (b), the Property Tax Commission shall enter an order (incorporating the findings and conclusions) reducing, increasing, or confirming the valuation or valuations appealed or listing or removing from the tax lists the property whose listing has been appealed. A certified copy of the order shall be delivered to the appellant and to the clerk of the board of commissioners of the county from which the appeal was taken, and the abstracts and tax records of the county shall be corrected to reflect the Commission's order."

G. S. 105-322(g)(2) provides in pertinent part as follows:

" 105-322. County board of equalization and review. --

.....
(g) Powers and Duties. --

.....

(2) On request, the board of equalization and review shall hear any taxpayer who owns or controls property taxable in the county with respect to the listing or appraisal of his property or the property of others.
....."

G. S. 105-278.3 provides in pertinent part as follows:

"105-278.3. Real and personal property used for religious purposes. -- (a) Buildings, the land they actually occupy, and additional adjacent land reasonably necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if: [Emphasis added]

- (1) Wholly and exclusively used by its owner for religious purposes as defined in subsection (d)(1), below; or
- (2) Occupied gratuitously by one other than the owner and wholly and exclusively used by the occupant for religious, charitable, or nonprofit educational, literary, scientific, or cultural purposes.

.....
(c) The following agencies, when the other requirements of this section are met, may obtain exemption for their properties:

- (1) A congregation, parish, mission, or similar local unit of a church or religious body or
- (2) A conference, association, presbytery, diocese, district, synod, or similar unit comprising local units of a church or religious body."

EVIDENCE

The matters and evidence presented by the appellants and considered by the Commission consisted of the following:

- (1) Oral testimony of Mr. Paul H. Hendrix.
- (2) Oral testimony of Mr. Glenn E. Hendrix.
- (3) A series of property record cards for properties located at Ocean Isle Beach.

The matters and evidence presented by the County and considered by the Commission consisted of the following:

- Exhibit 1 - Listing agreement for the property of Glenn E. Hendrix.
- Exhibit 2 - Survey of the area of Caswell Beach in which the subject properties are located, prepared by Mr. Robert McHenry.
- Exhibit 3 - Property record card and attached photograph of the property of Glenn E. Hendrix.
- Exhibit 4 - A series of property records of ocean front and second row lots at Caswell Beach.
- Exhibit 5 - Property record card and attached photographs of the properties of Paul H. Hendrix.
- Exhibit 6 - A series of property record cards and deeds showing sales of second row lots at Caswell Beach.
- Exhibit 7 - A series of property record cards and deeds showing sales of ocean front lots at Caswell Beach.
- (8) Oral testimony of Mr. Robert McHenry, Assistant Tax Supervisor, Brunswick County.
 - (9) Oral testimony of Mr. Joe Young, chief appraiser for Brunswick County.
 - (10) Oral testimony of Mr. Kenneth Voss, appraiser.
 - (11) Oral testimony of Mr. Walter Hill, Brunswick County real estate salesman.
 - (12) Oral statements of Mr. James Prevatte, County Attorney.

In addition to the matters and evidence presented by the appellants and the County, the Commission considered the following exhibits:

Paul H. Hendrix:

- C-1 Letter to Governor's office and Attorney General's office dated July 28, 1975 relative to the valuation of the subject property and the revaluation program in general.

- C-2 Copy of reply to Exhibit 1 by Mr. Banks dated July 31, 1975.
- C-3 Letter dated August 5, 1975 from Commission to Mr. Hendrix.
- C-4 Letter dated September 3, 1975 to Mr. Hendrix from Mrs. Barnes of Department of Revenue.
- C-5 Copy of letter dated February 10, 1976 from Mr. Hendrix to Attorney General's Office.
- C-6 Copy of reply dated February 13, 1976 to Exhibit 5 by Mr. Banks.
- C-7 Copy of letter dated February 26, 1976 from Mr. Banks to Mr. Hendrix.
- C-8 Copy of letter dated March 22, 1976 from Mr. Hendrix to Mr. Banks.
- C-9 Copy of Mr. Banks' reply to Exhibit 8 dated March 24, 1976.
- C-10 Copy of letter to Mr. Hendrix from Mr. Banks dated April 14, 1976.
- C-11 Letter dated June 7, 1976 to Commission from Mr. Hendrix.
- C-12 Copy of Commission's reply to Exhibit 11 dated June 8, 1976.
- C-13 Letter dated June 10, 1976 to Commission from Mr. Hendrix.
- C-14 Two letters dated August 2, 1976 to Commission from Mr. Hendrix.
- C-15 Copy of Commission's reply to Exhibit 14 dated August 4, 1976.
- C-16 and 17 Copies of notices dated August 5, 1976 to parties of date and time of hearing.
- C-18 Letter dated August 7, 1976 to Commission from Mr. Hendrix.
- C-19 Letter dated August 10, 1976 to Mr. Hendrix from Commission.
- C-20 Letter dated August 14, 1976 to Commission from Mr. Hendrix regarding the documents to be introduced at the hearing.

Glenn E. Hendrix:

- C-1 Notice of appeal dated November 3, 1975.
- C-2 Copy of letter from Mr. Bellamy to Mr. Hendrix dated November 6, 1975 and received on November 10, 1975.
- C-3 Another copy of the same letter received on November 24, 1975.
- C-4 Application for hearing dated November 17, 1975.
- C-5 Commission's acknowledgement of application for hearing dated December 2, 1975.
- C-6 Notice of date and time of hearing dated August 5, 1976 and envelope showing undelivered because postage due.

FINDINGS OF FACT

The facts outlined in the "Statement of Case" are hereby made a part of this section by reference. After addressing itself to and considering all of the evidence of record, as set forth above, the Commission makes the following additional findings of fact:

- (1) That Caswell Beach, in which the subject properties are located, is a family type beach of single-family residences, with no commercial development.
- (2) That a standard-sized ocean-front lot at Caswell Beach contains 75 feet of frontage on the ocean.
- (3) That the base price established by the County to appraise these lots was \$25,000 per lot, or \$333 per front foot.
- (4) That each of the four lots owned by Paul H. Hendrix contains 75 feet of ocean frontage and is appraised at \$25,000.
- (5) That the following ocean-front lots located on either side of the lots owned by Paul H. Hendrix were appraised by the County as follows:

<u>Name of Owner</u>	<u>Frontage</u>	<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>
Nagle	75'	\$25,000	-	\$25,000
Dennis	75'	25,000	-	25,000
Thompson	70'	23,330	-	23,330
Bunting	225' (3 lots)	75,000	\$19,840	94,840
Harrellson	75'	25,000	11,900	36,900
Gilbert	75'	25,000	11,670	36,670
McCall	75'	25,000	10,920	35,920
Carnes	75'	25,000	23,540	48,540
Beasley	76.96'	25,650	9,240	34,890
Walter	77'	25,670	15,830	41,500

- (6) That the following ocean-front lots at Caswell Beach were sold at the times and for the amounts shown below:

<u>Date</u>	<u>Lot #</u>	<u>Block #</u>	<u>Section #</u>	<u>Frontage</u>	<u>Amount</u>
9/75	12	1	C	75'	\$37,500
3/76	2, 4 & 5	3	B	225'	75,000
8/72	6	1	B	75'	47,000 *
7/74	9	1	B	75'	25,000

(* Contains improvements at \$19,770)

- (7) That a standard-sized second-row lot at Caswell Beach contains 75 feet frontage on the road.
- (8) That the base price established by the County to appraise these lots was \$12,000 per lot, or \$160 per front foot.
- (9) That the lot owned by Glenn E. Hendrix is a second-row lot with 75 feet frontage and is appraised at \$12,000.

- (10) That the following second-row vacant lots located on either side of the lot owned by Glenn E. Hendrix were appraised by the County as follows:

<u>Name of Owner</u>	<u>Frontage</u>	<u>Land Value</u>
Carter	50'	\$ 8,000
Bee Investment Co.	50'	8,000
Kirkman	50'	8,000
Carter	50'	8,000
Bee Investment Co.	50'	8,000
Bunting	100' (2 lots)	16,000
Beasley	150' (2 lots)	24,000
Maxwell	75'	12,000
Cloud	75'	12,000
Maintenance, Inc.	75'	12,000
Thompson	70'	11,200
Maxwell	146.4'	23,420

- (11) That the following second-row lots at Caswell Beach were sold at the times and for the amounts shown below:

<u>Date</u>	<u>Lot</u>	<u>Block</u>	<u>Section</u>	<u>Frontage</u>	<u>Amount</u>
6/75	26,27 & 28	1	B	100'	\$21,000
10/75	28	1	C	50'	11,000
9/73	22	1	C	50'	39,500 *
8/74	22 (Part)	1	C	50'	31,000 *

(* Figures include improvements valued at \$19,850 and \$15,040 respectively)

- (12) That Glenn E. Hendrix listed his lot for sale in January, 1974 at \$18,500 but was unable to sell the property at that price.
- (13) That Ocean Isle Beach is a fully-developed beach with extensive commercial development, including retail stores, restaurants, service stations, amusements and a commercial fishing pier.
- (14) That a standard-sized lot at Ocean Isle Beach contains 50 feet of frontage.
- (15) That the base prices used by the County to appraise lots at Ocean Isle Beach were as follows:
- | | |
|---------------------------|----------------------------------|
| Ocean-front lots | \$25,000 or \$500 per front foot |
| Second-row lots | \$13,000 or \$260 per front foot |
| Third-row lots | \$10,000 or \$200 per front foot |
| Concrete canal front lots | \$14,000 or \$280 per front foot |
- (16) That as far as can be determined from the record, all lots in the above categories at Ocean Isle Beach were appraised by the County at the base prices except those owned by Mr. Odell Williamson.
- (17) That the following ocean-front lots, all, except two as noted, measuring 50' X 150' and all owned by Mr. Williamson were appraised by the County as follows:

<u>Lot</u>	<u>Block</u>	<u>Section</u>	<u>Amount</u>
9	13	C	\$12,500
8	11	C	10,000
7	11	C	10,000
6	11	C	10,000
5	11	C	10,000
4	11	C	10,000
3	11	C	10,000
17	8	C	10,000
16	8	C	10,000
15	8	C	10,000
14	8	C	10,000
13	8	C	10,000
12	8	C	10,000
11	8	C	10,000
10	8	C	10,000
9 & pt.8	8	C (75' X 150')	37,500 *
6	8	C	10,000
5	8	C	10,000
4	8	C	10,000
3	8	C	5,000
21, 1 & 2	5 & 8	C (210' X 312')	50,000
20	5	C	5,000
19	5	C	5,000
18	5	C	5,000
17	5	C	5,000

(* This lot was initially appraised at \$3,750 but the record card shows that it was changed from \$3,750 to \$37,500 on June 4, 1976.)

- (18) That the following second-row lots, all, except one as noted, measuring 50' X 100' and all owned by Mr. Williamson, were appraised by the County as follows:

<u>Lot</u>	<u>Block</u>	<u>Section</u>	<u>Amount</u>
10	9	C	\$ 5,000
9	9	C	5,000
8	9	C	5,000
7	9	C	5,000
6	9	C	5,000
5	9	C	5,000
4	9	C	5,000
3	9	C	5,000
2	9	C	5,000
1	9	C	5,000
10	7	C	5,000
9	7	C	5,000
8	7	C	5,000
7	7	C	5,000
6	7	C	5,000
5	7	C	5,000
4	7	C	5,000
Pt.3 & pt.2	7	C (94' X 100')	5,000

- (19) That a substantial number, and as far as can be determined from the record, all canal front lots owned by Mr. Williamson were appraised by the County at \$8,000 per lot.

- (20) That the improvements on the property identified as lots 21, 1 and 2 of Blocks 5 and 8 in Section C -- a commercial fishing pier owned by Mr. Williamson -- were appraised at \$50,830 but reduced to \$35,830 with no explanation for the change.
- (21) That a 37 acre tract at Ocean Isle Beach, identified as Map 257F, Group D, Parcel 41 and owned by Mr. Williamson was appraised at \$3,000 per acre, or \$111,000, but reduced to \$1,000 per acre, or \$37,000, with no explanation for the change.
- (22) That a number of ocean front lots listed in #17 above, as well as a number of second and third row lots, are used by Mr. Williamson as his homesite.
- (23) That these lots total approximately 2.3 acres and are appraised as acreage at \$28,500 per acre.
- (24) That four of the ocean-front lots listed in #17 above and owned by Mr. Williamson are made available for church services.
- (25) That six of the ocean-front lots listed in #17 above and owned by Mr. Williamson are hard-surfaced and are used for public parking and recreation.
- (26) That no property record cards exist for a number of third-row lots owned by Mr. Williamson.
- (27) That except for the differences noted in #29 below there are no significant differences between the topographical and other physical characteristics of Mr. Williamson's properties and those owned by other persons at Ocean Isle Beach.
- (28) That there are no significant differences between the topographical and other physical characteristics of the ocean-front and second-row lots at Ocean Isle Beach and Caswell Beach.
- (29) That at the time the canal lots were appraised, the roads behind them were under construction and septic tank permits could not be obtained for some of the lots.
- (30) That Mr. Williamson's property in Brunswick County involves approximately 400 property record cards.
- (31) That all property record cards for property owned by Mr. Williamson were subpoenaed by the appellants and, except for those described in #26 above, were available at the hearing.

- (32) That the property record cards for some of the parcels listed in #17 above have been changed from \$25,000 to \$10,000 with no explanation for the change.

CONCLUSIONS, DECISION AND ORDER

From our review of the applicable law, the evidence and our findings of fact, we conclude and so decide that the valuations placed on the subject properties are not in excess of their true value in money. We also conclude that the subject properties are not assessed at a greater percentage of their true value in money than other comparable properties at Caswell Beach.

We believe the evidence clearly shows, however, and we so hold, that the subject properties have been assessed at a substantially greater percentage of their true value in money than at least some of Mr. Williamson's property at Ocean Isle Beach. The evidence contains numerous examples of underassessment -- and in one case, no assessment at all -- of Mr. Williamson's property. The \$25,000 base price for ocean front lots at Ocean Isle Beach was used to appraise all of such lots except those owned by Mr. Williamson. With two or three exceptions, the property record cards introduced by the appellants show that Mr. Williamson's ocean-front lots were appraised at \$10,000 or \$5,000. Although one of the County's witnesses stated that some of Mr. Williamson's ocean-front lots were appraised at \$25,000, no cards or other evidence was introduced by the County to substantiate that statement. Mr. Williamson's second-row lots were appraised at \$5,000 whereas those of other property owners were appraised at \$13,000. The base price for canal lots was \$14,000 and this figure was applied to the lots owned by persons other than Mr. Williamson. His lots were appraised at \$8,000.

The County's explanation for the difference in the appraisals of the canal lots was that roads were being constructed at the time of appraisal and that some of the lots had septic tank problems. There is no evidence to indicate, however, that canal lots owned by Mr. Williamson which suffered from these problems were appraised any differently than those that did not have them. Neither does the evidence show that any changes were made in the appraisals of these lots after the roads were completed. The explanations given for the reduced valuations of a number of Mr. Williamson's ocean-front lots were that (1) some of them were used for church services, (2) some were used for public parking and recreation, and (3) the lots making up Mr. Williamson's homesite were not for sale. In our opinion, neither of these explanations has any

basis in the statute. As noted in the applicable law, property used wholly and exclusively for religious purposes is exempt from tax if it is owned by a church or other religious body named in G. S. 105-278.3. There is no provision in the statute authorizing a reduction in the valuation of individually-owned property because the owner allows it to be used for religious purposes. This is equally true of property used for parking or recreation purposes. If the explanation for reducing the valuation of Mr. Williamson's homesite is valid for his property, then it is equally valid for every other property in the county which is not presently on the market. If a property owner could obtain a reduction in the valuation of his property because he did not wish to sell it, then there would be two standards of appraisal — one for property owned by persons who are willing to sell their property and another for those who are not. The statute requires that each parcel of real property be appraised at its true value in money. Other than the agricultural use value statute, which is not applicable here, there is no provision in the statute for appraising similar parcels of property on a different basis because of the manner in which the owner uses it. Neither is there any basis in the statute for reducing the valuation of real property because a substantial number of parcels are owned by the same person.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Brunswick County taxing officials review the appraisal of every parcel of property owned by Mr. Williamson in Brunswick County and reappraise at their true value in money any of such parcels which are not presently appraised at that figure based on the County's 1975 schedules of value. With respect to the specific categories of beach property involved in this appeal; namely ocean-front, second-row, third-row and canal-front lots at Ocean Isle Beach, the appraisals shall be based on the standard prices used in the appraisal of similar lots owned by others. Those prices are \$25,000 for ocean-front lots, \$13,000 for second-row lots, \$10,000 for third-row lots and \$14,000 for canal-front lots. Adjustments in the appraisals for physical deficiencies in individual parcels, such as septic tank problems, shall be clearly shown on the property record cards. Said reappraisals are to be made effective as of January 1, 1977 so that Mr. Williamson may be notified on any changes in the valuations of his properties and be given an opportunity to present any information he may have regarding the properties to the county board of equalization and review.

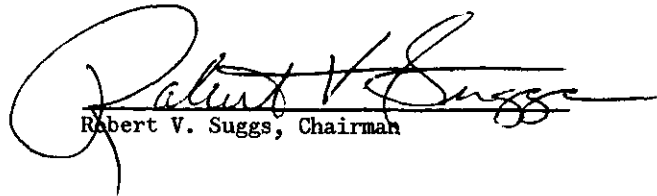
IT IS FURTHER ORDERED that the county officials list, assess and tax any properties owned by Mr. Williamson which are not being taxed, such as the third-row lots for which no property record cards exist. Such listings shall be made in accordance with the provisions of G. S. 105-312.

IT IS FURTHER ORDERED that, for 1975 and 1976 only, the valuations of the four ocean-front lots owned by appellant Paul H. Hendrix be reduced from \$25,000 each to \$10,000 each and the valuation of the second-row lot owned by appellant Glenn E. Hendrix be reduced from \$12,000 to \$5,000 to bring the appraisals of those parcels into line with comparable properties owned by Mr. Williamson. The reductions in appellants' parcels shall be eliminated and the \$25,000 and \$12,000 figures restored in 1977 when the corrections outlined above are made in the appraisals of Mr. Williamson's properties.

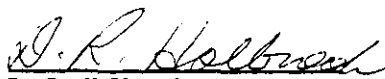
Messrs. Haywood Edmundson and Paul Whitfield, Commission Members, did not participate in this decision.

This the 10th day of November, 1976.

NORTH CAROLINA PROPERTY TAX COMMISSION


Robert V. Suggs, Chairman

Attest:


D. R. Holbrook, Secretary