

STATE OF NORTH CAROLINA

COUNTY OF WAKE

IN THE MATTER OF:  
APPEAL OF:

BEFORE THE PROPERTY TAX COMMISSION  
SITTING AS THE STATE BOARD OF  
EQUALIZATION AND REVIEW  
14 PTC 0040

**Paul R. Ashe and Patricia Fowler**

**FINAL DECISION**

from the decisions of the  
Avery County Board of  
Equalization and Review  
concerning the valuation  
of certain real property  
for tax year 2014.

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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, April 16, 2015, pursuant to the appeal of **Paul R. Ashe and Patricia Fowler** (“Appellants”). Appellants are appealing the decisions of the 2014 Avery County Board of Equalization and Review (“County Board”) not to reduce the assessments of certain real property for tax year 2014.

Chairman William W. Peaslee presided over the hearing with Vice Chairman Terry L. Wheeler and Commission members David A. Smith and Jack C. (Cal) Morgan III participating.

Mr. Paul Ashe appeared at the hearing pro se. Mr. Gerald McKinney, Esquire appeared at the hearing on behalf of Avery County.

#### STATEMENT OF THE CASE

The property under appeal consists of a single-family residence located at 215 Ridge Drive, Linville, Avery County, North Carolina (“215 Ridge Drive Property”), and a single-family residence located at 21 Ridge Drive, Linville, Avery County, North Carolina (“21 Ridge Drive Property”).

Effective for the January 1, 2014 general reappraisal, the Avery County Tax Assessor (“Tax Assessor”) assessed the subject property located at 215 Ridge Drive a total value of \$1,559,500. Appellants challenged the Tax Assessor’s assessment of the subject property by filing with the County Board. After conducting a hearing, the County Board affirmed the Tax Assessor’s assessment by assigning a total value of \$1,559,500 to the 215 Ridge Drive Property for tax year 2014. From the County Board’s decision, Appellants appealed to the Commission.

As provided in the Application for Hearing, Appellants contend that the 215 Ridge Drive Property was appraised in excess of market value and that the market value for the subject

property was \$873,800 as of January 1, 2014. The Appellants rely on a comparative market analysis report that reflects the suggested listing price of \$873,800 to support their opinion of value.

Effective for the January 1, 2014 general reappraisal, the Avery County Tax Assessor (“Tax Assessor”) assessed the subject property located at 21 Ridge Drive a total value of \$817,200. Appellants challenged the Tax Assessor’s assessment of the subject property by filing with the County Board. After conducting a hearing, the County Board affirmed the Tax Assessor’s assessment by assigning a total value of \$817,200 to the 21 Ridge Drive Property for tax year 2014. From the County Board’s decision, Appellants appealed to the Commission.

As provided in the Application for Hearing, Appellants contend that the 21 Ridge Drive Property was appraised in excess of market value and that the market value for the subject property was \$667,333 as of January 1, 2014. The Appellants rely on a comparative market analysis report that reflects the suggested listing price of \$667,333.33 to support their opinion of value.

Avery County contends that the subject properties were appraised in accordance with the County's duly adopted schedules of values, standards and rules for the 2014 general reappraisal and when considering its analysis of sales of comparable properties, that the subject properties have not been appraised in excess of market values. The County asserts that in its appraisal of the subject properties, the pertinent factors affecting market values of the lots were considered, and thus requests the Commission to affirm the values determined by the County Board.

## ANALYSIS AND ISSUES

A county’s ad valorem tax assessment is presumptively correct.<sup>1</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>2</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>3</sup>

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

1. Did Appellants carry their burden of producing competent, material and substantial evidence tending to show that:
  - (a). Avery County employed an arbitrary or illegal method of appraisal in reaching the property tax values for Appellants’ properties as of January 1, 2014, and

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<sup>1</sup> In re Amp, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975).

<sup>2</sup> Id.

<sup>3</sup> 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).

(b). The County Board assigned a value that is substantially greater than the true values of the subject properties as of January 1, 2014?

2. If the above issues are answered in the affirmative, then what were the true values in money of the properties as of January 1 for the year at issue?

**FROM THE NOTICES OF APPEAL AND APPLICATIONS 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. Avery County conducted its most recent general reappraisal effective January 1, 2014.
3. The properties under appeal are a single-family residence located at 215 Ridge Drive, Linville, Avery County, North Carolina ("215 Ridge Drive Property"), and a single-family residence located at 21 Ridge Drive, Linville, Avery County, North Carolina ("21 Ridge Drive Property").
4. The property located at 215 Ridge Drive, Linville, North Carolina, and identified by the Avery County Tax Office as Parcel Identification Number 1857-00-50-0712-00000, is a single family split level mountain residence that was built in 1984. The subject residence has four bedrooms, four full baths and two half baths. The subject residence has approximately 5,928 square feet of living area with a two car garage.
5. Effective for the January 1, 2014 general reappraisal, the Avery County Tax Assessor ("Tax Assessor") assessed the subject property at a total value of \$1,559,500. The Appellants challenged the Tax Assessor's assessment of the 215 Ridge Drive Property by filing an appeal with the County Board. By decision mailed on April 11, 2014, the County Board affirmed the Tax Assessor's assessment of the subject property at a total value of \$1,559,300 for tax year 2014.
6. At the hearing, Appellant called Mr. James Fitzpatrick, with Peak Real Estate LLC,<sup>4</sup> to testify. Mr. Fitzpatrick prepared a comparative market analysis report, dated April 4, 2014, to show his indication of value for the subject property. Based on his comparative market pricing method, Mr. Fitzpatrick testified that the average suggested listing price for the 215 Ridge Drive Property would be \$873,800.
7. At the hearing, the Appellant relied on Mr. Fitzpatrick's report and his testimony to support their opinion of value of \$873,800 for the 215 Ridge Drive Property.
8. The Appellants did not support their opinion of value for the 215 Ridge Drive Property by using any of the three generally accepted methods of appraisal (i.e. the cost approach, the

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<sup>4</sup> Peak Real Estate LLC is a real estate office located in Banner Elk, North Carolina.

sales comparison approach or the income capitalization approach); and there was no market value appraisal establishing the market value for the property as of January 1, 2014.

9. Appellants' opinion of value of \$873,800 for the 215 Ridge Drive Property does not represent the property's market value when the evidence supporting this opinion was the property's suggested listing price.
10. The property located at 21 Ridge Drive, Linville, Avery County, North Carolina, and identified by the Avery County Tax Office as Parcel Identification Number 1856-00-59-5235-00000, is a single family mountain residence built in 2004. The subject residence has three bedrooms, two full baths with an additional half bath. The subject residence has approximately 4,336 square feet of living area.
11. Effective for the January 1, 2014 general reappraisal, the Avery County Tax Assessor ("Tax Assessor") assessed the subject property located at 21 Ridge Drive a total value of \$817,200. Appellants challenged the Tax Assessor's assessment of the subject property by filing with the County Board. After conducting a hearing, the County Board affirmed the Tax Assessor's assessment by assigning a total value of \$817,200 to the 21 Ridge Drive Property for tax year 2014.
12. Mr. Fitzpatrick, with Peak Real Estate LLC,<sup>5</sup> also prepared a comparative market analysis of the 21 Ridge Drive Property, dated April 4, 2014, to reflect the value for the property. Based on his comparable pricing method, Mr. Fitzpatrick testified at the hearing that the suggested listing price for the 21 Ridge Drive Property subject would be \$667,333.33.
13. The Appellants relied on Mr. Fitzpatrick's comparable pricing method to support their opinion of value of \$667,333 for the 21 Ridge Drive Property as of January 1, 2014.
14. The Appellants did not support their opinion of value for the 21 Ridge Drive Property by using any of the three generally accepted methods of appraisal (i.e. the cost approach, the sales comparison approach or the income capitalization approach); and there was no market value appraisal establishing the market value for the property.
15. At the close of Appellants' evidence, Avery County, through counsel, moved for dismissal of Appellants' appeal when there was no competent, material and substantial evidence tending to show that the county used an arbitrary or illegal method of valuation to determine the values of the properties; and that the County Board assigned values that substantially exceeded the true values of the properties.
16. Accordingly, the values assigned to the subject properties by the County Board constitute the market values of the properties when there was no competent, material and substantial evidence offered to the contrary supporting changes to the properties' values.

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<sup>5</sup> Peak Real Estate LLC is a real estate office located in Banner Elk, North Carolina.

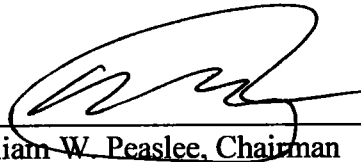
**BASED UPON THE FOREGOING FINDINGS OF FACT, THE COMMISSION  
MAKES THE FOLLOWING CONCLUSIONS OF LAW:**

1. A county's ad valorem tax assessment is presumptively correct.<sup>6</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>7</sup>
2. Appellants did not present any competent, material and substantial evidence regarding these points.
3. This appeal is subject to dismissal at the close of Appellants' evidence when Appellants did not produce competent, material and substantial evidence tending to show that the county used an arbitrary or illegal method of valuation; and the values assigned to the subject properties by the County Board substantially exceeded the true values of the properties.

**WHEREFORE THE PROPERTY TAX COMMISSION THEREFORE ORDERS** that the decisions of the 2014 Avery County Board of Equalization and Review are affirmed; and Appellants' appeal is hereby dismissed.

NORTH CAROLINA PROPERTY TAX COMMISSION

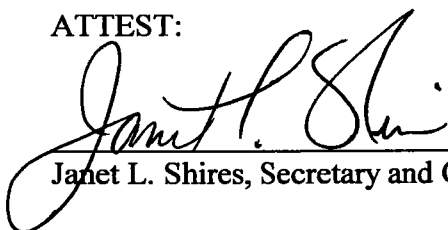


  
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William W. Peaslee, Chairman

Vice Chairman Wheeler and Commission members Smith and Morgan  
concur.

ENTERED: June 22, 2015

ATTEST:

  
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Janet L. Shires, Secretary and General Counsel

<sup>6</sup>In re Amp, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975).

<sup>7</sup>Id.