

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
14 PTC 0103

In the Matter of:
The Appeal of:

PHILLIP K. FLOWERS

FINAL DECISION

from decision of the Beaufort County
Board of Equalization and Review
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, April 15, 2015, pursuant to the appeal of **Phillip K. Flowers** (“Appellant”). Appellant is appealing the 2014 decision of the Beaufort County Board of Equalization and Review (“County Board”), assigning the subject property a tax valuation of \$4,030,483.

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

Mr. Phillip K. Flowers appeared at the hearing pro se. Mr. David C. Francisco, Esquire, appeared at the hearing on behalf of Beaufort County.

STATEMENT OF THE CASE

The property subject to this appeal is located at 1000 Woodstock Point, Bath Township, Belhaven, North Carolina and is identified on the Beaufort County Tax records as Parcel Number 07-011804,¹ and Parcel Number 15-016509, which is a vacant tract consisting of 10.34 acres.² Parcel Number 07-011804, as described on Beaufort County tax records consists of approximately 51.19 acres is improved with a residential structure with a total of 7,921 heated square feet, a guest house with 1,881 heated square feet above ground and a garage consisting of 1,881 square feet. As of the January 1, 2010 reappraisal, this parcel had an indoor pool, elevator, tennis court, boat house with a dock and piers.

Effective as of January 1, 2010, Beaufort County conducted its most recent general reappraisal. Based on the reappraisal, the County assessed Parcel Number 07-011804 at a value of \$4,030,483, and the County assessed Parcel Number 15-016509 at a value of \$72,890. In tax year 2014, Appellant challenged Beaufort County’s assessments by filing an appeal with the County Board. On May 20, 2014, the County Board mailed the Notices of Decisions to the Taxpayer affirming Beaufort County’s assessments of the subject property. From that decision, the Appellant appealed to the Commission.

¹ See Beaufort County Notice of Decision letter to the Taxpayer dated May 20, 2014.

² See Beaufort County Notice of Decision letter to the Taxpayer dated May 20, 2014.

On appeal to the Commission, the Appellant contends that the subject property has been appraised in excess of its true value in money; and that the value of the subject property should be \$2,406,900 (rounded). The County contends that the subject property was appraised in accordance with the County's duly adopted schedule of values, standards and rules for the 2010 general reappraisal. The County further contends, based on its analysis of sales and similarly assessed properties, that the subject property was not 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 subject property were considered, and thus requests the Commission to affirm the County Board's decision.

ANALYSIS AND ISSUES

A county's ad valorem tax assessment is presumptively correct. 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."³ If the taxpayer rebuts the initial presumption, then the burden shifts to the taxing authority to demonstrate that its methods produce true values.⁴ Under this analysis, the Commission must consider the following issues:

1. Did the Taxpayer carry his burden of producing competent, material, and substantial evidence tending to show:
 - a. that Beaufort County employed an arbitrary or illegal method of valuation to arrive at the property tax value for the subject property as of January 1, 2010; and
 - b. that the tax value assigned to the subject property by the decision of the County Board is substantially greater than its true value for the year at issue?
2. If the above issues are answered in the affirmative, did Beaufort 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?⁵

FROM THE APPLICATION FOR HEARING FILED IN THIS MATTER, STIPULATIONS, IF ANY, AND THE 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.

³ *In re Amp, Inc.*, 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

⁴ *In re Appeal of S. Ry. Co.*, 313 N.C. 177, 323 S.E.2d 235 (1985).

⁵ *In re Parkdale Mills*, ___ N.C. App. ___, ___, 741 S.E.2d 416 (2013).

2. The subject property is located at 1000 Woodstock Point, Bath Township, Belhaven, North Carolina and is identified on the Beaufort County Tax records as Parcel Number 07-011804,⁶ and Parcel Number 15-016509.⁷ Parcel Number 07-011804, as shown of the County's tax records consists of approximately 51.19 acres is improved with a residential structure with a total of 7,921 heated square feet, a guest house with 1,881 heated square feet above ground and a garage consisting of 1,881 square feet and other improvements such as an indoor pool, elevator, tennis court, boat house with a dock and piers. Parcel Number 15-016509 is a vacant tract consisting of 10.34 acres.

3. Beaufort County's most recent general reappraisal was effective as of January 1, 2010. As of January 1, 2010, Beaufort County assessed Parcel Number 07-011804 at a value of \$4,030,483, and Parcel Number 15-016509 was assessed at a value of \$72,890. In tax year 2014, Appellant challenged Beaufort County's assessments by filing an appeal with the County Board. On May 20, 2014, the County Board mailed the Notices of Decisions to the Taxpayer affirming Beaufort County's assessments of the subject property. From that decision, the Appellant appealed to the Commission.

4. The Taxpayer contends that Beaufort County employed an arbitrary or illegal method of appraisal in reaching the property tax value for his property as of January 1, 2010; and that the County's assessment of \$4,030,483 substantially exceeded the true value of the subject property as of the January 1, 2010 general reappraisal.

5. Beaufort County is required to appraise or value all property, real and personal, at its true value in money. The term "true value" is defined as 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."⁸

6. An important factor in determining the subject property's market value is the highest and best use of the property.

7. At the hearing, Taxpayer called Mr. F. Bruce Sauer, MAI, who was offered as an expert in the appraisal of real property, such as the subject property, to testify. Mr. Sauer testified that he determined his opinion of value for the subject property by valuing each parcel separately as shown on the survey of the property. In particular, Mr. Sauer reached an opinion of value of \$1,782,225 for the main house and 6.748 acres; an opinion of value of \$495,726 for the 11.803 frontage acres; and an opinion of value of \$128,940 for the 42.98 backland acres for a total value of \$2,406,900.

8. The first survey parcel that Mr. Sauer valued consisted of a residential structure with a total of 7,921 heated square feet, a guest house with 1,881 heated square feet above ground and a garage consisting of 1,881 square feet in addition to an indoor

⁶ See Beaufort County Notice of Decision letter to the Taxpayer dated May 20, 2014.

⁷ See Beaufort County Notice of Decision letter to the Taxpayer dated May 20, 2014.

⁸ See N.C. Gen. Stat. § 105-283.

pool, elevator, tennis court, boat house with a dock and piers. The surveyed parcel consisting of 11.803 acres has 1,018 feet of frontage along the Pungo River and has road access from Woodstock Point Road. The other surveyed parcel consisting of 42.98 acres has 1,900 feet along Woodstock Point Road. This site contains approximately 11 acres delineated as wetlands and approximately 21 acres delineated as cut-over woodlands as part of a forest management plan.

9. Mr. Sauer testified that he relied on the sales comparison approach and used the price per square foot method to value the main house and 6.748 acres at a total value of \$1,782,225 based on \$225 per square foot.⁹ Mr. Sauer testified that his comparable sales support a unit value for the main house and 6.748 acres of approximately \$225 per square foot of the dwelling area. Mr. Sauer offers no values for the guest house, outbuildings and other improvements associated with this parcel.

10. Applying his methodology, Mr. Sauer testified that one form of the highest and best use of this parcel would be use as a single-family residence.

11. Taxpayer did not occupy the subject property as a single-family residence upon his purchase on October 18, 2012, but he uses this parcel as a destination property that is leased to the public for weddings and special events.

12. When valuing the surveyed parcel consisting of 11.803 acres, which has frontage on Pungo River, Mr. Sauer relied on the sales comparison approach, and when using that approach, he arrived at an opinion of value of \$495,762 based on a price of \$42,000 per acre.¹⁰ The price per-acre value came from three sales that Mr. Sauer stated were comparable to this parcel. The first sale occurred 11 months after the January 1, 2010 revaluation date. As to the other two sales, the closing dates occurred in April 2008 and July 2006, some two to four years prior to Beaufort County's January 1, 2010 revaluation date. Mr. Sauer testified that he did not make a determination as to whether this parcel could be developed and his comparable land sales had no time adjustments.

13. Mr. Sauer testified that he relied on the sales comparison approach to value the surveyed parcel consisting of 42.98 acres of backland, and gave an opinion of value of \$128,940, based on \$3,000 per acre.¹¹ Mr. Sauer arrived at the per-acre value from four sales that he stated were comparable to this parcel. All sales occurred after the January 1, 2010 revaluation date and the land sales had no time adjustments.¹²

14. Mr. Bobby Parker, Beaufort County Assessor, was called as a witness to testify at the hearing concerning the County's valuation of the subject property as of January 1, 2010. Regarding the County's January 1, 2010 general reappraisal and the assessment of the subject property, Mr. Parker testified that the County devoted two

⁹ See written appraisal report prepared by F. Bruce Sauer, at page 46 .

¹⁰ See written appraisal report prepared by F. Bruce Sauer, at page 55.

¹¹ See written appraisal report prepared by F. Bruce Sauer, at page 66.

¹² The sales occurred in August 2010, April 2010, January 2011, and December 2011.

months in reviewing the subject property in order to determine the fair market value of the subject property as of the January 1, 2010 general reappraisal.

15. Mr. Parker further testified that the County followed the duly adopted schedule of values, standards, and rules for the general reappraisal to determine the market value of the subject property, and that based on its review of the property's characteristics, its analysis of sales and similarly assessed properties when relying on the sales comparison approach and in compliance with the schedule of values, the County assessed Parcel Number 07-011804 at a value of \$4,030,483; and Parcel Number 15-016509 was assessed at a value of \$72,890.

BASED UPON THE FOREGOING FINDINGS OF FACT, THE COMMISSION CONCLUDES AS A MATTER OF LAW:

1. A county's ad valorem tax assessment is presumptively correct.¹³ 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.¹⁴

2. To determine the appropriate appraisal methodology under the given circumstances, the Commission must "hear the evidence of both sides, in order to determine the weight and sufficiency and the credibility of witnesses, to draw inferences, and to appraise conflicting and circumstantial evidence, all in order to determine whether the County's method produced the true value for the property under appeal."¹⁵

3. The Commission determines, in view of the evidence and the weight and sufficiency of the evidence, the credibility of the witnesses, and inferences as well as conflicting and circumstantial evidence that Taxpayer's separate appraisals were not competent, material, and substantial evidence tending to show that: (1) that 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 of the property when (i) Taxpayer's expert failed to perform a highest and best use analysis for the total acreage associated with the subject property; (ii) Taxpayer's expert did not value the guest house, and other improvements that is required when performing a market value analysis; and (iii) Taxpayer's expert relied on land sales that were not relevant to the County's January 1, 2010 revaluation date.¹⁶

WHEREFORE, THE COMMISSION THEREFORE ORDERS that the decisions of the 2014 Beaufort County Board of Equalization and Review, assigning values of \$4,030,483 and \$72,890, are affirmed.

¹³ *In re Amp, Inc.*, 287 N.C. 547, 215 S.E. 752 (1975).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Taxpayer's expert witness relied on sales that occurred up to 18 months after the County's January 1, 2010 revaluation date; and sales that occurred from two to four years before the County's January 1, 2010 revaluation date.

NORTH CAROLINA PROPERTY TAX COMMISSION



A handwritten signature in black ink, appearing to read "T. Wheeler", is written over a horizontal line.

Terry L. Wheeler, Vice Chairman

Commission Members Smith and Morgan concur. Chairman William W. Peaslee did not participate in the hearing or deliberation of this appeal.

ENTERED: June 26, 2015

ATTEST:

A handwritten signature in black ink, appearing to read "Janet L. Shires", is written over a horizontal line.

Janet L. Shires, Esquire
Commission Secretary