

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
15 PTC 0178

IN THE MATTER OF:
APPEAL OF:

Ravenswood of Wilson, LLC

FINAL DECISION

from the decision of the Wilson
County Board of Equalization
and Review concerning
the valuation of certain
real property for tax year 2015.

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 Tuesday, January 12, 2016, pursuant to the appeal of **Ravenswood of Wilson, LLC** (“Ravenswood” or “Appellant”). Ravenswood is appealing the decision of the Wilson County Board of Equalization and Review (“County Board”) concerning the valuation of certain real property for tax year 2015.

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

Charles H. Mercer, Jr., 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

The property subject to this appeal is a governmental subsidized housing development located at 3721 Ashbrook Drive, NW, Wilson, Wilson County, North Carolina. The complex is comprised of 72 apartment units with a total of 71,528 net rentable square feet in addition to common areas for a total of 73,092 gross square feet. All 72 apartment units are tax credit units restricted to tenants who make 40%, 50%, or 60% of the area median income. The subject property consists of twenty one-bedroom units and fifty two-bedroom units. The complex includes nine residential buildings and a separate community building that includes a computer center, a multi-purpose room, dining area and refrigerator, a laundry facility, maintenance room and leasing office. Outdoor areas include a playground, a covered picnic area with tables and grills, gazebo, bike racks, and sitting areas with benches. The subject site is 10.91 acres.

For tax year 2015, the County Board assigned the subject property at a total value of \$1,853,060.¹ The Ravenswood challenged the County Board’s decision by filing an appeal with the Commission and requesting a hearing as provided in G.S. § 105-290.

¹ County Board’s decision mailed on June 5, 2015 that Appellant attached to Notice of Appeal and Application for Hearing.

On appeal, Ravenswood argued that (1) the County used an arbitrary or illegal method of appraisal in reaching its assessed value; (2) the County assigned a value to the subject property that substantially exceeded its true value in money; and (3) the County erred in its assessment of the subject property in that the level of assessment of the subject property is significantly greater than that of other locally assessed property. Wilson County contends that its assessment of \$1,853,060 for the subject property is correct.

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 presented in this appeal were:

1. Did Appellant carry its burden of producing competent, material and substantial evidence tending to show that:
 - (a) Wilson County employed an arbitrary or illegal method of appraisal in reaching the property tax value for Appellant's property for year 2015, and
 - (b) The County Board assigned a value that is substantially greater than the true value of the subject property for year 2015?

2. If the above issues are answered in the affirmative, did Wilson 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?²

FROM THE APPLICATION FOR HEARING FILED IN THIS MATTER, 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 subject property is a governmental subsidized housing complex, known as Ravenswood Apartments, located at 3721 Ashbrook Drive NW in Wilson, Wilson County, NC.

3. The complex is comprised of 72 apartment units with a total of 71,528 net rentable square feet in addition to common areas for a total of 73,092 gross square feet. All 72 apartment units are tax credit units restricted to tenants who make 40%, 50%, or 60% of the area median income. The subject property consists of twenty one-bedroom units (i.e. 745 square feet)

² In re Parkdale Mills & Parkdale Am., 225 N.C. App. 713, 741 S.E.2d 416 (2013).

and fifty-two two bedroom units (i.e. 1,089 square feet). The complex includes nine residential buildings and a separate community building that includes a computer center, a multi-purpose room, dining area and refrigerator, a laundry facility, maintenance room and leasing office. Outdoor areas include a playground, a covered picnic area with tables and grills, gazebo, bike racks, and sitting areas with benches. The subject site is 10.91 acres and is identified as Parcel Number 3703-60-3256.000 by the Wilson County Tax Office.

4. Wilson County's most recent reappraisal of all real property in the county was effective as of January 1, 2008.

5. As of January 1, 2015, the subject property is a North Carolina low-income housing development to which the North Carolina Housing Finance Agency allocated a federal tax credit under Section 42 of the Internal Revenue Code.

6. The construction of the buildings and other real property improvements on the subject land were 72% complete as of January 1, 2015.

7. As of January 1, 2015, the subject property was classified as a 72-unit low-income housing tax credit (LIHTC) apartment complex to which the North Carolina Housing Finance Agency allocated a federal tax credit under Section 42 of the Internal Revenue Code.

8. As of January 1, 2015, the Wilson County Assessor ("County Assessor") assessed the subject property at a total value of \$1,853,060.

9. Ravenswood challenged the County Assessor's assessment of the subject property by filing an appeal with the County Board. After conducting a hearing, the County Board mailed its decision on June 5, 2015 informing Ravenswood that the property's value was \$1,853,060.

10. At the hearing, Ravenswood offer an appraisal report prepared by Mr. Paul L. Snow,³ who also testified as an expert in real estate appraisal. Mr. Snow explained that he valued the subject property based on restricted rents subject to the Extended Use Agreement between the owner of Ravenswood and the State of North Carolina. Mr. Snow further explained that the appraisal report conformed to G.S. § 105-277.16 since the subject property is a low-income housing tax credit (LIHTC) apartment complex designated as a special class of property under Article V, Section 2(2) of the North Carolina Constitution, and that he used the income approach as the method of valuation for the subject property. He further explained that he did not consider the tax credits received under section 42 on the Code or under G.S. 105-129.42 in determining the income attributable to the property and that he did take the rents restriction that applied to property into consideration in determining the income attributable to the property. As such, Mr. Snow valued the subject property at \$880,000 since the property was 72% complete as of January 1, 2015.

³ Mr. Paul L. Snow, MAI, a North Carolina Certified General Appraiser (License # 4499).

11. The Wilson County Assessor is required to appraise, assess, and tax low-income housing property as directed by G.S. § 105-277.16. G.S. § 105-277.16 provides as follows: “A North Carolina low-income housing development to which the North Carolina Housing Finance Agency allocated a federal tax credit under section 42 of the Code is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution and must be appraised, assessed, and taxed in accordance with this section. The assessor must use the income approach as the method of valuation for property classified under this section and must take rent restrictions that apply to the property into consideration in determining the income attributable to the property. The assessor may not consider income tax credits received under section 42 of the Code or under G.S. 105-129.42 in determining the income attributable to the property.”Id.

12. In support of its assessment, the County offered the testimony of Randy Faircloth, Wilson County Assessor. Mr. Faircloth explained that Wilson County’s valuation of \$1,853,060 for the subject property was based on the following assessment methodology: (1) Wilson County’s use of a vacancy and collection loss of (5%) and a capitalization rate of 6%⁴ that was derived from the Appeal of Wilson MMR Ltd. Partnership’s final decision entered by the Commission on January 23, 2013; (2) the fact that this final decision was not appealed; and (3) Wilson County’s argument that it is not appropriate to use an independent appraisal report as a substitute to the Commission’s decision in the Appeal of Wilson County MMR Ltd. Partnership (Wilson County 11 PTC 274), entered by the Commission on January 25, 2013.

13. Wilson County’s valuation method was arbitrary or illegal when (1) Wilson County derived its vacancy and collection loss of (5%) and a capitalization rate of 6%⁵ from a prior final decision concerning an appeal filed by a different property owner; (2) because the final decision was not appealed; and (3) Wilson County’s argument that it is not appropriate to use an independent appraisal report as a substitute to the Commission’s decision concerning a different property owner’s challenge of the county assessment of its property.

14. When determining the subject property’s value, Mr. Snow considered the following: (1) that the subject property was a low-income housing tax credit (LIHTC) apartment complex that is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution; (2) that the subject property must be appraised, assessed, and taxed in accordance with G.S. § 105-277.16; (3) that the income approach is the most appropriate method of valuation for property that is classified under G.S. § 105-277.16; (4) that an appraiser must take rent restrictions that apply to the property into consideration in determining the income attributable to the property, and must not consider income tax credits received; and (5) the construction of the buildings and other real property improvements on the subject land were 72% complete as of January 1, 2015.⁶ Based on his analysis, his testimony and the appraisal report, Mr. Snow determined the valuation of the subject property to be \$880,000 (rounded) as of January 1, 2015.

⁴ See County document at Tab 5.

⁵ See County document at Tab 5.

⁶ See G.S. 105-317(a)(3).

15. Ravenswood 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 total value of \$1,853,060 assigned to the subject property by the County Board was substantially greater than the true value of the subject property as of January 1, 2015 based on Mr. Snow's appraisal that considered (1) the subject property was a low-income housing tax credit (LIHTC) apartment complex that is designated a special class of property under Article V, Section 2(2) of the North Carolina Constitution; (2) he must appraise the property in accordance with G.S. § 105-277.16; (3) the income approach is the appropriate method of valuation for property classified under G.S. § 105-277.16; and (4) he must take rent restrictions that apply to the property into considerations to determine the income attributable to the property and he must not consider income tax credits received under section 42 of the Code or under G.S. 105-129.42 in determining the income attributable to the property.

16. Ravenswood did rebut the presumption of correctness of the County's assessment of \$1,853,060 for the subject property by offering the testimony of Mr. Snow and the appraisal report that he prepared to determine the valuation of the property as of January 1, 2015.

17. When the burden shifted to Wilson County, the County did not demonstrate that its appraisal methodology produced a true value for the subject property 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 because: (1) Wilson County's appraisal methodology was based on a vacancy and collection loss of (5%) and a capitalization rate of 6% that was derived from the final decision in the Appeal of Wilson MMR Ltd. Partnership entered by the Commission on January 23, 2013; (2) this final decision was not appealed; and (3) Wilson County contention that it is not appropriate to use an independent appraisal report as a substitute to the Commission's prior decision concerning a different property owner that challenged Wilson County's assessment of its property.

18. Accordingly, the Commission, after considering the weight and sufficiency of the evidence, the credibility of the witnesses, and inferences as well as conflicting and circumstantial evidence presented by both sides in support of their argument, determined that the valuation of the subject property was \$880,000 as of January 1, 2015.⁷

BASED ON THE FOREGOING FINDINGS OF FACT, THE PROPERTY TAX COMMISSION CONCLUDES AS A MATTER OF LAW:

1. Ravenswood evidence from Mr. Snow, taken alone and by itself, tends to show that the County's method was arbitrary or illegal due to (1) the County's reliance on the Commission's prior decision concerning a different taxpayer that challenged the county's assessment of its property, (2) the reliance of that decision to derive at its vacancy and collection loss of (5%) and a capitalization rate of 6% to assess the property; (3) the fact that the final decision was not appealed; and (4) an appraisal is not a substitute to the Commission's decision.

⁷ In re Parkdale Mills & Parkdale Am., 225 N.C. App. 713, 741 S.E.2d 416 (2013).

2. In this appeal, the Appellant did rebut the presumption that the county's ad valorem tax assessment of the subject property was not correct by presenting "competent, material and substantial" evidence tending to show that the county supervisor used an arbitrary and/or illegal method of valuation and the assessment of the subject property substantially exceeded the true value in money of the subject property.

3. When the burden shifted to Wilson County, Wilson County did not 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?⁸

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION THEREFORE ORDERS that the decision of the 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 true value for the subject property was \$880,000 as of January 1, 2015.

NORTH CAROLINA PROPERTY TAX COMMISSION



Terry L. Wheeler, Vice Chairman

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

Entered: June 8, 2016

Attest:

Janet L. Shires, General Counsel

⁸ In re Parkdale Mills & Parkdale Am., 225 N.C. App. 713, 741 S.E.2d 416 (2013).