

STATE OF NORTH CAROLINA

BEFORE THE PROPERTY TAX COMMISSION

COUNTY OF WAKE

SITTING AS THE STATE BOARD OF

EQUALIZATION AND REVIEW

15 PTC 0203

IN THE MATTER OF:

APPEAL OF:

Regan L. Smith

FINAL DECISION

from the decision of the Iredell
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, July 12, 2016 pursuant to the appeal of **Regan L. Smith** (“Taxpayer” or “Appellant”). Appellant appealed to the Commission from the decision of the Iredell County Board of Equalization and Review (“County Board”), in which the County Board decided not to reduce the valuation of certain real property for tax year 2015.

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

Kevin C. Donaldson, with the law firm of Jones, Childers, McLurkin and Donaldson, PLLC appeared at the hearing on behalf of the Appellant. Lisa M. Valdez, with the law firm of Pope McMillan, P.A. appeared at the hearing on behalf of Iredell County.

STATEMENT OF THE CASE

The property under appeal is a vacant tract of land consisting of 19.88 acres that is located at 411 Morrison Farm Road and identified by the Iredell County Tax Department as Parcel Number 4629-77-9719. Effective for the January 1, 2015 general reappraisal of all real property in the county, the County Tax Assessor assessed the subject property at a total value of \$467,310. During the informal review process, the County Tax Office reduced the value of the subject property to \$466,660. Thereafter, the Appellant challenged the County Tax Office’s assessment by filing an appeal with the County Board. After conducting a hearing, the County Board notified the Appellant by notice mailed on May 22, 2015 that the value of the subject property was \$466,660 as of January 1, 2015.

In the Notice of Appeal and Application for Hearing filed with the Commission, the Appellant contends that the County Board failed to consider important factors pertaining to the market value of the subject property that resulted in an assessment that substantially exceeded the true value of the property as of January 1, 2015. As such, the Appellant contended that the value of the subject property was \$105,364.

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 2015 general reappraisal. The County also contends based on its analysis of sales and comparably assessed property that the property has not been appraised in excess of the property's 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, and requests the Commission to affirm the County Board's value of \$466,660 as of January 1, 2015.

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 the Appellant carry his burden of producing competent, material and substantial evidence tending to show that:
 - (a) Iredell County employed an arbitrary or illegal method of appraisal in reaching the property tax value for Appellant's property as of January 1, 2015 and
 - (b) the County Board assigned a value that substantially exceeded the true value of the property for the year at issue?
2. If the above issues are answered in the affirmative, did Iredell County demonstrate that its appraisal methodology produced a true value for the 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?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 (2013).

FROM THE NOTICE OF APPEAL AND APPLICATION FOR HEARING FILED IN THIS MATTER, THE STIPULATIONS AND UNDISPUTED FACTS, 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.

2. The subject property is a vacant tract of land consisting of 19.88 acres that is located at 411 Morrison Farm Road and identified by the Iredell County Tax Department as Parcel Number 4629-77-9719.

3. Effective for the January 1, 2015 general reappraisal of all real property in the county, the County Tax Assessor assessed the subject property at a total value of \$647,310.⁵

4. Appellant challenged the County Tax Assessor's assessment of the subject property by filing an appeal with the County Board.

5. After conducting a hearing, the County Board notified the Appellant by notice mailed on May 22, 2015 that the value of subject property was \$466,660 as of January 1, 2015.

6. At the Commission hearing, Iredell County, through counsel, contended that the value of the subject property was \$466,660 as of January 1, 2015 as determined by the County Board by the notice mailed to the Appellant on May 22, 2015.

7. At the Commission hearing, the Appellant, through counsel, contended that the value of the subject property was \$105,364 as of January 1, 2015.

8. The Appellant's contention, through counsel, is not competent, material and substantial evidence tending to show that the true value of the subject property was \$105,364 as of January 1, 2015.

9. The contention of value of \$105,364 offered by Appellant's attorney at the hearing does not constitute the true value of the property when this value was not supported by any accepted appraisal method or particular appraisal practice or procedure, and when no qualified witness appeared at the hearing to offer an opinion of value as to the market value of the subject property as of January 1, 2015.

10. As such, Appellant failed to rebut the presumption of correctness of Iredell County's valuation of the subject property when Appellant did not produce competent, material and substantial evidence tending to show that the appraisal method employed by Iredell County was an arbitrary or illegal method; and that the value assigned to the subject property by Iredell County substantially exceeded the true value of the property.

⁵ Iredell County conducted its reappraisal pursuant to the provisions of N.C. Gen. Stat. § 105-286.

11. Iredell County, through counsel, properly moved for dismissal of Appellant's appeal at the close of Appellant's evidence when there was no competent, material or substantial evidence tending to show that the county used an arbitrary or illegal method of valuation; and that the assessment substantially exceeded the true value in money of the property.

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

1. The Commission has jurisdiction over the parties and the subject matter of this appeal and has the authority to correct any assessment of real property that is shown to be based upon an arbitrary or illegal method of valuation and that the valuation substantially exceeds the true value in money.

2. A county's ad valorem tax assessment is presumptively correct.⁶ 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.⁷

3. Appellant failed to rebut the presumption of correctness of the appraisal of the subject property by Iredell County when Appellant offered no competent, material and substantial evidence tending to show that Iredell County employed an arbitrary or illegal method of valuation and that the value assigned to the subject property by the County Board substantially exceeded the true value of the property.

4. Since the Appellant did not rebut the presumption of correctness of Iredell County's tax assessment of the subject property, then the burden did not shift to Iredell County to demonstrate that its method produced the true value for the subject property.

5. Accordingly, the Commission granted Iredell County's motion to dismiss Appellant's appeal at the close of Appellant's evidence when the Appellant failed to produce competent, material and substantial evidence to rebut the presumption of correctness of the county's appraisal.

WHEREFORE THE PROPERTY TAX COMMISSION ORDERS that the decision of the 2015 Iredell County Board of Equalization is affirmed; and that the County's Motion to Dismiss this appeal concerning the subject property is granted.

⁶ *In re Amp, Inc.*, 287 N.C. 547, 215 S.E. 752 (1975).

⁷ *Id.*

NORTH CAROLINA PROPERTY TAX COMMISSION



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

William W. Peastee, Chairman

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

Entered: July 18, 2016

Attest:

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

Janet L. Shires, General Counsel