

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
15 PTC 0140

IN THE MATTER OF:
APPEAL OF:

Ronald W. Follmann

FINAL DECISION

from the decision of the
Transylvania 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 Wednesday, October 14, 2015, pursuant to the appeal of **Ronald W. Follmann** (“Appellant”). Appellant is appealing the decision of the Transylvania County Board of Equalization and Review (“County Board”) not to reduce the assessment of his property for tax year 2015.

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

The Appellant appeared at the hearing pro se. Charles C. Meeker, Esquire, with the law firm of Parker, Poe, Adams & Bernstein, LLP represented Transylvania County at the hearing.

STATEMENT OF THE CASE

The property under appeal is located at 466 Meadow Ridge Drive, in the Lake Toxaway community, Transylvania County, North Carolina. The Transylvania County Tax Office identifies the subject property as Parcel Identification Number 8513-13-3700-000.

Effective January 1, 2009, Transylvania County conducted its most recent general reappraisal of real property located in the county. Effective January 1, 2015, the Transylvania County Tax Office (“Tax Office”) issued a notice increasing the assessment of the subject property to \$1,151,700 based on improvements made by the Appellant to the subject property. The Appellant challenged the Tax Office’s increase by filing an appeal with the County Board. After conducting a hearing, the County Board affirmed the \$1,151,700 valuation of the subject property by decision mailed on May 29, 2015 to the Appellant. From the County Board’s decision, the Appellant appealed to the Property Tax Commission.

In the Taxpayer's Application for Hearing, the Appellant contends that the subject property should be valued at \$925,500. The Appellant further contends that County Board failed to consider the declining market that occurred in 2008 that resulted in a decline in the property values in the County.

The County contends that the subject property was appraised in accordance with Transylvania County's duly adopted schedule of values for the 2009 general reappraisal. The County asserts that in its appraisal of the subject property as of January 1, 2015, which is a non-reappraisal year that the value of the subject property was changed to recognize a change in the property's value resulting from a physical change to the property as required by G.S. 105-287. As such, the County requests the Commission to affirm the valuation assigned to the subject property by the County Board.

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 Appellant carry his burden of producing competent, material and substantial evidence tending to show that:
 - (a) Transylvania 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 is substantially greater than the true value of the subject property as of January 1, 2015?
2. If the above issues are answered in the affirmative, did Transylvania 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?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).

3. The Commission also considered whether the Appellant produced competent, material and substantial evidence tending to show that the County did not have a duty to increase in the valuation of the subject property based on one or more of the reasons enumerated in N.C. Gen. Stat. §105-287(a).

FROM THE NOTICE OF APPEAL AND APPLICATION 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. The property under appeal is located at 466 Meadow Ridge Drive, in the Lake Toxaway community, Transylvania County, North Carolina. The Transylvania County Tax Office identifies the subject property as Parcel Identification Number 8513-13-3700-000.
3. Effective as of January 1, 2009, Transylvania County conducted its most recent general reappraisal of real property located in the county and assessed the subject property at a total value of \$1,275,190. By agreement of the parties, the value of the subject property was changed to \$1,025,190 for tax year 2009.
4. Effective as of January 1, 2015, the Transylvania County Tax Office (“Tax Office”) mailed a notice to the Appellant increasing the assessment of the subject property to \$1,151,700 to recognize a physical change to the property as required by G.S. 105-287.
5. The Appellant challenged the Tax Office’s increase by filing an appeal with the County Board. After conducting a hearing, the County Board affirmed the \$1,151,700 valuation of the subject property by decision mailed on May 29, 2015. Thereafter, the Appellant appealed the County Board’s decision to the Commission.
6. G.S. 105-287 provides that the County Assessor shall increase or decrease the appraised values of real property, as determined under G.S. 105-286, to recognize a change to the property’s value resulting from one or more of the following reasons:
 - (1) Correct a clerical or mathematical error.
 - (2) Correct an appraisal error resulting from a misapplication of the schedules, standards, and rules used in the county's most recent general reappraisal.
 - (2a) Recognize an increase or decrease in the value of the property resulting from a conservation or preservation agreement subject to Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act.
 - (2b) Recognize an increase or decrease in the value of the property resulting from a physical change to the land or to the improvements on the land, other than a change listed in subsection (b) of this section.

- (2c) Recognize an increase or decrease in the value of the property resulting from a change in the legally permitted use of the property.
 - (3) Recognize an increase or decrease in the value of the property resulting from a factor other than one listed in subsection (b).
- 7. The Transylvania County Tax Assessor increased the value of the subject property for tax year 2015 due to improvements made by the Appellant to the property.
- 8. As provided in G.S. 105-287, the County Tax Assessor is required to change the value of real property in non-reappraisal years to recognize a change in value of the property resulting from a physical change to the land or to the improvements on the land, other than a change listed in subsection (b) of this section.
- 9. In this appeal, the County Tax Assessor (“County Tax Assessor”) increased the value of the subject property to recognize a change in value of the property resulting from a physical change to the land or to the improvements on the land (i.e. “physical improvements”), other than a change listed in subsection (b) of this section.
- 10. At the hearing, the Appellant did not produce any competent, material and substantial evidence tending to show that the County Tax Assessor employed an arbitrary and/or illegal method of appraisal in reaching the value for his property as of January 1, 2015; and that value assigned to the subject property by the County Board substantially exceeded the true value of the property.
- 11. At the hearing, the Appellant did not produce any competent, material and substantial evidence tending to show that the County Tax Assessor shall not increase the appraised value of the real property due to a physical change to the land or to the improvements made to the property during tax year 2014.
- 12. Since a physical change to the property occurred during tax year 2014, G.S. 105-287 requires the County Tax Assessor to increase or decrease the appraised value, as determined under G.S. 105-286, to recognize a change to the property’s value resulting from one or more of the reasons provided in the statute.
- 13. The Taxpayer did not produce competent, material and substantial evidence tending to show that the county assessor employed an arbitrary or illegal method of appraisal in reaching the property tax value for the subject property as of January 1, 2015, and that the County Board assigned a value that is substantially greater than the true value of the subject property as of January 1, 2015. Further, the Taxpayer did not produce competent, material and substantial evidence tending to show that the County Tax Assessor’s increase to the value of the subject property was in error when the increase to value was necessary to recognize a change in the value of the subject property resulting from a physical change to the land or to the improvements on the land.

14. Transylvania County, through counsel, properly moved for dismissal of Appellant's appeal at the close of his 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. Additionally, the Appellant did not produce competent, material and substantial evidence tending to show that the county did not have an affirmative duty to reappraise his property in a non-appraisal year to recognize a change to the property's value resulting from one or more of the reasons enumerated in N.C. Gen. Stat. §105-287(a).

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.⁵ 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.⁶
2. Appellant did not present any competent, material and substantial evidence regarding any of these three issues.
3. As such, the appeal is subject to dismissal at the close of an appellant's evidence when appellant did not produce competent, material and substantial evidence tending to show that the county used an arbitrary or illegal method of valuation, or that the value assigned to the subject property by the County Board substantially exceeded the true value of the property effective as of January 1, 2015. For tax year 2015, the Appellant did not produce any competent, material and substantial evidence tending to show that the county did not have an affirmative duty to reappraise his property in a non-appraisal year to recognize a change to the property's value resulting from one or more of the reasons enumerated in N.C. Gen. Stat. §105-287(a).
4. Transylvania County, through counsel, properly moved for dismissal of Appellant's appeal at the close of his evidence when there was no competent, material or substantial evidence tending to show that the county used an arbitrary or illegal method of valuation; that the assessment substantially exceeded the true value in money of the property; and that the county assessor did not have an affirmative duty to reappraise the subject property, in a non-appraisal year, to recognize a change to the property's value resulting from one or more of the reasons enumerated in N.C. Gen. Stat. §105-287(a).

⁵ *In re Amp, Inc.*, 287 N.C. 547, 215 S.E. 752 (1975).

⁶ *Id.*

WHEREFORE, THE PROPERTY TAX COMMISSION THEREFORE ORDERS that the decision of the 2015 Transylvania County Board of Equalization and Review is affirmed; and Appellant's appeal is dismissed.



NORTH CAROLINA PROPERTY TAX COMMISSION

William W. Peaslee, Chairman

Vice Chairman Wheeler and Commission Members Smith, Morgan and Guess concur.

ENTERED: April 29, 2016

ATTEST:

Janet L. Shires, General Counsel