

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
15 PTC 0442

IN THE MATTER OF:
APPEAL OF:

Wolverine Estate Ltd. Family Trust XIV LLC

FINAL DECISION

from the decision of the Gaston
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 Thursday, June 23, 2016 pursuant to the appeal of **Wolverine Estate Ltd. Family Trust XIV LLC** (“Taxpayer” or “Appellant”). Appellant appealed to the Commission from the decision of the Gaston 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 and Commission Members David A. Smith, Jack C. (“Cal”) Morgan III and Alexander A. Guess participating.

Mr. Larry Shaheen appeared at the hearing on behalf of the Taxpayer. Samuel J. Shames, Assistant County Attorney, appeared at the hearing on behalf of Gaston County.

STATEMENT OF THE CASE

The property under appeal is lot 227 in Reflection Pointe Subdivision, Gaston County, North Carolina.

In its general reappraisal of real property, effective as of January 1, 2015 (“Valuation Date”), the Gaston County Board of Equalization and Review (“County Board”) assigned the subject property a value of \$162,990. From this decision, the Taxpayer appealed to the Property Tax Commission.

In the Application for Hearing, the Taxpayer contends that the County Board failed to consider comparable sales, and rendered an assessment exceeding market value of the subject property. Based on the Taxpayer’s Notice of Appeal and Application for Hearing, the Taxpayer offers an opinion of value of \$105,000 for the subject property as of the Valuation Date.

The County contends that the subject property was appraised in accordance with the County's duly adopted schedules, standards, and rules for the 2015 general reappraisal. The County contends, based on its analysis of comparable properties that the subject property has not been 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 property have been considered, and asks that the Commission affirm the value determined 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 tending 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 Taxpayer carry its burden of producing competent, material and substantial evidence tending to show that:
 - (a) Gaston County employed an arbitrary or illegal method of appraisal in reaching the property tax value for Taxpayer's property as of January 1, 2015, and
 - (b) the County Board assigned a value that substantially exceeded the true value of the subject property for the year at issue?
2. If so, did Gaston County demonstrate that its appraisal methodology produced true value for the subject property?
3. If not, what is the true value of the subject property as of the Valuation Date?

**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.

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).

2. The property under appeal is Lot 227 (“Subject Lot”) and is located in a cove, with a lake view in the gated waterfront subdivision known as Reflection Pointe Subdivision. The address for the Subject Lot is 6032 Headlands Court, Belmont, North Carolina. The amenities associated with the property include a clubhouse, pool, tennis courts, playground, walking trails, and lake access. The Gaston County Tax Office identifies the property under appeal as Parcel Identification Number 203975.

3. Effective for the general reappraisal, Gaston County (the “County”) reached a total assessed value of \$162,990 for the Subject Lot.

4. The appeal requires the determination of the fair market value of the Subject Lot as of the Valuation Date.

5. For tax year 2015, the Taxpayer appealed the County’s assessed value of \$162,990 for the Subject Lot to the County Board. After conducting a hearing on July 22, 2015, the County Board entered its decision on July 22, 2015, determining the value of the Subject Lot to be \$162,990 for tax year 2015.

6. At the hearing, the Taxpayer offered an opinion of value of \$100,000 for the Subject Lot as of January 1, 2015 based in part on sales of lots that occurred after the January 1, 2015 general reappraisal.

7. In North Carolina, all property, real and personal, is required to be valued or appraised at its true value in money, which is “market value.” [N.C. Gen. Stat. § 105-283]. Market value is defined in the statute as:

“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.” Id.

8. To determine the market value of the Subject Lot, it is imperative for an appraiser to consider all the appraisal valuation methods and to apply all applicable appraisal valuation methods that will show what a willing and financially able buyer will pay for the Subject Lot and what a willing seller would expect to receive from the buyer.

9. At the hearing, and based on further review, the County adjusted the value of the Subject Lot to \$152,803 by application of the schedules, standards, and rules adopted for the 2015 general reappraisal and by considering the factors that affect the property’s value such as topography, location and the water view of the Subject Lot.

10. At the hearing, Mr. Shaheen testified regarding his opinion of value of \$100,000 for the Subject Lot. Mr. Shaheen based his opinion in part on the sales of properties that occurred after the January 1, 2015 general countywide reappraisal.

11. Other than Mr. Shaheen's testimony, the Taxpayer did not present any other evidence to establish that the market value of the Subject Lot was \$100,000 as of the Valuation Date.

12. Further, the Taxpayer did not present competent, material, and substantial evidence tending to show that the County used an arbitrary or illegal method in reaching the property tax value for Taxpayer's property; and that the County's assessed value of \$152,803 for the Subject Lot substantially exceeded the true value of the Subject Lot as of the Valuation Date.

13. Gaston County, through counsel, moved for dismissal of Taxpayer's appeal at the close of Taxpayer's evidence because the Taxpayer did not produce competent, material, and 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.

14. The Commission granted Gaston County's motion to dismiss the Taxpayer's appeal and concluded that the value of the Subject Lot, as adjusted, was \$152,803 as of January 1, 2015.

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.⁴ 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.⁵

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

⁴ In re Amp, Inc., 287 N.C. 547, 215 S.E. 752 (1975).

⁵ Id.

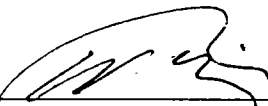
4. Since the Taxpayer did not rebut the presumption of correctness of Gaston County's tax assessment of the subject property, then the burden did not shift to Gaston County to demonstrate that its method produced the true value for the Subject Lot.

5. The Commission granted Gaston County's motion to dismiss Taxpayer's appeal at the close of Taxpayer's evidence when the Taxpayer did not present competent, material, and substantial evidence to rebut the presumption of correctness afforded to the county's *ad valorem* assessment of the subject appeal.⁷

WHEREFORE THE PROPERTY TAX COMMISSION ORDERS that Gaston County's Motion to Dismiss the subject appeal is granted; and that the value of the Subject Lot, as adjusted, was \$152,803 effective as of January 1, 2015.

NORTH CAROLINA PROPERTY TAX COMMISSION



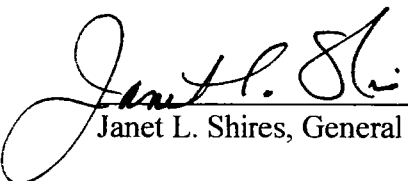


William W. Peaslee, Chairman

Vice Chairman Wheeler and Commission Member Smith concur.
Commission Members Morgan and Guess respectfully dissent.

Entered: October 27, 2016

Attest:



Janet L. Shires, General Counsel

⁷ *In re Amp, Inc.*, 287 N.C. 547, 215 S.E. 752 (1975).