

STATE OF NORTH CAROLINA BEFORE THE PROPERTY TAX COMMISSION  
SITTING AS THE STATE BOARD OF  
COUNTY OF WAKE EQUALIZATION AND REVIEW  
95 PTC 101  
96 PTC 121

IN THE MATTER OF:  
APPEAL OF BOBBY J. ALLRED,  
A. LEONARD ALLRED, et al. from the  
decisions of the Randolph County Board of  
Equalization and Review concerning property  
Taxation for tax years 1995 and 1996.

**FINAL DECISION**  
**on**  
**REMAND**

This matter initially came on for hearing before the North Carolina Property Tax Commission (hereinafter "Commission"), sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina, at its regularly scheduled Session of Hearings on Thursday, August 29, 1996, pursuant to the appeal of Bobby J. Allred, A. Leonard Allred, et. al. (hereinafter "Taxpayers") from the decisions of the Randolph County Board of Equalization and Review (hereinafter "County Board") concerning the valuation of certain real property for the tax years 1995 and 1996.

At the time of the above referenced hearing, Chairman Dan R. Murray presided with Vice Chairman Terry L. Wheeler and Commission members James R. Vosburgh, R. Bruce Cope and Samuel L. Erby, Jr. participating.

On October 15, 1996, the Commission entered a Final Decision determining, by a 4:1 vote, with then Vice Chairman Wheeler dissenting, that Randolph County did not arbitrarily assess Taxpayers' property for tax years 1993 and 1994; but Randolph County did use an illegal and arbitrary valuation method in conducting the 1995 and 1996 valuations. In November 1996, Randolph County filed notice of appeal and exceptions with the Commission regarding this decision that reduced the 1995 and 1996 ad valorem tax assessments of Taxpayers' property. In its notice of appeal and exceptions, Randolph County, through counsel, challenged the Commission's decision that reduced the ad valorem tax valuation of Taxpayers' property for tax years 1995 and 1996, to \$1,348,210.

On September 17, 1997, the North Carolina Court of Appeals heard oral arguments regarding Randolph County's appeal of the Commission's decision. On February 17, 1998, the Court of Appeals issued an Opinion finding no error in the Commission's decision and affirming the valuation of the Taxpayers' property for tax years 1995 and 1996 at \$1,348,210. On February 27, 1998, pursuant to G.S. 7A-31, Randolph County, through counsel, filed a petition for discretionary review with the Supreme Court of North Carolina. In its petition, Randolph County requested the Supreme Court to certify for discretionary review the judgment of the North Carolina Court of Appeals holding that, one: unlike a county assessor, or county board of equalization and review, the North

Carolina Property Tax Commission is not restricted by G.S. 105-287 with respect to adjusting a tax assessment in a year in which no general reappraisal or horizontal adjustment was made, and two: the Commission, unlike a county assessor or county board of equalization and review, can consider a sale made between general reappraisals to evaluate the correctness of a county's assessment method, and three: that the county employed an arbitrary and illegal valuation method with regard to the 1995 and 1996 assessments. In its petition, Randolph County established that the subject matter of the appeal has significant public interest, involves legal principles of major significance to the jurisprudence of the State, and delay in final adjudication is likely to result from failure to certify for discretionary review and thereby cause substantial harm.

On October 28, 1999, the Clerk to the Supreme Court of North Carolina issued the opinion of the Honorable I. Beverly Lake, Jr., Associate Justice to the North Carolina Supreme Court. Writing for the Court, Justice Lake reversed the Court of Appeals' opinion and remanded the matter to the Court of Appeals with further remand to the Property Tax Commission for a redetermination of this case in a manner consistent with this Court's opinion. The Supreme Court ruled in its opinion that the Commission, while sitting in its appellate capacity as the State Board of Equalization and Review pursuant to G.S. 105-290(a), is subject to the same statutory limitations as a county assessor in adjusting appraised values of real property for ad valorem tax purposes. As to the second issue raised, the Court ruled that a post-reappraisal valuation sale is not a statutorily permissive basis for adjusting a property's tax valuation.

The current Commission consisting of Chairman Terry L. Wheeler, Vice Chair Juleigh Sitton, Commission members R. Bruce Cope, Linda M. Absher and Wade F. Wilmoth, having read the Supreme Court's decision, reviewed the record and heard arguments of counsel, renders the following Decision:

#### **STATEMENT OF CASE**

Effective January 1, 1993, following Randolph County's octennial general reappraisal, the county tax office assessed the subject property for ad valorem tax purposes at a total value of \$1,825,790. This value was also assigned to the subject property effective January 1, 1994 and neither assessment was appealed. Effective January 1, 1995, the county assessor increased the assessment of the subject property to \$1,838,840. The increase in the assessed value was based on a new addition to the building and a clerical error omitting a portion of the acreage. This total value of \$1,838,840 was assigned to the subject property, effective January 1, 1996 as well.

The Taxpayer appealed the 1995 and 1996 assessments of the subject property by the county assessor to the County Boards of Equalization and Review, and the County Boards denied both appeals pursuant to G.S. 105-287. Specifically, the County Boards found that the 1995 and 1996 appraisals were not confounded by any clerical or mathematical errors or misapplication of the county's duly adopted 1993 schedules of values, standards or rules. Taxpayers then filed a timely appeal with the North Carolina Property Tax Commission contesting the County Boards' decisions for tax years 1995 and 1996 pursuant to G.S. 105-290.

### **STATEMENT OF FACTS**

On November 11, 1993, the Taxpayers purchased an industrial building and tract of land located in Randolph County, North Carolina, from Gai-Tronics Corporation for \$1,200,000.00. Gai-Tronics had purchased the property in December of 1992 from a competitor, Gulton Industries, for \$1,777,000.00 and subsequently listed the subject property for sale at a list price of \$1.9 million. For tax purposes, the property in question is divided into two parcels, and only one parcel, Parcel No. 67898-29-9947, was the subject of the initial appeal. The parties stipulated, at the initial hearing, that the true value in money of the other parcel as of January 1, 1995 and January 1, 1996 was \$101,790.00.

The Taxpayers, through counsel, contend that their purchase of the subject property for \$1.2 million was an arm's length transaction and this sale established the fair market value of the subject property. The Taxpayers further contend that the December 1992 purchase of the property, by and between Gai-Tronics and Gulton Industries, for a purchase price of \$1,777,000, as indicated by the revenue stamps affixed to the recorded deed, included the sale of inventory, patents and goodwill, and the allocation of the total purchase price among real estate, personal property, and intangible property. Consequently, the Taxpayers contend that the December 1992 sale was heavily influenced by income tax considerations and tainted by the inclusion of items that were not a part of the real property.

Randolph County, through counsel, contends that the county assessor's reappraisal of the subject property for tax years 1995 and 1996 was proper and mandated by statute. In fact, G.S. 105-287 directs a county assessor to reappraise property, in a non-reappraisal year, when there is a change to the property, such as a new addition to the building, and to correct a clerical error, such as an omission of a portion of the acreage. In furtherance of its contention, Randolph County asserts that the value assigned by the County Boards conforms to the duly adopted schedules of values, standards, and rules, effective for the 1993 general reappraisal, and requested the Commission to confirm the value of \$1,838,840 assigned to the subject property for tax years 1995 and 1996.

## ISSUES

The North Carolina Supreme Court has established guidelines for property tax appraisal appeals in the matter of In re Appeal of Amp, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975). The issues presented to the Commission were:

1. Did Randolph County employ an arbitrary or illegal method of appraisal in arriving at the value assigned by the County Boards to Taxpayers' property as of January 1, 1995 and January 1, 1996?

2. Did the value assigned by the County Boards to Taxpayers' property substantially exceed the true value in money of the property as of January 1, 1995 and January 1, 1996?

3. If these two issues are answered in the affirmative, what was the true value in money of the subject property as of January 1, 1995 and January 1, 1996?

Under the guidelines of AMP, supra, the Taxpayer has the burden of establishing:

1. The County employed an arbitrary or illegal method of appraisal; and

2. The value assigned by the County Board was **substantially** greater than the true value in money of the property as of January 1 for the year at issue.

**THE COMMISSION, HAVING READ THE NORTH CAROLINA SUPREME COURT'S DECISION, REVIEWED THE RECORD AND HEARD ARGUMENTS OF COUNSEL, MAKES THE FOLLOWING FINDINGS OF FACT:**

1. The Commission has jurisdiction over the parties and subject matter of this appeal.

2. The property subject to this appeal is the Taxpayers' industrial building and lot located in Randolph County, North Carolina. In December of 1992, Gai-Tronics Corporation purchased the subject property from a competitor, Gulton Industries, Inc. for \$1,775,000 and subsequently listed the subject property for sale at a purchase price of \$1.9 million.

3. Effective January 1, 1993, the County conducted a general reappraisal of all real property situated within its jurisdiction and applied the schedules of values, rules and standards adopted by the county board of commissioners for that general reappraisal.

4. Based upon the County's general reappraisal, the county assessor appraised the subject property at a total value of \$1,825,790, effective January 1, 1993.

5. On November 10, 1993, Taxpayers purchased the subject property from Gai-Tronics for \$1.2 million. This sale is not considered an arm's length transaction to determine the true value in money of the subject property when the sale occurred after the January 1, 1993 effective date of the County's general reappraisal.

6. Effective January 1, 1994, the county assessor appraised the subject property at a total value of \$1,825,790, and no appeal was made by the Taxpayers to challenge the appraised value.

7. Effective January 1, 1995, the county assessor increased the appraised value of the subject property to \$1,838,840. This increase was made to recognize an addition to the square footage of the building and to correct a clerical error made in the calculation of the acreage as part of the 1993 general reappraisal.

8. On appeal to the Commission, the Taxpayers introduced no evidence challenging the accuracy or legality of the schedule of values, standards and rules published and adopted pursuant to G.S. 105-317 and used by the County in its octennial reappraisal. The Taxpayers introduced no evidence of "misapplication of the schedules, standards, and rules used in the county's most recent general reappraisal or horizontal adjustment." G.S. 10-287(a)(2).

9. The County's witness testified that he reviewed the County's valuation using the schedules of values, rules and standards adopted for the 1993 general reappraisal, and in his opinion, the value was accurate and calculated consistently with other similar properties in Randolph County.

10. The County's appraisal of the subject property did not substantially exceed the true value in money of Taxpayers' property as of January 1, 1995 and January 1, 1996.

11. The County properly appraised the subject property, for tax year 1995 and 1996, in accordance with its duly adopted schedule of values, rules and standards, effective as of January 1, 1993.

12. The true value in money of the subject property, as assessed by the county assessor, for tax years 1995 and 1996 was \$1,838,840.

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

1. Subchapter II of Chapter 105 of our General Statutes, the "Machinery Act", provides the statutory parameters for the listing and appraisal of property and the assessment and collection of property taxes by counties and municipalities.

2. Throughout the "Machinery Act" there are procedures for the timing and calculation of property valuations, which help to ensure equalization in property tax assessments. Examples include sections such as G.S. 105-284 (establishing uniform assessment standards), G.S. 105-286 (establishing scheduled octennial valuations and horizontal valuations based on uniform geographic or category adjustments), G.S. 105-287 (limiting valuation adjustments between general reappraisals) and G.S. 105-317 (requiring uniform schedules of values, standards and rules be applied countywide). The rules outlined in these sections are designed to promote equity between owners of similar properties, limit discretionary valuation and ensure reliability of the ad valorem tax process which allows taxpayers and counties to plan and budget accordingly.

3. The "Machinery Act" also provides taxpayers with numerous opportunities to be heard and to have property valuations reviewed throughout the appraisal and assessment process. G.S. 105-317 requires notice of public hearings regarding proposed schedules of values, standards and rules to be used in appraising real property. G.S. 105-322 requires that taxpayers have an opportunity to be heard at meetings held by county boards to discuss the listing and appraisal of property. Taxpayers may also appeal county board decisions regarding proposed schedules, standards and rules to the Commission under G.S. 105-317 and appeal decisions concerning the listing, appraisal or assessment of property to the Commission under G.S. 105-290.

4. The Commission's duty to hear and adjudicate appeals applies to "property that has been fraudulently or improperly assessed through error or otherwise" and requires the Commission "to investigate the same, and if error, inequality, or fraud is found to exist, to take such proceedings and to make such orders as to correct the same." King v. Baldwin, 276 N.C. 316, 323, 172 S.E.2d 12, 17 (1970).

5. This Commission sits as an appellate body with authority to examine witnesses and documents, conduct investigations, hear and consider evidence, make findings of fact and reach conclusions of law. See G.S. 105-290(b), (d) (1999). This Commission is then empowered by statute to enter orders (incorporating the findings and conclusions) reducing, increasing, or confirming the valuation or valuations appealed. See G.S. 105-290(b)(3). Thus, this Commission has "general supervisory power over the valuation and taxation of property throughout the State and authority to correct improper assessments." In re King, 281 N.C. 533, 540, 189 S.E.2d 158, 162 (1972) (citing G.S. 105-275).

6. As evidenced by the above statutory and substantive references, this Commission has the authority to adjust property valuations appropriately raised on appeal and the Commission's authority to adjust property valuations is limited, as the county assessor's is, by G.S. 105-286 and G.S. 105-287 of the Machinery Act. In re Allred, 351 N.C. 1, 519 S.E.2d 52, 55 (1999).

7. The administrative authority to establish and adjust property valuations in order to attain and maintain equalization throughout a county is outlined in G.S. 105-286 and G.S. 105-287. G.S. 105-286 requires each county, at least every eighth year, to reappraise and assess, as of January first, all real property, at its "true value" in money, for ad valorem tax purposes. The "true value," as defined by G.S. 105-283, 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. (G.S. 105-283).

8. In determining true value of property, it is the duty of the county assessor to see that the "[u]niform schedules of values, standards, and rules to be used in appraising real property at its true value and at its present-use value are prepared and are sufficiently detailed to enable those making appraisals to adhere to them in appraising real property." (G.S.105-317 (b)(1).)

9. In years in which a general reappraisal or horizontal adjustment is not made, adjustments to appraised values are made in accordance with G.S. 105-287. Statutorily permissible adjustments can be made to:

- (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 or horizontal adjustment; or
- (3) Recognize an increase or decrease in the value of the property resulting from a factor other than one listed in subsection (b). G.S. 105-287(a) (1995) (amended 1997).

Increases or decreases in value which specifically cannot be recognized in years in which there is not a general reappraisal or horizontal adjustment of real property are:

- (1) Normal, physical depreciation of improvements;
- (2) Inflation, deflation, or other economic changes affecting the county in general; or
- (3) Betterments to the property made by. . . . (G.S. 105-287(b).)

10. The application of the restrictions imposed by G.S. 105-287 serves to maintain horizontal equity between owners of similar property despite economic changes, which may occur in the period between the reappraisals required by G.S. 105-286. If an increase or decrease in the appraised value of real property is provided for under G.S. 105-287, it "shall be made in accordance with the schedules, standards, and rules used in the county's most recent general reappraisal or horizontal adjustment." See G.S. 105-287(c).

11. The importance of G.S. 105-286 and 105-287, as the cornerstones within which property valuations can be established and adjusted, is evidenced by the following specific statutory admonitions that valuations may not be adjusted on a case-by-case basis unless a change is permissible under those sections: "In years in which real property within a county is not subject to appraisal or reappraisal under [G.S. 105-286] (a) or (b), . . . or under G.S. 105-287, it shall be listed at the value assigned when last appraised under [G.S. 105-286] or under G.S. 105-287." G.S. 105-286(c) (emphasis added). In re Allred, 351 N.C. 1, 519 S.E.2d 52, 55 (1999).

12. A county board of equalization and review has the authority to "[i]ncrease or reduce the appraised value of any property that, in the board's opinion, shall have been listed and appraised at a figure that is below or above the [true value] . . . ; however, the board shall not change the appraised value of any real property from that at which it was appraised for the preceding year except in accordance with the terms of G.S. 105-286 and 105-287." See G.S. § 105-322(g)(1)(c) (1999) (emphasis added). Likewise, the statute granting the authority of a board of county commissioners (county commissioners) to adjust abstracts and tax records provides that "[n]o appraisal or reappraisal shall be made . . . unless it could have been made by the board of equalization and review had the same facts been brought to the attention of that board [in accordance with G.S. 105-286 and 105-287]." G.S. 105-325(a)(6)(b). (emphasis added). In re Allred, 351 N.C. 1, 519 S.E.2d 52, 55, 56 (1999).

13. As to a G.S. 105-290 appeal, there is no language in the "Machinery Act" granting or conferring original jurisdiction upon the Commission to make adjustments to appraisals or assessments of a taxpayer's property in a manner which would circumvent the statutory procedural process at the county level or exceed the strict statutory authority granted to county assessors, county boards and county commissioners. To construe the statutory authority of the Commission, when it sits in an appellate capacity as a board of review, as extending beyond that of the administrative authorities below it would invalidate the integrity of the local system of appraisal and appeals and undermine the efficiency and equalization goals of the "Machinery Act." Hence, this Commission's authority to issue an order reducing, increasing or confirming the valuation or valuations appealed is subject to the same statutory parameters as assessors, county boards and county commissioners. In re Allred, 351 N.C. 1, 519 S.E.2d 52, 56 (1999).



14. The administrative authority to establish and adjust property valuations is fundamentally outlined in the previously cited and summarized sections of 105-286 and 105-287. In establishing octennial valuations or horizontal adjustments within a county, the county assessor is required to see that "[u]niform schedules of values, standards, and rules to be used in appraising real property at its true value . . . are prepared and are sufficiently detailed to enable those making appraisals to adhere to them in appraising real property." See G.S. 105- 317(b)(1). Additionally, any permissible increase or decrease in the appraised value of real property provided for under G.S. 105-287 "shall be made in accordance with the schedules, standards, and rules used in the county's most recent general reappraisal or horizontal adjustment." N.C.G.S. § 105-287(c) (emphasis added).

15. Applying these statutory mandates, this Commission shall not rely upon an independent appraiser's collateral determination of the Taxpayers' property value, without challenge or correlation to the County's schedules, standards, and rules or the application of those schedules to the property. The Commission's reliance would be in violation of the statutory requirement of G.S. 105-287 that any permissible increase or decrease in the appraised value of real property be calculated using the schedules and standards established by the County. In re Allred, 351 N.C. 1, 519 S.E.2d 52, 57 (1999).

16. The commercial and industrial appraiser for Randolph County, Marcus Frick, testified that the value of Taxpayers' 1995 appraisal was based on the correct application of the appraisal standards adopted by the Randolph County Commissioners, pursuant to G.S. 105-317, for the 1993 reappraisal. He also testified that Taxpayers' property was valued in the same manner as other similar properties in Randolph County and that it was not the County's practice to increase or decrease the County's valuation of a Taxpayers' property based on subsequent sales. Mr. Frick's testimony was further supported by the schedules generated by the County's "Computer Assisted Land Pricing Table" (CALP Table). These were submitted during the hearing as "Exhibit F" and substantiated the County's valuation of Taxpayers' property with detailed calculations applying factors for components such as construction type, fire resistance, type of space utilization, heating and air conditioning, sprinkler systems, and age of the building.

17. The Taxpayers failed to show by competent, material and substantial evidence that the County employed an arbitrary or illegal method of appraisal as to the subject property for tax years 1995 and 1996.

18. The Taxpayer did not produce competent, material and substantial evidence that the county used an arbitrary or illegal method of valuation, and that the assessment of the subject property substantially exceeded its true value in money as of January 1, 1995 and January 1, 1996. In fact, the Taxpayers failed to present any evidence challenging the accuracy or legality of the schedules, standards and rules published and adopted pursuant to

G.S. 105-317 and used by the County in the 1993 general reappraisal. The Taxpayers failed to present any evidence of "misapplication of the schedules, standards, and rules used in the county's most recent general reappraisal or horizontal adjustment." See G.S. 105-287(a)(2).

19. The Taxpayers failed to present any evidence to show how the 1992 sale between Gulton and Gai-Tronics impacted the property's 1993 reappraisal. Specifically, Taxpayers have not taken the position that either the unchallenged 1993 and 1994 valuations or the 1995 and 1996 amended valuations resulted from any failure by the Randolph County or its appraiser to provide for a method by which each of the valuation factors designated in G.S. 105-317(a)(1) and (2) could be considered and applied through use of the uniform schedules of values, standards and rules, or that such valuations resulted from any failure to properly apply such schedules so constituted to the subject property.

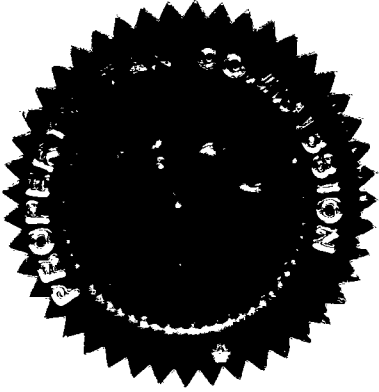
20. Randolph County is mandated by statute to use its adopted schedules of values in making any adjustments to the valuation of Taxpayers' property, which were statutorily permissible under G.S. 105-287.

21. This Commission, while sitting in its appellate capacity as the State Board of Equalization and Review pursuant to G.S. 105-290(a), is subject to the same statutory limitations as a county assessor in adjusting appraised values of real property for ad valorem tax purposes. In re Allred, 351 N.C. 1, 519 S.E.2d 52, 58 (1999).

22. Since the Commission, while sitting in its appellate capacity as the State Board of Equalization and Review pursuant to G.S. 105-290(a), is subject to the same statutory limitations as a county assessor, specifically, G.S. 105-287, a post-reappraisal sale is not a statutorily permissive basis for adjusting a property's tax valuation. In re Allred, 351 N.C. 1, 519 S.E.2d 52, 59 (1999).

23. Pursuant to G.S. 105-290(3), the valuation assigned to the Taxpayers' property by the 1995 and 1996 Randolph County Boards of Equalization and Review should be confirmed in every respect.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW THE COMMISSION NOW, THEREFORE, ORDERS, ADJUDGES AND DECREES that the valuation of \$1,838,840.00 assigned by the Randolph County Boards of Equalization and Review in the decisions concerning the subject property for tax years 1995 and 1996 are hereby **CONFIRMED**.



NORTH CAROLINA PROPERTY TAX COMMISSION

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

Terry L. Wheeler, Chairman

Vice Chair Sitton and Commission members Cope, Absher and Wilmoth concur.

Entered: April 18, 2000

ATTEST:

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

Janet L. Shires, Secretary