

STATE OF NORTH CAROLINA BEFORE THE PROPERTY TAX COMMISSION
COUNTY OF WAKE SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
94 PTC 598

IN THE MATTER OF:
APPEAL OF CHARLES D. OWENS, JR.
and JOHN F. PADGETT d/b/a FOREST
CITY ASSOCIATES from the decision
of the Rutherford County Board of
Equalization and Review concerning
property taxation for 1994.

FINAL DECISION

This matter 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 on Friday, September 26, 1997, pursuant to the appeal of Charles D. Owens, Jr. and John F. Padgett d/b/a Forest City Associates, (hereinafter "Taxpayer") from the decision of the Rutherford County Board of Equalization and Review (hereinafter "County Board") concerning real property taxation for 1994.

Chairman Terry L. Wheeler presided over the hearing with Vice Chair Juleigh Sitton and Commission members R. Bruce Cope, William F. Absher and John M. Tyson participating.

Taxpayer was represented at the hearing by J. Thomas Davis, attorney at law; Rutherford County was represented at the hearing by Laura Bridges, attorney at law.

ISSUES

In the Order of Final Pre-Hearing Conference, the parties did not agree as to the issues to be decided by the Commission. 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 Rutherford County (hereinafter "County") employ an arbitrary or illegal method of appraisal in reaching the assessed values that the County Board assigned to the Taxpayer's property for the year at issue?

2. Did the County Board assign a value to Taxpayer's property that substantially exceeded its true value in money as of January 1 for the year at issue?

3. If the first two issues are answered in the affirmative, what was the true value in money of the subject property as of January 1 for the year at issue?

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

1. That the County employed an arbitrary or illegal method of appraisal, and
2. That 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.

FROM THE APPLICATION FILED IN THIS MATTER, EVIDENCE PRESENTED AND ARGUMENTS OF COUNSEL, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

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

2. Taxpayer's property consists of thirteen parcels located in Forest City, Rutherford County, North Carolina. The thirteen parcels are categorized as either vacant or improved; commercial, industrial or residential. Prior to presenting evidence, the parties informed the Commission that a settlement had been reached regarding the following parcels:

Parcel Number

217-4-9

217-4-8

248-1-49

245-1-48

3. In 1994, the County conducted a reappraisal of all real property situated within its jurisdiction and attempted to apply the schedule of values, rules and standards adopted by the County Board for the general reappraisal.

4. Based upon the reappraisal, the County Board assigned the following values to Taxpayer's properties:

Parcel Number	Property Type	County Value
245-1-1-H	Industrial Warehouse	580,700.00
245-1-55	Industrial Warehouse	254,700.00
245-1-68	Industrial Warehouse	272,300.00
245-1-69	Industrial Warehouse	156,200.00
245-1-71	Industrial Warehouse	166,200.00
245-1-71A	Industrial Warehouse	201,900.00
245-1-1F	Industrial Warehouse	296,600.00
245-1-1E	Industrial Warehouse	614,000.00
245-1-2C	Industrial Warehouse	231,500.00

5. The County's appraisal of Taxpayer's properties substantially exceeded the true value in money of the properties as of January 1, 1994.

6. Of the three appraisal methods recognized by the Commission, cost approach, comparable sales approach, and income approach, the Commission finds that no probative evidence was offered regarding the comparable sales and cost approaches. Even though the Commission considered all three of the appraisal methods, the Commission relied on the income approach to determine the values of the subject properties.

7. Under the income approach method, the value of property is determined by dividing the net income by an appropriate capitalization rate. The Taxpayer presented evidence showing the monthly rental income regarding each of the subject properties. (See Taxpayer Exhibit 1). After accepting the Taxpayer's income as market income and adjusting the annual gross income of the properties for expenses and vacancy, the resulting net income was capitalized into an indication of market value for each of the subject properties. The true value in money of subject properties as of January 1, 1994 is designated as follows :

Parcel Number	Property Type	Value
245-1-1H	Industrial Warehouse	\$450,000.00
245-1-1E	Industrial Warehouse	\$421,867.00
245-1-2C	Industrial Warehouse	\$187,560.00
245-1-68	Industrial Warehouse	\$187,560.00
245-1-71A	Industrial Warehouse	\$187,560.00

245-1-55	Industrial Warehouse	\$215,000.00
245-1-69	Industrial Warehouse	\$125,000.00
245-1-71	Industrial Warehouse	\$125,000.00
245-1-1F	Industrial Warehouse	\$225,000.00

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

1. There is competent, material and substantial evidence in the record to show that the County used an arbitrary or illegal method of appraisal as to the subject properties and that the County Board assigned values that substantially exceeded the true value in money of the subject properties.

2. The Commission has the authority and duty to adjust the values of the subject properties to reflect the true value in money as of January 1, 1994.

3. Based upon the findings of fact as included herein, the Commission concludes as a matter of law that the County failed to appraise the subject properties at the true value in money, and the true value in money of the subject properties as of January 1, 1994 were the values listed in Finding of Fact Number 7 above and incorporated by reference herein.

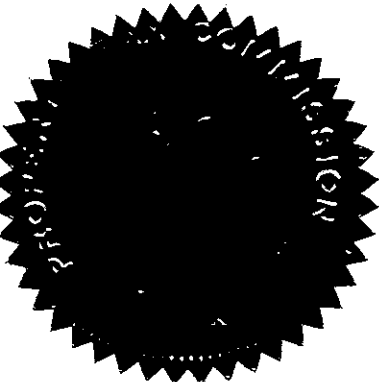
THE COMMISSION NOW, THEREFORE, ORDERS, ADJUDGES AND DECREES the decision of the Rutherford County Board of Equalization for the subject properties be and is hereby **Modified**, and the County shall revise its tax records as may be necessary to reflect the Findings of Fact and Conclusions of Law of this Commission, assigning the following values as of January 1, 1994, to the subject properties:

Parcel Number	Value
245-1-1H	\$450,000.00
245-1-1E	\$421,867.00
245-1-2C	\$187,560.00
245-1-68	\$187,560.00
245-1-71A	\$187,560.00
245-1-55	\$215,000.00
245-1-69	\$125,000.00
245-1-71	\$125,000.00
245-1-1F	\$225,000.00

It is further Ordered that each party's exhibits received into evidence may be released, upon request, to his/her/its counsel 30 days following the final resolution of this appeal.

It is further Ordered that if a party does not request return of his/her/its exhibits within 50 days after this decision has become a final resolution of this matter, then the Commission staff may dispose of the party's exhibits.

NORTH CAROLINA PROPERTY TAX COMMISSION



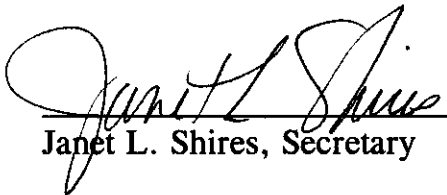


Terry L. Wheeler, Chairman

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

ENTERED: November 14, 1997

ATTEST:



Janet L. Shires, Secretary