

Taxpayer challenged the taxation of the subject properties by filing an appeal with the 2007 Pender County Board of Equalization and Review ("County Board"). After conducting a hearing, the County Board affirmed the taxation and valuations of the subject properties. Thereafter, the Taxpayer filed a timely appeal with the Commission and requested a hearing as provided in N.C. Gen. Stat. § 105-290.

In the Application for Hearing, Taxpayer contends that Pender County does not have jurisdiction to tax the subject properties, and that the parcels have zero values. In particular, the Taxpayer states, "All parcels are non-jurisdictional and not subject to tax. Owner has not consented to tax and is not involved in business, trade, industry, or commerce."

Pender County contends that the subject properties were appraised in accordance with Pender County's duly adopted schedule of values, standards, and rules for the 2003 general reappraisal. Pender County further contends, based on its analysis of comparably assessed properties, that the subject properties were not appraised in excess of the properties' market values. Pender County asserts that in its appraisal of the subject properties it considered all factors affecting the values of the properties. Accordingly, the County requests that the values determined by the County Board be affirmed.

ISSUES

In the Order on Final Pre-Hearing Conference, the parties did not agree on the precise phrasing of the issue to be determined by the Commission. In the matter of *In Re Amp, Inc.*, 287 NC 547, 215 S.E.2d 752 (1975), the North Carolina Supreme Court has established guidelines for property tax appeals. The issues presented were:

1. Did Pender County (hereinafter "County") employ an arbitrary or illegal method of appraisal in reaching the assessed values that the County Board assigned to Taxpayer's properties?

2. Did the County Board assign values to the Taxpayer's properties that **substantially** exceeded the true values in money of the properties as of January 1 for the year at issue?

3. If issues 1 and 2 are answered in the affirmative, what were the true values in money of the properties as of January 1 for the year at issue?

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 values assigned by the County Board were **substantially** greater than the true values in money of the properties as of January 1 for the year at issue.

FROM THE APPLICATION FILED IN THIS MATTER, ANY STIPULATIONS AND EVIDENCE PRESENTED, THE NORTH CAROLINA PROPERTY TAX COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

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

2. The properties under appeal are nine (9) tracts located at the intersection of Hoover & Godfrey Creek Roads, in Hampstead, Pender County, North Carolina. The subject tracts are identified and assessed by Pender County as follows:

<u>Parcel Identification Numbers</u>	<u>Assessed Values</u>
2267-40-4037	\$ 25,220
2267-40-4037	\$ 5,971
2267-40-4037	\$450,048
2267-30-3824	\$ 70,061
2267-50-0767	\$ 21,401
2267-31-3283	\$ 9,785
3274-54-7478	\$ 61,965
3283-87-9454	\$ 8,977
3283-87-8121	\$ 9,490

3. At the hearing, Taxpayer challenged Pender County's taxation of the subject properties by stating that he obtained ownership of the parcels by a bill of sale, which deemed that he had purchased the properties as a private transfer of private property. The Taxpayer further testified that since he was the owner of private property in North Carolina, Pender County lacked jurisdiction to tax his property without his consent.

4. During the hearing, Taxpayer did not challenge Pender County's valuations of the subject properties.

5. After considering Pender County's motion to dismiss Taxpayer's appeal at the close of his evidence, the Commission determined that there was no evidence presented by the Taxpayer to show that Pender County failed to uniformly assess the subject properties in accordance with the schedule of values, standards and rules that were adopted for the 2003 general reappraisal.

6. The Commission further determined that there was no evidence to show that Pender County used an improper method to arrive at the assessed values for the subject properties, and that the assessed values of the subject parcels substantially exceeded the market values of the properties.

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

1. The North Carolina Supreme Court in the matter of *In Re Amp*, 287 N.C. 547, 562, 215 S.E.2d 752, 761 (1975) held that it is a “sound and fundamental principle of law in this State that *ad valorem* assessments are presumed to be correct.” As a result of this presumption, when such assessments are attacked or challenged, the burden of proof is on the taxpayer to show that the assessment was erroneous.” *Id.*, N.C. at 562, S.E.2d at 762.

2. In challenging Pender County’s assessments of the subject properties, the Taxpayer must establish that Pender County used (1) an arbitrary or illegal method of valuation; and (2) that the assessments substantially exceeded the true values in money of the subject properties.

3. Pender County, through counsel, properly moved for dismissal of Taxpayer’s appeal at the close of his evidence since the Taxpayer failed to show that the assessments were erroneous.

4. If the Taxpayer’s argument involves a constitutional challenge of the taxation of his properties, then the Commission acknowledges that the Courts have established that a quasi-judicial administrative board is not empowered to rule upon a constitutional challenge to a statute. Accordingly, the Commission has no statutory authority to rule on a taxpayer’s constitutional challenge to a statute that authorizes taxation and valuation of property in North Carolina. *Great Am. Ins. Co. v. Gold*, 254 N.C. 168, 118 S.E.2d 792 (1961).

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE NORTH CAROLINA PROPERTY TAX COMMISSION THEREFORE, ORDERS, AND DECREES that the decision of the 2007 Pender County Board of Equalization and Review assigning a value of \$25,220 to Parcel Identification Number 2266-29-3983, a value of \$5,971 to Parcel Identification Number 2267-20-0204, a value of \$450,048 to Parcel Identification Number 2267-40-4037, a value of \$70,061 to Parcel Identification Number 2267-30-3824, a value of \$21,401 to Parcel Number 2267-50-0767, a value of \$9,785 to Parcel Identification Number 2267-31-3283, a value of \$61,965 to Parcel Identification Number 3274-54-7478, a value of \$8,977 to Parcel Identification Number 3283-87-9454, and a value of \$9,490 to Parcel Identification Number 3283-87-8121 is Affirmed, and the Taxpayer’s appeal is Dismissed.



NORTH CAROLINA PROPERTY TAX COMMISSION

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Terry L. Wheeler, Chairman

Vice Chairman Anthony L. Young and Commissioners R. Bruce Cope, Wade F. Wilmoth, and Juleigh Sitton concur.

Entered: February 25, 2008

ATTEST:

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Janet L. Shires, General Counsel