

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION  
SITTING AS THE STATE BOARD OF  
EQUALIZATION AND REVIEW  
10 PTC 954

IN THE MATTER OF:  
APPEAL OF: **Joshua McLamb**  
from the Order of the Sampson  
County Board of Commissioners  
adopting the schedule of values,  
standards and rules for the 2011  
general reappraisal.

**FINAL DECISION**

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This Matter was heard before the Property Tax Commission ("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, January 27, 2011 pursuant to the appeal of **Joshua McLamb** ("Appellant"). In this matter, Appellant challenges the Order of the Sampson County Board of Commissioners adopting the schedule of values, standards and rules for the 2011 general reappraisal.

Chairman Terry L. Wheeler presided over the hearing with Vice Chairman Aaron W. Plyler and Commission members Wade F. Wilmoth, Georgette Dixon and Paul Pittman participating.

E. D. Gaskins, Jr., Esquire and Louis E. Wooten, III, appeared as counsel for the Appellant at the hearing. Ms. Annette Chancy, Esquire, appeared as counsel for Sampson County at the hearing.

**STATEMENT OF CASE**

The Appellant, Joshua McLamb, a property owner in Sampson County, North Carolina challenges the Order of the Sampson County Board of Commissioners ("Commissioners") adopting the schedule of values, standards, and rules for the 2011 general reappraisal. In particular, the Appellant challenges the present-use value section of the 2011 schedule of values that relates to the present-use value of land in Sampson County that is categorized into two Major Land Resource Areas (MLRA), 133A-Upper Coastal Plain and 153A-Lower Coastal Plain.

**ISSUE**

In the Order on Final Pre-Hearing Conference, the parties did not agree on the issue for the Commission to consider at the hearing. The Commission considered the following issue:

Whether the schedule of values, standards, and rules adopted by Order of the Sampson County Board of Commissioners to be effective as of January 1, 2011 meets the present-use value appraisal standards provided in N.C. Gen. Stat. §§ 105-277.2-277.7 and 105-317.

**FROM THE NOTICE OF APPEAL FILED IN THIS MATTER, ANY STIPULATIONS AND EVIDENCE PRESENTED, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:**

1. On October 4, 2010, at a regularly scheduled meeting of the Sampson County Board of Commissioners (“Commissioners”), the Sampson County Tax Administrator submitted to the Commissioners the proposed schedule of values, standards and rules for the general reappraisal, effective January 1, 2011.<sup>1</sup>

2. On October 18, 2010, the Commissioners conducted a public hearing on the proposed 2011 schedule of values, standards and rules for the general reappraisal. At this meeting, the County Board received information and reviewed statutory requirements<sup>2</sup> regarding the general reappraisal process, and reviewed N.C. Gen. Stat. § 105-283, which provides that “all property, real and personal, shall as far as practicable be appraised or valued at its true value in money.”<sup>3</sup>

3. During the November 1, 2010 regularly scheduled meeting of the Commissioners, the Commissioners scheduled a work session for November 8, 2010 in order to receive additional information on how the recommended present-use value schedules were developed.<sup>4</sup>

4. At the November 8, 2010 work session, the Commissioners received further information regarding the present-use values. The Commissioners reviewed and analyzed the Sampson County 2011 Use-Value Manual,<sup>5</sup> portions of which were taken from the 2011 Use-Value Manual for Agriculture, Horticulture and Forest Land (published by the North Carolina Department of Revenue).<sup>6</sup> At this meeting the Commissioners received information and discussed capitalization rates for land along with the 2009 cash rents study.<sup>7</sup>

5. On Monday, November 15, 2010, the Commissioners adopted the following present-use value schedules:

- |                                  |          |
|----------------------------------|----------|
| • Agriculture Schedule MLRA 133A | \$657.00 |
| • Agriculture Schedule MLRA 153A | \$630.00 |
| • Forest Land (133A and 153A)    | \$382.00 |

- *All land in Present Use Valuation will be considered by using the information shown above unless the property owner supplies the Tax Assessor with a detailed soil analysis of their property. This information will then be taken into consideration, and the land classes will be adjusted according to the 2011 Use Value Manual for Agriculture, Horticulture and Forest Land.*<sup>8</sup>

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<sup>1</sup> County Exhibit 1, minutes from the October 4, 2010 County Board meeting.

<sup>2</sup> County Exhibit 2, minutes from the October 18, 2010 County Board meeting.

<sup>3</sup> County Exhibit 3.

<sup>4</sup> County Exhibit 4, applicable portion of the minutes from the November 1, 2010 meeting.

<sup>5</sup> County Exhibit 8.

<sup>6</sup> County Exhibit 9.

<sup>7</sup> County Exhibit 5.

<sup>8</sup> County Exhibit 6.

6. To insure fairness in valuation, the Commissioners chose to adopt the above provision that allows property owners to supply the Tax Assessor with a detailed soil analysis of their properties, which will be taken into consideration, and the land classes will be adjusted according to the 2011- Use Value Manual for Agriculture, Horticulture and Forestland. This allows the proper appraisal of the property owner's property when Sampson County's computer assistance mass appraisal (CAMA) software, for the 2011 general reappraisal of real property, does not provide the capability to use digitized soil information to appraise each parcel.

7. By letter dated December 13, 2010, Appellant, Joshua McLamb, filed notice of appeal with the Commission challenging the Order of Commissioner as to the 2011 Sampson County present-use value schedules ("SCSV") pursuant to N.C. Gen. Stat. § 105-290(c)<sup>9</sup> contending that in order to determine appropriate values for properties qualifying for present-use value treatment under North Carolina law, as to both agricultural and horticultural land, as well as forestland, the statutes direct Sampson County to consider various classes of soil types for the reappraisal, effective January 1, 2011.

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

1. Appellant is not challenging a specific property valuation, but rather appeals solely on the basis that SCSV is inadequate on its face as a matter of law, pursuant to N.C. Gen. Stat. § 105-290(c).<sup>10</sup> On appeal to the Commission, "the good faith of tax assessors and the validity of their actions are presumed."<sup>11</sup> A taxpayer bears the burden of overcoming the presumption by showing illegality or arbitrariness of the schedule of values, standards and rules.<sup>12</sup> In essence, the Appellant is required to produce evidence that tends to show that the County relied on illegal or arbitrary valuation methods and that the assessment substantially exceeds true value (or present-use value) of the property.<sup>13</sup>

2. North Carolina law directs tax assessors to prepare "uniform schedules of values, standards, and rules to be used in appraising real property at its true value and at its present-use value [which] are sufficiently detailed to enable those making appraisals to adhere to them in appraising real property."<sup>14</sup>

3. Generally, real property subject to taxation is appraised for taxation according to its true value.<sup>15</sup> However, real property may be taxed at its present-use value, an amount

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<sup>9</sup> County Exhibit 7.

<sup>10</sup> A property owner of the county who, either separately or in conjunction with other property owners of the county, asserts that the schedule of values, standards, and rules adopted by order of the board of county commissioners do not meet true value or present-use value appraisal standards established by G.S. 105-283 and G.S. 105-277.295), respectively, may appeal the order to the Property Tax Commission within 30 days of the date when the order adopting the schedules, standards, and rules was first published, as property by G.S. 105-317(c).

<sup>11</sup> *In re McElwee*, 304 N.C. 68, 75, 283 S.E.2d 115, 120 (1981).

<sup>12</sup> *Id.*

<sup>13</sup> *In re Amp, Inc.*, 287 N.C. 547, 215 S.E.2d 752 (1975).

<sup>14</sup> N.C. Gen. Stat. § 105-317(b)(1) (2009).

<sup>15</sup> See N.C. Gen. Stat. § 105-283 (2009).

typically lower than its true value, if the taxpayer is able to show that the property qualifies for present-use value.<sup>16</sup>

4. The present-use value of qualifying land is “[t]he value of land in its current use as agricultural land, horticultural land, or forestland, based solely on its ability to produce income and assuming an average level of management.”<sup>17</sup>

5. When a taxpayer wants his property valued at the lower present-use value, the burden is on the taxpayer to “clearly show that the property comes within one of the classes” eligible for present-use value, and *provide “any other relevant information required by the assessor to properly appraise the property at its present-use value.”* N.C. Gen. Stat. § 105-277.4(a) (2009). (Emphasis added).

6. The SCSV includes present-use value schedules: Agriculture Schedule MLRA 133A (\$657.00), Agriculture Schedule MLRA 153A (\$630.00) and Forest Land 133A and 153A (\$382.00). The SCSV also provides: *“All land in Present Use Valuation will be considered by using the information shown above unless the property owner supplies the Tax Assessor with a detailed soil analysis of their property. This information will then be taken into consideration, and the land classes will be adjusted according to the 2011 Use Value Manual for Agriculture, Horticulture and Forest Land.”*<sup>18</sup>

7. The SCSV provide “sufficient detail to enable those making appraisals “to adhere to” the SCSV “in appraising real property”<sup>19</sup> The SCSV insure fairness in valuation, the good faith of the tax assessor, and provide the provision that allows the property owner to supply the Tax Assessor with a detailed soil analysis of their property, which will be taken into consideration, and the land classes will be adjusted according to the 2011 Use Value Manual for Agriculture, Horticulture and Forest Land.”<sup>20</sup>

8. The Commissioners adopted uniform schedules of values, standards, and rules to be used in appraising real property at its true value and at its present-use value which are sufficiently detailed to enable those making appraisals to adhere to them in appraising real property when at the adoption of the schedule of values, standards and rules the County does not have the capability to use digitized soil information to apply to each parcel.

**BASED ON THE FOREGOING FINDING OF FACTS AND CONCLUSIONS OF LAW, THE COMMISSION THEREFORE ORDERS** that the Commissioner’s Order adopting the 2011 schedule of values, standards, and rules to be used in appraising real property at its true value and at its present-use value for the 2011 general reappraisal is confirmed.

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<sup>16</sup> N.C. Gen. Stat. § 105-277.4(a) (2009); *In re Appeal of Whiteside Estates, Inc.*, 136 N.C. App. 360, 364, 525 S.E.2d 196, 198, cert. denied, 351 N.C. 473, 543 S.E. 2d 511 (2000).

<sup>17</sup> N.C. Gen. Stat. § 105-277.2(5) (2009).

<sup>18</sup> County Exhibit 8.

<sup>19</sup> N.C. Gen. Stat. § 105-317(b).

<sup>20</sup> County Exhibit 8.



NORTH CAROLINA PROPERTY TAX COMMISSION

Terry L. Wheeler, Chairman

Vice Chairman Plyler and Dixon Concur.  
Commissioners Wilmoth and Pittman dissent.

Entered: February 25, 2011

Attest:

Janet L. Shires, General Counsel