

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
11 PTC 838

IN THE MATTER OF:
APPEAL OF:

Denny E. and Deborah C. King

**FINAL DECISION
ON REMAND**

from the decision of the Haywood County
Board of Equalization and Review
concerning the valuations of certain
real property for tax year 2011.

This Matter was initially heard by 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 January 13, 2013, pursuant to the appeal of **Denny E. and Deborah C. King** (“Taxpayers” or “Appellants”) from the decision of the Haywood County Board of Equalization and Review (“County Board”) concerning the Haywood County Assessor’s (the “Assessor”) assessment of Taxpayers’ real property for tax year 2011.

Appellants appeared at the hearing *pro se*. Attorney Charles C. Meeker appeared at the hearing on behalf of Haywood County.

By Final Decision entered June 21, 2013, the Commission modified Haywood County’s valuation of the subject property by arriving at a total value of \$172,000 at the close of both parties’ evidence. Haywood County appealed to the North Carolina Court of Appeals, which filed its unpublished opinion on August 5, 2014. This Opinion vacated the final decision of the Commission and remanded the case for further proceedings, stating the following as the Court’s ruling to the remand order:

We simply note that both sides presented evidence in support of their argument. It is the Commission’s role to weigh and apply the evidence, as well as issue specific findings of fact and conclusions to permit review by the Court.

See Slip Op. p. 9.

Accordingly, the Court instructed the Commission to apply the following burden-shifting framework in that:

A county's ad valorem tax assessment is presumptively correct.¹ 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".² If the taxpayer rebuts the initial presumption, then the burden shifts to the taxing authority to demonstrate that its methods produce true value for the property in view of both sides' evidence and the weight and sufficiency of the evidence, the credibility of the witnesses, and inferences as well as conflicting and circumstantial evidence.³

By letter dated March 17, 2015, the Commission requested the parties to submit statements or briefs on or before April 16, 2015 regarding their respective positions concerning the remand of the case for further proceedings by the Commission. As instructed by the Commission, the parties did file briefs, statements and documents, and the transcript regarding their respective positions concerning further proceedings by the Commission regarding the remand of this case.

On July 8, 2015, Chairman William W. Peaslee presided over the remand of this matter from the North Carolina Court of Appeals with Vice Chairman Terry L. Wheeler and Commission Members David A. Smith and Jack C. (Cal) Morgan III participating.

At the July 8, 2015 meeting, the Commission reviewed all of the documents and the transcript, and found that it was not necessary to hold any additional evidentiary hearings or to hold any additional hearings regarding the remand of this matter.

Thereafter, by unanimous decision of the Commission, the Commission upheld the opinion of value of the County Board.

STATEMENT OF THE CASE

This appeal concerns the revaluation of a single family residential home situated on 3.1 acres that is located at 296 Rough Water Point, Canton, North Carolina.

Effective for the January 1, 2011 countywide general reappraisal of real property, the Haywood County Assessor ("Assessor") assessed the subject property at a total value of \$210,900. The Taxpayers challenged the Assessor's valuation of the property by filing an appeal with the County Board. After conducting a hearing on July 25, 2011, the County Board mailed its decision to the Taxpayers advising that the assessment of their property was reduced to \$205,100. From this decision, the Taxpayers appealed to the Commission and requested a hearing as pursuant to G.S. 105-290.

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 Parkdale Mills*, 225 N.C. App. 713, 741 S.E.2d 416 (2013).

In the Taxpayers' Application for Hearing, the Taxpayers contend that Haywood County failed to consider the assessed values of like properties during its 2011 reappraisal and did not act in accordance with the 2011 Schedules of Value. As such, the Taxpayers contend that the property should be valued at \$165,232 as of January 1, 2011.

ANALYSIS AND ISSUES

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 If the taxpayer rebuts the initial presumption, then the burden shifts to the taxing authority to demonstrate that its methods produce true values.⁶

Under this analysis, the Commission must consider the following issues:

1. Did Appellants carry their burden of producing competent, material and substantial evidence tending to show that:
 - (a) Haywood County employed an arbitrary or illegal method of appraisal in reaching the property tax value for Appellants' property; and
 - (b) the County Board assigned a value that substantially exceeded the true value of the property as of January 1, 2011?
2. If the above issues are answered in the affirmative, did Haywood County demonstrate that its appraisal methodology produced true value for the property in view of both sides' evidence and the weight and sufficiency of the evidence, the credibility of the witnesses, and inferences as well as conflicting and circumstantial evidence?⁷

HAVING CONSIDERED THE EVIDENCE PRESENTED AT THE INITIAL HEARING AND UPON REVIEWING ALL OF THE DOCUMENTS AND THE TRANSCRIPT, AND HAVING DETERMINED THAT IT WAS NOT NECESSARY TO HOLD ANY ADDITIONAL EVIDENTIARY HEARINGS OR TO HOLD ANY ADDITIONAL HEARINGS OR ARGUMENTS; AND IN VIEW OF BOTH SIDES' EVIDENCE AND THE WEIGHT AND SUFFICIENCY OF THE EVIDENCE, THE CREDIBILITY OF WITNESSES, AND INFERENCES AS WELL AS CONFLICTING AND CIRCUMSTANCIAL EVIDENCE, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

⁴ In re Amp, Inc., 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

⁵ Id. (capitalization and emphasis in original).

⁶ In re Appeal of S. Ry. Co., 313 N.C. 177, 323 S.E.2d 235 (1985). In re IBM Credit Corporation, (IBM Credit II), 201 N.C. App. 343, 689 S.E.2d 487 (2009), disc. review denied and appeal dismissed, 363 N.C. 854, 694 S.E.2d 204 (2010).

⁷ In re Parkdale Mills, 225 N.C. App. 713, 741 S.E.2d 416 (2013).

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

2. This appeal concerns the revaluation of a single family residential home situated on a lot consisting of 3.081 acres that is located at 296 Rough Water Point, near Canton, North Carolina in the Beaver Dam watershed.

3. During the general reappraisal, effective as of January 1, 2011, the Assessor assessed the subject property at a total value of \$210,900 (i.e. lot value of \$27,700, and home value of \$183,200).

4. On appeal to the County Board, the County Board, after conducting a hearing, rendered its decision reducing the value of the subject property to \$205,100 (i.e. land value of \$24,700; main house structure \$169,900; and \$10,500 for other improvements) as of January 1, 2011.

5. The appeal filed by the Appellants to the Commission concerns the County Board's valuation of the main floor of their home that consists of 1,512 square feet.

6. Accordingly, the subject home is a brick home built in 1991. The main floor of the home consists of approximately 1,512 square feet. There is an enclosed porch of approximately 240 square feet. There is also an unfinished basement with approximately 1,500 square feet. Finally, there is a shed that is about 300 square feet. The total value of those improvements, based on Haywood County's 2011 Schedule of Values is \$180,400.

7. As to the 2011 general reappraisal, the Appellants' principle argument challenging the County Board's decision was based on the 2011 reappraisal of their home that resulted in a 40% percent increase in the value when compared to other similarly situated properties throughout the County; and when the current assessment of \$205,100 is compared to the County's prior assessment of \$159,000 for the subject property.

8. The Appellants presented evidence at the hearing, including the testimony of Mr. King. When testifying, Mr. King discussed Haywood County's neighborhood delineation and the characteristics of improved property in Haywood County (i.e. type, quality, age and condition). Mr. King challenged the assessment of his property by discussing Mecklenburg County's 2011 reappraisal of real property, which the County objected because Mecklenburg County's 2011 reappraisal was not relevant to Haywood County's assessment of the subject property for tax year 2011. In the alternative, Mr. King argued that the information was relevant when Haywood County conducted its general reappraisal using neighborhood delineation, which is the method used by Mecklenburg County.

9. As part of Haywood County's 2011 Schedule of Values, there were 940 neighborhoods, and there were only 11 neighborhoods with rates higher than the subject Beaver Dam watershed neighborhood.

10. When questioned by the Commission, Mr. King stated an opinion of value of \$150,000 for the subject main structure (i.e. home) since he considered that Haywood County comparables increased the value of the subject property by 30 percent above the base rate. As such, in Mr. King's opinion, these comparables were not adequate to raise the value of every home in their community by 30 percent.

11. After hearing the Appellants' evidence, Haywood County went forward with its evidence regarding the 2011 reappraisal of the subject property; and offered the testimony of Mr. James Messer, who prepared a uniformity assessment analysis regarding the brick homes in the Beaver Dam watershed and other brick homes that were similar in age in the Beaver Dam watershed.

12. As part of his analysis, Mr. Messer considered the Beaver Dam standards, and he testified that part of the watershed is undeveloped, and part of the watershed has homes with more restrictions, which results in homes with higher values than the average home in Haywood County.

13. Thereafter, Mr. Messer testified that Haywood County properly applied its duly adopted 2011 Schedule of Values based on the County's use of the neighborhood delineation method to determine the value of the property as of January 1, 2011. Further, the County's assessment of the subject property by applying a factor of 1.3 to the base rate established for brick homes in Haywood County did not result in a value that substantially exceeded the true value of the property since all brick homes in the Beaver Dam watershed neighborhood are valued higher based on comparable sales, the quality of the homes, and the location of homes in Beaver Dam watershed neighborhood.

14. Haywood County did demonstrate that its appraisal methodology produced true value for the subject property in view of both sides' evidence and the weight and sufficiency of the evidence, the credibility of the witnesses, and inferences as well as conflicting and circumstantial evidence when the County's evidence showed that the Assessor correctly applied the 2011 Schedule of Values that resulted in the County Board assigning a value that did not substantially exceed the true value of the property as of January 1, 2011.

15. Consequently, the total value of \$205,100 assigned to the property by the County Board was the true value in money of the subject property as of January 1, 2011.

BASED ON THE FOREGOING FINDINGS OF FACT, THE COMMISSION MAKES THE FOLLOWING CONCLUSIONS OF LAW:

1. When a Taxpayer challenges the County's assessment of his property, the Taxpayer is required to produce competent, material, and substantial evidence tending to show that: (1) [e]ither the county tax supervisor used an arbitrary method of valuation; (2) or 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 above issues are answered in the affirmative, did Haywood County demonstrate that its appraisal methodology produced true value for the property in view of both sides' evidence and the weight and sufficiency of the evidence, the credibility of the witnesses, and inferences as well as conflicting and circumstantial evidence.⁸

3. In this appeal, both sides presented evidence in support of their argument.

4. To determine the appropriate appraisal methodology under the given circumstances, the Commission must "hear the evidence of both sides, in order to determine the weight and sufficiency and the credibility of witnesses, to draw inferences, and to appraise conflicting and circumstantial evidence, all in order to determine whether the [County] met its burden."⁹

5. In this appeal, Haywood County did meet its burden when its evidence demonstrated that its appraisal methodology produced true value for the property in view of both sides' evidence and the weight and sufficiency of the evidence, the credibility of the witnesses, and inferences as well as conflicting and circumstantial evidence. In particular, Haywood County's evidence showed that: (a) the County used a uniformity assessment analysis to value the brick homes in the Beaver Dam watershed based on the homes that were similar as to age; (b) the County considered that the Beaver Dam watershed is the water supply for the Canton area, and there were higher development standards in that area; (c) the County used the neighborhood delineation process that was adopted as part of the 2011 Schedules of Value to assess the subject property; and (d) the County applied a factor of 1.3 to the base rate of the brick homes that resulted in a higher value for all the homes in the Beaver Dam watershed.

6. After hearing the evidence of both sides, determining the weight and sufficiency and the credibility of witnesses, and drawing inferences, and appraising conflicting and circumstantial evidence, the Commission concludes that Haywood County did demonstrate that its appraisal methodology produced the true value for the subject property.

7. Therefore, the total value of \$205,100 (i.e. land value of \$24,700; main structure (home) value of \$169,900; and total value of \$10,500 for basement and other structures) assigned by the County Board is affirmed.

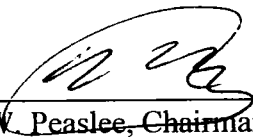
⁸ *In re Parkdale Mills*, 225 N.C. App.713, 741 S.E.2d 416 (2013).

⁹*Id.*

WHEREFORE, THE NORTH CAROLINA PROPERTY TAX COMMISSION THEREFORE ORDERS AND DECREES that the decision of the 2011 County Board, assigning a total value of \$205,100 (i.e. land value of \$24,700; main structure (home) value of \$169,900; and total value of \$10,500 for basement and other structures), is affirmed.

NORTH CAROLINA PROPERTY TAX COMMISSION



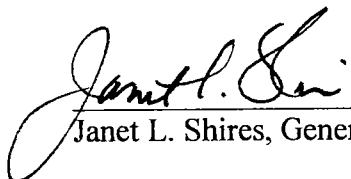


William W. Peaslee, Chairman

Vice Chairman Wheeler and Commission Members Morgan and Smith concur.

ENTERED: May 25, 2016

ATTEST:



Janet L. Shires, General Counsel