

STATE OF NORTH CAROLINA

COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION

SITTING AS THE STATE BOARD OF

EQUALIZATION AND REVIEW

In the matter of:

The appeal of Land and Mineral Company)
from the valuation of certain of its)
property, to wit: 10,000 acres of)
mineral rights by the Mitchell County)
Board of Equalization and Review for)
1978.)

FINAL

DECISION

This matter coming on to be heard, and being heard, before the Property Tax Commission, sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina, on April 30, 1979, upon the appeal of the above taxpayer from the valuation of certain of its property in Mitchell County, to wit: 10,000 acres of mineral rights by the Mitchell County Board of Equalization and Review for 1978. This appeal was combined for hearing with a similar appeal from Avery County.

STATEMENT OF CASE

Mitchell County had its last general reappraisal in 1977. As provided in G. S. 105-299, the County contracted with a professional appraisal firm -- Carolina Appraisal Company -- to carry out the reappraisal. In the reappraisal, the subject mineral rights were appraised at \$50 per acre. Prior to 1977, the subject rights were appraised at \$3.00 per acre.

In its appeal to the Property Tax Commission, appellant contended that the increase from \$3.00 to \$50 per acre was too great; that the figure did not conform to the provisions of G. S. 105-283 and was manifestly unjust based on the County's schedules of value.

The County maintains that its appraisal of the rights does not exceed their true value in money because the figure is based on actual sales in another county.

ISSUES

- (1) Is the County's valuation of the subject rights in excess of their true value in money as of January 1, 1978 (or)
- (2) Are the subject properties unequally assessed when compared with the valuations of comparable properties in the county?

APPLICABLE LAW

The law governing the taxation of property in the State of North Carolina is found in the "Machinery Act" N. C. General Statute 105-271, et seq.

G. S. 105-286(a) provides in pertinent part as follows:

" 105-286. Time for general reappraisal of real property. — (a) Octennial Plan. — Unless the date shall be advanced as provided in subdivision (a)(2), below, each county of the State, as of January 1 of the year prescribed in the schedule set out in subdivision (a)(1), below, and every eighth year thereafter, shall reappraise all real property in accordance with the provisions of G. S. 105-283 and 105-317.

(1) Schedule of Initial Reappraisals. —

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Division Six -- 1977: Alamance, Durham, Edgecombe, Gates, Martin, Mitchell, Nash, Polk, Randolph, Stanly, Warren, and Wilkes.

G. S. 105-283 provides as follows:

" 105-283. Uniform appraisal standards.— All property, real and personal, shall as far as practicable be appraised or valued at its true value in money. When used in this Subchapter, the words "true value" shall be interpreted as meaning market value, that 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. 105-317 provides in pertinent part as follows:

" 105-317. Appraisal of real property; adoption of schedules, standards, and rules. — (a) Whenever any real property is appraised it shall be the duty of the persons making appraisals:

(1) In determining the true value of land, to consider as to each tract, parcel, or lot separately listed at least its advantages and disadvantages as to location; zoning; quality of soil; waterpower; water privileges; mineral, quarry, or other valuable deposits; fertility; adaptability for agricultural, timber-producing, commercial, industrial, or other uses; past income; probable future income; and any other factors that may affect its value except growing crops of a seasonal or annual nature.

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(b) In preparation for each revaluation of real property required by G. S. 105-286, it shall be the duty of the tax supervisor to see that:

(1) There be developed and compiled uniform schedules of values, standards, and rules to be used in appraising real property in the county. (The schedules of values, standards, and rules shall be prepared in sufficient detail to enable those making appraisals to adhere to them in appraising the kinds of real property commonly found in the county; they shall be:

- a. Prepared prior to each revaluation required by G. S. 105-286;
- b. In written or printed form; and
- c. Available for public inspection upon request.)"

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(c) The schedules of values, standards, and rules required by subdivision (b)(1), above, shall be reviewed and approved by the board of county commissioners before they are used. When the board of county commissioners approves the schedules, standards, and rules, it shall issue an order adopting them and shall cause a copy of the order to be published in the form of a notice in a newspaper having general circulation in the county, stating in the notice that the schedules, standards,

and rules to be used in the next scheduled reappraisal of real property have been adopted and that they are open to examination by any property owner of the county at the office of the tax supervisor for a period of 10 days from the date of publication of the notice.

- (1) Any property owner of the county (separately or in conjunction with other property owners of the county) asserting that the schedules, standards, and rules adopted by the board of county commissioners under the provisions of this section fail to meet the appraisal standard established by G.S. 105-283 may except to the order and appeal therefrom to the Property Tax Commission at any time within 30 days after the date of the publication of the adoption order by filing a written notice of the appeal with the clerk of the board of county commissioners and with the Property Tax Commission. At the time of filing the notices of appeal, the appellant or appellants shall file with the clerk of the board of county commissioners and with the Property Tax Commission a written statement of the grounds of appeal. Upon timely appeal, the Property Tax Commission shall proceed under the provisions of G. S. 105-290(c)."

G. S. 105-302 provides in pertinent part as follows:

" 105-302. In whose name real property is to be listed.—(a) Taxable real property shall be listed in the name of the owner, and it shall be the owner's duty to list it unless the board of county commissioners shall have adopted a permanent listing system as provided in G. S. 105-303(b). For purposes of this section, the board of county commissioners may require that real property be listed in the name of the owner of record as of the day as of which property is to be listed under G.S. 105-285.

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- (c) For purposes of this Subchapter:

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- (11) When land is owned by one party and improvements thereon or special rights (such as mineral, timber, quarry, waterpower, or similar rights) therein are owned by another party, the parties shall list their interests separately unless, in accordance with contractual relations between them, both the land and the improvements and special rights are listed in the name of the owner of the land."

G. S. 105-309 provides in pertinent part as follows:

" 105-309. What the abstract shall contain.—(a) Each person whose duty it is to list property for taxation shall file each year with the tax supervisor or proper list taker a tax list or abstract showing, as of the date prescribed by G. S. 105-285(b), the information required by this section. Subject to the provisions of subdivisions (a)(1) and (a)(2), below, each person whose duty it is to list property for taxation shall file a separate abstract.

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- (c) Each tract, parcel or lot of real property owned or controlled in the county shall be listed in accordance with the following instructions:

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- (5) If some person other than the owner of a tract, parcel, or lot shall own any buildings or other improvements thereon or separate rights (such as mineral, quarry, timber, waterpower, or other rights) therein, that fact shall be specified on the abstract on which the land is listed, together with the name and address of the owner of the buildings, other improvements, or rights.
 - a. Buildings, other improvements, and separate rights owned by a taxpayer with respect to the lands of another shall be listed separately and identified so as to indicate the name of the owner thereof and the tract, parcel, or lot on which the buildings or other improvements are situated or to which the separate rights appertain."

EVIDENCE

The matters and evidence presented by the appellant and considered by the Commission consisted of the following:

- (1) Appellant's Exhibit 1 - Affidavit by S. J. Crow.
- (2) Oral testimony of Mr. Francis E. Field, President of Land and Mineral Company.
- (3) Oral testimony of Mr. Arthur Buchanan, mineral agent for Land and Mineral Company.
- (4) Oral statements of Mr. Philip G. Carson, attorney for appellant.

The matters and evidence presented by the County and considered by the Commission consisted of the following:

- (1) Oral testimony of Mr. Luther Ford, Carolina Appraisal Company.
- (2) Oral testimony of Mr. Bruce Stamey, Mitchell County tax supervisor.
- (3) Oral statement of Mr. Gerald Wilson, Mitchell County attorney.

In addition to the matters presented by the appellant and the County, the Commission also considered the following exhibits:

- C-1 Letter dated September 19, 1977, from Mr. Field to Property Tax Commission protesting increase in property taxes.
- C-2 Copy of letter dated September 26, 1977, from Mr. Holbrook in reply to Mr. Field's letter.
- C-3 Letter dated April 4, 1978, to Property Tax Commission from Mr. Carson enclosing copies of letters written to the Avery and Mitchell County Commissioners.
- C-4 Copy of letter dated May 1, 1978, from Mr. Carson to Mitchell County Board of Commissioners.
- C-5 Copy of letter dated May 4, 1978, acknowledging receipt of C-4.
- C-6 Copy of letter dated June 27, 1978, from Mr. Carson to Mr. Holbrook regarding filing appeal.
- C-7 & 8 - Copies of notices dated February 26, 1979, to parties of date and time of hearing scheduled for March 13, 1979.
- C-9 Letter dated March 5, 1979, from Mr. Carson requesting continuance of hearing until a later date.
- C-10 & 11 - Copies of notices dated April 11, 1979, to parties of date and time of hearing.

FINDINGS OF FACT

The facts outlined in the "Statement of Case" are hereby made a part of this section by reference. After addressing itself to and considering all of the evidence of record, as set forth above, the Property Tax Commission makes the following additional findings of fact:

- (1) That the \$50 per acre for inactive mineral rights was included in the uniform schedule of values adopted by the Mitchell County Board of Commissioners as part of the County's 1977 reappraisal.
- (2) That the schedules also included a \$1,000 figure for active rights.
- (3) That Carolina Appraisal Company, which conducted Mitchell County's reappraisal, also conducted Yancey County's reappraisal effective January 1, 1976, and Avery County's reappraisal effective January 1, 1978.
- (4) That the \$50 figure was based on four or five sales of inactive mineral rights in Yancey County ranging from \$60 to \$125 per acre.
- (5) That the \$50 figure was used in Yancey County, Mitchell County and Avery County.
- (6) That the \$50 figure was discussed with other owners of mineral rights in Mitchell County who were actively engaged in mining.
- (7) That the \$50 figure was not objected to during the 30-day period the schedule was open to challenge nor by any other owner of mineral rights in either of the three counties after the valuations were put into effect.
- (8) That in all respects bearing on the value of inactive mineral rights, Yancey County, Avery County and Mitchell County are comparable.
- (9) That Land and Mineral Company is the largest single owner of mineral rights in Mitchell County.
- (10) That there were three sales of mineral rights in Avery County during 1977 involving 22.59 acres, 25.45 acres and 50 acres at prices ranging from \$50 to \$156 per acre.
- (11) That when Mr. Field appeared before the Mitchell County Board of Equalization and Review on April 7, 1977, he stated to the Board that he was asking \$150 per acre for the rights.

- (12) That there was a sale of land and mineral rights in two counties in Tennessee in 1978 in which a \$1.00 per acre figure was placed on the mineral rights appurtenant to 28,953 acres of the land sold.
- (13) That the seller of the land and rights had actively mined lands in one of the counties for approximately 50 years.
- (14) That Land and Mineral Company has owned the rights in question since 1928.
- (15) That there are no known precious minerals or fossil fuels in the land on which the rights are owned.
- (16) That the topography of the land in question is steep and rough, but this is also true of the other properties in the county in which active mining is taking place.
- (17) That there has been no recent geological study to determine what is under the surface of the subject land nor have there been any recent discoveries of valuable mineral deposits.
- (18) That no mining or exploration has taken place on the subject land in many years.
- (19) That a separate tract of land owned by Land and Mineral Company and containing 189 acres has been leased to Harris Mining Company since 1932 with a royalty of \$1,000 for the last six or eight years.
- (20) That 20 acres of mineral rights not included in this appeal is leased to Mr. Ray Wiseman for the mining of oliveen -- a bright green mica -- for \$600 per year.
- (21) That except for one isolated case involving a building site, Mr. Field has never sold or otherwise disposed of any mineral rights.
- (22) That Mr. Buchanan, who estimated the rights to be worth \$10 per acre, had never bought or sold any mineral rights.

CONCLUSION, DECISION AND ORDER

From our review of the applicable law, the evidence and our findings of fact, we conclude and so decide that the County's valuations of the subject mineral rights are not in excess of their true value in money nor at a greater percentage of that figure than other comparable property in the county.

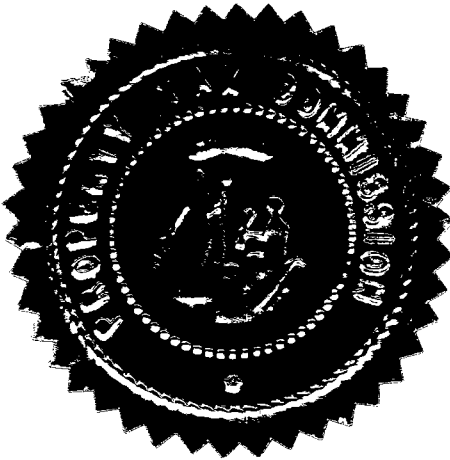
The valuations were based on the County's schedules of value. The schedules were duly adopted by the Board of Commissioners and were not challenged during the 30-day period they were open to attack. Although no sales of mineral rights occurred in Mitchell County during the period involved here, the \$50 figure was based on four or five sales in a neighboring and highly comparable county and was used in that county and another county without substantial objection except by the appellant. The figure is supported also by three sales occurring in Avery County during 1977.

The only evidence presented by the appellant regarding the value of the subject rights were Mr. Buchanan's opinion of \$10 per acre and the transaction in Tennessee. Mr. Buchanan testified that he had neither sold nor purchased any mineral rights and that his opinion was not based on any sales or leases of such rights. The affidavit outlining the transaction in Tennessee was received into evidence but no other evidence was introduced to show comparability between the rights transferred in that transaction and the subject rights. Additionally, that transaction involved two tracts of land — one of 8,307.74 acres where the fee title and the rights were in one owner and the other of 28,953 acres covering only mineral rights. It is therefore not unreasonable to conclude that the seller and buyer arrived at a total figure for all of the property rights transferred and allocated the figure in a manner suitable to both. In any event, the actual sales in 1977 in Avery County and those the schedules were based on in Yancey County amply support the County's appraisal.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the valuation of the subject rights by Mitchell County is hereby sustained.

Commission Member Paul Whitfield did not participate in this decision.

This the 13th day of June, 1979.



NORTH CAROLINA PROPERTY TAX COMMISSION

John B. Lewis, Jr.
John B. Lewis, Jr., Chairman

Attest:

D. R. Holbrook
D. R. Holbrook, Secretary