

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
09 PTC 240

IN THE MATTER OF:
APPEAL OF: **Mountain Air Country
Club, Inc.** from the decisions
of the Yancey County Board
of Equalization and Review
concerning the valuation of
certain parcels for tax year
2009.

FINAL DECISION

This matter was heard before 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, during the April 14, 15, and 16, 2010 Session of Hearings. In this appeal, **Mountain Air Country Club, Inc.** ("Appellant") appeals from the decisions of the Yancey County Board of Equalization and Review ("County Board") concerning the valuation of certain property for tax year 2009. After the hearing, the appeal was taken under advisement, and the Commission rendered the decision during the May 19, 20, and 21, 2010 Session of Hearings.

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.

C. B. McLean, Jr., Esquire, appeared at the hearing as counsel for the Appellant. David K. Etheridge, Esquire, appeared at the hearing as counsel for Yancey County.

STATEMENT OF CASE

The property subject to this appeal is located in Burnsville, Yancey County, North Carolina and is owned by Mountain Air Country Club, Inc. The property is identified by Yancey County as Parcel Number 01002 004428. For tax year 2009, the County Board assigned a total value of \$5,782,600 for the subject parcel. From the County Board's decision, the Appellant appealed to the Commission. The Appellant included decisions regarding Parcel Numbers 11005 011524 and 11005 0114 with the Notice of Appeal filed with the Commission on June 19, 2009. These parcels are not owned by Mountain Air Country Club.¹

¹ See Exhibit 1 attached to the Application for Hearing filed with the Commission on July 14, 2009.

In its Application for Hearing, filed with the Commission on July 14, 2009,² the Appellant objected to the decision of the County Board by alleging in part that:

(a). The assessment affirmed by the decision of the County Board is upon the application of an arbitrary, illegal, or erroneous method of appraisal, resulting in the assignment of assessed value substantially greater than the true value in money of the subject property as of January 1, 2009.

(b). The method or methods applied by the County failed to consider all important factors affecting the value of the property.

(c). The County used arbitrary, improper, or illegal methods to arrive at the assessed value for the property for tax year 2009, failed to follow the statutory requirements of N.C. Gen. Stat. § § 105-283, 285, 286, 287, and 317 to estimate the true value in money of the real property, failed to take into account factual evidence and data relevant to the determination of the true value in money of the property, failed to develop and employ appropriate methods, schedules, standards, and rules of valuation and appraisal, and improperly applied those methods, schedules, rules which might lawfully have been employed.

(d). The County, in its most recent general reappraisal of real property conducted pursuant to N.C. Gen. Stat. § 105-286 and made effective January 1, 2008, failed to properly consider the past and probable future income, location, age, utility, adaptability for commercial or other uses and other important factors affecting the value of the subject property.

Yancey County contends that the subject property was appraised in accordance with the County's duly adopted schedules of values, standards, and rules for the 2008 countywide general reappraisal. The County further contends that all important factors affecting the value of the property were considered and requests the Commission to affirm the value of \$5,782,600 assigned to Parcel Number 01002 004428, the value of \$330,900 assigned to Parcel Number 11005 0114, and the value of \$317,300 assigned to Parcel Number 11005 011524 by the County Board for tax year 2009.³

ISSUES

In the Order on Final Pre-Hearing Conference, the parties agreed to the following issues to be tried by the Commission.

a. Did the County employ an arbitrary or illegal method of appraisal in reaching the property tax values of any part of the parcels under appeal for the year at issue?

² In the Application for Hearing, the Appellant provides that the grounds for appeal are contained in the Notice of Appeal filed with on June 19, 2009.

³ The decisions for Parcel Numbers 11005 0114, and Parcel Number 11005 011524 were mailed to Mountain Air Country Club, Inc. Exhibit 1 attached to Mountain Air Country Club, Inc.'s Application for Hearing, which shows Mountain Air Development Corporation as the owner of these parcels.

b. Was the property tax value or any part of the parcels under appeal as determined by the Yancey County Board of Equalization and Review (“County Board”) substantially greater than the true value of the subject property as of January 1 of the year at issue?

c. With regard to any part of the parcels under appeal, if the Appellant has shown that the County employed an arbitrary or illegal method of appraisal and that the tax values were substantially greater than the true value in money of the subject parcels, then what were the true values in money of the parcels as of January 1 for the year at issue?

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

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

2. The Appellant, Mountain Air Country Club, Inc. (“MACC”) owns property within the Mountain Air residential development located off of Phipps Creek Road in Yancey County, North Carolina.

3. Effective January 1, 2008, Yancey County conducted its most recent reappraisal and assessed MACC’s property in accordance with its duly adopted schedules of values, standards and rules.

4. In tax year 2009, the Appellant challenged Yancey County’s assessment of the property by filing an appeal to the County Board. By decision dated May 21, 2009, the County Board assigned a total value of \$5,782,600 to Parcel Number 01002 004428. The County Board also mailed decisions on May 21, 2009, assigning a value of \$330,900 to Parcel Number 11005 0114, and a value of \$317,300 to Parcel Number 11005 011524 for tax year 2009. Thereafter, the Appellant filed notice of appeal with the Commission and requested a full hearing on the appeal before the Commission as provided in N.C. Gen. Stat. §105-290.

5. For purposes of this appeal, Parcel Number 01002 004428 is the only parcel owned by MACC.⁴ MACC placed a \$ -0- value for Parcel Number 0100 004428 by alleging that the property is attributable to all the residential individual lots and the value is reflected in the sale of the individual residential units.⁵

6. Yancey County conducted its most recent reappraisal in 2008, and assessed the subject property in accordance with the duly adopted schedules of values, standards and rules.

⁴ See Exhibit 1 attached to the Application for Hearing filed on July 14, 2009. The other parcels referenced on the Notice of Appeal are owned by Mountain Air Development Corporation.

⁵ See Exhibit 1 attached to the Application for Hearing filed on July 14, 2009.

7. In North Carolina, counties are required to value all property, for ad valorem tax purposes, at its true value in money, which is "market value." N. C. Gen. Stat. §105-283 provides that: "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 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."

8. At the hearing, Yancey County's expert witness, Mr. Timothy Cain, testified that Yancey County considered the sales that occurred prior to the January 1, 2008 general reappraisal to establish the assessment for the subject property as of the reappraisal date. Mr. Cain testified that Yancey County used the sales by Mountain Air Development Corporation to establish market value for the assessment of the property when these sales show what a willing and financially able buyer will pay for the property and what a willing seller would expect to receive from the buyer.

9. At the hearing, the Appellant's expert witness, J. Richard Marlow, gave testimony regarding his opinion of value for the properties appealed and belonging to Mountain Air Country Club, Inc. (09 PTC 240), Mountain Air Development Corporation (09 PTC 009 and 09 PTC 241) and Settlers Edge Holding Company LLC(09 PTC 009 and 09 PTC 242). In his appraisal report, the 22 lots are identified as "Parcel Number Six." As referenced in his appraisal report, the 22 lots are located within the Mountain Air residential development that is located off of Phipps Creek Road in Yancey County, North Carolina. The property that Mr. Marlow appraised consists of the golf course, clubhouse, and related amenities of Mountain Air Country Club as well as additional parcels located within the development.

10. In his appraisal report, Mr. Marlow's stated opinion of value for Parcel Number 01002 004428 was \$2,000,000 as of January 1, 2008. In his appraisal report, Mr. Marlow describes the property as part of the airstrip and holes two through nine. The property record card indicates that the parcel consists of 48.41 acres. The property is located at the top of Slickrock Mountain or at the approximate pinnacle of the Mountain Air development. Elevations over this tract vary from about 3,900 feet to 4,400 feet and the land is mostly open and used in conjunction with the Mountain Air golf course. The Mountain Air airstrip and adjacent airplane parking area is partially located on this parcel. The parcel fronts on Nettle Cove Road and Jumpoff Rock Road within the residential development.

11. The subject property is surrounded by Settlers Edge, a single-family home site neighborhood, strategically located within Mountain Air. The Settlers Edge lots are located on Nettle Cove Road adjacent to the front nine holes of the Mountain Air golf course as well as the Mountain Air airstrip. The Settlers Edge lots vary in size from about 0.6 to 2.1 acres.

12. At the hearing, Mr. Timothy F. Cain testified regarding Yancey County's process of developing the 2008 schedule of values, standards and rules that were used to assess

all property in Yancey County for the reappraisal, effective January 1, 2008. Mr. Cain testified that Yancey County performed statistical studies, regression studies, and put those components in place to build the tables in the schedules, standards and rules.

13. Mr. Cain testified that Yancey County used all factual data relevant to that January 1, 2008 reappraisal to determine the true value in money of properties that were under appeal by Mountain Air Country Club, Inc. (09 PTC 240), Mountain Air Development Corporation (09 PTC 009 and 09 PTC 241) and Settlers Edge Holding Company LLC (09 PTC 009 and 09 PTC 242). Such factual data included accessible roads, five transfers of title, marketing of lots for individual singles, and marketing of the property as a subdivision.

14. When assessing the subject property for the January 1, 2008 reappraisal, Yancey County applied the duly adopted schedule of values, standards and rules and determined that the value of the golf course (holes 2 through 9), and the airplane runway, which is for the exclusive use of Mountain Air property owners, was \$2,000,000 for tax year 2009.

15. The Yancey County Assessor did properly assess the Appellant's property in accordance with its duly adopted schedule of values, standards and rules for the 2008 countywide general reappraisal and his assessment was consistent with the assessments of similarly situated properties that were appraised during the reappraisal.

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

1. The Commission has jurisdiction to hear this appeal and correct any assessment of real property that is based upon an arbitrary or illegal method of valuation and when such valuation substantially exceeds the true value in money.

2. In North Carolina, property must be valued for *ad valorem* tax assessment purposes at its "true value in money," which is statutorily defined as "market value." Specifically, G.S. §105-283 provides that:

"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 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."

3. *Ad valorem* assessments are presumed to be correct. When an appellant challenges the county's assessment of his property, he 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 of the property.⁶

⁶ *In re Amp, Inc.*, 287 N.C. 547, 215 S.E.2d 752 (1975).

4. After the appellant produces such evidence as outlined above, the burden of going forward with the evidence and of persuasion that its methods would in fact produce true value then rests with the County; and it is the Commission's duty to hear the evidence of both sides, to determine its 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.⁷

5. The assessment affirmed by decision of the County Board is not based upon the application of an arbitrary, illegal, or erroneous method of appraisal, and the assignment of assessed value does not substantially exceed the true value in money of the subject property as of January 1, 2009.

6. The County, in its most recent general reappraisal of real property conducted pursuant to N.C. Gen. Stat. § 105-286 and made effective January 1, 2008, properly considered the past and probable future income, location, age, utility, adaptability for commercial or other uses and other important factors affecting the value of the subject property. The County applied a method that considered all important factors affecting the value of the property when it assessed the property for tax year 2009.

7. The method used by Yancey County to arrive at the assessed value for the property for tax year 2009, does follow the statutory requirements of N.C. Gen. Stat. §§ 105-283, 285, 286, 287, and 317 and the county's assessment of the property does reflect the true value in money of the real property when Yancey County did take into account factual evidence and data relevant to the determination of the true value in money of the property, and developed and employed appropriate methods, schedules, standards, and rules of valuation and appraisal, and properly applied those methods, schedules, and rules to arrive at the value as assigned by the County Board in the decision dated May 21, 2009.

8. The value assigned to the property for tax year 2009 is based on an appraisal method that correctly values real property. When the value is correct the County has no authority to make a change or adjustment as provided of N.C. Gen. Stat. § 105-287.

9. The County Assessor did value the Appellant's property consistent with his appraisal of similarly situated property as required by G.S. 105-317.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW THE COMMISSION NOW, ORDERS that the May 21, 2009 decisions of the 2009 Yancey County Board of Equalization and Review are affirmed.

⁷ *In re Appeal of IBM Credit Corporation*, 186 App. 223, 650 S.E.2d 828 (2007), aff'd per curiam, 362 N.C. 228, 657 S.E.2d 355 (2008).



NORTH CAROLINA PROPERTY TAX COMMISSION

Terry L. Wheeler, Chairman

Commissioners Dixon and Pittman concur. Vice Chairman Plyler and Commissioner Wilmoth respectfully dissent.

Entered: February 8, 2011

Attest:

Janet L. Shires, General Counsel