

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
07 PTC 375

IN THE MATTER OF:
APPEAL OF: **Parkdale Mills and
Parkdale America** from the decisions
of the Davidson County Board of
Equalization and Review concerning the
valuation of certain real property for tax
year 2007.

**FINAL DECISION
ON REMAND**

This Matter was initially 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, at its regularly scheduled session of hearings on Thursday, April 15, 2009 and May 13, 2009 pursuant to the appeal of Parkdale Mills and Parkdale America (“Parkdale”) from the decisions of the Davidson County Board of Equalization and Review (“County Board”) concerning the valuation of certain real property for tax year 2007.

John A. Cocklereece, Esquire, appeared at these hearings on behalf of the Appellant. Charles C. Meeker, Esquire appeared at these hearings on behalf of Davidson County.

By Final Decision entered November 3, 2009, this Commission affirmed the County Board’s valuations of the two plants at issue. Parkdale appealed to the North Carolina Court of Appeals, which rendered its decision on May 17, 2011. This Opinion vacated and remanded the Commission’s Final Decision, stating the following as to the burden of proof and giving the Commission directions as to the remand ordered:

The Commission is required to apply the following burden-shifting framework. A county’s ad valorem tax assessment is presumptively correct. *In re IBM Credit Corp. (IBM Credit II)*, ___ N.C. App. ___, ___, 689 S.E.2d 487, 489 (2009). The taxpayer rebuts this presumption by presenting “competent, material[,] and substantial’ evidence that tends to show that (1) either 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.” *Id.* (quoting *In re AMP.*, 287 N.C. at 563, 215 S.E.2d at 762) (second alteration in original). Once the taxpayer rebuts the initial presumption, the taxing authority must demonstrate its method producing true values. *Id.*

The critical inquiry in the final step of the analysis is “whether the tax appraisal methodology adopted by the tax appraiser is the proper means or methodology given the characteristics of the property under appeal to produce a true value or fair market value.” *Id.* at _____, 689 S.E.2d at 489 (internal quotation marks omitted). Whether this is the case is not determined by a mechanical bright line rule. Rather, it is a factual inquiry requiring the Commission to determine the appropriate appraisal methodology under the circumstances.

* * * * *

The [Final Decision] has no finding or conclusion of law explaining why the County’s methods were arbitrary or illegal and how either of those results impacted the valuation finding. More importantly, the [Final Decision] does not explain why the Commission concluded the County’s ultimate assessment was correct. Because the Commission failed to explain why the County’s appraisal methods ascertained true value despite being arbitrary or illegal, we cannot adequately apply the standard of review.

The lack of findings undermines our confidence in the Commission’s conclusion that the County has met its ultimate burden of establishing a true value. *Cf., e.g., In re IBM Credit Corp. (IBM Credit I)*, 186 N.C. App. 223, 277, 650 S.E.2d 828, 831 (2007) (stating that the Commission’s analysis did not reflect the proper burden-shifting framework) *aff’d per curiam*, 262 N.C. 228, 657 S.E.2d 355 (2008). Therefore, we vacate and remand this case to the Commission, which may conduct additional hearings on this matter if it deems them necessary. On remand, the Commission *shall* make specific findings of fact and conclusions of law explaining how it weighed the evidence to reach its conclusions using the burden-shifting framework articulated above and this Court’s previous decisions.

See Slip Op. pp. 5-6, 11-12 (emphasis in original).

After receiving statements from the parties as to how the Commission should consider this matter on remand, the Commission considered this matter at its February 14-17, 2012 session and decided to follow the Court of Appeals’ directions based on the existing hearing record.

Chairman Terry L. Wheeler presided over the remand from the Court of Appeals with Vice Chairman Paul Pittman and Commission members Georgette Dixon and William W. Peaslee participating.

STATEMENT OF CASE

The properties subject to this appeal are Parkdale's Lexington and Thomasville manufacturing facilities that are located in Davidson County, North Carolina. The Lexington facility is located at 65 Mill Street, Lexington, NC, and is a multiple-story cotton mill that began production in 1913. The additions to the facility were made during different stages of construction, and over an extended period of years. The plant contains 465,197 square feet and is situated on 15.43 acres. Effective January 1, 2007, Davidson County assessed the Lexington manufacturing facility at a total value of \$6,776,160. Parkdale challenged Davidson County's assessment of the property by filing an appeal to the County Board. After conducting a hearing, the County Board determined that the assessed value of the subject property was \$5,040,420, as of January 1, 2007. Parkdale contends this facility had a true value of \$1,800,000 as of January 1, 2007.

The second property subject to this appeal is Parkdale's Thomasville manufacturing facility that is located on Carmalt Street, Thomasville, North Carolina. This is also a multiple-story cotton mill built in 1909. Additions to the Thomasville facility were made during different stages of construction. The facility contains appropriately 356,737 square feet and is situated on 9.18 acres of land. Effective January 1, 2007, Davidson County assessed the subject property at a total value of \$3,620,080. Parkdale challenged the assessment by filing an appeal with the County Board. After conducting a hearing, the County Board determined that the valuation for the subject property was \$3,287,150 as of January 1, 2007. Parkdale contends that the value of the subject property was \$1,100,000 as of January 1, 2007.

ISSUES

1. Did Davidson County employ an arbitrary or illegal method of appraisal in reaching the assessed values that the County Board assigned to Parkdale's properties, effective January 1, 2007?
2. Did the County Board assign values to Parkdale's properties that substantially exceeded the subject properties' true values in money as of January 1, 2007?

FROM THE APPLICATIONS FILED IN THIS MATTER, STIPULATIONS, AND THE 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 properties subject to this appeal are the Lexington and Thomasville manufacturing facilities that are located in Davidson County, North Carolina. The Lexington facility is located at 65 Mill Street in Lexington, and is a multiple-story cotton mill that began production in 1913. The additions to the facility were made during different stages of construction, and over an extended period of years. The plant contains 465,197 square feet

and is situated on 15.3392 acres.¹ The Thomasville manufacturing facility is located at 400 Carmalt Street, Thomasville, Davidson County, North Carolina. This is a multiple-story cotton mill built in 1909. The additions to the facility were made during different stages of construction. The facility contains gross building areas of 356,737 square feet and is situated on 9.18 acres of land.²

3. The gross building areas of the Lexington Plant are composed of manufacturing and warehousing areas totaling 461,887 square feet (“Lexington Manufacturing and Warehousing Space”) and administrative office and foyer areas totaling 3,320 square feet (“Lexington Office Space”). Of the Lexington Manufacturing and Warehousing Space, 375,373 square feet are located on the main level, 70,407 square feet are located on the upper level, and 16,097 square feet are located in the basement level. Of the Thomasville Manufacturing and Warehousing Space, 209,800 square feet are located on the main level of the Thomasville Plant, 25,674 square feet are located on the upper level, and 113,409 square feet are located in the basement level.

4. Effective January 1, 2007, Davidson County assessed the Lexington Plant at a total value of \$6,776,160. Parkdale challenged Davidson County’s assessment of the property by filing an appeal to the County Board. After conducting a hearing, the County Board determined that the assessed value of the subject property was \$5,040,420 as of January 1, 2007. The initial assessment included 70% depreciation due to the Plant’s age and physical condition. The County Board included an additional 10% deduction for obsolescence due to column-spacing and the building’s multi-floor layout, and graded the building’s condition as average. Since this building was already assessed at just 30% of cost new, the 10% deduction for obsolescence further reduced the building value by one-third.

5. Effective January 1, 2007, Davidson County assessed the Thomasville manufacturing facility at a total value of \$3,620,080. Parkdale challenged the assessment by filing an appeal with the County Board. After conducting a hearing, the County Board determined that the valuation of the subject property was \$3,287,150 as of January 1, 2007. The changes for the Thomasville Plant from the initial assessment to the County Board assessment were the same kind as those for the Lexington Plant.

6. Even though the Lexington and Thomasville manufacturing facilities were older plants, these manufacturing facilities are fully automated, productive and operating 24-hours per day and seven days per week as of the effective day of the general reappraisal. These facilities are well-maintained and climate-controlled. Along with a number of other plants, Parkdale uses the Lexington and Thomasville facilities to process approximately 10% of the United States’ cotton crop into yarn.

¹ Order on Final Pre-Hearing Conference, Joint Stipulation, Number 3(a). See also Parkdale’s Application for Hearing (Lexington Plant), dated July 13, 2007.

² Order of Final Pre-Hearing Conference, Joint Stipulation, Number 4(a). See also Parkdale’s Application for Hearing (Thomasville property), dated July 13, 2007.

7. At the hearing, Parkdale offered the testimony of Mr. Paul G. Carter, Jr., MAI, SRA. Mr. Carter appraised both the Lexington and Thomasville manufacturing plants. At the hearing, Mr. Carter testified that the Lexington and Thomasville Plants were at the end of plants' useful lives and should be fully depreciated. As such, he determined the market price for the Lexington and Thomasville Plants would be the sales price of closed manufacturing plants. When considering the market price from the sales of closed manufacturing plants, Mr. Carter's opinion of value for the Lexington Plant was \$905,000 as of January 1, 2007. When considering the market price from the sales of closed manufacturing plants, Mr. Carter's opinion of value for the Thomasville Plant was \$625,000 as of January 1, 2007.

8. Mr. Carter did not substantially dispute the land assessments for the two plants. Mr. Carter's land estimate as vacant was \$368,000 for the Lexington Plant, so his building value above the vacant land value was just \$537,000. The County assessment of the Lexington land was \$368,160. For the Thomasville Plant, Mr. Carter's land value as vacant was \$211,000, so his building value above the vacant land value was just \$414,000. The County assessment of the Thomasville land was \$240,975. These building values above the vacant land values are approximately \$1.25 per square foot, yet the buildings are fully automated and used every day during the three shifts.

9. The evidence further showed that Mr. Carter had not inspected the inside spaces of any properties whose sales he considered comparable. Jerry Ward, Davidson County's real estate appraiser supervisor, on the other hand, in the winter of 2008 had inspected inside spaces of the first two sales which Mr. Carter considered comparable. Mr. Ward found these facilities to be closed and in poor condition because roofs were leaking and the flooring rotten in places. Also, the heat was off and the wiring stripped out, which is typical for closed textile buildings when sold. Even though Mr. Ward's inspections were two and four years after the two subject sales, the floors and leaking roofs were very bad and appeared to have been that way for quite some time. Mr. Ward thus determined that Mr. Carter's first two sales were not comparable to the Lexington and Thomasville Plants because such sale properties were not maintained. Neither party put on evidence of the interior conditions of the other closed plants considered by Mr. Carter.

10. Mr. Ward testified that the County Board's assessments were performed in accordance with Davidson County's 2007 Schedules of Values pursuant to G.S. § 105-317.

11. Mr. Ward also prepared comparable sales analyses of open plants purchased for purposes other than reuse as textile plants. For the Lexington Plant, Mr. Ward's comparable sales, with land, showed prices of \$4.82 to \$6.75 per square foot, with one adaptive reuse sale, as adjusted, at \$13.18 per square foot. The County Board's assessment for the Lexington Plant, including land, was \$10.84 per square foot. The comparable sale analysis for the Thomasville Plant, with land, showed prices of \$5.16 to \$7.56 per square foot with the adaptive reuse sale, as adjusted, at \$14.82 per square foot. The County Board's assessment for the Thomasville Plant, including land, was \$9.21 per square foot.

12. Like the adaptive reuse sale in Hickory, the Lexington and Thomasville Plants are located in residential areas near the center of those Cities.

13. When valuing property, there are three accepted approaches: the income approach, the cost approach and the sales comparison approach.

14. When arriving at his opinion of values for the Lexington and Thomasville Plants, Mr. Carter relied solely on the sales comparison to estimate the total market values for the subject plants.

15. While relying solely on the sales comparison approach, Mr. Carter relied upon the sales of closed plants to arrive at his opinion of values for the Lexington and Thomasville manufacturing facilities.

16. When arriving at the assessments for the Lexington and Thomasville manufacturing facilities, the County Board applied the duly adopted 2007 Schedules of Values, Standards, and Rules to determine the values that were assigned to the manufacturing plants.

17. Applying the Schedules of Values, Standards and Rules, the total assessment for the Lexington Plant was \$5,040,420 as of January 1, 2007. Applying the Schedules of Values, Standards, and Rules, the total assessment for the Thomasville Plant was \$3,287,150 as of January 1, 2007.

18. At the hearing, Davidson County presented evidence of sales of open plants, even though those plants were not reused for textile purposes. These open plants were maintained and operable. The open plants, including the adaptive reuse sale, are more comparable to the Lexington and Thomasville Plants than the closed plants in Mr. Carter's appraisal.

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

1. When a Taxpayer challenges the County's assessment of its property, the Taxpayer is required to produce evidence both that the County used an arbitrary or illegal method and that the County's assessment substantially exceeds true value.

2. Parkdale's evidence from Mr. Carter, taken alone and by itself, tends to show that the County Board used an arbitrary method by failing to consider comparable sales at the time of its assessments and that the assessments of the Lexington and Thomasville Plants substantially exceeded true value.

3. Parkdale thus rebutted the presumption of correctness of the two assessments at issue, and the burden shifted to Davidson County to demonstrate that its methods produced the true value of the Lexington and Thomasville Plants.

4. Davidson County carried its burden, in part by showing that Mr. Carter's appraisal relied on closed plants that were not comparable and in part by showing sales of open plants, including the adaptive reuse of one facility, that were more comparable to the Lexington and Thomasville Plants, which were open and operating as of the assessment date. Parkdale's Plants are located in residential areas of their respective Cities and thus have the possibility of adaptive reuse, as occurred with the facility in Hickory.

5. While comparable sales are a more appropriate method for assessing older manufacturing facilities, neither party offered evidence of yarn-spinning or other automated textile facilities like the Lexington and Thomasville Plants that were sold for use as textile facilities. Thus, the Commission does not rely solely on the comparable sales method as performed by Davidson County but also relies on Davidson County's application of its Schedule of Values pursuant to G.S. § 105-317. These Schedules, as applied by the County Board, included a total of 80% reduction from cost new due to depreciation and obsolescence. These deductions are reasonable and fair for older plants which are nonetheless fully automated and operational. Davidson County's Schedules are based on a combination of cost new less depreciation for buildings and sales for land. As found above, the land values were not substantially disputed by Parkdale's appraiser.

6. The County's sales analysis showed a range of per square foot values which included the per square foot prices computed under the Schedules. Thus, the sales comparison method and Section 317 method support the County Board's assessments.

7. Neither party presented evidence as to the income method.

8. Based on the greater weight of the evidence, Davidson County has met its burden of demonstrating that its methods produce true values of Parkdale's manufacturing facilities and that its methods are not arbitrary or illegal.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION THEREFORE ORDERS that the decisions of the 2007 Davidson County Board of Equalization and Review assigning a total value of \$5,040,420 to the Lexington facility and a total value of \$3,287,150 to the Thomasville facility, effective January 1, 2007, are hereby affirmed.

NORTH CAROLINA PROPERTY TAX COMMISSION



Terry L. Wheeler

Terry L. Wheeler, Chairman

Vice Chairman Pittman and Commission members Dixon and Peaslee concur. Commission member Plyler did not participate in the remand from the Court of Appeals.

Entered: May 23, 2012

Attest:

Janet L. Shires
Janet L. Shires, General Counsel and
Secretary