

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
09 PTC 080

IN THE MATTER OF:
APPEAL OF: **Paul Visser**
from the decision of the Caldwell
County Board of Equalization and
Review concerning the valuation
of real property for tax year 2009.

FINAL DECISION

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 Wednesday, November 16, 2011 pursuant to the appeal of **Paul Visser** ("Appellant") from the decision of the Caldwell County Board of Equalization and Review ("County Board") concerning the valuation of real property for tax year 2009.

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

The Appellant appeared at the hearing *pro se*. Attorney David Lackey appeared at the hearing on behalf of Caldwell County.

STATEMENT OF CASE

The property subject to this appeal is a vacant one-acre residential lot (Lot 128)¹ located at the Grandfather Vistas Subdivision in Caldwell County, North Carolina. For tax year 2009, Appellant challenged Caldwell County's assessment of the subject lot at a value of \$196,500 by filing an appeal with the Caldwell County Board of Equalization and Review ("County Board"). By decision mailed on April 29, 2009, the County Board affirmed Caldwell County's \$196,500 assessment. From that decision, Appellant filed an appeal with the Commission and requested a hearing. On appeal to the Commission, Appellant contends that Caldwell County's \$196,500 assessment of the subject lot was based on the inflated sales price of \$231,200 for the neighboring Grandfather Vistas lot (Lot 129) and the inflated purchase price of \$194,231 that he paid for the lot at the closing on January 5, 2007.

ANALYSIS AND ISSUES

A county's *ad valorem* tax assessment is presumptively correct.² The taxpayer rebuts this

¹ During the 2005 general reappraisal the subject property was part of two ten-acre tracts (Lots 9 and 10) in Saddle Creek Estates, which was assessed at a total value of \$13,800 (land unit price of \$9,600 per acre). In 2006, all unsold ten-acre tracts in Saddle Creek Estates were purchased and then subdivided into one-acre residential lots, which is the Grandfather Vistas Subdivision in Caldwell County, North Carolina. For tax year 2007, Caldwell County changed the appraised value of the subject property as provided in N.C. Gen. Stat. § 105-287.

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

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.³ If the taxpayer rebuts the initial presumption, then the burden shifts to the taxing authority to demonstrate that its methods produce true values.⁴

Under this analysis, the Commission considers the following issues:

1. Did Caldwell County employ an arbitrary or illegal method of appraisal in reaching the assessed value that the County Board assigned to Appellant’s property?

2. Was the property tax value determined by the Caldwell County Board of Equalization and Review (“County Board”) substantially greater than the true value of the subject property?

3. If Appellant provides evidence that tends to show that Caldwell County employed an arbitrary or illegal method of appraisal and that the tax value was substantially greater than the true value in money of the subject property, then what was the true value in money of the subject property for the year at issue?

FROM THE APPLICATION FILED IN THIS APPEAL 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 property subject to this appeal is a vacant, one-acre lot (Lot 128), located at the Grandfather Vistas Subdivision in Caldwell County, North Carolina that is located about three miles from Blowing Rock, North Carolina. In tax year 2009, Appellant appealed Caldwell County’s \$196,500 assessment of the subject lot. By decision mailed to Appellant on April 29, 2009, the County Board affirmed Caldwell County’s \$196,500 assessment of the subject property.

3. At the hearing, Appellant challenged the County Board’s decision to affirm Caldwell County’s assessment of the subject lot by arguing that the prior \$13,800 assessment was correct and that Caldwell County erred by assessing the subject lot at \$196,500 for tax year 2007 since he believes that Caldwell County based its assessment on the inflated sales price of \$231,200 for the neighboring Grandfather Vistas lot (Lot 129) and his purchase of Lot 128 at a price of \$194,231 on January 5, 2007.

4. At the hearing, Caldwell County provided evidence showing that the reappraisal of the subject lot, in tax year 2007, was to recognize a change in the property’s value, resulting from the subdivision of the property as part of two ten-acre tracts (Lots 9 and 10 of Saddle Creek Estates) to a one-acre residential home site. This change occurred when all of the unsold ten-

³*In re IBM Credit Corp. (IBM Credit II)*, __ N.C. App. __, __, 689 S.E.2d 487, 489 (2009). (*In re Amp, Inc.*, 287 N.C. at 563, 215 S.E.2d at 762).

⁴*In re IBM Credit Corp. (IBM Credit II)*, __ N.C. App. __, __, 689 S.E.2d 487, 489 (2009).

acre tracts in Saddle Creek Estates were purchased and then divided into one-acre home sites.⁵

5. Caldwell County's reappraisal of the subject lot from \$13,800 to \$196,500 occurred after⁶ Blue River Ridge at Blowing Rock LLC's purchase of all the remaining unsold ten-acre tracts in the Saddle Creek Subdivision, which were later subdivided into one-acre home sites known as Grandfather Vistas Subdivision. Thereafter, Appellant purchased the subject lot at a price of \$194,231 and the neighboring lot (Grandfather Vistas Lot 129) sold for \$231,200.

6. At the hearing, Caldwell County provided evidence to demonstrate that its valuation method was not arbitrary and that the value assigned to the subject one-acre residential home site lot did not substantially exceed the true value of the property when the assessor's reappraisal of the subject lot was to recognize a change in the property's value and the valuation was determined by applying the county's duly adopted schedule of values, standards and rules.

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

1. *Ad valorem* assessments are presumed to be correct. When assessments are attacked or challenged, an appellant is required to produce evidence that tends to show that the County relied on an illegal or arbitrary valuation method and that the assessment substantially exceeds true value of the property.⁷

2. 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.⁸

3. After considering the testimony, reviewing the matters of record and hearing the evidence of both sides, the Commission after weighting the sufficiency of the evidence, and the credibility of witnesses, determined that Caldwell County demonstrated that its valuation method did produce true value for the subject lot when it arrived at a value of \$196,500 for the lot.

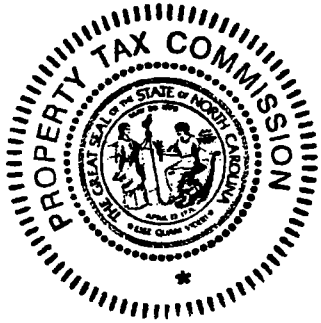
BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION ORDERS that the decision of the County Board assigning a value of \$196,500 to the subject lot is affirmed.

⁵ There is a statutory mandate for an assessor to reappraise property where circumstances cause an increase or decrease in valuation. See N.C. Gen. Stat. § 105-287 and *In re Corbett*, 355 N.C. 181, 558 S.E.2d 82 (2002).

⁶ Blue River at Blowing Rock LLC purchased the property and subdivided the property in tax year 2006 and the reappraisal was effective January 1, 2007.

⁷ *In re Amp, Inc.*, 287 NC 547, 215 S.E.2d 752 (1975).

⁸ *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). *In re IBM Credit Corp. (IBM Credit II)*, ___ N.C. App. ___, 689 S.E.2d 487, 489 (2009).



NORTH CAROLINA PROPERTY TAX COMMISSION

Terry L. Wheeler, Chairman

Vice Chairman Pittman and Commission members Plyler, Dixon
and Peaslee concur.

Entered: ~~January 19, 2012~~

Attest:

Janet L. Shires, Secretary and General Counsel