

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

91 PTC 409

In the matter of:)
The appeal of Stroh Brewery)
Company from the appraisal of)
certain real property by the)
Forsyth County Board of)
Equalization and Review for 1991.)

Final Decision

This matter 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 12 November 1992 pursuant to the appeal of Stroh Brewery Company (hereinafter "Taxpayer") from a decision of the Forsyth County Board of Equalization and Review for 1991.

Statement of Case

The property under appeal consists of 125.88 acres according to County records, or 129.10 according to the Taxpayer's survey, improved with an industrial brewing facility known as The Stroh Brewery. The property is identified by county tax records as Tax Block 2707, Lots 101 and 102-B, and was appraised and assessed at a total value of \$30,374,900 — \$1,752,200 for the land, and \$28,622,700 for the improvements.

The Taxpayer contends that the property should be appraised and assessed at a total value of \$12,500,000 — \$1,750,000 for the land, and \$10,750,000 for the improvements. The Taxpayer further contends that this opinion of value is supported by an independent fee appraisal of the property and therefore respectfully asks the Commission to consider same and adjust accordingly.

The County maintains that the subject property has been appraised and assessed in accordance with the Schedules of Values, Rules and Standards adopted for the 1988 general reappraisal of Forsyth County, and in full compliance with all applicable statutes. The County further maintains that the subject property has been appraised fairly and equitably with other similar property, and therefore respectfully asks the Commission to affirm the current assessment.

The Taxpayer was represented at the hearing by Nancy W. Freedman and Robert J. Deutsch, attorneys at law; the County was represented at the hearing by Bruce E. Colvin, Deputy County Attorney for Forsyth County.

Issues

In their pre-hearing order, the parties did not agree as to the issue or issues to be decided by the Commission. The Taxpayer contended that the issues were: "(a) What is the true value in money of the subject property? (b) What are the methods of valuation to determine the true value in money of the subject property? and (c) Was the Taxpayer's property appraised by Forsyth County at a greater percentage of its true value in money than other similar and comparable properties in Forsyth County?" The County contended that the issues were: "(a) Was the Taxpayer's appeal timely and appropriately made? and (b) Was the Taxpayer's property appraised by Forsyth County at a greater percentage of its true value in money than other similar and comparable properties in Forsyth County?"

Noting that the Taxpayer's appeal concerns the appraised value of the subject property as of 1 January 1991 and that the County's most recent general reappraisal of real property was effective 1 January 1988, and considering both the provisions of G.S. 105-287 and the guidelines set by the North Carolina Supreme Court for property tax appraisal appeals in In re Appeal of AMP, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975), the Commission finds that the issues presented in this appeal are:

1. Did the County employ an arbitrary or illegal method of appraisal in reaching the value assigned by the County to the subject property for 1 January 1988?
2. Did the County's appraisal of the subject property substantially exceed the true value in money of the property as of 1 January 1988; and
3. If the first two issues are answered in the affirmative, what was the true value in money of the property as of 1 January 1988?

Stipulations

In their Order On Final Pre-hearing Conference filed with the Commission, the parties stipulated to the following undisputed facts:

1. Since April, 1983, the Taxpayer, Stroh Brewery Company, has been the owner of real property located in Forsyth County at 145 Barnes Road, Winston-Salem, North Carolina, otherwise known and referred to in Forsyth County as Tax Block 2707, Lots 101 and 102B.

2. As of January 1, 1988, Forsyth County assessed and valued the subject property at \$30,374,900.
3. There was a hearing held by the Forsyth County Board of Equalization and Review on or about November 13, 1991, at which the Taxpayer alleged the valuation of the property was in excess of its true value.
4. During the course of a regularly scheduled and official meeting of the Forsyth County Board of Equalization and Review, no change was made in the value of Taxpayer's property.
5. By letter dated November 18, 1991, Taxpayer was notified of the Determination of the Board of Equalization and Review.
6. Taxpayer appealed thereafter stating as the grounds of appeal: "The Stroh Brewery Company hereby appeals the assessment as being in excess of the fair market value of the subject property." Forsyth County denied said allegation.
7. Taxpayer Stroh Brewery Company contends the value of the subject property is \$12,500,000. Forsyth County contends the value of the subject property is \$30,293,000.

Evidence

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

1. Taxpayer Exhibit 1 - Appraisal report of the subject property dated October 29, 1992 by M. J. McCloskey & Associates.
2. Taxpayer Exhibit 2 - Title Policy dated 3 July 1990 including attachments for the brewery formerly owned by Stroh Brewery

Company and sold to Adolph Coors Company located in Shelby County, Tennessee.

3. Taxpayer Exhibit 3 - Estimate for systematic asbestos removal at the subject brewery dated 26 October 1992 from Dennis W. Forbis, Health & Hygiene, Inc. to Gregory Miller at Stroh Brewery Company.
4. Oral testimony of Michael J. McCloskey Jr. Admitted as an expert in the field of real property appraisal.
5. Oral testimony of John A. Dinsmore.

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

1. County Exhibit 1 - Appraisal report prepared by Jessee B. Ring.
2. Oral testimony of Jessee B. Ring. Admitted as an expert in the field of real property appraisal.

Commission Exhibits

In addition to the evidence presented by the parties, the Commission also considered the following procedural documents:

- C-1 Notice of Appeal, filed December 18, 1991.
- C-2 Commission acknowledgment of C-1, dated December 27, 1991.
- C-3 Letter of authorization from Taxpayer to Commission Secretary, filed December 23, 1991.
- C-4 Transmittal letter and Application for Hearing filed January 6, 1992.
- C-5 Commission acknowledgment of C-4, dated January 7, 1992.
- C-6 Forsyth County's Response to the Application for Hearing and Motion to Dismiss, filed January 17, 1992.

- C-7 Commission acknowledgment of C-6, dated January 21, 1992.
- C-8 Taxpayer's Response to Respondent's Motion to Dismiss, filed January 29, 1992.
- C-9 Commission acknowledgment of C-8, dated January 31, 1992.
- C-10 Proposed hearing calendar for November meeting of the Property Tax Commission, dated September 21, 1992.
- C-11 Notice of Hearing (County), dated October 21, 1992.
- C-12 Notice of Hearing (Taxpayer), dated October 21, 1992.
- C-13 Petitioner's Motion to Permit Limited Practice of an Out-of-State Attorney, filed November 2, 1992.
- C-14 Commission acknowledgment of C-13, dated November 3, 1992.
- C-15 Order Allowing Appearance Pro Hac Vice, entered 12 November 1992.
- C-16 Order On Final Pre-hearing Conference, approved by the Chairman and ordered filed 12 November 1992.

Findings of Fact

The Commission adopts the Stipulations of the parties set forth above as part of its Findings of Fact, and makes the following additional Findings of Fact:

1. The Taxpayer does not contest the County's appraisal of the subject land at a value of \$1,752,200. The Taxpayer does contest the County's appraisal of the real property improvements located on the land at a value of \$28,540,800.
2. In his application of the cost approach to value, the Taxpayer's witness, Mr. McCloskey, arrived at a replacement cost new for the improvements (not including yard improvements) of \$30,883,869; see Taxpayer Exhibit 1 at page 78. Dividing the square footage used by this witness (1,182,833 square feet)

- into the replacement cost new yields an average replacement cost new of approximately \$26.11 per square foot.
3. In his application of the cost approach to value, the County's expert witness arrived at a replacement cost new for the improvements (not including yard improvements) of \$35,088,270. Dividing the square footage used by this witness (1,257,351 square feet) into the replacement cost new yields an average replacement cost new of approximately \$27.91 per square foot.
 4. Mr. McCloskey estimated the replacement cost new of the yard improvements at \$1,670,000; see Taxpayer Exhibit 1 at page 78. Mr. Ring estimated the replacement cost new of the yard improvements at \$1,614,760; see County Exhibit 1. There is no material dispute between the parties as to the replacement cost new of the yard improvements.
 5. Mr. McCloskey applied a total depreciation of 65% to the yard improvements; Mr. Ring applied a total depreciation of approximately 5% to the yard improvements.
 6. Mr. McCloskey estimated that the subject improvements were affected by total accrued depreciation of 65 percent, consisting of physical depreciation of 15 percent and functional and/or economic depreciation of 50 percent.
 7. Mr. Ring estimated that the subject improvements (except for the yard improvements) were affected by total accrued depreciation of approximately 20-25 percent. Mr. Ring did not make an adjustment for functional or economic obsolescence.

8. The subject property improvements are attractive and well maintained. Only the gravity feed area of the brewhouse is a special-purpose improvement unique to the brewing industry. Approximately 92% of the subject improvements are readily adaptable to a wide variety of industrial uses. See Taxpayer Exhibit 1 at pages 26 and 42.
9. The highest and best use of the subject property is continued use as an industrial manufacturing site; see Taxpayer Exhibit 1 at pages 28-29.
10. There are a limited number of potential buyers for a property as large as the subject. Potential buyers would ordinarily look to the market to see where there might be suitable alternative properties which could be utilized to perform the same function.
11. Based on the analysis of data contained in Taxpayer Exhibit 1, particularly the offering data on the Heilman Brewery in Perry, Georgia, and on the testimony of the Taxpayer's witnesses, the Commission finds that the subject improvements were affected on 1 January 1988 by functional and economic obsolescence which the County did not consider in the course of its appraisal.
12. The Commission finds that a proper adjustment for obsolescence not considered by the County is as follows:

Replacement Cost New of Real Property Improvements	\$36,703,020
Less accrued depreciation at 37.75%	\$13,855,390
Depreciated replacement cost	\$22,847,630

13. The Commission finds that the true value in money of the subject property as of 1 January 1988 was:

Depreciated replacement cost (see previous paragraph)	\$22,847,630
Land value per County	\$1,752,200
Total Value	\$24,599,830

Conclusions of Law, Decision, and Order

Based on its Findings of Fact set forth above, the Commission makes the following Conclusions of Law:

1. The Taxpayer made a timely and proper appeal to the Property Tax Commission from a decision of the Forsyth County Board of Equalization and Review for 1991. The issue raised by the Taxpayer concerns the appraised value of the subject property for the tax year 1991.
2. Under the provisions of G.S. 105-287, the Taxpayer is entitled to challenge the value placed on its property in the last reappraisal year (1988) in tax year 1991. Any change made in tax year 1991 must be made in accordance with the 1988 schedule of values; any such change is effective in the year in which it is made and is not retroactive; see G.S. 105-287(c).
3. The County's appraisal of the subject property was affected by an appraisal error resulting from a misapplication of the schedules, standards, and rules used in the County's most recent general reappraisal. The error was the County's failure


to make any adjustment for functional or economic obsolescence.
in the appraisal of the real property improvements.

4. The County's appraisal of the subject property improvements at a value of \$28,622,700 was substantially greater than the true value in money of the improvements, which the Commission found to be \$22,847,630.

WHEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that the decision of the Forsyth County Board of Equalization and Review for 1991 assigning a value of \$30,374,900 to the subject property is Reversed; the County is instructed to make such changes in its tax records as may be needed to reflect the findings and conclusions of the Commission set forth herein, assigning a value of \$24,599,830 to the subject property for tax year 1991.


Entered this the 14th day of June, 1993.

NORTH CAROLINA PROPERTY TAX COMMISSION



John A. Cocklereece, Chairman

Attest:



C. B. McLean Jr., Secretary