

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
16 PTC 0051

IN THE MATTER OF:
THE APPEAL OF:

Alan D. Carvalho, Trustee

FINAL DECISION

from the decision of the
Swain County Board
of Equalization and Review
not to change the acreage of
the subject property for tax year 2016.

This Matter came on for hearing 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, October 16, 2016, pursuant to the appeal of **Alan D. Carvalho, Trustee** (“Taxpayer or Appellant”). Appellant is appealing the decision of the 2016 Swain County Board of Equalization and Review (“County Board”), which the County Board decided not to change the acreage of the Taxpayer’s property for tax year 2016.

Chairman William W. Peaslee presided over the Wednesday, October 16, 2016 hearing with Vice Chairman Terry L. Wheeler and Commission Members Jack C. (Cal) Morgan, III, David A. Smith, and Alexander A. Guess participating.

Alan D. Carvalho, Trustee appeared at the hearing on behalf of the Taxpayer. Kimberly N. Carpenter, with the law firm of Earwood, Moore, Carpenter & Guy, PLLC, appeared at the hearing on behalf of Swain County.

STATEMENT OF THE CASE

The property under appeal is a tract of land consisting of 44+/- acres that is located in Swain County, North Carolina that is identified by the Swain County Tax Department as Parcel Number 4629-77-9719.

Swain County’s most recent general reappraisal of real property was effective as of January 1, 2013. In tax year 2016, the County Board assigned a value of \$333,800 based on a change in acreage due to a review of the GIS calculated acreages in Swain County. The change resulted in an acreage of 44.30 from a previous acreage of 44.08. From this decision, the Taxpayer appealed to the Commission.

In Taxpayer’s Application for Hearing, the Taxpayer contends that the County failed to consider a previously certified plat and that the assessment of the subject property should be

\$333,360. As such, the Taxpayer contends that the subject property consists of only 44.08 acres as previously platted and assessed.

The County contends that the subject property was appraised in accordance with the County's duly adopted schedule of values, standards, and rules and that the County used the best information available at the time to assess the acreage in question. The County states that it has no knowledge of a previously certified plat or records of such a plat to consider, and that the property is not appraised in excess of its true value. The County asserts that in its appraisal of the subject property, all important factors affecting the value of the property have been considered, and requests the Commission to confirm the assessed value and the acreage determined by the County Board.

ANALYSIS AND ISSUES

A county's *ad valorem* tax assessment is presumptively correct.¹ The taxpayer rebuts this presumption by presenting "competent, material and substantial" evidence that tends to show that: (1) [E]ither 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.² If the taxpayer rebuts the initial presumption, the burden shifts to the taxing authority to demonstrate that its methods produce true values.³

Under this analysis, the Commission must consider the following issues:

1. Did Appellant carry his burden of presenting competent, material and substantial evidence tending to show that:
 - (a). Swain County employed an arbitrary or illegal method of appraisal in reaching the property tax value for Appellant's property;
and
 - (b). The County Board assigned a value that is substantially greater than the true value of the subject property for the year at issue?
2. If the above issues are answered in the affirmative, then what was the true value in money of the subject property for the year at issue based on the acreage that was used by the county to reach the assessment of the property.

FROM APPELLANT'S NOTICE OF APPEAL AND APPLICATION FOR HEARING FILED IN THIS MATTER, AND EVIDENCE PRESENTED, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The property under appeal is a tract of land consisting of 44+/- acres that is located in Swain County, North Carolina and is identified by the Swain County Tax Department as Parcel Number 4629-77-9719.

¹ In re Amp, Inc., 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

² Id.

³ In re IBM Credit Corporation (IBM Credit II), 201 N.C. App. 343, 689 S.E.2d 487 (2009), disc. review denied and appeal dismissed, 363 N.C. 854, 694 S.E.2d 204 (2010).

2. Swain County's most recent general reappraisal of real property was effective as of January 1, 2013. In tax year 2016, the County Board assigned a value of \$333,800 based on a change in acreage due to a review of the GIS calculated acreages in Swain County. The change resulted in an acreage of 44.30 from a previous acreage of 44.08.
3. Thereafter, the Taxpayer challenged the County Board's decision by filing a Notice of Appeal and Application for Hearing with the Commission.
4. At the hearing, Taxpayer argued that the County Board failed to consider a previously certified plat and that assessment of the subject property should be \$333,360. As such, the Taxpayer contends that the subject property consists of only 44.08 acres as previously platted and assessed.
5. The Taxpayer did not present evidence tending to show that subject property was not appraised in accordance with the County's duly adopted schedule of values, standards, and rules and that the County did not use the best information available at the time to assess the acreage in question.
6. The County did use the best information available at the time to assess the acreage in question since the change in acreage as due to a review of the GIS calculated acreages in Swain County.
7. The County did not have knowledge of a previously certified plat or records of such a plat to consider. Accordingly, the subject property is not appraised in excess of its true value.

**BASED UPON THE FOREGOING FINDINGS OF FACT, THE COMMISSION
MAKES THE FOLLOWING CONCLUSIONS OF LAW:**

1. A county's *ad valorem* tax assessment is presumptively correct.⁴ The taxpayer rebuts this presumption by presenting "competent, material and substantial" evidence that tends to show that: (1) [E]ither 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.⁵
2. Appellant failed to present any evidence tending to show that the county used an arbitrary or illegal method to assess his property or that the county's assessment substantially exceeded the true value in money of the property.
3. Unless the acreage affects the value of the subject property, the Commission does not have any jurisdiction regarding this matter.

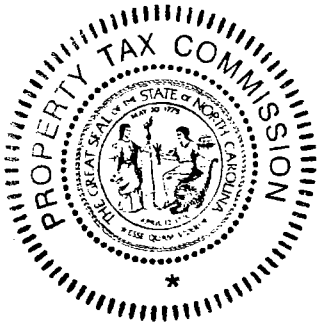
⁴ In re Amp, Inc., 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

⁵ Id.

WHEREFORE, by a unanimous decision, the Commission granted the County's motion to dismiss, and determined that unless the acreage affects the value of the property, the Commission does not have any jurisdiction. Accordingly, the decision of the 2016 County Board is affirmed; and the County's Motion to Dismiss is granted.

The Commission deliberated and reached the decision in this appeal on Wednesday, October 16, 2016.

NORTH CAROLINA PROPERTY TAX COMMISSION



A handwritten signature in black ink, appearing to read "William W. Peaslee", is written over a horizontal line.

William W. Peaslee, Member⁶

Vice Chairman Wheeler and Commission Members Morgan, Guess and Smith concur.

Entered: 8-8-17

ATTEST:

A handwritten signature in black ink, appearing to read "Stephen W. Pelfrey", is written over a horizontal line.

Stephen W. Pelfrey, General Counsel

⁶ Mr. Peaslee is a member of the Commission upon the entry of final decision.