

STATE OF NORTH CAROLINA

WAKE COUNTY

IN THE MATTER OF:
THE APPEAL OF:

Lunate 66 LLC

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
16 PTC 0267

FINAL DECISION

from the decision of the
Yancey County Board of
Equalization and Review
regarding the valuation of
real 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 Tuesday, April 18, 2017, pursuant to the appeal of **Lunate 66 LLC** ("Appellant"). Appellant is appealing the decision of the 2016 Yancey County Board of Equalization and Review ("County Board") regarding the valuation of certain real property for tax year 2016.

Chairman William W. Peaslee presided over the Tuesday, April 18, 2017 hearing with Vice Chairman Terry L. Wheeler and Commission Member David A. Smith, participating.

William G. Jernigan, Manager, appeared at the hearing on behalf of Lunate 66 LLC. Donny J. Laws, Esquire, appeared at the hearing on behalf of Yancey County.

STATEMENT OF THE CASE

The property under appeal is a vacant subdivision lot (6.184 acres) Mountain Air CC UT6, Mountain Air, Burnsville, Yancey County, NC. The Yancey County Tax Office identifies the property under appeal as Parcel Number 070919606097000.

Yancey County conducted its most recent general reappraisal as of January 1, 2016; and the County Board determined the value of the property under appeal to be \$350,500. Appellant the challenged the County Board's decision by filing a Notice of Appeal and Application for Hearing with the Commission.

In the Notice of Appeal and Application for Hearing, Appellant contends that the value of the subject property should be \$60,000. As such, Appellant contends that the County Board's assigned value of \$350,500 substantially exceeds the subject property's true value in money. At the hearing before the Commission, Yancey County contends that its appraisal of the subject property was in accordance with its duly adopted schedules of values, standards, and rules for the 2016 countywide appraisal.

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 its burden of presenting competent, material and substantial evidence tending to show that:
 - (a). Yancey County employed an arbitrary or illegal method of appraisal in reaching the property tax value for Appellant's property as of January 1, 2016; and
 - (b). The County Board assigned a value that is substantially greater than the true value of the subject property as of January 1, 2016?
2. If the above issues are answered in the affirmative, did Yancey County demonstrate that its appraisal methodology produced a true value in view of both sides evidence and the weight and sufficiency of the evidence, the credibility of the witnesses, and inferences as well as conflicting and circumstantial evidence?⁴

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 vacant subdivision lot (6.184 acres) Mountain Air CC UT6, Mountain Air, Burnsville, Yancey County, NC. The Yancey County Tax Office identifies the property under appeal as Parcel Number 070919606097000.
2. Appellant challenged Yancey County's assessment in tax year 2016 by filing appeal with the County Board. After conducting a hearing, the County Board issued its decision assessing the subject lot at a total value of \$350,500. From that decision, Appellant filed its Notice of Appeal and Application for Hearing with the Commission.

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).

⁴ In re Parkdale Mills, 225 N.C. App. 713, 741 S.E.2d 416 (2013).

3. Appellant contends that the total value of its property should be \$60,000, which is less than the County Board's assigned value of \$350,000.
4. Appellant's evidence of the subject property's value consisted solely of sales of the two adjoining lots for \$32,000 and \$30,000 respectively. Appellant did not make any adjustments concerning the lots when compared to the assessment of the subject lot.
5. There was no evidence that Yancey County's assessment of the subject property was not in accordance with Yancey County's duly adopted schedules of values, standards, and rules.
6. Appellant did not present evidence tending to show that Yancey County used an arbitrary or illegal method to assess its property or that Yancey County's assessment of the subject property substantially exceeded the true value in money of the subject property

**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.⁵ 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.⁶
2. Appellant failed to present any evidence tending to show that the county used an arbitrary or illegal method to assess its property or that the county's assessment substantially exceeded the true value in money of the property.

THE COMMISSION THEREFORE ORDERS AND DECREES that the decision of the County Board assigning a total value of \$350,500 to the subject property is affirmed; and Yancey County's motion to dismiss this appeal is granted for failure of the Appellant to rebut the initial presumption of correctness as to the county's *ad valorem* tax assessment when the Appellant failed to present evidence that tends to show that the county used an arbitrary or illegal method to assess its property or that the county's assessment substantially exceeded the true value in money of the subject property

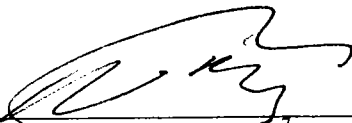
The Commission deliberated and reached the decision in this appeal on Tuesday, April 18, 2017.

⁵ *In re Amp, Inc.*, 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

⁶ *Id.*

NORTH CAROLINA PROPERTY TAX COMMISSION






William W. Peaslee, Member

Vice Chairman Wheeler and Commission Member Smith concur.

Entered: 8/8/17

ATTEST:



Stephen W. Pelfrey, General Counsel

⁷ Mr. Peaslee is a member of the Commission upon entry of this final decision.