

STATE OF NORTH CAROLINA

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
16 PTC 249

WAKE COUNTY

IN THE MATTER OF:
THE APPEAL OF:

**Monbarren Family
Partnership, Ltd**

FINAL DECISION

from the decision of the
Mecklenburg 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 Thursday, February 9, 2017, pursuant to the appeal of **Monbarren Family Partnership, Ltd** ("Taxpayer or Appellant"). Appellant is appealing the decision of the 2016 Mecklenburg 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 Thursday, February 9, 2017 hearing with Vice Chairman Terry L. Wheeler and Commission Members Jack C. (Cal) Morgan, III, David A. Smith, and Alexander A. Guess participating.

Peter B. Featherstone, Partner, appeared at the hearing on behalf of the Taxpayer. Robert S. Adden, Jr., with the law firm of Ruff, Bond, Cobb, Wade & Bethune, LLP, appeared at the hearing on behalf of Mecklenburg County.

STATEMENT OF THE CASE

The property under appeal is a single-family residence located at 11143 McClure Manor Drive, Charlotte, North Carolina. Mecklenburg County identifies the property as Parcel #22310435. Mecklenburg County most recent reappraisal was effective as of January 1, 2011. The Taxpayer appealed the 2016 value of the subject property to the County Board, which heard this matter on May 24, 2016 and entered a Decision dated June 21, 2016 determining the value to be \$1,691,200 for tax year 2016. Thereafter, the Taxpayer 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, Taxpayer contends that the value of the subject property should be \$1,350,500. As such, Taxpayer asserts that the County Board's value of \$1,691,200 substantially exceeds the subject property's true value in money. Mecklenburg County contends that its appraisal of the subject property was in accordance with its duly adopted schedule of values, standards, and rules for the countywide reappraisal, and the value of \$1,691,200 should be affirmed.

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). Mecklenburg 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.
3. When the burden shifts to the county, did Mecklenburg 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 residential lot improved with a home located at 11143 McClure Manor Drive, Charlotte, North Carolina. Mecklenburg County identifies the subject property as Parcel Number 223-104-35.
2. The Taxpayer appealed the 2016 value of the property to the County Board, which heard the matter on May 24, 2016 and entered a Decision dated June 21, 2016 determining the value to be \$1,691,200.
3. Thereafter, the Taxpayer challenged the County Board's decision by filing a 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).

4. At the hearing, Taxpayer presented evidence tending to show that the value of the subject should be \$1,350,500, which is less than the County Board's assigned value of \$1,691,200. The Taxpayer argued that the assessed value exceeds the true value of the subject property because the comparable properties and Qualified Sales Report of 2011 used by Mecklenburg County resulted in an arbitrary appraisal method that resulted in a value that substantially exceeded the true value of the subject property for the year 2016.⁵
5. The evidence presented by the Taxpayer consisted of testimony by Mr. Featherstone and its exhibits that established the following: (a) per 2011 reappraisal date properties sales of residence located in the Ballantyne Country Club; namely, (a) the residence located at 14625 Rudolph Dadey Drive that sold for \$1,285,000;⁶ (b) the residence located at 15705 Ardey Stead Court that sold for \$1,300,000;⁷ (c) the residence located at 11718 Smart Lane that sold for \$865,000;⁸ (d) the residence located at 14846 Resolves Lane that sold for \$1,385,000;⁹ (e) the residence located at 11364 Ballantyne Crossing Avenue that sold for \$1,345,000;¹⁰ and (f) the residence located at 10915 Robinson Rock Court that sold for \$1,400,000.¹¹
6. Further evidence presented by the Taxpayer at the hearing show that Mecklenburg County's assessment of \$1,691,200 for the subject property substantially exceeded the true value of the property because: (a) Mecklenburg County's comparables sales were sales of properties with similar land sizes that occurred 21 to 24 months prior to the 2011 countywide general reappraisal of January 1, 2011; (b) the Taxpayer considered the square footage of the comparables that were selected and the selling prices of the comparables (i.e. selling prices of the comparables and the county's assessed values). Based on this evidence, the Taxpayer arrived at an opinion of value of \$1,300,900 for the subject property.
7. Taxpayers did present evidence tending to show that Mecklenburg County employed an arbitrary method of appraisal in reaching the property tax value for its property; and that the County Board assigned a value that is substantially greater than the true value of the subject property for the year at issue when considering Mr. Featherstone's testimony and the exhibits admitted into evidence that showed opinion of value of \$1,300,900 for the subject property.
8. When the Commission denied Mecklenburg County's motion to dismiss the subject appeal at the close of Taxpayer's evidence, Mr. David Strafel was called

⁵ Oral testimony of Mr. Featherstone and the Taxpayer's exhibits.

⁶ County's 2011 assessed value is \$1,273,700.

⁷ County's 2011 assessed value is \$1,273,700.

⁸ County's 2011 assessed value is \$1,273,700.

⁹ County's 2011 assessed value is \$1,334,800.

¹⁰ County's 2011 assessed value is \$907,900.

¹¹ County's 2011 assessed value is \$1,168,300.

to testify at the hearing.⁹ Mr. Strafel testified that he was familiar with the subject property and when examining Mecklenburg County's exhibits, Mr. Strafel discussed the county's property record card for the subject property; in particular, Mr. Strafel noted changes made to the finished area in the attic; the porch; and the upper terrace as well as the pool/spa. Further, the county considered the pools beside the subject property and changed the average ratings. Mr. Strafel further testified that Mecklenburg County made upper adjustments to the land values and that the initial assessment of the subject property was \$1,900,000.

9. At the hearing, Mr. Strafel reviewed the County other exhibits; namely, (1). The 2016 property record card for subject property (\$1,691,000); (2). Photos of the subject property; (3). Aerial photos and a map of the subject property; (4). Map showing land values of subject and neighboring parcels; (5). Map showing effective age built and grades for the subject and neighboring parcels; (6). Land line report showing the subject and neighboring parcels; (7). Residential improvement report showing the subject and neighboring parcels; (8). Qualified sale report for the neighborhood; (9). A Map showing the location of the subject and the County's comparables; (10). Property record cards for the County's comparables; and (11) MLS data sheets for the County comparables.
10. Based on the evidence presented, Mecklenburg County did not consider all the relevant factors, as required by N.C. Gen. Stat. § 105-317, when it assessed the property located at 11143 McClure Manor Drive, Charlotte, North Carolina at a total value of \$1,691,200.
11. After the Taxpayer presented evidence tending to show that Mecklenburg County used an arbitrary or illegal method to assess their s property and that total value of \$1,691,2000 assessed to the property by County Board substantially exceeded the true value in money, Mecklenburg County did not 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.

**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.⁶ 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.⁷

⁹ Mr. Strafel, and expert in the appraisal of real property.

⁶ *In re Amp, Inc.*, 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

⁷ *Id.*

2. Appellant did present competent, material and substantial evidence tending to show that the county used an arbitrary or illegal method to assess the subject property; and that the county's assessment substantially exceeded the true value in money of the property. When the burden shifted to the county, Mecklenburg County did not 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.

THE COMMISSION THEREFORE ORDERS AND DECREES that the decision of the County Board assigning a total value of \$1,691,200 to the subject property is Modified; and Mecklenburg County is instructed to adjust the tax records to reflect the Findings of Fact and Conclusions of Law of the Commission determining that the true value of the subject property was \$1,350,000 for the year at issue.

The Commission deliberated and reached the decision in this appeal on Thursday, February 9, 2017.

NORTH CAROLINA PROPERTY TAX COMMISSION



William W. Peaslee, Member⁸

Commission Members Morgan and Smith concur. Vice Chairman Wheeler and Commission Member Guess respectfully dissent.

Entered: 38-17

ATTEST:

Stephen W. Pelfrey, General Counsel

⁸ Mr. Peaslee is a member of the Commission upon entry of the final decision.