

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

IN THE MATTER OF THE APPEAL OF:

**CHARLES A. WARREN and
DELORIS J. WARREN,**

19 PTC 0226

Appellants,

From the decision of the Brunswick County
Board of Equalization and Review

FINAL DECISION

This matter came on for hearing before the North Carolina Property Tax Commission (“Commission”) sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina on Wednesday, December 11, 2019, pursuant to the Appellants’ appeal from the decision of the Brunswick County Board of Equalization and Review (“Board”).

Chairman Robert C. Hunter presided over the hearing, with Vice Chairman Terry L. Wheeler and Commission Members William W. Peaslee, Alexander A. Guess, and June W. Michaux participating.

Attorney Bryan W. Batton appeared on behalf of Brunswick County (“County”). The Appellants appeared *pro se*.

STATEMENT OF THE CASE

The property under appeal is a parcel of land, together with a single family residence, located at 229 NE 40th Street, Oak Island, Brunswick County, North Carolina. The County identifies the subject property with Parcel number 235NC014. The County conducted its most recent countywide reappraisal with an effective date of January 1, 2019.

The Appellants disputed the January 1, 2019 assessed value of the property as determined by the County, and appealed said value to the Brunswick County Board of Equalization and Review (“Board”). On June 11, 2019, the Board determined the value of the property to be \$175,400, and mailed notice of its decision to the Appellants on June 12, 2019. The Appellants appealed the decision of the Board by filing with the Commission a Notice of Appeal and

Application for Hearing on June 26, 2019. In said Application, the Appellants stated their opinion that the true value of the property was actually \$160,000.

ANALYSIS AND ISSUES

A county's ad valorem tax assessment is presumed to be correct.¹ A taxpayer may rebut this presumption by producing "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 N.C. Gen. Stat. §105-283 requires all taxable property to be valued for tax purposes at its "true value," as that term is defined in the same section.

If the taxpayer produces the evidence required to rebut the presumption, then 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. Whether the Appellants carried their burden of producing competent, material and substantial evidence tending to show that:
 - (a) The County employed an arbitrary or illegal method of valuation in determining the assessed value of the Appellants' property; and
 - (b) The assessed value substantially exceeded the true value of the property for the year at issue.
2. If the Appellants produced the evidence required to rebut the presumption, then whether the County demonstrated that its appraisal methods produced a true value for the property, considering the evidence of both sides; its weight and sufficiency and the credibility of witnesses; the inferences drawn therefrom; and the [evaluation] of conflicting and circumstantial evidence.⁴

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

² Id. (capitalization and emphasis in original).

³ In re Appeal of S. Ry. Co., 313 N.C. 177, 323 S.E.2d 235 (1985). 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.204 (2010).

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

**FROM THE EVIDENCE PRESENTED AND ALL DOCUMENTS OF RECORD,
THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:**

1. At the hearing, Mr. Charles Warren, testifying for the Appellants, stated that the property had been purchased in 1999, and that the taxes had previously been much lower than in 2019. He testified further that there was no heat in the downstairs room of the residence, and that the County had reduced the tax value for this characteristic.
2. Mr. Warren testified further that he knew value was subjective, and offered several properties that he believed had sold and that he further believed are comparable to the subject property.
3. Mr. Warren offered as comparable the sale of 2106 W. Oak Island Drive, which he contended is in a better area than the subject property, and which sold in September of 2019 for \$165,000. Mr. Warren testified as to his belief that the lot size of this property is 8,712 square feet, and later testified that the lot size of the subject property is 9,600 square feet.
4. Mr. Warren also offered as comparable the sale of 211 NE 65th Street, which he contended is nine years newer than the subject property; contains two baths (whereas the subject property has 1.5 baths); and is near the subject property. Mr. Warren offered evidence that this sale occurred on August 30, 2019, at a price of \$148,000.
5. Mr. Warren further testified as to the sale of other properties, one of which sold in October, 2019, and two others for which a sale date could neither be determined nor confirmed. Mr. Warren contended that all of the properties offered as comparable are better than the subject property as to their respective land values.
6. On cross-examination, Mr. Warren testified that the subject property is a brick home, and that none of the properties offered as comparable are brick homes; however, he testified that some of the other properties have “some brick.”
7. When it was observed by the Commission that the apparent sale dates (for the properties offered by the Appellants as comparable to the subject property) were all after the January 1, 2019 Brunswick County reappraisal date, Mr. Warren testified as to his conclusion that the properties selling in 2019 “would have been worth even less in 2018.”
8. The Appellants offered no other evidence regarding their approach to developing their opinion that the true value of the subject property is actually \$160,000.
9. At the close of the Appellants’ evidence, the County moved to dismiss the Appellants’ appeal, arguing that the Appellants had failed to meet their burden to produce “competent, material

and substantial evidence” that the County’s values were either arbitrary or illegal, and substantially in excess of true value.

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

1. The Commission has jurisdiction over the parties and the subject matter of this appeal and has the authority to correct any assessment of real property when it is shown to be based upon an arbitrary or illegal method of valuation and that the valuation substantially exceeds the true value in money.
2. “True value” is defined in N.C. Gen. Stat. §105-283, and N.C. Gen. Stat. §105-317(a) provides specific elements of value that are to be considered when appraising real property in order to determine its true value.
3. N.C. Gen. Stat. §105-317 “has been interpreted as authorizing three methods of valuing real property: the cost approach, the comparable sales approach, and the income approach.”⁵
4. There was little to no evidence that the properties offered as comparable had been adjusted for differences in time of sale, construction type, size, and other factors relevant to determining the true value of the subject property as of January 1, 2019. In addition, it could not be determined whether all of the properties offered as comparable had even sold. Accordingly, the Appellants did not provide competent, material, and substantial evidence regarding the comparable sales approach.
5. The Appellants offered no evidence regarding the income approach or the cost approach. Therefore, we find that the Appellants did not offer competent, material and substantial evidence that the County’s values were either arbitrary or illegal, and substantially in excess of true value.
6. The Appellants did not meet their burden of producing competent, material and substantial evidence tending to show that: (a) The County employed an arbitrary or illegal method of valuation in determining the assessed value of the Appellants’ property; and (b) The assessed value substantially exceeded the true value of the property as of January 1, 2019.

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⁵ *In re Greens of Pine Glen Ltd.*, 356 N.C. 642, 648, 576 S.E.2d 316, 320 (2003)

WHEREFORE, the Commission order and decrees that the Appellants' appeal should be and is hereby dismissed, and the decision of the Brunswick County Board of Equalization and Review, determining the true value of the subject property to be \$175,400, is hereby affirmed.



NORTH CAROLINA PROPERTY TAX COMMISSION

Robert C. Hunter

Robert C. Hunter, Chairman

Vice Chairman Wheeler and Commission Members
Peaslee, Guess, and Michaux concur.

ATTEST:

Stephen W. Pelfrey

Stephen W. Pelfrey, Commission Secretary

Date Entered: 2.4.2020