

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:

**DOUGLAS S. CALDWELL,**  
**Appellant**

**19 PTC 0169**

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

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### **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 Monday, January 13, 2019, pursuant to the Appellant’s 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 Appellant appeared *pro se*.

### **STATEMENT OF THE CASE**

The property under appeal is a parcel of land containing a single family home and detached garage, both situated upon two residential lots, and located at 3206 Tar Landing Road in the Town of Shallotte, Brunswick County, North Carolina,. The subject property is identified by the County as Parcel No. 214CA00901. The County conducted its most recent countywide reappraisal with an effective date of January 1, 2019.

The Appellant disputed the January 1, 2019 assessed value of the subject property, and appealed said value to the Brunswick County Board of Equalization and Review (“Board”). On May 28, 2019, the Board determined the value of the subject property to be \$166,410, and mailed notice of its decision to the Appellant on May 29, 2019. The Appellant appealed the decision of the Board by filing a Notice of Appeal and Application for Hearing with the Commission on June

20, 2019. In said Application, the Appellant stated his opinion that the true value of the subject property was actually \$130,000.

### ANALYSIS AND ISSUES

A county's ad valorem tax assessment is presumed to be correct.<sup>1</sup> 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".<sup>2</sup> 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.<sup>3</sup>

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

1. Whether the Appellant carried his 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 Appellant's property; and
  - (b) The assessed value substantially exceeded the true value of the property for the year at issue.
2. If the Appellant 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 appraisal of conflicting and circumstantial evidence.<sup>4</sup>

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

<sup>2</sup> *Id.* (capitalization and emphasis in original).

<sup>3</sup> *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).

<sup>4</sup> *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, the Appellant, Mr. Caldwell, testified as to his opinion that the value of the subject property was \$130,000.
2. Mr. Caldwell testified first as to one of the properties offered as comparable by the County in County's Exhibit 4, and specifically comparable #2 in Exhibit 4, located at 711 Invisfield Court. Mr. Caldwell testified as to his opinion that this property was superior to the subject property in that it was located in a better subdivision. He testified further as to his opinion that all of the other properties offered by the County as comparable represented older sales that are greater than two miles from the subdivision in which the subject property is situated.
3. Mr. Caldwell testified further that the subject property was located on a tar and gravel road, and that the neighboring homes for the subject property are "trailers and a Habitat for Humanity home."
4. Mr. Caldwell testified that the properties he offered as comparable to the subject, located in his Taxpayer Exhibit A, are very close to the subject property and represent more recent sales.
5. Mr. Caldwell testified further that the detached garage located on the subject property is a metal kit type of garage.
6. In reviewing his Taxpayer Exhibit A, Mr. Caldwell explained his contention that the sale price per square foot of the County's suggested comparable properties and the sale price per square foot of the properties he offered as comparable collectively indicated a value range for the subject property of \$121,000 to \$131,000. Mr. Caldwell's evidence explains that these figures were derived by first determining the sale price per square foot of improvement area for each of the comparable sales, then applying each of those price-per-square-foot values to the 1,660 square feet for the residence situated on the subject property.
7. Upon questioning from the Commission, the parties clarified that the Board had determined the land portion of the value for the subject property to be \$28,130.
8. Mr. Caldwell next testified that applying the "median average" of the per-square-foot values to the 1,660 square feet of the subject property's residence would result in a value of \$120,956 for the residence, to which he believed the county's land value of \$28,130 should be added. We note that the sum of these values, even if correct is approximately \$149,000, rather than the \$130,000 originally given by the Appellant as his opinion of value. We note further that this sum appears to attribute no value to the detached garage situated upon the subject property.

9. On cross examination, Mr. Caldwell confirmed that much of his value opinion for the subject property was based on the per-square-foot price at which other properties had sold. On further cross examination, Mr. Caldwell conceded that one of the properties he offered as comparable, located at 3012 Arundel Hill, was substantially larger than the subject property (approximately 3,440 square feet versus 1,660 square feet). Mr. Caldwell testified that, in applying the per-square-foot value from each of the properties offered as comparable to the square footage of the subject property, he had made no adjustments for larger square footage; no adjustment for a gated community; no adjustments for whether the other properties were “surrounded by trailers;” no adjustments for double attached garages; and no adjustments for sprinkler systems.
10. Pursuant to questions posed by the Commission, Mr. Caldwell testified that the subject property was on County water with a septic system. He testified as to his belief that the properties offered as comparable have public water and public sewer.
11. Mr. Caldwell testified further as to his opinion that the property at 711 Invisfield Court was similar to the subject property except for location. He testified as to his opinion that the subject property has simpler construction—for example, the subject property has a straight gable roof and a detached garage, whereas the property at 711 Invisfield Court has a multiplane roof and attached garage.
12. Mr. Caldwell offered no evidence regarding the income or cost approaches to valuation. Regarding in general the sales comparison approach to value, we note that its proper development requires the appraiser to consider relevant differences between the property to be appraised and the properties offered as comparable, and to make appropriate value adjustments to the comparable properties in order to recognize value-influencing differences (such as, but not limited to, location, date of sale, improvement size and age, and land size) between the comparable and subject properties.
13. At the close of the Appellant’s evidence, the County moved to dismiss the Appellant’s appeal for failure to produce sufficient evidence to overcome his burden. The County contended that additional comparable properties referenced by the Appellant indicated a higher value; that no adjustments had been made among any of the properties, including for location; that Mr. Caldwell's stated opinion of value did not include the land value, and that Mr. Caldwell had even indicated that a value of \$149,000 “would be fine.”

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**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 [i.e., sales comparison] approach, and the income approach.”<sup>5</sup>
4. There was no evidence presented indicating that the subject property is income-producing; therefore, the income approach is likely irrelevant with regard to the subject property. There was no evidence presented as to the cost approach with regard to the subject property.
5. Although the Appellant offered some evidence based on comparable sales, such evidence was incomplete in that it did not consider differences between the subject property and the properties offered as comparable, with respect to relevant value factors such as location, improvement size, and whether a particular property had an attached or detached garage, or any garage at all. Further, the Appellant’s testimony suggested that a wide range of values for the subject property could be possible, but with little evidence to substantiate any particular value. Accordingly, we find that the Appellant has not provided “competent, material, and substantial evidence”<sup>6</sup> that the subject property was assessed by the County at a value that “substantially exceeded the true value of the property for the year at issue.”<sup>7</sup>
6. Because the Appellant did not offer “competent, material, and substantial” evidence tending to show that that County’s method of valuation was either arbitrary or illegal, and that the County’s value substantially exceeded the true value in money of the subject properties, the Appellant did not meet his burden. Accordingly, the Appellant’s appeal is subject to dismissal.

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

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

<sup>7</sup> *Id.*

WHEREFORE, the Commission orders and decrees that the Appellant's appeal should be and is hereby dismissed, and that the decision of the Brunswick County Board of Equalization and Review, determining the true value of the subject property to be \$166,410, is hereby affirmed.



NORTH CAROLINA PROPERTY TAX COMMISSION

Terry L. Wheeler, Vice Chairman

Commission Members Peaslee and Michaux concur.

Chairman Hunter and Commission Member Guess dissent with separate written opinion.

ATTEST:

Stephen W. Pelfrey, Commission Secretary

Date Entered: 7-30-2020

**DISSENT**

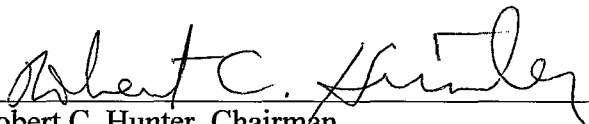
We respectfully disagree with the majority in granting the County's motion for the following reasons:

- 1) Even though the Appellant's opinion of value varied from the \$130,000 originally stated to his comment that "\$149,000.00 would be fine," both values are still substantially less than the county value of \$166,410.00.
- 2) We believe that the evidence offered by the Appellant as to several factors influencing both his assessed value and the true value of the subject property should have been addressed by the county. Among these factors are:
  - a. The Appellant's opinion that the county comparable sales were not comparable--they were either in a better, gated community with paved roads and public utilities, had attached double garages and sprinkler systems, or were older sales that are not geographically close to the subject property.

- b. The Appellant also indicated that his detached garage was a metal kit construction, not stick-built construction like the county comparable sales typically had
  - c. The Appellant offered testimony as to his opinion that homes near his are of lower quality than his, such as manufactured housing and lower-quality site-built construction, and further testified as to his opinion that his proximity to such homes impacted the true value of the subject property.
  - d. The Appellant offered further evidence as to his opinion of the run-down nature of nearby properties by providing photographs of apparently discarded and/or abandoned items on the adjoining properties.
- 3) The Appellant also offered evidence regarding the sales of other properties that he felt were more comparable to the subject property, and, as compared to the sales offered by the county as comparable, the Appellant's sales were generally: closer in time to the relevant appraisal date; closer in location to the subject property; and more similar in design and construction to the subject property.

For the above reasons, it is our opinion that the Appellant met his burden; that the County's motion to dismiss should have been denied; and that the hearing should have proceeded with the County demonstrating that its appraisal methods produced a true value for the property.



  
Robert C. Hunter, Chairman

Commission Member Guess concurs in the dissent.