

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:

JAMES H. PRESSLY
Appellant

18 PTC 0024

from the valuation and taxation of certain
real property by Iredell County for Tax
Year 2017

ORDER

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 Monday, July 16, 2018, pursuant to the Appellant’s appeal from the decision of the Iredell 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 and Alexander A. Guess participating.

The Appellant appeared at the hearing *pro se*. Lisa M. Valdez appeared at the hearing as counsel for Iredell County.

STATEMENT OF THE CASE

The property under appeal is a parcel approximately 10 acres in size located on Simonton Road in Statesville, North Carolina, and is identified by Iredell County (“County”) by PIN #4755-23-7198. The County’s last general reappraisal was effective as of January 1, 2015.

The Appellant purchased the subject property in July of 2016, and subsequently appealed the value of the property for Tax Year 2017, contending that N.C. Gen. Stat. §105-287(a)(2c) required a reappraisal of the subject property, based on his 2017 analysis of the highest and best use of the property. The Board determined the value of the property to be \$433,640 for Tax Year 2017, and the Appellant subsequently appealed the Board’s decision to the Commission.

ANALYSIS AND ISSUES

N.C. Gen. Stat. §105-287 provides the exclusive reasons for and means by which a property’s tax value may be changed in a non-reappraisal year.

The issue presented for the Commission is whether, under the circumstances presented, the County was required by the statute to reappraise the subject property.

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

1. The Commission has jurisdiction over the parties and the subject matter of this appeal.
2. The Appellant contends that, while the County has appraised the subject property as undeveloped office space, he has determined through his own analysis that the highest and best use of the property is residential, rather than office, development. The Appellant testified that his analysis was as of January 1, 2017, and that he had not analyzed the property's highest and best use as of January 1, 2015, the date of the County's last general reappraisal.
3. The Appellant further contends that the language of N.C. Gen. Stat. §105-287(a)(2c), requiring the assessor to recognize a change in the property's value "resulting from a change in the legally permitted use of the property," applies to a change in the highest and best use of the property.
4. The Appellant offered an opinion of the North Carolina Court of Appeals (unpublished per Rule 30(e) of the North Carolina Rules of Appellate Procedure) date December 6, 1994, and affirming the 1992 decision of the Commission (*Appeal of Ivy Associates, Limited*, 91 PTC 392) to reappraise a property under appeal in order to reflect the changed circumstances of the property, as authority for the argument that a change in highest and best use necessitated a reappraisal under N.C. Gen. Stat. §105-287(a)(2c).
5. The County contends that the language of N.C. Gen. Stat. §105-287(a)(2c), referencing "legally permitted use," applies to zoning or other similar legislative changes affecting the potential use of a property, and not to a change, whether actual or not, in the highest and best use of a property.
6. At the close of the Appellant's evidence, the County moved to dismiss the Appellant's appeal.

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

1. Regarding contention that N.C. Gen. Stat. §105-287(a)(2c) requires the assessor to reappraise the property in this situation, we disagree. Analyzing the highest and best use of a property requires a consideration of legally permitted uses of the property, but the statute requires reappraisal only when the legally permitted use of a property has changed. There has been no evidence offered to suggest that the legally permitted use of the subject property has changed—indeed, the Appellant acknowledges that there has been no change to the zoning or other land use controls with regard to the subject property. Accordingly, no reappraisal is required or authorized by N.C. Gen. Stat. §105-287(a)(2c).

2. While an unpublished opinion of the North Carolina Court of Appeals is not controlling legal authority, we distinguish the *Ivy* appeal from the case at hand. The Appellant in *Ivy* claimed that the obsolescence of an existing facility on improved property was a factor that required reappraisal under a different subsection [i.e., (a)(3)] of N.C. Gen. Stat. §105-287. In this case, the subject property is unimproved land, and could not be subject to economic or other obsolescence as could the improvement in *Ivy*.
3. Furthermore, even though N.C. Gen. Stat. §105-287(a)(3) permits a change in value to “[r]ecognize an increase or decrease in the value of the property resulting from a factor other than one listed in subsection (b),” that subsection specifically prohibits any change in value “caused by...(2) [i]nflation, deflation, or other economic changes affecting the county in general....” Here, the Appellant’s witness testified as to the general lack of demand for office development in Statesville, and further referenced this lack in the appraisal report. While there was no evidence that the economic climate had actually changed during the reappraisal cycle, the evidence provided did indicate that any lack of demand for office development was widespread, and could therefore not be the basis for a change in value.
4. The County properly moved to dismiss the Appellant’s appeal when the Appellant did not offer adequate evidence to support the contention that provisions of N.C. Gen. Stat. §105-287 required reappraisal of the subject property for Tax Year 2017.

WHEREFORE, the Commission orders and decrees that the County’s motion to dismiss is granted; that the Board’s determination of the value of the property at \$433,640 for Tax Year 2017 is upheld; and that the Appellant’s appeal is hereby dismissed.

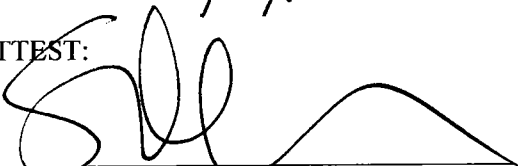


NORTH CAROLINA PROPERTY TAX COMMISSION


Robert C. Hunter, Chairman

Vice Chairman Wheeler and Commission Members
Peaslee and Guess concur.

Date Entered: 11/8/18

ATTEST:

Stephen W. Pelfrey, Commission Secretary