

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:

**JOHN E HAUSMANN and
SUSAN D. HAUSMANN,
Appellants**

17 PTC 0359

From the decision of the Orange County
Board of Equalization and Review
concerning the valuation of certain real
property for tax year 2017

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, April 18, 2018, pursuant to the Appellants’ appeal from the decision of the Orange 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 Charles W. Penny participating.

Attorneys Annette Moore and Anne Marie Tosco appeared on behalf of Orange County. The Appellants appeared *pro se*.

STATEMENT OF THE CASE

The property under appeal is a portion of a tract of land containing approximately 4.5 total acres, and which is divided by the boundary between Orange and Chatham Counties. Approximately 2.5 acres of the tract is situated in Orange County (“County”), and the County’s valuation of this portion of the total tract is the subject of the appeal. The County identifies this portion of the total tract as Parcel #9766592343. Although the Chatham County portion of the total tract includes a single-family residence, the Orange County portion is unimproved. References herein to the “property” or to the “parcel” are intended to refer only to the Orange County portion of the total tract, unless otherwise noted.

The Appellants disputed the January 1, 2017 assessed value of the property as determined by the County, and appealed said value to the Orange County Board of Equalization and Review (“Board”). On June 22, 2017, the Board determined the value of the property to be \$77,700, and mailed notice of its decision to the Appellants on August 25, 2017. The Appellants appealed the decision of the Board by filing a Notice of Appeal and Application for Hearing with the Commission on September 25, 2017. In the Notice and Application, the Appellants stated their opinion that the true value of the property was actually \$0.

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

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.2d 204 (2010).

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.⁴

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

1. At the hearing, the Appellants testified that the property had limited use because the County restricted additional building upon the property, since a residence had already been constructed on the total tract. The Appellants further testified that the property had no access to a public road in Orange County, and that there were no County services available to the property as a result of the lack of access. The Appellants further argued that the property could not reasonably be subdivided or used to produce income.
2. The Appellants testified that Chatham County was the only county that could provide services to the tract as a whole, and that Chatham County had determined the value of their residual acreage (i.e., exclusive of the homesite) to be \$20,000 per acre, as to the portion situated in that county. In contrast, the Appellants noted that Orange County had appraised the residual portion located in its jurisdiction at some \$30,000 per acre.
3. At the close of the Appellants' evidence, the County moved to dismiss the Appellants' appeal for failure to meet its burden. The County's motion was denied.
4. The County's witness, Cyle Anderson, a staff real property appraiser, testified that the County's value was consistent with the County's duly adopted "Schedule of Values ("SOV"), and also with the value indicated by a review of sale prices of comparable properties. Mr. Anderson indicated that the properties chosen were buildable lots, and were located in the Chapel Hill territory of the local Multiple Listing Service ("MLS"). Mr. Anderson stated that he did not know what the MLS boundaries were based upon.
5. Mr. Anderson further testified that the County had adjusted the value of the property to account for its being a portion of a larger tract. When questioned by the Commission, Mr. Anderson stated that the County did consider the property to be a buildable lot, and that the County had made a value adjustment only for size, and not for access, topography, or any other reason.

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

6. The County's Tax Administrator, T. Dwane Brinson, testified as to his opinion that the property's topography was less of an issue for the Orange County portion than it was for the Chatham County portion, and that he had not seen the need for further adjustment. Mr. Brinson offered further testimony that the property had been appraised in a manner consistent with neighboring properties.
7. When asked by the Commission whether the property would be valued differently in Chatham County as compared to Orange County, Mr. Brinson stated that he had looked only at sales located in Orange County, and that he believed Chatham County had used a "different methodology" than had Orange County.

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. 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
3. The Appellants offered competent, material, and substantial evidence that the Board's values of the subject property substantially exceeded the true value of the subject properties, when the Appellants produced evidence tending to show that the true value of the subject properties was actually \$20,000 per acre, instead of the Board's value, which was in excess of \$30,000 per acre.
4. N.C. Gen. Stat. §105-317 requires the appraisal of any real property to consider "...at least its advantages and disadvantages as to location...and any other factors that may affect its

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

⁶ *Id.*

value....” In interpreting this statute, our Courts have determined that the listed factors are illustrative, rather than exclusive.⁷ The Appellants offered competent, material, and substantial evidence that the County’s appraisal method was arbitrary when the County’s appraisal of the subject property did not consider sewer and water availability or access to the property.

5. The Appellants rebutted the presumption of correctness of the assessment of the subject property by the County when the Appellants offered competent, material, and substantial evidence that the County used an arbitrary appraisal method, and that the County’s assessment of the subject property substantially exceeded its true value.
6. Since the Appellants rebutted the presumption of correctness, the burden then shifted to the County to demonstrate that its methods produced true values.
7. The County was not able to demonstrate that its methods in appraising the subject property produced true value when its evidence, both by testimony and by documentation, did not consider all statutorily-required factors in determining the value of the property

WHEREFORE, the Commission herewith orders that the 2017 tax value of the subject property be changed to a value of \$20,000 per acre; and that the Orange County abstracts and tax records be changed to give effect to this decision.

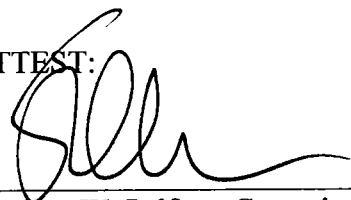


NORTH CAROLINA PROPERTY TAX COMMISSION


Robert C. Hunter, Chairman

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

ATTEST:


Stephen W. Pelfrey, Commission Secretary

Date Entered: 7/23/18

⁷ See, for example, In re Pace/Dowd Props. Ltd., 233 N.C. App 7, 755 S.E.2d 401 (2014), in which the Court found the County’s assessment to be arbitrary because the County did not consider water and sewer availability.