

STATE OF NORTH CAROLINA

WAKE COUNTY

IN THE MATTER OF:
THE APPEAL OF:

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
12 PTC 1362

Old North State Acquisition LLC

**FINAL DECISION
ON REMAND**

from the decisions of the
Montgomery County Board of
Equalization and Review
regarding the valuation of
real property for tax year 2012.

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 Wednesday, January 11, 2017 and on Thursday, January 12, 2017, pursuant to the appeal of **Old North State Acquisition LLC** (“Appellant”). Appellant is appealing the decisions of the 2012 Montgomery County Board of Equalization and Review (“County Board”) regarding the valuation of certain real property for tax year 2012.

STATEMENT OF THE CASE

As of January 1, 2012, Montgomery County (“the County”) conducted its reappraisal of all real property for *ad valorem* tax purposes. The subject property, the golf course and related properties owned by Old North State Acquisition (“Old North State”) was reassessed during the 2012 general reappraisal. The Montgomery County Assessor (“the County Assessor”) assessed Old North State’s property at a total value of \$11,762,800. Old North State appealed the assessment to the County Board contending that the subject property’s true marketable value was \$1,248,852. On August 12, 2012, the County Board issued its Notices of Decision reducing the assessed values of the golf course and related properties to a total assessed value of \$8,428,100. Thereafter, the Appellant filed an appeal with the Commission. After conducting a hearing, the Commission entered a final decision ruling that the Appellant did not rebut the initial presumption of correctness of the county’s *ad valorem* tax assessment of the subject golf course and related properties. The Appellant filed an appeal to the North Carolina Court of Appeal challenging the Commission’s final decision in the subject appeal. After considering the Appellant’s appeal, the Court of Appeals remanded this matter to the Commission “for further consideration of the Appellant’s evidence, and for further proceedings, if necessary.” (COA Opinion, p. 8). At the Wednesday, January 11, 2017, the Commission considered this matter on further proceedings as instructed by the Court of Appeals, and heard evidence from Montgomery County regarding the assessment of the subject property. On Thursday, January 12, 2017, the Commission deliberated and announced its decision on the record and ruled that the market value of the subject property was \$7,469,774, as of January 1, 2012.

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). Montgomery County employed an arbitrary or illegal method of appraisal in reaching the property tax value for Appellant's property as of January 1, 2012; and
 - (b). The County Board assigned a value that is substantially greater than the true value of the subject property as of January 1, 2012?
2. If the above issues are answered in the affirmative, did Montgomery 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?

FROM APPELLANT'S NOTICE OF APPEAL AND APPLICATION FOR HEARING FILED IN THIS MATTER, EVIDENCE PRESENTED, AND UPON REMAND TO THE COMMISSION FROM THE COURT OF APPEALS, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Commission has jurisdiction over the parties and the subject matter of this appeal.
2. Old North State ("Appellant") is the owner of seven parcels of land in New London, North Carolina, on which a golf course and related properties (marina and boat slips, tennis courts with a tennis club, a lodge with a recreation area, etc.) comprising Old North State (the subject parcels).

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).

3. During a general reappraisal, effective January 1, 2012, the County conducted a valuation of each of the subject parcels and assessed a combined value of \$11,762,800 for the subject parcels.
4. Upon receipt of the assessment, the Appellant appealed to the Board, asserting that the true market value of the property based on an income approach method was \$1,248,852.
5. After conducting a hearing, the County Board issued separate notices of decision that reduced the assessed value of five of the subject parcels to the combined value of \$8,428,100.
6. After conducting a hearing, the Commission entered a final decision ruling that the Appellant did not rebut the initial presumption of correctness of the county's *ad valorem* tax assessment of the subject golf course and related properties. The Appellant then filed an appeal to the North Carolina Court of Appeal challenging the Commission's final decision concerning the subject appeal. After considering the Appellant's appeal, the Court of Appeals remanded this matter to the Commission "for further consideration of the Appellant's evidence, and for further proceedings, if necessary." (COA Opinion, p. 8). At the Wednesday, January 11, 2017, the Commission considered this matter as instructed in the Court of Appeals remand to the Commission.
7. At prior hearing, the Appellant called Mr. Christian Anastasiadis, the Chief Operating Officer of McConnell Golf, an owner and operator of golf courses and the sole member-manager of the Appellant that testified to a collective value of \$1,250,000 for the golf course and related parcels.
8. At the Wednesday, January 11, 2017 hearing, the County offered the testimony of Mr. John Baucom, a real estate appraiser for Montgomery County,⁴ and Mr. Ronald S. McCarthy.⁵
9. At the hearing, Mr. Baucom testified that he was familiar with the appraisal of the subject property and the other two golf courses located in Montgomery County.
10. When comparing the subject property with the other two golf courses, Mr. Baucom testified that: (a) a small municipal golf course located in the County was owned by the Town of Troy, and is a not very good golf course; (b) there is the Tillery Tradition golf course that is a little better than the Troy course; and (c) then there is the subject golf course "Old North State" that is a very good course.
11. Mr. Baucom also testified that the original assessment of the subject property was \$11,762,800. When questioned, Mr. Baucom discussed the property records for

⁴ Mr. Baucom was accepted by the Commission as an expert in the appraisal of real property.

⁵ Mr. McCarthy is the president of RS&M Appraisal Services that is located in Lincolnton, NC, and he was accepted by the Commission as an expert in the appraisal of real property with additional expertise in golf course appraisal.

the subject golf course and the related parcels (i.e. marina and boat slips, tennis courts with a tennis club, a lodge with a recreation area, etc.), the aerial photographs and the pictures of the subject property.

12. Mr. Baucom further testified that the valuation of the subject property did change to an assessed value of \$8,428,100 because the Appellant provided expense and income statements for the County to consider.
13. Mr. Baucom then testified that the County reduced the assessment of the subject property to a total value of \$7,469,774 when it considered additional information, such as the assessed value of \$958,326 for personal property.
14. When testifying as to the method used by the County to assess the subject property, Mr. Baucom testified that the County employed a gross income method to appraise this golf course, and that the County considered the sales comparison approach and the cost approach and all other relevant factors that do affect the value of the subject property.
15. In North Carolina, the County is required to value all property for *ad valorem* tax purposes at its true value in money, which is "market value." N.C. Gen. Stat. § 105-283 defines market value as:
 - "the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy and to sell and both having reasonable knowledge of all the uses to which the property is adapted and for which it is capable of being used."
16. An important factor in determining the property's market value is its highest and best use. Since the highest and best use of the subject property is its current use as a golf course, the County is required to use a method that will determine the market value of the subject property, and the County is required to consider the other relevant factors, such as the past income, probable future income; and other factors that may affect the value. (See N.C. Gen. Stat. § 105-317).
17. When determining the market value of the subject property, Montgomery County did consider the duly adopted schedule of values, standards, and rules and used the income approach to value the subject property.
18. At the hearing, Mr. McCarthy testified that he did not agree with the value that the Taxpayer was contending since an appraiser is required to consider all of the revenue associated with the campus, the Old North State campus. As such, when the County applies a gross income multiplier to that income, it indicated a lower value than the original \$11,762,800 because the subject property is one income unit as opposed to seven separate parcels.

19. Mr. McCarthy also testified that the County used the gross income multiplier method against the total income and applied its duly adopted schedule of values, standards, and rules for golf courses to assess the subject property at the value of \$8,428,100.

20. Mr. McCarthy further testified that it was appropriate to use a multiplier of 2 because: (a) he looked at sales of golf courses; (b) he considered that the subject property was a unique property with other income sources and amenities; and (c) this is not an average course.

21. After the County received additional information that the Appellant paid the personal property taxes, the assessed value of the subject property was reduced to \$7,469,774 as of January 1, 2012.

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.⁴ 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.⁵
2. After considering all the evidence presented by the parties, the Commission rules that Montgomery County did 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 when the County used the gross income multiplier method against the total income and applied its duly adopted schedule of values, standards, and rules for golf courses and other relevant factors when it assessed the subject property at a total value of \$7,469,774.

IT IS THEREFORE ORDERED that the County Board's decision assigning a total value of \$8,428,100 to the subject property is Modified; and the 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 \$7,469,774.

After hearing the evidence on Wednesday, January 11, 2017, the Commission deliberated and announced the decision on the record on Thursday, January 12, 2017, and advised the parties that the valuation of the subject property was \$7,469,774 as of January 1, 2012.

⁴ In re Amp, Inc., 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

⁵ Id.




NORTH CAROLINA PROPERTY TAX COMMISSION



Terry W. Wheeler, Vice Chairman

Entered: 8-3-17

ATTEST:


Stephen W. Pelfrey, General Counsel