

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:

THOMAS BRYAN MOORE,
Appellant

19 PTC 0073

From the decision of the Jones 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 Tuesday, August 6, 2019, pursuant to the Appellant’s appeal from the decision of the Jones 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 David B. Baxter, Jr. appeared on behalf of Jones County (“County”). The Appellant appeared *pro se*.

STATEMENT OF THE CASE

The properties under appeal are two unimproved and non-contiguous parcels of land located in Jones County, North Carolina. One of the properties, approximately 4.46 acres in size, adjoins the Highway 17 bypass and is identified by the County by parcel number 5346-06-4614-00 (“Highway 17 parcel”). The other property, approximately 1.66 acres in size, adjoins Oak Grove Road and is identified by the County by parcel number 5437-01-3059-00 (“Oak Grove Road parcel”). The County conducted its most recent countywide reappraisal with an effective date of January 1, 2014.

The Appellant disputed the January 1, 2019 assessed value of the properties as determined by the County, and appealed said values to the Jones County Board of Equalization and Review (“Board”). On April 15, 2019, the Board determined the value of the Highway 17 parcel to be \$48,222, and the Board further determined the value of the Oak Grove Road parcel to be \$4,860.

The Board mailed notice of its decisions to the Appellant on April 18, 2019. The Appellant appealed the decision of the Board by filing with the Commission a Notice of Appeal and Application for Hearing as to each Board decision on May 13, 2019. In the Notice and Application(s), the Appellant stated his opinion that the true value of the Highway 17 parcel is actually \$3,000, and that the true value of the Oak Grove Road parcel is actually \$1,500.

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 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 [evaluation] of conflicting and circumstantial evidence.⁴

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).

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, the Appellant contended that his opinion of the true value of the properties was based upon (and equal to) his purchase price for each. Further testimony indicated that the Highway 17 parcel was purchased in 2017, and the Oak Grove Road parcel was purchased in 2009. The Appellant offered no other evidence as to the value of the subject properties.
2. At the close of the Appellant's evidence, the County moved to dismiss the Appellant's appeal, arguing that the Appellant was not entitled to different values for the subject properties, because, as to the subject properties, none of the factors listed in N.C. Gen. Stat. §105-287 (regarding changing values in a year without a general countywide reappraisal) had occurred. The County further argued that the Appellant had failed to meet his burden to produce evidence that the County's values were incorrect.

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. As to the County's alternative position that the Appellant is not entitled to the reappraisal of his property unless one of the factors listed in N.C. Gen. Stat. §105-287 exists, we disagree. North Carolina's courts have held that an appellant does not lose the right to appeal a tax value, determined as of the county's most recent general reappraisal, that has been carried forward from prior years,⁵ and has more specifically clarified that:

The Legislature never contemplated that an injustice done a taxpayer must continue for a period of years merely because he failed at the first opportunity to bring the injustice to the attention of the authority having the power to correct. (*In re Property of Pine Raleigh Corp.*, 258 N.C. 398, 128 S.E.2d 855 (1963))

Accordingly, we find this argument from the County to be without merit, and unanimously deny the County's motion to dismiss as to this basis.

⁵ See, for example, *In re Appeal of Ocean Isle Palms, LLC*, 219 N.C. App. 81, 723 S.E. 2d 543 (2013)

3. "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.
4. 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."⁶
5. Even given that the cost approach is not relevant for undeveloped properties, the Appellant provided no evidence regarding either the comparable sales approach or the income approach, relying upon the purchase price paid for the properties to support his opinion of value. There was no evidence offered to correlate either the 2017 or the 2009 purchase price to the January 1, 2014 reappraisal date. Accordingly, neither can be relied upon as an appropriate indication of value as of that date.
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.

WHEREFORE, the Commission order and decrees that the Appellant's appeal should be and is hereby dismissed, and the decisions of the Jones County Board of Equalization and Review, determining the value of the Highway 17 parcel to be \$48,222, and determining the value of the Oak Grove Road parcel to be \$4,860, are hereby affirmed.



NORTH CAROLINA PROPERTY TAX COMMISSION

Terry L. Wheeler

Terry L. Wheeler, Vice Chairman

Commission Members Guess and Michaux concur.

Chairman Hunter and Commission Member Peaslee dissent with separate opinion.

ATTEST:

Stephen W. Pelfrey

Stephen W. Pelfrey, Commission Secretary

Date Entered: 6.25.2020

⁶ *In re Greens of Pine Glen Ltd.*, 356 N.C. 642, 648, 576 S.E.2d 316, 320 (2003)

DISSENT

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

1. The Appellant offered evidence that the County's value was substantially in excess of true value when Mr. Moore offered evidence that one of the subject parcels had been recently purchased for \$3,000, as further supported by an affidavit from the seller, and that his opinion of value of the property was \$9,000, either of which is a fraction of the County's value of \$48,222.
2. The Appellant offered evidence that the County's value was arbitrary or illegal when Mr. Moore testified as to several physical characteristics of the subject properties that could potentially impact their value. Such characteristics include, but are not limited to, areas that he considered to be swamp-like; an access issue with the road; an area cut off by the road; the relatively small amount of acreage involved; and power line easements. N.C. Gen. Stat. §105-317 requires, among other factors, that the appraisal consider "any other factors that may affect [the] value" of the property to be appraised. Because the county was not required to demonstrate that its methods produced true value, there is no direct evidence that proper consideration was given to all statutorily-required characteristics.

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 Peaslee concurs in the dissent.