

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:

VINCENT J. ELLIS,
Appellant

19 PTC 0287

From the decision of the Brunswick 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 Wednesday, December 11, 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 vacant lot located in the Ocean Club Estates community of Sunset Beach, Brunswick County, North Carolina, and is identified by the County as Parcel No. 256ND0014. 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 June 11, 2019, the Board determined the value of the subject property to be \$203,500, and mailed notice of its decision to the Appellant on June 12, 2019. The Appellant appealed the decision of the Board by filing a Notice of Appeal with the Commission on July 10, 2019, and subsequently filed an Application for Hearing with the Commission on August 19, 2019. In said Application, the Appellant stated his opinion that the true value of the subject property was actually \$166,500.

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 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 Appellant, Mr. Ellis, testified that the subject property is one of dozens of lots situated along a canal leading to the Intracoastal Waterway ("ICW"). He testified further that, for the January 1, 2019 countywide appraisal conducted in Brunswick County, the County

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).

had established various values for the lots along the canal, and had appraised the lots in groups, or “zones,” in which all lots within a given zone shared the same tax value.

2. Mr. Ellis testified that the lots within the zone in which the subject property had been included were all appraised by the County at \$203,500. He testified that the subject property was the first such lot in this particular zone, with the result being that the lot immediately adjacent to the subject property on one side also had a tax value of \$203,500, whereas the lot immediately adjacent to the other side of the subject lot had been appraised by the County at \$185,000.
3. Mr. Ellis testified as to his opinion that there was no significant difference between the subject lot and the adjoining lot appraised at \$185,000, and further testified that the primary difference between the property record cards for these two properties was that the County had placed a premium on the value of the subject lot for “view.” Mr. Ellis testified as to his opinion that there was no significant difference in view between the two lots, but that the “view factor” applied by the County to the subject lot resulted in an increase of 10% in the value of the subject lot to \$203,500 from the base value of \$185,000.
4. Mr. Ellis testified that he believed the subject lot to be the smallest by area in its zone, and contended that the reduced size, coupled with a reduced net buildable area, should actually result in a reduction in value of 10% from the base value (from \$185,000 to \$166,500) for the subject lot. We find no sufficient basis in the evidence for such a reduction.
5. Mr. Ellis testified that he had purchased the subject lot in July of 2018 for \$199,000. While we note that this figure is near the County value of \$203,500, Mr. Ellis testified further that other lots within the same zone as the subject had sold for considerably higher than their \$203,500 tax value.
6. When asked by the Commission whether the subject property might have been appraised appropriately, even if others within the same zone had been appraised at less than their true value, Mr. Ellis conceded that this could be the case, but contended that the County’s appraisal model should have been more precise. We note that only the value of the subject property is under appeal in this matter.
7. The County’s witness, Mr. Michael Idol, testified that the “zones” were developed by the County in order to reflect the general increase in sale prices observed for all lots within the development, and that the sales data indicated an increase in prices based on proximity to the ICW.
8. Mr. Idol testified that none of the three lots immediately adjacent to the subject property, and more distant from the ICW, had sold as of the January 1, 2019 reappraisal date, but that the

parcel situated four lots further from the ICW than the subject property had sold for \$189,500. Mr. Idol testified further that, given its actual purchase price of \$199,000, the sale of the subject property indicated a difference in market value for the subject property as compared to those lots more distant from the ICW, and that the subject lot had been determined to be the starting point for the higher-valued zone, since there were no sales for the intervening lots.

9. Mr. Idol testified as to his opinion that the building envelope for the subject property was similar to that for other lots in the area, and that the sales data had indicated no differential for lot prices based on size. Mr. Idol testified further that he had found no evidence that factors other than view (specifically, the view up and down the canal) were relevant to the sale price of individual lots.

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 approach, and the income approach.”⁵
4. The cost approach is not relevant to unimproved land. 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.
5. The Appellant offered no evidence of true value based on comparable sales, contending only that the County’s methods of appraising the subject property and other properties was arbitrary. The Appellant conceded that the subject property, which was the sole subject of this appeal, could have been appraised by the County at true value. Further, the Appellant’s testimony was that he had purchased the subject property in July of 2018 for \$199,000, which we observe to be very close to the County’s \$203,500 opinion of value as of January 1, 2019. Accordingly, we find that the Appellant has not demonstrated that the subject

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

property was assessed by the County at a value that “substantially exceeded the true value of the property for the year at issue.”

6. The Appellant did, however, produce evidence that the County’s value was arbitrarily assigned, when he demonstrated various differences in purchase prices, as compared to assessed values, for other lots within the same “zone.”
7. Even if the Appellant produced sufficient evidence to overcome entirely the presumption of correctness of the County’s assessment, the County was able to demonstrate that its methods produced true value by offering evidence that the subject property’s true value is consistent with the value at which it was assessed, and that the value was also consistent with the County’s duly adopted Schedule of Values, Standards and Rules.

WHEREFORE, the Commission orders and decrees that the decision of the Brunswick County Board of Equalization and Review, determining the true value of the subject property to be \$203,500, is hereby affirmed.


NORTH CAROLINA PROPERTY TAX COMMISSION



ATTEST:


Robert C. Hunter, Chairman

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


Stephen W. Pelfrey, Commission Secretary

Date Entered: 2.4.2020