

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:

CHARLES UDOH,

20 PTC 0153

21 PTC 0065

Appellant,

From the decision of the Mecklenburg
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 10, 2021, pursuant to the Appellant’s appeal from the decision of the Mecklenburg County Board of Equalization and Review (“Board”).

Chairman Robert C. Hunter presided over the hearing, with Vice Chairman Terry L. Wheeler and Commission Members Alexander A. Guess and June W. Michaux participating.

Attorney Robert S. Adden, Jr., appeared on behalf of Mecklenburg County (“County”). The Appellant Charles Udoh appeared *pro se*.

STATEMENT OF THE CASE

The property under appeal consists of a residential lot that is improved by a single family residence, located at 1235 Joannas Court in Charlotte, and identified by the County by Parcel ID number 05713240 (“subject property”). 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 property as determined by the County, and appealed said value to the Mecklenburg County Board of Equalization and Review (“Board”). On February 26, 2020, the Board determined the value of the subject property to be \$48,200. The Appellant appealed from this decision of the Board, contending that the true value of the subject property, as of January 1, 2019, is actually \$10,000.

The Appellant appealed the value of the subject property in 2020, again contending that the value of the subject property is \$10,000, rather than the County's value of \$48,200. Both the 2019 and 2020 appeals are at issue in this hearing.

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

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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. Because File Numbers 20 PTC 0153 and 21 PTC 0065 involve the same property and the same values, the two appeals are combined for this hearing and decision.
2. At the hearing, the Appellant Mr. Udoh testified as to his opinion that the value of the subject property is \$10,000 for the years under appeal. In support of his opinion, Mr. Udoh offered testimony and documentation as to his opinion of the primary issue with the subject property—namely, that it occasionally experiences standing water that persists for as much as two to three days after rainfall; that the standing water sometimes enters the house; and that the standing water makes the house difficult to occupy and enjoy, at least during those times. Mr. Udoh also testified that he had replaced the flooring in the house two to three times; that he had discovered mold in the house; that the property experienced problems with mosquitos; that his fence had sunk by approximately three and one-half feet from its original six-foot height; and that he believed the foundation of his house is sinking, all as a result of the standing water issue.
3. Mr. Udoh supplied numerous photographs to illustrate the standing water issue, and explained that most or all of the photographs had been taken by a county-contracted appraiser some years prior.
4. Mr. Udoh testified that the subject property had been appraised by the County at a value of \$12,000 in the years prior to the 2019 reappraisal; that he had never paid property taxes based on a value higher than \$12,000; that he believed the standing water issue was a determinative factor in the prior valuation; and that he had done nothing to mitigate the standing water issue, or otherwise to improve the property since its prior valuation by the County. We note that the prior value would have been determined in the context of the real estate market for 2011, the year of the last countywide reappraisal.
5. In addition to the standing water issue, Mr. Udoh testified as to his concerns that the local crime rate and noise both from aircraft and from nearby FedEx and railroad facilities negatively impact the value of the subject property. He testified further that he could not cut the grass at the subject property because of its steepness, and that he instead had to hire that work out to a contractor with specialized equipment.
6. Mr. Udoh testified that he had commissioned an appraisal of the subject property in 2017, but explained that he could not locate the appraisal or recall the name of the appraiser. Indeed, there is no appraisal evidence before us regarding the value of the subject property. While

there is perhaps evidence that the Appellant has considered at least some of the specific elements of value that are to be considered⁵ when appraising real property in order to determine its true value, there is no evidence that the Appellant has considered any of the cost, income, or sales comparison approaches in developing his opinion of value. There is no evidence, other than anecdotal, that the foundation of the house is actually sinking, or that there is a hazardous mold condition in the house. There is no evidence as to the cost that would be required to address the slope and drainage of the subject property, and thereby to address the standing water issues. There is no evidence as to the impact, if any, of local crime or noise on the value of the subject property. There is no evidence of the costs actually incurred to repair or replace the fence; replace the flooring in the house; or even to contract for grass cutting.

7. In short, the Appellant's essential contention is that the subject property has always had issues; that the issues have never been addressed; and that the historic tax value has been \$12,000 for several years. Therefore, the Appellant's opinion is that the property's true value is \$10,000 as of January 1, 2019. We cannot agree.
8. Even if the value of the subject property suffers from all of the issues claimed, we have no evidence as to the actual impact, in terms of money, that any of the issues might have on the subject property's value. There is no evidence that the 2011 valuation of the subject property necessarily precludes a higher valuation in 2019. There is no evidence before us that would enable us to conclude that the true value of the property is actually different than the County's value. Furthermore, there is no evidence before us that the County's value was arbitrarily or illegally determined.
9. For the reasons given above, we give no weight to the Appellant's opinion of value for the subject property.
10. We find, therefore, that there is insufficient evidence before us that would enable us to conclude that the County's valuation of the subject property is arbitrary or illegal, and that the County's value of the subject property substantially exceeds its true value.
11. At the close of the Appellant's evidence, the County moved to dismiss the Appellant's appeal, arguing that the Appellant had failed to meet his burden to produce "competent, material and substantial evidence" that the County's values were either arbitrary or illegal, and substantially in excess of true value.

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⁵ Pursuant to N.C. Gen. Stat. §105-317(a)

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. More specifically, N.C. Gen. Stat. §105-317(a) provides in pertinent part as follows:

"Whenever any real property is appraised it shall be the duty of the persons making appraisals:

(1) In determining the true value of land, to consider as to each tract, parcel, or lot separately listed at least its advantages and disadvantages as to location; zoning; quality of soil; waterpower; water privileges; dedication as a nature preserve; conservation or preservation agreements; mineral, quarry, or other valuable deposits; fertility; adaptability for agricultural, timber-producing, commercial, industrial, or other uses; past income; probable future income; and any other factors that may affect its value except growing crops of a seasonal or annual nature.

(2) In determining the true value of a building or other improvement, to consider at least its location; type of construction; age; replacement cost; cost; adaptability for residence, commercial, industrial, or other uses; past income; probable future income; and any other factors that may affect its value."

3. Because the County's value is presumed correct, it must follow that the County's value is also presumed to be true value, and that the value was therefore developed in full compliance with the statutes. Accordingly, all factors relevant to the value of the subject property, including topography, standing water, location, and any other known issues are inherently reflected in the County's value.
4. The Appellant offered no evidence indicating that he had considered all of the elements of value that are statutorily required to be considered when appraising real property in order to determine its true value. For those elements that the Appellant appeared to have considered,

there was no consideration given to the value impact, if any, that those elements might have as to the subject property.

5. 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 The Appellant offered no evidence regarding any of the three authorized methods of valuing real property.
6. Because the Appellant did not provide competent, material, and substantial evidence regarding any of the three authorized methods of valuing real property, and because the Appellant offered no evidence indicating that he had considered the impact, if any, of the elements listed in N.C. Gen. Stat. §105-317(a), the Appellant has not produced “competent, material and substantial” evidence regarding the true value of the subject property, and has therefore not met the burden established for the two prongs of the *AMP* test.
7. The Appellant did not meet 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 as of January 1, 2019.

WHEREFORE, the Commission order and decrees that the Appellant’s appeals should be and are hereby dismissed; that the decision of the Mecklenburg County Board of Equalization and Review determining the true value of Parcel ID number 05713240 to be \$48,200 is hereby affirmed; and that the value of the subject property for both the 2019 and the 2020 tax years is therefore determined to be \$48,200.



NORTH CAROLINA PROPERTY TAX COMMISSION

Terry L. Wheeler, Vice Chairman

Commission Members Guess and Michaux concur.

Chairman Hunter dissents with separate opinion.

ATTEST:

Stephen W. Pelfrey, Commission Secretary

Date Entered: 10-29-2021

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

DISSENT

I respectfully dissent with the majority's Final Decision above, for the following reasons:

1. The Appellant demonstrated that there are substantial issues that rationally affect the subject property's value, and that the County has been aware of those issues.
2. The County's value of the subject property for 2019 is approximately four times higher than the value the County had determined as of 2011, and, just as the 2019 value is presumed correct, the 2011 should also be presumed correct.
3. If the property's issues in 2011 were such that a value of approximately \$12,000 was correct, and if, as the Appellant has testified, there has been nothing done to mitigate those issues in the intervening years, it is my opinion that a four-fold increase in value warrants further explanation. At a minimum, the dramatic increase in value suggests either that the County's 2011 value was much lower than it should have been, or that the 2019 value did not adequately address the issues affecting the subject property's value.
4. Either way, there is evidence before us that the County's 2019 value for the subject property could be substantially higher than its legal, true value. Therefore, it is my opinion that the Appellant met his burden.

Accordingly, it was my vote to deny the County's motion and to proceed with the County's evidence.


Robert C. Hunter, Chairman