

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:

**DANIEL LARSON and
DARA LARSON,**

20 PTC 0145

Appellants,

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 Wednesday, June 16, 2021, pursuant to the Appellants’ 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 William W. Peaslee, Alexander A. Guess, and June W. Michaux participating.

Attorney Robert S. Adden, Jr., appeared via Webex on behalf of Mecklenburg County (“County”). The Appellant Daniel Larson appeared via Webex *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 425 Hartford Avenue in Charlotte, and identified by the County by Parcel ID number 14705410 (“subject property”). The County conducted its most recent countywide reappraisal with an effective date of January 1, 2019.

The Appellants 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 January 15, 2020, the Board determined the value of the subject property to be \$352,100. The Appellants appeal from this decision of the Board, contending that the true value of the subject property, as of January 1, 2019, is actually \$290,000.

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 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

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

1. At the hearing, all exhibits submitted by the parties were admitted without objection.
2. At the hearing, and in reviewing County Exhibit 9, the Appellant Mr. Larson testified

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).

3. as to his opinion that, in appraising the subject property, the County had relied upon the highest-priced sales in the area beginning with the north side of Hartford Street (where the subject property is located) and extending northward toward Marsh Road. Mr. Larson testified further as to his belief that, while the northern portion of this area is and has been experiencing a transition to more modern and higher-value residential development, this transition had not yet reached the specific area of the subject property.
4. The type of transition activity described in this hearing generally involves a buyer purchasing improved residential property, then removing the parcel's improvements and replacing them with more modern residences. We have previously addressed this type of sale, designated informally as "demo" or "tear-down" sales, in other appeals (see, for example, *Appeal of Glasgow*, 19 PTC 0422), and have determined the pre-demolition sale price in these situations to be a recognized and logical indication of the market value for the underlying land. Although not an essential element of this decision, a description of our prior consideration of these sales may be useful here for context.
5. In support of his position that the County had relied upon only the highest-priced sales in the area described, Mr. Larson offered a list (see Taxpayer Exhibits 1 through 11) of 10 sales within that area, along with his calculated average sale price of \$291,200 for the 10 properties. Mr. Larson explained that some, but not all, of the sales in his list were included in the County's Exhibit 9. Some of the properties shown in County Exhibit 9 but not in Mr. Larson's list include sales on Melbourne Court and Marsh Road, which Mr. Larson contends are areas that are developing differently and at a different pace from the subject property's area.
6. It appears that Mr. Larson's calculated average sale price of the 10 properties in his list is the basis for his \$290,000 opinion of value for the subject property. On cross-examination, Mr. Larson testified that he had been unaware that the lowest-priced sale (Taxpayer Exhibit 4, which sold for \$220,000) had been sold from an estate, and had been considered by the County as an unqualified sale. Mr. Larson testified further that he did not know what circumstances made a sale qualified, and that he had not attempted to qualify the sales in his list.
7. On direct examination, Mr. Larson testified that two of the sales (Taxpayer Exhibits 5 and 6) re-sold the same day for \$30,000 and \$35,000 more than their first sale prices, which were apparently the ones used in the calculation of the average. He explained that he had chosen the lower sale price because he believed that the higher resale prices included the costs required to demolish the existing structure and otherwise prepare the parcels for rebuilding. While this explanation may be intuitively reasonable, we have insufficient evidence to determine whether

any of the other sales included (or did not include) these costs, and therefore insufficient evidence to determine which sale prices may be relevant.

8. Put simply, an appraisal-based opinion of value requires more analysis than an average of sales prices. Even if there were a sound appraisal basis for using only an average sale price to develop an opinion of value, there is no evidence offered that would enable us to determine whether any of the sales in Taxpayer Exhibits 1-11 were valid sales and useful for indicating the value of the subject property. In addition, even if we were to assume that Taxpayer Exhibits 5 and 6 represented qualified sales, there is evidence of two substantially different sale prices for these properties, with no evidence to indicate which price is appropriate to consider. Accordingly, we give no weight to the basis for the Appellants' opinion of value for the subject property.
9. Mr. Larson additionally offered testimony as to his opinion that the County's value for the subject property was arbitrarily determined. One such contention, referenced above, was that the County had arbitrarily included the subject property in a market neighborhood that includes properties experiencing different patterns of market change. We note that there is little evidence of the existence or extent of any such difference, other than Mr. Larson's anecdotal evidence.
10. Another of Mr. Larson's contentions that the County's appraisal of the subject property was arbitrarily determined relates to the relative land values assigned by the County to the subject property and to properties on the south side of Hartford Avenue. While Mr. Larson conceded that the total assessed value for the subject property is substantially similar to the other properties, he testified as to his observation that the County's land values for properties on the north side of Hartford Avenue is generally around \$350,000, whereas the land values for properties on the south side is generally around \$225,000. We note here that nearly all of the value of the subject property has been attributed by the County to the land, and that the improvements to properties located on the south side of Hartford Avenue are assigned a much larger proportion of the total value. There is no evidence, however, as to whether any of the total values or land values or proportional land-improvement values are incorrect—merely that they are different.
11. Accordingly, we find that there is insufficient evidence before us that would enable us to conclude for either of the reasons given that the County's valuation of the subject property is actually arbitrary.

12. At the close of the Appellants' evidence, the County moved to dismiss the Appellants' appeal, arguing that the Appellants had failed to meet their 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.

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:

"(a) 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. The Appellants offered no other evidence indicating that they had considered the elements of value that are statutorily required to be considered when appraising real property in order to determine its true value. In addition, the Appellants offered no evidence indicating that these

elements had been considered in determining whether the properties offered as comparable to the subject property were, in fact, comparable to the subject property.

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.”⁵
5. The Appellants offered no evidence regarding the cost approach or the income approach. While the Appellants did offer a list showing the sale prices of properties that were in the same appraisal neighborhood and perhaps comparable to the subject property, there was no further analysis of these sales beyond the calculation of an average sale price. The analysis of other property sales must be sufficient at least to demonstrate that the elements of N.C. Gen. Stat. §105-317(a) were considered, and that the other properties are actually comparable to the subject property.
6. Although North Carolina appellate courts have determined that an appellant’s burden is one of production, rather than proof, the evidence produced must still be “competent, material and substantial” in order to meet the two-part test set out in the *AMP* case.
7. Several cases decided by the North Carolina appellate courts offer examples of what type of evidence meets the “competent, material and substantial” requirement. See, for example, *In re Appeal of Lane Co.*, 153 N.C. App. 119, 571 S.E.2d 224 (2002), in which the appellant offered expert testimony as to the reasons for choosing the sales comparison approach as the most appropriate for the property in question, then cited numerous sales that were both identified as comparable to the subject and adjusted for their similarities and differences relative to the subject property, all in order to develop an opinion of the subject property’s value. The *Lane* court found that this level of analysis was sufficient to meet the evidentiary requirement.
8. In another case, *In re Appeal of Parsons*, 123 N.C. App. 32, 472 S.E.2d 182 (1996), the court found that the appellant had produced competent, material, and substantial evidence when the appellant offered evidence as to the highest and best use of the subject property, along with expert testimony as to two different appraisal-based valuation approaches, each of which indicated that the county’s value substantially exceeded the subject property’s true value.
9. While the *Lane* and *Parsons* cases involved expert witnesses, *In re Appeal of Murray*, 179 N.C. App. 780, 635 S.E.2d 477 (2006) was a case in which the appellant offered her own testimony clearly demonstrating that the county’s appraisal was in violation of the statutes

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

relevant to that particular property type, and offered further evidence that the resulting county value substantially exceeded the property's true value.


10. Each of these cases demonstrates that, in order to produce "competent, material and substantial evidence" concerning their property's value, an appellant must analyze the property's value using at least one of the three accepted appraisal approaches (cost, income, and sales comparison) recognized by the North Carolina courts, and should also articulate the reasoning behind their choice of method(s).
11. The North Carolina Court of Appeals summarized these conclusions in *In re Appeal of Hasty*, COA10-298 (2011). While the *Hasty* opinion was unpublished, and direct citation is therefore disfavored under Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure, we can neither ignore the logic of the decision, nor the fact that it is based on a review of opinions that are themselves published.
12. Therefore, it is our view that the published decisions of the North Carolina courts require an appellant to produce evidence that is either prepared by an expert or is prepared by the appellant using methodology that is substantially similar to an expert's methods. In this matter, the Appellants have not developed their opinion of value using methodologies that are substantially similar to those used by an expert.
13. Because the Appellants did not provide competent, material, and substantial evidence regarding any of the three authorized methods of valuing real property, and because the Appellants offered no further evidence indicating that they had considered the elements listed in N.C. Gen. Stat. §105-317(a), the Appellants have not produced "competent, material and substantial" evidence regarding the true value of the subject property, and have therefore not met the burden established for the two prongs of the *AMP* test.
14. Although we have addressed the Appellants' contention that the County's value had been arbitrarily determined and have found there to be insufficient evidence to determine that the County's value was actually arbitrary, we note from the holding in the *AMP* case that it is "not enough for the taxpayer to show that the means adopted by the tax supervisor were wrong, he must also show that the result arrived at is substantially greater than the true value in money of the property assessed" (*Ibid.*). Even if we could have found here that the County's methodology was arbitrary or illegal, there was still insufficient evidence to determine that the County's value was substantially in excess of true value.
15. The Appellants did not meet 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 as of January 1, 2019.

WHEREFORE, the Commission order and decrees that the Appellants' appeal should be and is hereby dismissed, and the decision of the Mecklenburg County Board of Equalization and Review, determining the true value of Parcel ID number 14705410 to be \$352,100, is hereby affirmed.




NORTH CAROLINA PROPERTY TAX COMMISSION



Robert C. Hunter, Chairman

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

ATTEST:



Stephen W. Peiffrey, Commission Secretary

Date Entered: 8-16-2021