

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:

REB PAT LEASING, LLC,
Appellant,

19 PTC 0599

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, via Webex on Wednesday, February 17, 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 William W. Peaslee and June W. Michaux participating.

Attorney Robert S. Adden, Jr., appeared via Webex on behalf of Mecklenburg County (“County”). Tracey E. Faust and Charles Graham appeared via Webex on behalf of the Appellant, pursuant to the provisions of N.C. Gen. Stat. 105-290(d2).

STATEMENT OF THE CASE

The property under appeal (“subject”) consists of two adjoining commercial parcels that are paved and in use as parking lots in the City of Charlotte. The first such parcel is approximately 16,814 square feet in size with a street address of 608 N. Tryon Street, and is identified by the County by Parcel #08003207 (“Tryon Street parcel”). The second such parcel is located immediately adjacent to and behind the first parcel (relative to N. Tryon Street), and is approximately 4,791 square feet in size. The second parcel has a street address of 113 E. 9th Street, and is identified by the County by Parcel #08003202 (“9th Street parcel”). The subject property is located approximately six blocks from the intersection in Charlotte of Trade Street and Tryon Street. The County conducted its most recent countywide reappraisal with an effective date of January 1, 2019.

The Appellant disputed the January 1, 2019 assessed values of the subject property as determined by the County, and appealed said values to the Mecklenburg County Board of Equalization and Review (“Board”). On October 17, 2020, the Board determined the value of the Tryon Street parcel to be \$2,672,500, and the value of the 9th Street parcel to be \$652,400 (combined value of \$3,324,900). The Appellant appeals from these decisions of the Board, contending in the Applications for Hearing filed in this matter that the true value of the subject property, as of January 1, 2019, was actually \$1,647,772 for the Tryon Street parcel, and \$410,000 for the 9th Street parcel (combined value of \$2,057,772).

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 its 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

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 (2010).

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. The Appellant's primary contention is that the income produced by the subject parking lots does not justify the County's value, additionally offering testimony as to its opinion that the income approach is most relevant to the subject property, and that it was "not relying on any sales" in developing its opinion of value.
3. In support of its income approach, the Appellant offered information (Taxpayer Exhibits 1 and 2) indicating that the lots together produced income in the amount of \$98,200 for calendar year 2018, and \$103,200 for calendar year 2019. We note that the County's latest countywide reappraisal was effective as of January 1, 2019.
4. The income figures provided by the Appellant are essentially bare numbers, with no information included as to their source, making it impossible to determine solely from the Appellant's exhibits whether these amounts represent gross, net, or some other level of income, and what expenses, if any, have factored into the amount. Later testimony from the Appellant did suggest that the gross and net income for the subject property are similar, as there is "very little expense" associated with the subject property.
5. We note that the Appellant has offered no evidence as to whether the income generated by the subject property is typical for its current use as parking lots. Therefore, there is no information before us as to whether the subject property income is the same as, or higher or lower than, the income expected for similar properties in the overall market.
6. In further support of its contention, the Appellant demonstrates in Taxpayer Exhibit 3 that an income amount of \$103,200, capitalized at an overall rate of 5%, would indicate a value of \$2,064,000. We recognize that this amount is similar to the combined value (\$2,057,772) that the Appellant contends is the true value of the subject property, and that the capitalization demonstration is mathematically correct, but we again find no market data or other information to support the choice of a 5% capitalization rate, except for the Appellant's explanation that 1% of the total rate was intended to account for property taxes. Testimony from the Appellant indicates its expectation of a 4% return on the subject property, but there is no evidence before

⁴ *In re Parkdale Mills*, 225 N.C. App.713, 741 S.E.2d 416 (2013).

us to show whether 4% (5% with property taxes) is a market-derived capitalization rate, i.e., a typical rate for this type of property expected by the overall market.

7. Regardless of the actual income produced by the subject property, and regardless of the Appellant's individual investment expectations, income and capitalization data must be examined in light of the market as a whole in order to estimate the market value of the subject property⁵. Here, there is no market data offered by the Appellant. Accordingly, we give very little weight to the information offered by the Appellant in support of its value opinion.
8. The Appellant further contends that the subject property is oddly configured, such that it can only be used for parking lots, but then also describes its current use as an "interim use," suggesting that the property could indeed be used for something other than as parking lots. There is no evidence as to the effect, if any, that the subject property's configuration has on its market value.
9. The Appellant offered testimony that the subject property has been actively marketed, but without a resulting sale. No information has been provided as to the asking price, length of time offered for sale, or any other detail as to how the subject property has been marketed. We note that there was testimony offered by the Appellant that it "couldn't give this one away," although this certainly cannot be meant literally.
10. Finally, the Appellant contends that the County was arbitrary both in its analysis of the highest and best use of the property and in its decision to apply the same base rate for other parcels in the area. Apart from general testimony about the relative strategic locations of other, unidentified properties, the Appellant offers no evidence to suggest that either the highest and best use or the choice of base rate was incorrect. Later testimony by the County's witness indicated that downtown properties were actually not valued at the same rate, and that factors such as location and proximity to light rail affected the rate at which each individual parcel was appraised and assessed.
11. While we recognize that location, shape, highest and best use, and other factors are relevant to the value of a particular property, there is no evidence before us to demonstrate whether, and to what extent, any such factor suggested by the Appellant impacts the value of the subject property. It is impossible to translate nonspecific commentary into specific value adjustments. Accordingly, we give no weight to these additional issues mentioned by the Appellant.

⁵ See, for example, *In re Greensboro Office Partnership*, 72 N.C. App. 635 (1985) [Note: Review denied, 313 N.C. 601 (1985)]

12. The County's witness, John Olson, a North Carolina-certified appraiser, was admitted without objection as an expert in the appraisal of commercial property. Mr. Olson testified that the County had considered all three recognized approaches to value (the income, sales comparison, and cost approaches), and had relied primarily on the sales comparison approach in developing its opinion(s) of value for the subject property.
13. Mr. Olson testified further as to his opinion that the highest and best use of the subject property was a commercial use that included a mixture of multifamily, office, and retail space.
14. Mr. Olson testified that the County's assessment of the subject property represented a value of \$152.51 per square foot. In support of this value, Mr. Olson offered information regarding the sale of seven other parcels (See County Exhibit 7), all used as parking lots and all located within $\frac{3}{4}$ of a mile of the subject property. The sale prices for the other parcels ranged from \$140.67 to \$186.34 per square foot. Only two of the other parcels sold for a lower rate (\$140.67 and \$152.16) than the \$152.51 per square foot at which the subject property is assessed.
15. Mr. Olson testified further that the County had considered the relative differences in all of the properties in comparing the sold parcels to the subject property, and had concluded that the parcels labeled Comp#1, Comp #2, and Comp #3 were most like the subject property and, having sold for per-square-foot rates of \$155.61, \$183.41, and \$162.05, respectively, these three comparable sales supported a market value for the subject property that was at least the \$152.51 at which it is assessed. The sale prices of all of the remaining sold parcels further supported the County's assessment of the subject property.
16. The County's witness testified that the County's appraisal had been conducted in compliance with the Uniform Standards of Professional Appraisal Practice; with standards developed by the International Association of Assessing Officers; and with the Uniform Schedules of Values, Standards and Rules adopted by the County for the 2019 reappraisal.
17. The County's witness further testified as to his opinion that the true value of the subject property as of January 1, 2109, was \$3,324,900, as supported by market data such as that described above.

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."⁶
4. The Appellant offered no evidence regarding the cost approach or the sales comparison approach, and offered little evidence as to the income approach, except for the most basic description of the actual income experienced by the subject property and the Appellant's expected return on investment.
5. Since the income approach requires the identification and analysis of market-based data in support of its development, and since the Appellant has provided none of the necessary data or analysis, the Appellant has not developed this method of valuation. Thus, the Appellant did not provide competent, material, and substantial evidence regarding the three authorized methods of valuing real property. Accordingly, we find that the Appellant did not offer competent, material and substantial evidence that the County's values were either arbitrary or illegal, and substantially in excess of true value.
6. Even if the Appellant produced sufficient evidence to overcome 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 at least the value at which it was assessed, and that the appraisal of the subject property was performed in compliance with recognized professional appraisal standards.

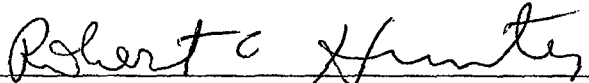
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⁶ *In re Greens of Pine Glen Ltd.*, 356 N.C. 642, 648, 576 S.E.2d 316, 320 (2003)

WHEREFORE, the Commission orders and decrees that the Board's decisions, determining that the value of the Tryon Street parcel is \$2,672,500, and that the value of the 9th Street parcel is \$652,400, both and each for the 2019 tax year, are hereby affirmed.




NORTH CAROLINA PROPERTY TAX COMMISSION


Robert C. Hunter, Chairman

Vice Chairman Wheeler and Commission Members
Peaslee and Michaux concur.

ATTEST:


Stephen W. Pelfrey, Commission Secretary

Date Entered: 5-25-2021