

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:

**ROGERS BAY CAMPGROUND CO OWNERS,**  
**Appellants,**

**18 PTC 0334**

From the decision of the Onslow County Board of  
Equalization and Review

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### **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 Raleigh, North Carolina on Wednesday, May 25, 2022, pursuant to the Appellants’ appeal from the decision of the Onslow 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 Brett J. DeSelms appeared on behalf of Onslow County (“County”). Attorney Collier R. Marsh appeared on behalf of the Appellants.

### **STATEMENT OF THE CASE**

The property under appeal (“subject property”) is a single parcel approximately 33.16 acres in total size (the parties appear to be in agreement that approximately 21.6 acres of the parcel is usable, with the remaining portion being wetlands or otherwise unsuitable for building), and is designated by the County as Parcel 053149. The parcel’s improvements include a playground, pool, office building, laundry, and 442 individual sites for recreational vehicles. Each such site has its own electric utility meter and has its own 911 address. The improvements are interconnected by gravel roads. The subject property is owned by 442 separate co-owners (hereinafter “owners”), who are the Appellants in this matter. The County conducted its most recent countywide reappraisal with an effective date of January 1, 2018.

The Appellants disputed the January 1, 2018 assessed value of the subject property as determined by the County, and appealed said value to the Onslow County Board of Equalization

and Review (“Board”). The Board determined the value of the subject property to be \$19,901,010. The Appellants appeal from this decision of the Board, contending in the Application for Hearing filed in this matter that the true value of the subject property, as of January 1, 2018, was actually \$8,450,000.

### ANALYSIS AND ISSUES

A county’s ad valorem tax assessment is presumed to be correct.<sup>1</sup> 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”.<sup>2</sup> 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.<sup>3</sup>

Under this analysis, the Commission must consider the following issues:

1. Whether the Appellants 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 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.<sup>4</sup>

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<sup>1</sup> *In re Amp, Inc.*, 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

<sup>2</sup> *Id.* (capitalization and emphasis in original).

<sup>3</sup> *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).

<sup>4</sup> *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 Appellants' witness Mr. Edward Cramer, Jr., testified that he is one of the 442 owners of the subject property. Mr. Cramer explained that the 442 owners each have a 1/442 undivided ownership interest in the subject property, and that such ownership interests are governed by the Joint Tenancy Agreement and Declaration of Covenants, Conditions, Restrictions and Easements of Rogers Bay Family Campway, of record in Deed Book 1146, Page 279, Onslow County Registry (hereinafter, the "Joint Tenancy Agreement"), offered by the Appellants as Taxpayer Exhibit 3.
2. Mr. Cramer testified that the Joint Tenancy Agreement includes provisions for the creation of the Rogers Bay Property Owners Association, governed by a Board of Directors (see Taxpayer Exhibit 3, page 6). Mr. Cramer explained further that property taxes for the subject property are billed in equal amounts to all owners, along with annual maintenance fees and assessments (see Taxpayer Exhibit 3, page 7), and that these and other charges constitute a lien on each individual owner's interest, which lien can be enforced through remedies that include foreclosure (see Taxpayer Exhibit 3, page 10).
3. We note also that the Joint Tenancy Agreement provides for: the exclusive right to use and occupy a specific site that is deeded to each individual owner (see Taxpayer Exhibit 3, page 3); the ability of each owner to transfer its 1/442 undivided interest in the subject property along with the specific site assigned to it (see Taxpayer Exhibit 3, page 11); the requirement for individual utilities, including electricity, cable, and telephone, to be paid by individual owners (see Taxpayer Exhibit 3, page 9); and an explicit waiver by the owners of their tenancy-in-common rights (see Taxpayer Exhibit 3, page 12).
4. Mr. Cramer testified further that the individual ownership interests, together with exclusive-use rights to their respective sites, can be deeded (see, for example, County Exhibit 5) or passed by will, and that owners of the subject property are entitled to beach and Intracoastal Waterway access from the subject property. He added that some lots within the development are smaller than others, and that some are ocean view while others are not, but explained that the individual owners are charged equal amounts for the subject property's tax bill, maintenance, and assessment fees, with each such amount being simply the total of these charges divided by 442.
5. The Appellants' witness Mr. Hector R.M. Ingram, MAI, testified that he had undertaken his appraisal of the subject property by considering a hypothetical condition, which he explained

is defined as a condition known by the appraiser to be contrary to fact, but nonetheless used for purposes of analysis within the appraisal. Mr. Ingram testified that, in order to avoid the unusual ownership structure of the subject property, he had developed his appraisal under the hypothetical condition that the entire parcel would be sold at a discounted price to a single buyer-investor, who could then rent and/or sell sites from the subject property.

6. In reviewing his appraisal (see Taxpayer Exhibit 9), Mr. Ingram testified that he had considered all three approaches to value. In developing the cost approach, he reviewed commercial and residential sales of properties that were larger than two acres (commercial) or three acres (residential) in size, concluding that a typical per-acre land value was approximately \$300,000. When multiplied by the 21.6 usable acres within the subject property, the resulting land value is \$6,480,000 (see Taxpayer Exhibit 9, pages 41-43). We note here that, while the report lists the “adjusted price” for both categories of land sales, there is no information in the report indicating whether there was any difference in the actual and adjusted sale price, or what factors, if any, were applied in any such adjustments.
7. Mr. Ingram calculated various direct improvement costs on a per-site basis, determining these to be \$6,850 per site, and then multiplied that figure by the 442 sites to arrive at an estimated replacement cost new (RCN) of \$3,027,770 for these improvement costs. \$75,000 was the estimated RCN for the swimming pool, bringing the total RCN for all site improvements to \$3,102,700 (see Taxpayer Exhibit 9, page 44). Accounting for indirect costs and depreciation, Mr. Ingram determined the depreciated value of all improvements to be \$2,553,038. Mr. Ingram testified that adding the depreciated improvement value to the land value of \$6,480,000 indicates a total value of approximately \$9,035,000 using the cost approach (see Taxpayer Exhibit 9, page 45). Apart from referring generally to Marshall Swift Valuation Services, we note that there is no discussion in the report regarding the RCN of the site improvements or the choice of depreciation to apply.
8. In considering the sales comparison approach, Mr. Ingram testified that he found no campground sales having the same ownership structure as the subject property, but had selected sales information from six recreational vehicle (“RV”) parks located in the Southeastern United States, because these sales were of “larger” RV parks with known income streams (see Taxpayer Exhibit 9, pages 46-47). Mr. Ingram testified that he had used information from these sales to develop an indication of value using two methods. The first method was simply to determine a typical sale price per site from the six sales (approximately \$22,500 per site), then multiplying that figure by 442 to indicate a total value of \$9,945,000

for the subject property (see Taxpayer Exhibit 9, page 60). We note that only one of the six sale prices has received an adjustment before being included in the determination of typical price. Given that, for example, only half of the six sales are located in North Carolina, with the others being located in Tennessee, Florida, and Texas; and given also that five of the six sales are for campgrounds having one-third or fewer the number of sites as compared to the subject property (one of these, with only 48 sites, being just over one-tenth the size of the subject property), it would have been useful for us to have seen (in the appraisal report) or heard (by testimony) some discussion as to whether sale price adjustments were considered for these differences, and perhaps others.

9. The second method requires calculating a factor that represents the relationship between a property's sale price and the annual effective gross income that the property generates. For example, a property that sells for five times its annual effective gross income is said to have an Effective Gross Income Multiplier ("EGIM") of 5. This method requires both sales and income information to develop, and Mr. Ingram considered five of the six sales described above to have information sufficient to develop an indicated EGIM of 4.34 from these properties. Applying this factor to the effective gross income ("EGI") of \$2,519,400 estimated for the subject property, described later in his report, Mr. Ingram concluded that the EGIM method indicated a value of \$10,934,196 ( $4.34 \times \$2,519,400$ ) for the subject property (see Taxpayer Exhibit 9, page 60). Again, we have the same questions regarding the comparability of the sales relied upon, since there has been no adjustment for apparent differences between the sold properties and the subject property. Mr. Ingram testified that he reconciled these two methods, concluding that the sales comparison approach indicated a value of \$10,440,000 for the subject property (see Taxpayer Exhibit 9, page 61).
10. In reviewing his development of the income approach, Mr. Ingram testified that he had considered rental information from eleven RV parks in coastal North Carolina (see Taxpayer Exhibit 9, page 62), and concluded that the subject property could reasonably expect rent of \$500 per site per month if it were "run as a traditional RV park<sup>5</sup>," resulting in \$2,652,000 ( $\$500 \times 12 \text{ months} \times 442 \text{ sites}$ ) in potential gross income per year. Although vacancy losses were considered to be low for this type of property, Mr. Ingram considered 5% to be appropriate, resulting in an EGI of \$2,519,400 ( $\$2,652,000 \text{ less } 5\%$ ) for the subject property (see Taxpayer Exhibit 9, page 63). This is the figure used in the EGIM calculation above.

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<sup>5</sup> It appears undisputed, however, that the subject is neither income-producing nor a traditional RV park.

11. Mr. Ingram testified that he had considered the operating expense ratio (“OER”) obtained from several RV parks, nearly all of which are located in North Carolina, as well as the OER developed by a national campground brokerage in developing his conclusion that an appropriate OER for the subject property would be 55% of EGI. The previously-determined EGI, less 55%, results in a net operating income (“NOI”) of \$1,133,730 (see Taxpayer Exhibit 9, page 64).
12. In order to convert NOI to an indication of value, Mr. Ingram testified that he considered both market sales and a Realty Rates national survey in order to conclude that 10.65% was an appropriate capitalization rate for the subject property. Accordingly, he determined that the income approach indicated a rounded value of \$10,645,000 ( $\$1,133,730 / .1065$ ) for the subject property (see Taxpayer Exhibit 9, page 65).
13. Finally, Mr. Ingram developed a discounted cash flow (“DCF”) analysis as a further method of valuation for the subject property. This process is intended to simulate a scenario where the subject property would be purchased by an investor, who would then run the subject property as a rental RV park while simultaneously selling all of the sites over the course of a theoretical holding period. Mr. Ingram explained that this exercise was conducted as a test of reasonableness for the other methods, and that his starting point was to consider the 17 sales of sites within the subject property that occurred during 2017 (see Taxpayer Exhibit 9, page 66). Mr. Ingram testified that these sales suggested a typical price of approximately \$46,000 per site, but noted that a rate of 17 sales per year would require 26 years for all 442 sites to be sold. Reasoning that an investor would want to hold subject property for no more than about 10 years, Mr. Ingram testified that a price reduction of approximately 25% would reasonably achieve a shorter sell-out period. Accordingly, Mr. Ingram selected \$35,000 per lot as an appropriate initial selling price for a 10-year holding period (see Taxpayer Exhibit 9, page 67).
14. Considering then that the unsold sites could be rented during the holding period, Mr. Ingram developed an OER for the rental sites. Income from the sale of sites, assuming 3% appreciation in value per year, was added to the income from renting the remaining sites (rental rates were assumed to remain unchanged throughout the holding period); sale/holding expenses and rental expenses were deducted from these to yield a net operating income for each year during the holding period, which was then discounted at a 12% annual rate to estimate the net present value of all ten years’ income streams. The end result of this exercise suggested that the total value of the subject property under these circumstances would be approximately \$10,500,000, or \$23,756 per site (see Taxpayer Exhibit 9, page 70). We note that there are multiple elements

in this scenario that are based on subjective evaluations of multiple underlying data points. In part, that is the nature of appraisal, but we cannot help but consider that a change in any one of these elements—for example, if rents were assumed to increase over the holding period like sale prices, as one might expect—the resulting calculation could be substantially different than the result shown here.

15. Mr. Ingram reconciled all of his approaches to value described above, concluding that his opinion of value for the subject property was \$10,500,000 as of January 1, 2018 (see Taxpayer Exhibit 9, page 71).
16. The County's witness Harry Smith, the Onslow County Tax Administrator, testified that the County had reviewed a significant number of sales in which individual owners had sold their interests in the subject property, together with their respectively assigned sites, to buyers who then became new owners of the subject property. Mr. Smith testified that some of these sales had been listed on the local Multiple Listing Service (see, for example, Taxpayer Exhibit 17) and some had not (see, for example, Taxpayer Exhibit 18), and that the County had reviewed and considered sales from 2016 and 2017 in preparing for the January 1, 2018 reappraisal date. Mr. Smith testified further that the County primarily relied upon the sales comparison approach to determine the value of the individual ownership interests because there was sufficient sales data to facilitate developing this approach. Mr. Smith explained that the median sale price had been approximately \$40,000 per interest for 2016 sales and approximately \$47,000 per interest for 2017 sales; that the County had placed greater weight on the 2017 sales due to their having occurred closer to the reappraisal date; and that the County had accordingly determined that a typical value for each individual ownership interest as of January 1, 2018 was approximately \$45,000 (the actual calculated number was slightly lower, as shown below).
17. Mr. Smith testified that the County had therefore determined the total value of the ownership interests in the subject property to be \$19,858,900 (dividing this number by 442 interests results in a rounded value of \$44,930 per interest), with the remaining \$42,110 in value being attributed to minor site improvements. Mr. Smith testified further that there are 25-30 RV campgrounds in Onslow County, and that no other facility was appraised like the subject property because no other property specifically included a mechanism for owners to sell their ownership interests. Upon questioning from the Commission, Mr. Smith testified that the same methodology had been used to appraise the subject property since at least 2006, and that the 2010, 2014, and 2018 reappraisals had all used the same methodology.

18. The County's witness Mr. Christopher Mashburn, MAI, testified that his appraisal was developed for the subject property in an "as-is" state—that is, as a combination of 442 freely transferable interests, for which there is an active market. Mr. Mashburn explained that undivided interests typically have a limited market and low value, but that this is not the case for the subject property. Mr. Mashburn testified further that he had considered a hypothetical condition in which the subject property would be sold as a single parcel to a single buyer, but had concluded that a single sale of the subject property would require the uniting of all 442 individual interests, which he found so unlikely as to be unfeasible, and chose not to assume the hypothetical condition.
19. Mr. Mashburn testified that he had considered all three approaches to value in developing his appraisal and had relied primarily upon the sales comparison approach, explaining that the cost approach would be challenging to develop accurately because of the age of the improvements, and that the income approach was not relied upon because the subject property is not income-producing.
20. Mr. Mashburn testified that he had examined sales of individual ownership interests in the subject property, together with the exclusive right to use their respective sites, for the three-year period leading up to the January 1, 2018 reappraisal date (see County Exhibit 8C, page 49). He explained that he had excluded sales that included personal property, and had confirmed information relating to the sales by contacting the respective grantors, grantees, and/or agents. In the course of this process, Mr. Mashburn was able to confirm that no sale price adjustment was warranted among the individual interests based upon their assigned site, and selected the most recent sales in order to conclude that the typical price per interest was \$41,000 (see County Exhibit 8C, pages 50-51). Mr. Mashburn testified that his opinion of value for the subject property, relying upon the sales comparison approach, is \$18,122,000 ( $\$41,000 \times 442$  interests) as of January 1, 2018 (see County Exhibit 8C, page 52).
21. Mr. Mashburn distinguished his value conclusion process from assemblage, a process by which all of the individual interests would be consolidated, but did note that even assemblage could result in a combined value that was higher, lower, or equal in comparison to the sum of the values of the individual interests (see County Exhibit 8C, page 58).
22. Mr. Mashburn testified as to his opinion that choosing the hypothetical condition of a single owner would require both disregarding the existence of the Joint Tenancy Agreement and ignoring the reality of the active market for undivided interests, together with exclusively assigned sites, that the Joint Tenancy Agreement created.



23. The County's witness Mr. Gregory Bourne, MAI, testified that he had reviewed the appraisal reports of both Mr. Ingram and Mr. Mashburn. Mr. Bourne expressed his opinion that the most appropriate valuation method for the subject property would be to rely primarily upon the sales comparison approach to develop an opinion of value for the undivided interests, and then add those values together to arrive at the value of the subject property (See County Exhibit 8d).
24. In discussing his review of the appraisal prepared by Mr. Ingram (See County Exhibit 8f), Mr. Bourne testified as to his opinion that the appraisal was not credible because it was "driven by" the hypothetical condition, adding that hypothetical conditions require "some connection to reality," whereas the hypothetical condition chosen was "in no way connected to the reality of the property." Mr. Bourne testified that appraisals that are subject to the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) must be performed on the property "as-is," and would not permit a hypothetical condition.
25. The Appellants' rebuttal witness, Mr. John Bosworth, MAI, discussed his review of the appraisal prepared by Mr. Ingram (see Taxpayer Exhibit 15), testifying as to his opinion that the underlying hypothetical condition for the appraisal was necessary to clarify the methodology used. Mr. Bosworth explained further, however, that the hypothetical condition was not necessary to determine the market value of the subject property, and stated that he would not have included the hypothetical condition if he had appraised the property.
26. We note that there is nothing inherently suspect about the use of a hypothetical condition in an appraisal report. For example, appraisals performed in connection with new construction normally include an opinion as to the value of a structure that has yet to be built. In determining whether a hypothetical condition is appropriate, the question becomes whether a given assumption is necessary to developing the opinion of value, and also whether the assumption reflects a plausible reality. Three expert witnesses, one testifying on behalf of the Appellants, have given their opinion that the hypothetical condition that provides the foundation for the Appellants' opinion of value is at least unnecessary, and at most completely unreliable. The Commission majority finds that the hypothetical condition assumed by the Appellants does not reflect a plausible reality<sup>6</sup>. In addition, we have previously noted the multitude of variables that are stated as components of the valuation equation, but are given without significant

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<sup>6</sup> Commission Member Peaslee finds it plausible to consider that the 442 owners themselves could change the nature of the subject property by purchase or reorganization, and therefore both disagrees that a single owner is not plausible and dissents from the majority's final decision, but without separate opinion.

analysis to accompany them. For these reasons, we give little weight to the Appellants' opinion of value.

27. By all accounts, the subject property is unique in Onslow County—it has the appearance of an RV campground, but there are 442 individual property owners, each of whom have the exclusive right to use an assigned site. Each owner can freely sell its interest and lot assignment, somewhat like a condominium, but the subject is clearly not a formal condominium, and all owners have at least a theoretical undivided ownership share of the entire property. If there were no market for the undivided ownership interests, the logical next-best property type for comparison purposes might be an RV campground or condominium or timeshare, but in this case, there is substantial and nearly undebated evidence of an active market for the individual ownership shares, and it makes sense to select an appraisal method that most accurately reflects actual market experience. Accordingly, we find that the sales comparison approach is the best method for developing an opinion of value for individual ownership interests. Because the appraisal performed by Mr. Mashburn provides the greatest level of detail in developing an opinion of value for the individual ownership interests, we find that \$41,000 is the true value of each individual interest as of January 1, 2018<sup>7</sup>.
28. As to the subject property's total value, there is some disagreement among the parties and witnesses as to whether the per-interest value should simply be multiplied by the 442 ownership interests, or that the values should be discounted in some way. It is logical to consider that, if all 442 interests were simultaneously available for sale, the sudden influx of such a large number of saleable units might reduce the per-unit sale price. Similarly, if all of the saleable units were owned by a single owner, that owner might wish to control the rate of sale to maximize profits and/or achieve a particular investment horizon. Again, the reality for the subject property is that the salable units are freely bought and sold by individual owners, and at a pace determined by the market. We would struggle to see the logic behind appraising an established subdivision of 442 owner-occupied residences by first assuming either that all 442 units had a single owner, or that all 442 owners would simultaneously offer their homes for sale. In this matter, we find that the most logical and direct way to determine the combined value of all 442 ownership interests is simply to combine all 442 individual values.

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<sup>7</sup> We note here that the County's estimated value of \$45,000 per individual interest is very close to, and consistent with, Mr. Mashburn's estimate. We have chosen Mr. Mashburn's estimate simply because there is somewhat greater support in the record for the \$41,000 estimate.

Accordingly, we agree with Mr. Mashburn's opinion, and find that the true value of the subject property is \$18,122,000 (\$41,000 x 442).

**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."<sup>8</sup>
4. The Appellants offered expert evidence regarding all three approaches to value, tending to show that the true value of the subject property was nearly one-half of the County's value. While we find that this evidence was sufficient to meet the Appellants' burden, we ultimately gave the evidence little weight, based in part upon the Appellants' underlying hypothetical condition that the subject property was owned by a single entity.
5. The County was able to demonstrate that its methods produced true value by offering market-based evidence that the subject property's true value is consistent with the value at which it was assessed, and that the appraisal of the subject property was performed in compliance with statutory requirements. Accordingly, we conclude that the County has met its burden.

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<sup>8</sup> *In re Greens of Pine Glen Ltd.*, 356 N.C. 642, 648, 576 S.E.2d 316, 320 (2003)

WHEREFORE, the Commission herewith orders that the 2018 tax value of the subject property be changed to \$18,122,000, and that the Onslow County abstracts and tax records be changed to give effect to this decision.

NORTH CAROLINA PROPERTY TAX COMMISSION

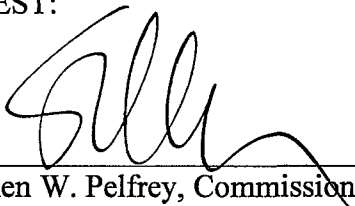


  
Robert C. Hunter, Chairman

Vice Chairman Wheeler and Commission Members  
Guess and Michaux concur.

Commission Member Peaslee dissents without separate  
opinion.

ATTEST:

  
Stephen W. Pelfrey, Commission Secretary

Date Entered: 9-23-2022