

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
14 PTC 436

IN THE MATTER OF:
APPEAL OF:

Jack J. Stollery

FINAL DECISION

from the decisions of the
Mecklenburg County
Board of Equalization
and Review concerning
the valuation of certain real
property for tax years 2011-2014.

This appeal was heard 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 Thursday, September 10, 2015, pursuant to the appeal of **Jack J. Stollery** (“Appellant”). Appellant is appealing the decisions of the Mecklenburg County Board of Equalization and Review (“County Board”) not to reduce the assessment of his property for tax years 2011-2014.

Chairman William W. Peaslee presided over the hearing with Vice Chairman Terry L. Wheeler and Commission Members David Smith, Jack C. Morgan III and Alexander A. Guess participating.

Appellant appeared at the hearing pro se; Robert S. Adden, Jr., Esquire, appeared at the hearing on behalf of Mecklenburg County.

STATEMENT OF THE CASE

The property under appeal is a single family residential property located at 10616 Secret Garden Lane, Charlotte, North Carolina. The County’s general reappraisal was effective as of January 1, 2011.

Based on the Appellant’s appeal, the County Board established a value of \$133,900 for the subject property for tax years 2011-2014. From these decisions, the Appellant appealed to the Property Tax Commission. In the Notice of Appeal and Application for Hearing, Appellant contends that the subject property has been appraised in excess of its true value in money; and that the value of the subject property should be \$115,000. The County contends, based on its analysis of sales and comparably assessed properties, that the subject property has not been appraised in excess of its true value. The County asserts that in its appraisal of the subject property, all important factors affecting the value of the property have been considered, and requests the Commission to affirm the County Board’s value.

ANALYSIS AND ISSUES

In the Order on Final Pre-Hearing Conference, the parties presented different versions of the issues to be decided by the Commission. Noting that the North Carolina Supreme Court has established guidelines for property tax appraisal appeals in In re Amp, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975), the Commission decided the issues presented in the appeal were:

1. Did Appellant carry his burden of producing competent, material and substantial evidence tending to show that:
 - (a) Mecklenburg County employed an arbitrary or illegal method of appraisal in reaching the property tax value for Appellant's property for the year at issue, and
 - (b) The County Board assigned a value that is substantially greater than the true value of the subject property for the year at issue?
2. If the above issues are answered in the affirmative, did Mecklenburg County demonstrate that its appraisal methodology produced a true value in view of both sides' evidence and the weight and sufficiency of the evidence, the credibility of the witnesses, and inferences as well as conflicting and circumstantial evidence?¹

FROM THE NOTICE OF APPEAL AND APPLICATION FOR HEARING FILED IN THIS MATTER, ANY STIPULATIONS AND EVIDENCE PRESENTED, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The property under appeal is a single family residential property located at 10616 Secret Garden Lane, Charlotte, North Carolina. Mecklenburg County identifies the subject parcel as Parcel Identification Number 031-14-65.
2. The Appellant appealed the 2011-2014 values of the property to the County Board, which heard the matter on October 14, 2014 and entered Decisions dated November 24, 2014 determining the value of the property to be \$133,900 for tax years 2011-2014.
3. Appellant contends that the market value of the subject property should be \$115,000 for tax years 2011-2014.
4. Mecklenburg County's most recent general reappraisal was effective as of January 1, 2011.
5. Mecklenburg County contends that the County Board's valuation of \$133,900 should be affirmed by the Commission for the years at issue.

¹ In re Parkdale Mills & Parkdale Am., 225 N.C. App. 713, 741 S.E.2d 416 (2013).

6. At the hearing, Appellant testified to an opinion of value of \$115,000 for the subject property for the years under appeal since he believes that Mecklenburg County appraised his property at a value that exceeds market value for the property.
7. Except for his testimony, Appellant presented no competent, material and substantial evidence tending to show that his opinion of value equates to the true value of the property.
8. Appellant's opinion of value for the subject property does not constitute the property's true value of the property when his evidence was not supported by any accepted appraisal method or particular appraisal practice or procedure.
9. Appellant failed to rebut the presumption of correctness of Mecklenburg County's appraisal of the subject property when Appellant did not produce competent, material and substantial evidence tending to show that the appraisal method employed by Mecklenburg County was an arbitrary or illegal method; and that the value assigned to the subject property by the county substantially exceeded the true value of the property.

**BASED UPON THE FOREGOING FINDINGS OF FACT, THE COMMISSION
MAKES THE FOLLOWING CONCLUSIONS 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 or personal property that 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. A county's ad valorem tax assessment is presumptively correct.² The taxpayer rebuts this presumption by presenting "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.³
3. Appellant failed to rebut the presumption of correctness of the appraisal of the subject property by Mecklenburg County when Appellant offered no competent, material and substantial evidence tending to show that Mecklenburg County employed an arbitrary or illegal method of valuation and that the value assigned to the subject property by the County Board substantially exceeded the true value of the property.
4. The Commission granted Mecklenburg County's motion to dismiss Appellant's appeal at the close of Appellant's evidence when Appellant failed to produce competent, material and substantial evidence to rebut the presumption of correctness of the county's appraisal.

²In re Amp, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975).

³Id.

WHEREFORE THE NORTH CAROLINA PROPERTY TAX COMMISSION THEREFORE ORDERS that the decisions of the Mecklenburg County Board of Equalization and Review are affirmed; and Appellant's appeal is dismissed.

NORTH CAROLINA PROPERTY TAX COMMISSION



A handwritten signature in black ink, appearing to read "W. Peaslee", written over a horizontal line.

William W. Peaslee, Chairman

Vice Chairman Wheeler and Commission Members Smith and Morgan concur. Commission Member Guess respectfully dissents without a separate opinion.

ENTERED: April 29, 2016

ATTEST:

A handwritten signature in black ink, appearing to read "Janet L. Shires", written over a horizontal line.

Janet L. Shires, General Counsel