

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
13 PTC 707

IN THE MATTER OF:
APPEAL OF:

Mary Louise Boynton Heirs

FINAL DECISION

from a decision of the New Hanover
County Board of Equalization and
Review concerning the valuation of
certain real property for tax year 2013.

This Matter 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 Wednesday February 11, 2015, pursuant to the appeal of **Mary Louise Boynton Heirs** (“Appellants”). The Appellants are appealing the decision of the New Hanover County Board of Equalization and Review (“County Board”) concerning the valuation of certain real property for tax year 2013.

Chairman William W. Peaslee presided over the hearing with Vice Chairman Terry L. Wheeler and Commission Members David A. Smith, Jack C. (Call) Morgan III and Linda O. Shaw participating.

Mr. J. Dave Boynton, Executor¹ appeared at the hearing on behalf of the Appellants. Sharon Huffman, Assistant New Hanover County Attorney, appeared at the hearing on behalf of New Hanover County.

STATEMENT OF THE CASE

The property under appeal is a two-story single family dwelling with 2,298 square feet of living area located at 2637 Middle Sound Loop Road, Wilmington, North Carolina. The subject site consists of 0.63 acres, with creek frontage along Howe Creek.

Effective January 1, 2012, New Hanover County conducted its most recent general reappraisal of real property. In tax year 2013, Appellants challenged New Hanover County’s assessment of the subject property by filing an appeal with the County Board. After conducting a hearing, the County Board determined the value of the subject property to be \$417,800. From the County Board’s decision, the Appellants appealed to the Commission and requested a hearing as provided in N.C. Gen. Stat. § 105-290.

¹ Mr. J. Dave Boynton is the Executor of the Estate of Mary Louise Boynton.

In the Application for Hearing, the Appellants contend that the subject property has been appraised in excess of its true value in money and that the subject property's true value in money was \$297,318 for the year at issue.

New Hanover County contends that the subject property was appraised in accordance with the County's duly adopted schedule of values, standards, and rules for the 2012 general reappraisal. New Hanover County further contends, based on its analysis of sales and comparably assessed properties, that the value of the subject property should be changed to \$364,224. Accordingly, New Hanover County, through counsel, stipulated at the hearing to a value of \$364,224 for the subject property, and requested the Commission to determine the value of the property to be \$364,224 as of January 1, 2013.

ANALYSIS AND ISSUES

A county's ad valorem tax assessment is presumptively correct.² The taxpayer may rebut this presumption by presenting "competent, material and substantial" evidence that tends to show that: "(1) Either 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 If the taxpayer rebuts the initial presumption, then the burden shifts to the taxing authority to demonstrate that its methods produce true values.⁴

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

1. Did the Appellants carry their burden of producing competent, material and substantial evidence tending to show that:

(a) New Hanover County employed an arbitrary or illegal method of appraisal in reaching the property tax value for Appellants' property as of January 1, 2012; and

(b) The County Board assigned a value that was substantially greater than the true value of the subject property as of January 1, 2012?

2. If the above issues are answered in the affirmative, did New Hanover County demonstrate that its appraisal methodology produced 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?⁵

² In re Amp, Inc., 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

³ Id. at 563, 215 S.E.2d at 762 (capitalization and emphasis in original).

⁴ In re Appeal of S. Ry. Co., 313 N.C. 177, 182, 323 S.E.2d 235, 239 (1985); see N.C. Gen. Stat. 105-283; see also. 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.

⁵ In re Parkdale Mills, ___ N.C. App. ___, ___, 741 S.E.2d 416, 420 (2013).

At the hearing before the Commission, the Appellants offered the testimony of Mr. J. Dave Boynton. The Appellants also offered into evidence a Land and House Value Assessment Summary with the 2013 New Hanover County property card for the subject property; the 2013 New Hanover County property card for the property located at 2633 Middle Sound Loop Road, Wilmington, NC; the 2013 New Hanover County property card for the property located at 2629 Middle Sound Loop Road, Wilmington, NC; the 2013 New Hanover County property card for the property located at 2625 Middle Sound Loop Road, Wilmington, NC; and the 2013 New Hanover County property card for the property located at 2613 Middle Sound Loop Road, Wilmington, NC. At the conclusion of the Appellants' presentation of evidence, New Hanover County, through counsel, moved to dismiss the Appellants' appeal on the ground that the Appellants had failed to produce competent, material, and substantial evidence from which the Commission could conclude that "(1) Either 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."⁶

The Commission voted unanimously to grant New Hanover County's motion to dismiss because the Appellants failed to produce competent, material, and substantial evidence from which the Commission could conclude that "(1) Either 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."⁷

FROM THE APPLICATION FOR HEARING FILED IN THIS MATTER, THE STIPULATION AND THE EVIDENCE PRESENTED AT THE HEARING, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Commission has jurisdiction over the parties and subject matter of this appeal.
2. The property under appeal is a two-story single family dwelling with 2,298 square feet of living area located at 2637 Middle Sound Loop Road, Wilmington, North Carolina. The subject site consists of 0.63 acres, with creek frontage along Howe Creek.
3. Effective January 1, 2012, New Hanover County conducted its most recent general reappraisal of real property. In tax year 2013, the Appellants challenged the assessment of the subject property by filing an appeal with the County Board. After conducting a hearing, the County Board determined the value of the subject property to be \$417,800. Thereafter, the Appellants appealed to the Commission and requested a hearing as provided in N.C. Gen. Stat. § 105-290.
4. For purposes of this property tax hearing, New Hanover County stipulated that the value of the subject property should be \$364,224 as of January 1, 2013.

⁶ *In re Amp, Inc.*, 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975) (capitalization and emphasis in original).

⁷ *Id.*

5. Even though Appellants offered replacement cost new testimony from Mr. Boynton along with the property record card for the subject property, and the property records of nearby properties, the Appellants offered no evidence establishing the market value of the subject property in accordance with the three accepted methods of appraisal (i.e. the cost approach, the sales comparison approach, and the income capitalization approach) or an appraisal analysis establishing the property's market value which tended to show that the county used an arbitrary or illegal method of appraisal; and that the County's stipulated value substantially exceeded the property's true value.

6. After the Appellants completed their presentation of evidence, New Hanover County, through counsel, moved to dismiss the Appellants' appeal on the grounds that the Appellants failed to present competent, material, and substantial evidence from which the Commission could conclude that the County employed an arbitrary or illegal method of appraisal; and that the value assigned to the subject property substantially exceeded the true value in money of Appellants' property.

BASED ON THE FOREGOING FINDINGS OF FACT, THE COMMISSION MAKES THE FOLLOWING CONCLUSIONS OF LAW:

1. A county's ad valorem tax assessment is presumptively correct.⁸ The taxpayer may rebut this presumption by presenting "competent, material and substantial" evidence that tends to show that: "(1) Either 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".⁹

2. Appellants failed to present competent, material, and substantial evidence from which the Commission could conclude that the County employed an arbitrary or illegal method of appraisal; and that the value assigned to the subject property by the County Board was substantially greater than the true value in money of the property.¹⁰

3. Since the Appellants failed to present "competent, material and substantial" evidence regarding the above stated issues, the true value of the subject property was New Hanover County's stipulated value of \$364,224 as of January 1, 2013.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION THEREFORE ORDERS that the decision of the 2013 County Board assigning the value of \$417,800 is modified; and the New Hanover County Tax Assessor shall revise the county's property tax records to reflect the Findings of Fact and Conclusions of Law of the Commission assigning the subject property a value \$364,224 based on New Hanover County's stipulation at the hearing before the Commission.

⁸ In re Amp, Inc., 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

⁹ Id. at 563, 215 S.E.2d at 762 (capitalization and emphasis in original).

¹⁰ In re Amp, Inc., 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).



NORTH CAROLINA PROPERTY TAX COMMISSION

William W. Peaslee, Chairman

Vice Chairman Wheeler and Commission Members Smith,
Morgan and Shaw concur.

ENTERED: June 19, 2015

ATTEST:

Janet L. Shires, Esquire, General Counsel
Commission Secretary