

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION  
SITTING AS THE STATE BOARD OF  
EQUALIZATION AND REVIEW  
91 PTC 24

IN THE MATTER OF:  
APPEAL OF **CAMEL CITY  
LAUNDRY COMPANY** from the  
decision of the Forsyth  
County Board of Equalization  
and Review concerning property  
taxation for 1990.

FINAL DECISION

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This matter was initially heard before the Property Tax Commission (hereinafter "Commission") as the State Board of Equalization and Review in the City of Raleigh, Wake County, on 12 November 1992 pursuant to the appeal of Camel City Laundry Company (hereinafter "Taxpayer") from the decision of the Forsyth County Board of Equalization and Review (hereinafter "County Board") assigning property value for the 1990 tax year. George G. Cunningham presided over that hearing in his capacity as Vice Chairman and after the presentation of evidence and arguments of counsel, the Commission entered a final decision on 23 April 1993. On 21 May 1993 Forsyth County (hereafter "County") gave notice of appeal and the matter was heard in the North Carolina Court of Appeals on 12 May 1994. The Court of Appeals filed its decision on 5 July 1994. In that decision, the Court of Appeals "reverse[d] the Commission's decision and remand[ed] so that the Commission may consider appropriate evidence of the property's true value as defined by N.C. Gen. Stat. § 105-283."

During Commission hearings in the City of Wilkesboro, Wilkes County, on 22 September 1994 attorneys for the parties were instructed to prepare briefs regarding the Commission's consideration of additional evidence in this matter. Thereafter, the Taxpayer filed a motion to continue the matter from October, 1994 session. The Commission granted the motion and continued the matter. On 8 November 1994 Taxpayer filed another motion to continue and that motion was heard in the City of Raleigh, Wake County, on 15 November 1994. The Commission granted Taxpayer's motion and set the matter for Pre-hearing on 14 December 1994 to allow Taxpayer sufficient time to obtain documentation from the Bankruptcy Court and the matter was set for hearing on 28 December 1994.

Chairman George G. Cunningham presided over the 28 December 1994 hearing. Taxpayer submitted evidence regarding the true value in money of the subject property and the matter was continued until 17 January 1995. George G. Cunningham, as Acting Chairman presided over the 17 January 1995 hearing. Vice Chairman James R. Vosburgh, Commission Members Dan R. Murray, W. Eugene Wilson and R. Bruce Cope participated in the 28 December 1994 and 17 January 1995 sessions.

James W. Miles, Jr., Attorney at Law appeared on behalf of the Taxpayer; Bruce E. Colvin, Attorney at Law appeared on behalf of the Forsyth County.

### STATEMENT OF CASE

The property under appeal is a 53,600 square foot tract of land improved with a 25,486 square foot building located at 501 East Third Street in Winston-Salem, North Carolina. In its general reappraisal of real property effective 1 January 1988 the County assessed the property at a total value of \$639,000. In 1990, The County Board affirmed the assessed value of \$639,000 and from that decision the Taxpayer appealed to the Commission.

The Taxpayer contends that the value of the subject property is zero because the cost of remediation of environmental contamination which exists on the property exceeds the value of the property. The County contends that while there is environmental contamination at the subject property site, remediation in this case is neither a legal nor practical necessity. If remediation cost is considered as a factor effecting the value of the property, the cost should be amortized over the useful life of the building.

### PREFACE TO COMMISSION'S DECISION

The Commission agrees with the County's contention that remediation is neither a legal nor practical necessity, but if remediation does occur the cost of remediation should be amortized over the useful life of the building, which is 25 years in this case. The Commission further determines that the appropriate valuation method applicable in this matter is the income approach "value in use" method, as shown on County's Exhibit marked County Exhibit FH1 at page 14, the result of which is an indicated capitalized value of \$477,020. Evidence presented by both parties indicated that the anticipated cost of remediation is approximately \$500,000. Although it is not evident whether the Taxpayer will ever be required to perform remediation activities on the property, in the absence of any evidence to the contrary, the Commission determines that a 25-year economic life is appropriate as referenced on County Exhibit FH1 at page 14 and should be considered for the cost of remediation. The Commission could have considered an alternative amortization schedule, if one had been offered as evidence, as this is a question of first impression before the Commission.

**FROM THE PETITION FILED IN THIS MATTER, ANY STIPULATIONS AND THE EVIDENCE PRESENTED AT THE HEARING DATES OF 12 NOVEMBER 1992, 28 DECEMBER 1994 AND 17 JANUARY 1995, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:**

1. Taxpayer's property consists of land containing approximately 56,600 square feet and a building containing approximately 25,486 square feet.
2. The property was the site of a coal and gasification plant which operated on the site for many years under former owners.
3. Taxpayer has been cited for violation of federal and state environmental contamination regulations.
4. The ground and groundwater at the property are contaminated. There is no evidence that the interior of the building or the surface of the parking lot is affected.
5. The building's new portion was constructed over what was known as the "tar pit" located on the property.
6. The contamination affecting the property falls into the broad groups: (1) "polynuclear aromatic hydrocarbons" associated with coal, tar, creosote diesel, etc. (semivolatile); and (2) "chlorinated hydrocarbons" (volatile).
7. The contamination affecting the property is considered hazardous waste by both state and federal environmental regulatory agencies.
8. The property is on the Federal CERCLA list, which is a list of sites that the Federal Superfund Program evaluates for inclusion on the National Priorities List.
9. The contamination presents no known health risk to persons working in the building located on the property. No persons within an approximate 4 mile radius of this property use the groundwater as a source of their water supply.
10. Except for the County's failure to consider the impact on value of the environmental contamination, the County properly applied its 1988 schedule of values to the property, arriving at an appraised value of \$639,000. The extent of the contamination affecting the property was not known to either the County or the Taxpayer as of 1 January 1988, but was known as of 1 January 1990.
11. Taxpayer has stipulated that the County's appraisal of the property at a value of \$639,000 would not be in excess of the true value in money of the property if the property were not contaminated.

12. Following the County Board's decision assigning a total value of \$639,000, the County for this further hearing did properly consider the effect of the environmental contamination on the value of the property.

13. The County properly applied the income approach "value in use" method and arrived at an indicated capitalized value of \$477,020; using a 15.1 percent capitalization rate which included an additional risk factor of 4 percent for stigma and non-liquidity as referenced on County's Exhibit marked County Exhibit FH1, at page 14.

14. The useful life of the building is 25 years.

15. The remediation cost of \$500,000 was properly amortized over the 25-year useful life of the building resulting in an indicated present value of remediation cost of \$46,148 as appears on County Exhibit FH1, at page 14.

16. The County properly applied the income approach to arrive at an indicated "value in use" of \$430,872 as follows:

Indicated capitalized value	\$477,020.
Present value of clean up cost	(46,148.)
Indicated "value in use"	<u>\$430,872.</u>

17. The true value in money of the subject property as of 1 January 1990 was \$430,872.

**BASED UPON THE FOREGOING FINDINGS OF FACTS, THE NORTH CAROLINA PROPERTY TAX COMMISSION CONCLUDES AS A MATTER OF LAW:**

1. The Commission has jurisdiction over the parties and the subject matter of this appeal.

2. The effect of environmental contamination on the value of the property is an appropriate factor in reappraisal of the property pursuant to G.S. § 105-287.

3. The County properly reconsidered the effect of environmental contamination on the valuation of the property and accordingly revalued the subject property at a total value of \$430,872.

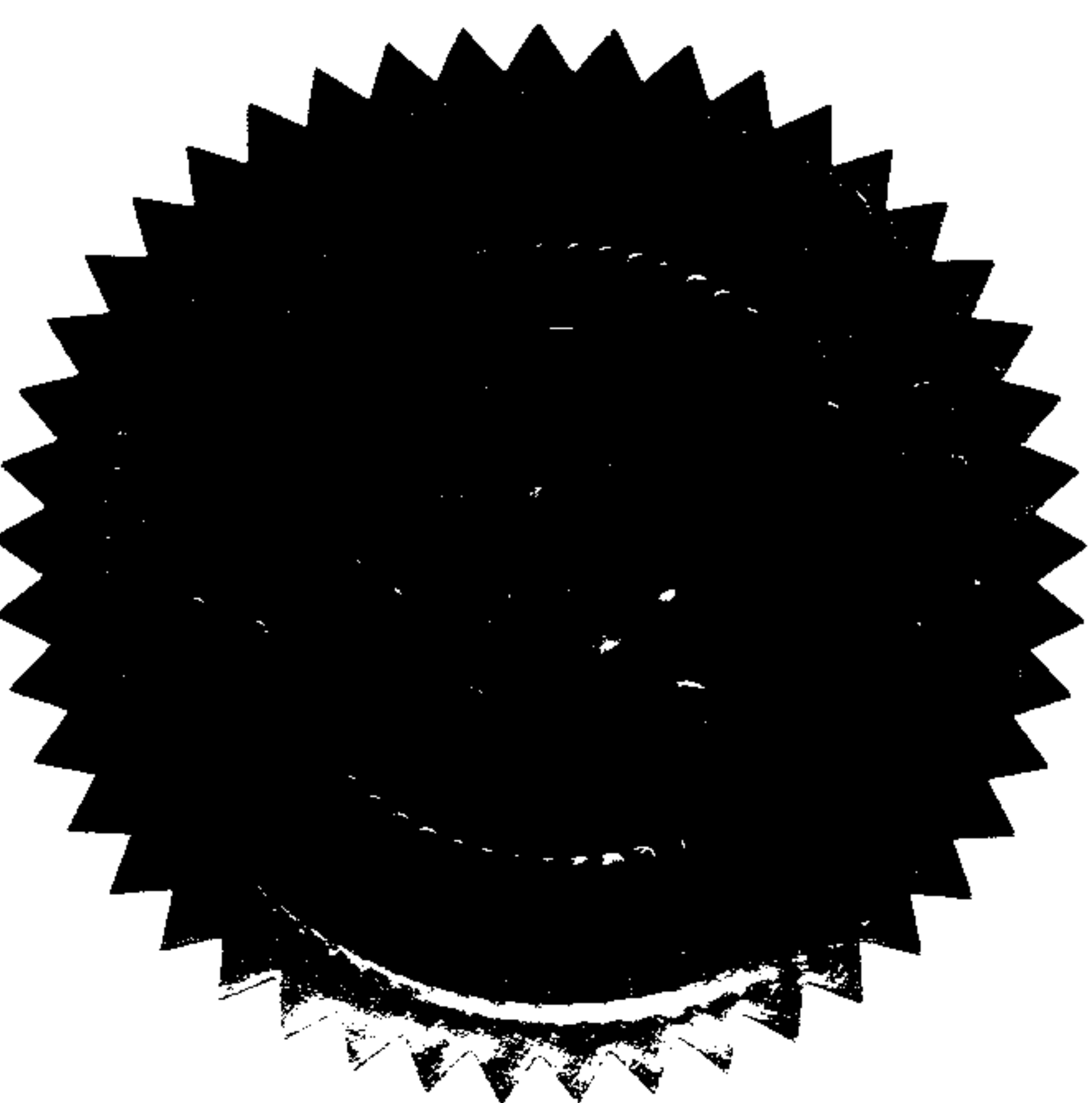
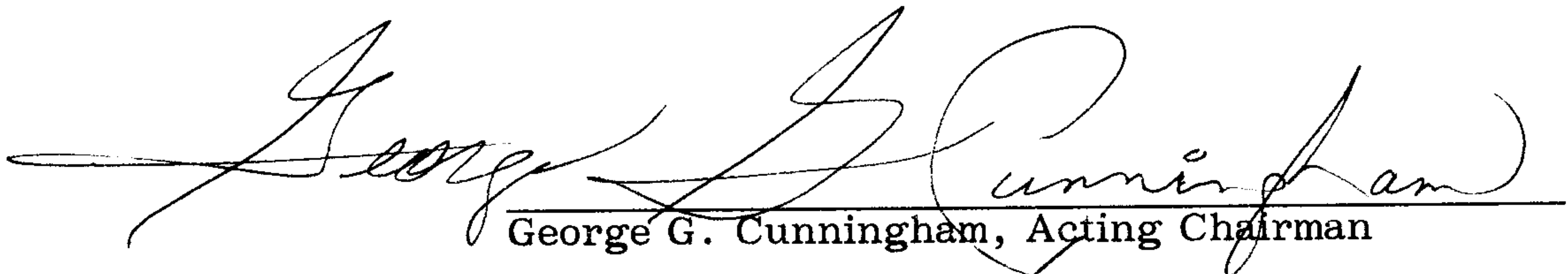
4. The true value in money of Taxpayer's property as of 1 January 1990 was a total value of \$430,872.

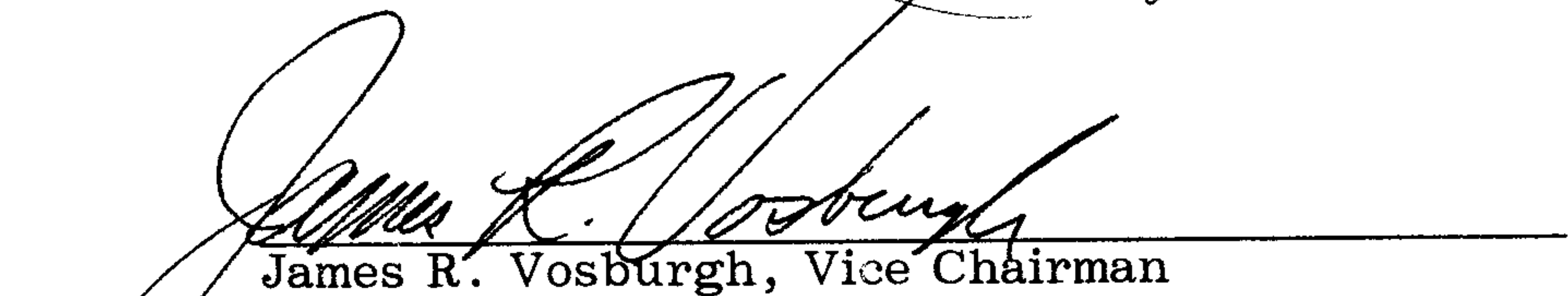
**BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION NOW, THEREFORE, ORDERS, ADJUDGES AND DECREES** that the decision of the Forsyth County Board of Equalization and Review assigning a total value of \$639,000 in this matter for 1 January 1990 shall be and is hereby **MODIFIED**; the County is ordered to adjust the tax records and assign a total value of \$430,872 to the property as of 1 January 1990.

It is further Ordered that each party's exhibits received into evidence may be released, upon request, to his/her/its counsel 30 days following the final resolution of this appeal.

It is further Ordered that if a party does not request return of its exhibits within 50 days after a final resolution of this matter then the Commission staff may dispose of the party's exhibits.

NORTH CAROLINA PROPERTY TAX COMMISSION

  
  
George G. Cunningham, Acting Chairman

  
James R. Vosburgh, Vice Chairman

  
Dan R. Murray, For the Commission

Wilson and Cope concur.

Entered: January 24, 1995

Attest:

  
Janet L. Shires, Secretary