STATE OF NORTH CAROLINA

WAKE COUNTY

BEFORE THE PROPERTY TAX COMMISSION SITTING AS THE STATE BOARD OF EQUALIZATION AND REVIEW 12 PTC 1683

IN THE MATTER OF: THE APPEAL OF:

Interstate Outdoor Incorporated from the decision of the Johnston County Board of Equalization and Review regarding the valuation of certain business personal property for tax year 2012.

FINAL DECISION

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, May 16, 2013, pursuant to the appeal of **Interstate Outdoor Incorporated** ("Appellant"). Appellant is appealing the decision of the 2012 Johnston County Board of Equalization and Review ("County Board") regarding the assessment of certain business personal property ("billboards") for tax year 2012.

Then Chairman Terry L. Wheeler presided over the hearing with and Commission members Aaron W. Plyler and William W. Peaslee participating.

Mr. Robert A. Spence, Jr., attorney at law, appeared at the hearing on behalf of Appellant; Mr. David F. Mills, attorney at law, appeared at the hearing on behalf of Johnston County.

STATEMENT OF THE CASE

The business personal property subject to this appeal consists of various billboards (outdoor advertising structures) owned by Appellant that are situated at various locations in Johnston County, North Carolina. When filing this appeal, Appellant, Interstate Outdoor Incorporated contended that the true value of the multiple billboard structures located in Johnston County should be the price paid for each of the structures as indicated on the quotes provided to Appellant by the billboard construction company. As such, Appellant contended that Johnston County's total assessment of the subject billboards and the total value assigned to the subject billboards by the County Board exceeded the true value in money of the property.

In the Application for Hearing, Appellant requested the Commission to adopt the billboard values that the parties agreed upon with reference to a settlement agreement for a preceding tax year.

¹See Exhibit "A" attached hereto and incorporated by reference herein regarding the subject billboard structures.

²See Exhibit "A" attached hereto and incorporated by reference herein regarding the locations of the subject billboards.

³See Exhibit "A" attached hereto and incorporated by reference herein regarding Taxpayer's opinion of value for the subject billboards.

Notwithstanding the settlement agreement by the parties for a preceding tax year, for tax year 2012, Johnston County asserts that the county uniformly assessed all billboard structures located in the county by adopting the 2012 Billboard Structures Valuation Guide published by the North Carolina Department of Revenue, Local Government Division ("Division"). Accordingly, Johnston County requests the Commission to affirm the total value assigned to the subject billboards by the County Board.⁴

ANALYSIS AND ISSUES

A county's ad valorem tax assessment is presumptively correct.⁵ 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.⁶ If the taxpayer rebuts the initial presumption, then the burden shifts to the taxing authority to demonstrate that its methods produce true values.⁷

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

- 1. Did Appellant carry its burden of producing competent, material and substantial evidence tending to show that:
 - (a). Johnston County employed an arbitrary or illegal method of appraisal in reaching the total assessed value of the subject billboard structures as of January 1, 2012, and
 - (b). The County Board assigned a total value that is substantially greater than the true value of the subject billboard structures as of January 1, 2012?
- 2. If Appellant produces evidence as to both (a) and (b) above, then what was the true value in money of the subject property as of January 1, 2012?

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. Appellant, Interstate Outdoor Incorporated, is a corporate business engaged in the business of outdoor billboard advertising. Appellant's business personal property consists of various⁸ billboards (outdoor advertising structures) owned by Appellant that are situated at various locations in Johnston County, North Carolina.⁹

⁴See Exhibit "A" attached hereto and incorporated by reference herein regarding the values assigned to the subject billboards by the County Board.

⁵In re Amp, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975).

٥ld.

⁷In 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).

⁸ See Exhibit "A" attached hereto and incorporated by reference herein.

⁹ See Exhibit "A" attached hereto and incorporated by reference herein regarding the locations of the subject billboards.

- 2. To determine the values of the various billboards (outdoor advertising structures) for tax year 2012, Johnston County applied the 2012 Billboard Structures Valuation Guide, published by the North Carolina Department of Revenue, Local Government Division, ("Division").
- 3. Effective for tax year 2012, the Division updated the Billboard Structures Valuation Guide that is used by county tax assessors to value outdoor advertising structures for property tax purposes as required by the property tax laws in North Carolina. The 2012 Billboard Structures Valuation Guide ("Valuation Guide") includes standards that assist county tax assessors in determining the valuation of outdoor advertising structures. Based upon the Valuation Guide, the Johnston County Assessor determined the total valuation of Appellant's billboard structures to be \$2,786,200 as of January 1, 2012.
- 4. Appellant, Interstate Outdoor Incorporated, challenged Johnston County's 2012 total assessment of the subject billboards by filing an appeal with the County Board. After conducting a hearing, the County Board mailed Appellant the notice of decision on November 8, 2012 affirming Johnston County's total assessment of the subject billboards at a total value of \$2,786,200.¹¹
- 5. From the County Board's decision, Appellant duly and timely filed a Notice of Appeal and Application for Hearing ("Notice of Appeal") with the Commission and contended in the Notice of Appeal that the total value of its billboard structures was \$1,790,691 as of January 1, 2012.
- 6. Appellant challenged Johnston County's cost analysis regarding the valuation of the various subject billboard structures¹² at the hearing by offering the testimony of Mr. Warren Stancil.¹³ In particular, Mr. Stancil provided some testimony as to certain direct costs associated with the construction of the various billboard structures in Johnston County, namely, the foundation costs, building permits costs, insurance and locations costs (soil and topography). In Mr. Stancil's opinion, the costs associated with constructing a billboard in Johnston County is lower than the costs associated with constructing a billboard in other North Carolina counties.¹⁴ As such, Mr. Stancil believes that the total value of the subject billboards located in Johnston County is less than the total values of billboard structures in other jurisdictions in North Carolina.

¹⁰See Exhibit "A" attached hereto and incorporated by reference herein regarding the subject billboard structures.

¹¹ See decision of the 2012 County Board dated November 8, 2012 showing a total value of \$2,786,200.

¹² See Exhibit "A" attached hereto and incorporated by reference herein regarding the subject billboard structures.

¹³ Mr. Warren Stancil is corporate president of Interstate Outdoor, Incorporated.

¹⁴ Foundation costs to construct billboards in Johnston County are lower because Johnston County soil types (better soil for drilling the billboard foundation).

- 7. Notwithstanding Mr. Stancil's testimony, Mr. Stancil offered no testimony relating to the consideration of including all costs associated with the construction of the billboards. Instead, Mr. Stancil testified that Appellant paid a set fee for each particular billboard (i.e. predetermined contract price).¹⁵
- 8. Appellant also offered the testimony of Phillip C. Coin, Jr. ¹⁶ Mr. Coin testified that his company arranges contracts that provide a package cost that includes the engineering fees. When establishing a set price for the construction of outdoor billboards structures, Mr. Coin testified that his company may arrange a site visit, if there is a specific site issue. Otherwise, his company provides a standard quote to Appellant for the construction of the outdoor billboards. ¹⁷
- 9. Notwithstanding the testimony of Mr. Coin, Appellant presented no specific evidence that the cost quotes included all the costs that make the property ready for its intended uses, such as site improvement, material costs, labor, permit fees, freight costs, engineering costs and installation costs. There was no evidence tending to show a correlation concerning the proposed invoices submitted at the hearing and the actual costs associated with the construction of the subject outdoor billboard structures located in Johnston County for tax year 2012.
- 10. In order for North Carolina counties to arrive at market value regarding the assessment of billboards, the Division's Billboard Structures Valuation Guide provides standards for uniformity and accuracy for the valuation of outdoor advertising for mass appraisal purposes by developing a base cost that is determined with the improvements included in the square foot base cost. This cost per square foot is extended out to a total value for each specific class of billboards with the billboard structure categorized by type of construction, size, and height above ground level. The Valuation Guide further provides a current depreciation schedule that applies the appropriate depreciation to arrive at the market value of the billboards for property tax assessment purposes.¹⁸
- 11. When developing the Valuation Guide, the Division includes all costs, (i.e. all the component costs associated with the construction of the billboard structure) that include, but are not limited to, site preparation, material costs, labor costs, permit fees, freight costs, engineering costs, and installation costs. As further stated in the Valuation Guide, this is not a conclusive list, but it is provided to indicate that all costs whether direct or indirect are included in the base

¹⁵ See Appellant's Exhibit Numbers 65-80, which include Exhibits 65-74 that addresses nine 2012 billboard appraisal appeals not addressed in the 2011 exhibits with supplemental parts of each Exhibit showing the calculation of valuations (Note Amended Order on Final Pre-Hearing Conference for the full explanation of Appellant's Exhibits, at Item 4).

¹⁶Mr. Coin testified that is company, Selective Structures, builds prepackaged billboards for Appellant's outdoor advertising business.

¹⁷Mr. Coin testified that he was somewhat familiar with 68 of the subject billboards in Johnston County.

¹⁸ See Division's 2012 Billboard Structures Valuation Guide.

cost amount unless specifically noted.¹⁹ As such, the base cost is updated each year to reflect the fluctuations in prices associated with components, including steel and labor costs.²⁰

- 12. Accordingly, the Division recommends that outdoor advertisement structures be assessed as personal property and appraised by using the cost approach to value, which estimates market value on the premise that the cost new of the subject property is reduced by an amount equivalent to the total loss in value that has occurred through all forms of depreciation.²¹
- 13. Further evidence offered at the hearing was the testimony of Ms. Pat Goddard, Johnston County Tax Administrator. Ms. Goddard testified that Johnston County utilized the Division's 2012 Billboard Structures Valuation Guide to appraise and value all billboards located in the county for the tax year at issue. When valuing Appellant's billboards for tax year 2012, Ms. Goddard testified that the total value assigned to the subject billboards was consistent with the county's assessment of similarly situated billboards in the county. As to the year at issue, Ms. Goddard testified that the Division's 1991 Billboard Structures Valuation Guide was updated in tax year 2009. Thereafter, the Division updates the Valuation Guide annually, which includes the tax year at issue (2012).
- 14. The Commission heard further testimony from Mr. George Hermane, who is a certified personal property appraiser for Johnston County. Mr. Hermane testified that Johnston County determined the total value of the Appellant's business personal property as of January 1, 2012 by following the statutes and the Division's Valuation Guidelines.
- 15. Accordingly, Johnston County valued Appellant's business personal property (i.e. billboards) as directed by Gen. Stat. § 105-283, in that the county appraised the subject business personal property at its true value in money; and Johnston County uniformly applied the Valuation Guide to determine the total appraised value of \$2,786,200 assigned to the subject billboards by the County Board as of January 1, 2012.

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

1. A county's ad valorem tax assessment is presumptively correct.²² 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. If the taxpayer rebuts the initial presumption, the burden shifts to the taxing authority to demonstrate that its methods produce true values.²³

¹⁹See Division's 2012 Billboard Structures Valuation Guide.

²⁰ Id

²¹ Assessment of Personal Property, International Association of Assessing Officers, Second Edition, (1996).

²²In re Amp, Inc., 287 N.C. 547, 215 S.E.2d 752 (1975).

²³In 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).

- 2. In North Carolina, property must be valued for *ad valorem* tax assessment purposes at its "true value in money," which is statutorily defined as "market value." Specifically, N.C. Gen. Stat. § 105-283 (2011) provides that:
 - "All property, real and personal, shall as far as practicable be appraised or valued at its true value in money. When used in this Subchapter, the words "true value" shall be interpreted as meaning market value, that is the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of all the uses to which the property is adapted and for which it is capable of being used."
- 3. Under N.C. Gen. Stat. § 105-291(f), the Department of Revenue has the power to "prescribe the forms, books, and records to be used in the listing, appraisal, and assessment of property and in the levying and collection of property taxes, and how the same shall be kept." Under N.C. Gen. Stat. § 105-291(g), the Department of Revenue may "develop and recommend standards and rules to be used by tax supervisors and other responsible officials in the appraisal of specific kinds and categories of property for taxation."
- 4. The Division developed the 2012 Billboard Structures Valuation Guide for use by county tax assessors to determine the valuation of business personal property. The Valuation Guide provides standards for uniformity and accuracy for the valuation of outdoor advertising for mass appraisal purposes. The Valuation Guide directs assessors to includes all costs, (i.e. all the component costs relating to the construction of the billboard structure) such as site preparation, material costs, labor costs, permit fees, freight costs, engineering costs, and installation costs.
- 5. Since the Courts have recognized that guidelines should provide "all other costs incurred with obtaining the property and making it ready for its intended use,²⁴ then it follows that all costs (material costs, labor, permit fees, freight costs, engineering costs, site improvement and installation costs) must be included to make Appellant's business personal property ready for use.
- 6. Consequently, in this appeal, the Johnston County Tax Administrator ("Tax Administrator"), as the taxing authority, did demonstrate that the county's method produces true value when the Tax Administrator used and properly applied the Division's 2012 Billboard Structures Valuation Guide to determine the valuation of the subject outside advertising structures.
- 7. When the Tax Administrator appraised the subject property based on the 2012 Valuation Guide, the County Board properly affirmed the county's total appraised value of \$2,786,200 assigned to the subject business personal property for tax year 2012.

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²⁴ In re Appeal of Westmoreland-LG&E, 174 N.C. App. 692, 622 S.E.2d 124, 2005 N.C. App. LEXIS 2611 (2005).

WHEREFORE, THE COMMISSION THEREFORE ORDERS that the decision of the 2012 County Board assigning a total value of \$2,786,200 to the subject billboards as of January 1, 2012 is affirmed.

After deliberating, the Commission announced the decision in this appeal during open session on Thursday, May 16, 2013.

NORTH CAROLINA PROPERTY TAX COMMISSION

NO/Solventing No

Terry L. Wheeler, Chairman²⁵

William Peaslee, Chair²⁶

Commission member Plyler respectfully dissents. Vice Chair Dixon and Commission member Stallings did not participate in the hearing or deliberation of this appeal.

Entered: September 19, 2013

ATTEST:

Janet L. Shires, Secretary and

General Counsel

²⁵Chairman Terry L. Wheeler presided over the May 2013 session of hearings prior to the appointment of William Peaslee as Commission Chair.

²⁶The Governor appointed William Peaslee chair of the Property Tax Commission prior to the entry of this final decision (See N.C. Gen. Stat. §105-345).

Exhibit "A"
Interstate Outdoor Inc.
12 PTC 1683

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Exhibit "A"
Interstate Outdoor Inc.
12 PIC 1683

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44582	\$18,648.00	\$23,908.00	\$29,414.00	\$37,710.00	N.A	· ~	z	z	378	38	-	2001	Princeton	Highway 70, 300 ft. E/O Howell Rd. SS	S513088
44576	\$17,868.00	\$22,908 00:	\$29,414.00	\$37,710.00	N.	≺	z	2	378	30	ô	2001	Wilsons Mills	Highway 70, @ Beer Farm Rd. SS	S512940
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44582	\$2,410.00	\$6,695.00	\$11,224.00	\$31,179.00	¥	z	z	z	: 72	7		1980	Princeton	Highway 70, 0.6 ml. W/O County Line Rd. NS	S210015
44580	\$22,500.00	\$23,438.00	\$51,485.00	\$53,630.00	N.	~	z	z	672	25	-	2010	Selma	Industrial Drive, 500 ft. S/O Highway 70, ES	214.82
44580	\$42,706.00	\$44,485.00	\$52,627.00	\$54,820.00	Z.	· ·	z	z	480	8	-	2010	Seima	Highway 70, 250 ft. W/O Highway 301, NS	214.91
44578	\$24,992 00	\$29,080.00	\$46,333.00	\$53,875.00	N.	z	z	z	8	6	!	2006	Benson	Interstate 40, 1000 ft. E/O Interstate 95, ES	214.88
44571	\$40,416.00	\$42,996.00	\$58,543.00	\$62,280.00	××	~	z	z	720	26		2006	Micro	Interstate 95, 250 ft. S/O Exit 102, WS	214.82
44573	\$41,036.00	\$47,716.00	\$53,561.00	\$62,280.00	Z.	~	z	z	720	8		200	Micro	Interstate 95, 1000 ft. N/O Mile Marker 102, WS	214.65
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44573	\$41,036.00	\$47,716.00	\$53,581.00	\$62,280.00	N/A	~	z	z	720	8		200	Micro	Interstate 95, 500 ft. N/O Mile Marker 102, WS	214.63
44573	\$41,036.00	\$47,716.00	\$53,561.00	\$82,280.00	NA A	~	z	z	720	g	-	200	Micro	Interstate 95, 500 ft. S/O Mile Marker 102, WS	214.62
44576	\$27,136.00	\$31,554.00	\$38,760.00	\$45,070.00	\$24,863	~	z	z	180	8		200	Selma	Highway 70, 0.1 ml. E/O Bear Farm Rd. NS	214.58
44576	\$28,440.00	\$33,070.00	\$35,681.00	\$41,480.00	\$	~	z	Z	480	20	ò	2005	Selma	Highway 70, 0.2 ml. E/O Bear Farm Rd. NS	214.55
44580	\$30,993.00	\$36,038,00	\$47,145.00	\$54,820.00	\$231,360	~	z	z	180	36	!	200	Selma	Highway 70, 300 ft. W/O Highway 301, SS	214.54
44572	\$34,365.00	\$39,859.00	\$44,926.00	\$52,240.00	Š	~	z	z	4 8	ŧ	-	200	Sema	Highway 70, 1.8 mi: E/O Buffaloe Rd. NS	214.53
44580	\$30,983.00	\$38,038.00	\$44,840.00	\$52,140.00	\$24,863	~	z	z	240	30	-	200	Selma	Highway 301, 700 ft. S/O Highway 70, WS	214.52
44580	\$8,403.00	\$10,685.00	\$19,019.00	\$21,613.00	Z.	~	z	≺	220	20	-	200	Selma	Selma-Pine Level Rd, 100 ft. W/O Service Rd.	213.74
44580	\$28,434.00	\$33,850.00	\$57,910.00	\$68,940.00	N/A	~	z	z	672	8	-	200	Selma	Interstate 85, @ Exit 98, WS	213.73
44578	\$26,653.00	\$30,992.00	\$46,122.00	\$53,630.00	¥	≺!	z	z	8	25		200	Benson	Interstate 40, 0.5 ml. E/O Extl 328, SS	213.72
44578	\$33,161.00	\$38,792.00	\$46,122.00	\$53,630.00	N.	~	z	z	80	8	-	200	Benson	Interstate 95, 0.3 ml. N/O Mile Marker 78, WS	213.71
44578	\$33,161.00	\$38,792.00	\$46,122.00	\$53,630.00	NA	~	z	z	ŝ	38		2005	Benson	Interstate 95, 0.4 mt. N/C Mile Marker 78, WS	213.7