

NO. COA10-1609

NORTH CAROLINA COURT OF APPEALS

Filed: 4 October 2011

IN THE MATTER OF:

APPEAL OF: John C. Brooks from
the decision of the Wake County
Board of Equalization and Review
concerning the valuation of
certain real property for tax year
2008.

North Carolina
Property Tax Commission
No. 08 PTC 526

Appeal by taxpayer from order entered on or about 30
September 2010 by the North Carolina Property Tax Commission.
Heard in the Court of Appeals 17 August 2011.

John C. Brooks, pro se.

*Office of the County Attorney by Assistant County Attorney
Lucy Chavis and Deputy County Attorney Roger Askew, for
appellee.*

STROUD, Judge.

On or about 22 September 2008, the Wake County Board of
Equalization and Review ("Board") determined that Mr. John
Brooks's property for account number 0061665 was valued at
\$654,958.00. On 14 November 2008, Mr. Brooks applied for a
hearing before the Property Tax Commission ("Commission") in
order to appeal the Board's valuation of his property; Mr.
Brooks contended his property should have appraised for

\$357,142.85. On 19 February 2010, Wake County filed for summary judgment against Mr. Brooks. The Commission granted summary judgment in favor of Wake County and dismissed Mr. Brooks's appeal; Mr. Brooks appeals.

I. Appraisal Value

Appellant first contends that

[t]he Property Tax Commission erred in failing to reject the County-Appellee's motion for Summary Judgment when the Taxpayer-Appellant had demonstrated a *prima facie* case establishing that the significantly higher appraisal assigned the Taxpayer-Appellant's land value by the County-Appellee was incongruous with the significantly lower price for which the State had contracted to sell all of the surrounding and contiguous property immediately prior to the appraisal rendered by the County-Appellee in light of G.S. § 146-29.1(a).

For appeals from the Commission we "review the whole record or such portions thereof as may be cited by any party and due account shall be taken of the rule of prejudicial error." N.C. Gen. Stat. § 105-345.2(c) (2007). We have previously stated:

It is a sound and a fundamental principle of law in this State that *ad valorem* tax assessments are presumed to be correct, but the presumption is one of fact and is therefore rebuttable. To rebut the presumption, [the appellant] must produce 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. The County is required to value all property for ad valorem tax purposes at its true value in money, which is its market value.

In re Appeal of Belk-Broome Co., 119 N.C. App. 470, 473, 458 S.E.2d 921, 923 (1995) (citations, quotation marks, and brackets omitted), *aff'd per curiam*, 342 N.C. 890, 467 S.E.2d 242 (1996).

Appellant's entire case is based upon his own valuation of his property. Appellant apparently considers the sales price of neighboring land, but "assumes" the buyer "paid nothing for the six structures and four paved parking lots[,] "assumes that the commercial property . . . is the same value as the residential property[,] " and "assumes that the aggregation of the 7/8ths of the block has no greater value than a single residential lot." (Emphasis added). Appellant's methodology assumes too much, and thus his approach is not a valid one to determine the true value of his property. As appellant has not demonstrated that "[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[,] " *id.*, we overrule this argument.

II. Authority of the Commission

Appellant's next three arguments on appeal are regarding the Commission's authority "to exercise judicial tools such as 'Summary Judgment[,]'" the General Assembly's "delegation of authority" to the Commission, and the Commission's authority to "call[] upon its members to exercise legal knowledge" though they may not be "licensed attorneys." Essentially, appellant argues that the Commission did not have the authority to rule upon the property tax valuation as it did. However, our Court has previously recognized the authority of the Commission to make exactly this type of determination:

The duties of the Property Tax Commission are quasi-judicial in nature and require the exercise of judgment and discretion. The Commission has the authority and responsibility to determine the weight and sufficiency of the evidence and the credibility of the witnesses, to draw inferences from the facts, and to appraise conflicting and circumstantial evidence.

In re Marathon Holdings, LLC, ___ N.C. App. ___, ___, 709 S.E.2d 451, 453-54 (2011) (citations, quotation marks, and brackets omitted). Appellant has not presented any legal authority which supports his argument that the Commission does not have the authority to make the determination as it did in the order, and our Court recognizes the Commission's authority as granted by

statute. See N.C. Gen. Stat. § 105-288 (2007). Furthermore, at his hearing before the Commission, appellant was given the opportunity to and did present his contentions and documents which we also have considered. Thus, considering all of appellant's evidence and any possible forecast he may have made of future evidence, appellant's position has no merit as appellant has not demonstrated any prejudice because his argument will ultimately fail whether or not he is provided a full hearing and regardless of the sort of quasi-judicial or judicial body which could consider his case. See N.C. Gen. Stat. § 105-345.2(c) (noting that we "review the whole record or such portions thereof as may be cited by any party and due account shall be taken of the rule of prejudicial error" (emphasis added)).

III. Conclusion

For the foregoing reasons, we affirm.

AFFIRMED.

Judges HUNTER, Robert C. and HUNTER, JR., Robert N. concur.

Report per Rule 30(e).

A TRUE COPY
CLERK OF THE COURT OF APPEALS
OF NORTH CAROLINA

BY Therese D'Annunzio
DEPUTY CLERK

Oct. 24, 2011