

STATE OF NORTH CAROLINA BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
COUNTY OF WAKE EQUALIZATION AND REVIEW
99 PTC 160

IN THE MATTER OF:
APPEAL OF **NORTH WILKESBORO
SPEEDWAY, INC.** from the decision of
the Wilkes County Board of Equalization
and Review concerning real property
taxation for tax year 1999.

FINAL DECISION

This Matter came on for hearing before the North Carolina Property Tax Commission (hereinafter "Commission"), sitting as the State Board of Equalization and Review at its regularly scheduled Sessions of Hearings in the City of Raleigh, Wake County, North Carolina on Friday, October 26, 2001, and in the City of Greensboro, Guilford County, North Carolina on Wednesday, November 14, and Thursday, November 15, 2001, pursuant to the appeal of **North Wilkesboro Speedway, Inc.** (hereinafter "Taxpayer") from the decision of the Wilkes County Board of Equalization and Review (hereinafter "County Board") concerning real property taxation for tax year 1999.

Chairman Terry L. Wheeler presided over the hearing with Vice Chairman R. Bruce Cope and Commission members Linda M. Absher, Wade F. Wilmoth and Harvey W. Raynor, III participating.

The Taxpayer was represented at the hearing by John M. Logsdon; attorney at law; Wilkes County was represented by Anthony R. Triplett, attorney at law.

STATEMENT OF CASE

The property subject to this appeal consists of 43.2 acres together with all improvements situated thereon, and is known as the North Wilkesboro Speedway. The subject property is owned by North Wilkesboro Speedway, Incorporated with 50% of the shares owned by Charlotte Motor Speedway and 50% of the shares owned by New Hampshire International Speedway.

Effective January 1, 1998, Wilkes County performed a countywide reappraisal of all real property situated in the county and appraised the subject property at a total value of \$9,560,300. In 1999, the Taxpayer appealed the County's appraisal of the subject property to the Wilkes County Board of Equalization and Review, which affirmed the County's assessment. From the County Board's decision, the Taxpayer filed an appeal with the Commission and requested a hearing in this matter.

Taxpayer, through counsel, argues that Wilkes County's valuation of the subject property was both arbitrary and illegal, resulting in an assessment that substantially exceeds the true value in money of the subject property. The Taxpayer further argues that Wilkes County's valuation of the subject property was arbitrary because the County failed to take into account the fact that the subject property is not a NASCAR-sanctioned track. Thus, the Taxpayer contends that the true value in money of the subject property for tax year 1999 was \$2,800,000.

Wilkes County, through counsel, contends that the subject property was appraised in accordance with the County's duly adopted schedule of values, standards, and rules for the 1998 reappraisal and asserts that in its appraisal of the subject property all important factors affecting the value of the property have been considered. The County further contends that the appraised value of \$9,560,300 does not exceed the true value in money of the property for the year at issue. Thus, Wilkes County requests the Commission to affirm the value of \$9,560,300 assigned to the subject property by the County Board.

ISSUES

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

1. Did Wilkes County employ an arbitrary or illegal method of appraisal in arriving at the value assigned by the County Board to the subject property as of January 1, 1999?
2. Did the value assigned by the County Board to the subject property substantially exceed the true value in money of the property as of January 1, 1999?
3. If the two above issues are answered in the affirmative, what was the true value in money of the subject property as of January 1, 1999?

BASED UPON THE EVIDENCE PRESENTED AND THE STIPULATIONS OF THE PARTIES, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The property which is the subject of this appeal consists of 43.2 acres together with all improvements situated thereon, known as the "North Wilkesboro Speedway" and being identified on the records of the Wilkes County Tax Mapping Office as Parcel I.D. No. 22-03538, ortho (PIN) No. 3887-87-1027.

2. In general, the improvements situated at the subject site consist of the 5/8th mile paved track, which is an oval configuration with grandstands along the east, south, and west sides of the track. The track has a seating capacity of approximately 32,000. Included in the track and site improvements is the pit road, which is an asphalt-paved area. The main grandstand along the west side of the track has nine elevated towers representing private suites, and is used for television and radio personnel, and other officials. The east side of the track has the newest elevated towers or corporate boxes that were constructed in 1994. The four separate boxes are accessed via steel steps and include a service elevator. Permanent seats and grandstands are typically represented by steel frame construction with steel bleachers and were designed to accommodate coolers by patrons. The primary buildings total approximately 48,080 square feet with miscellaneous structures, such as restrooms, concession stands, etc., totaling 151,903 square feet. Additional improvements are located in the infield.

3. The subject property is owned by North Wilkesboro Speedway, Incorporated. Charlotte Motor Speedway (Bruton Smith) and New Hampshire International Speedway (Bob Bahre) each own 50% of the shares of North Wilkesboro Speedway, Incorporated.

4. Effective January 1, 1998, pursuant to its general reappraisal of all real property situated within its jurisdiction, Wilkes County appraised the subject property at a total value of \$9,560,300. In 1999, the Taxpayer appealed Wilkes County's appraisal of the subject property to the Wilkes County Board of Equalization and Review. The Wilkes County Board of Equalization and Review affirmed the County's assessment of \$9,560,300 finding that the reappraisal of the subject property was correct and ordered no change in value. From that decision, Taxpayer filed a timely appeal with the Property Tax Commission and requested a full hearing in the matter pursuant to G.S. 105-290.

5. The subject property formerly operated as a NASCAR-sanctioned racetrack for Winston Cup Series races, with two race dates each year, until Charlotte Motor Speedway and New Hampshire International Speedway purchased the property. Each owner removed one of the race dates to another track operated by that owner, leaving the subject property with no race dates. The last NASCAR-sanctioned Winston Cup Series race held at the subject property was the Tyson Holly Farms 400, which was held on September 29, 1996.

6. Following the race on September 29, 1996, the owners of the subject property reached an impasse on control of the property and closed its operations. The subject property has remained closed since then, due to this impasse. Prior to the closing of the subject property by the owners, there were two Winston Cup Series race events held at the facility, one race was held in the Spring and the other race was held in the Fall.

7. There are 85 race teams located within a 100-mile radius of the subject property. These race teams include, but are not limited to, the Winston Cup Series, Busch Grand National Division Series, Craftsman Truck Series and NASCAR Late Model Stocks. Winston Cup and Bush Series teams are only allowed seven practice dates per year on NASCAR-sanctioned tracks. For Winston Cup Series, two mandatory testing dates are required at Daytona and Charlotte/Lowe's Speedways.

8. Since race teams are limited to only seven practice sessions on NASCAR-sanctioned tracks, the teams use non-sanctioned tracks to perform their practice and test sessions. There are no restrictions on the number of practice or test sessions that race teams may perform on non-sanctioned tracks.

9. A typical fee paid by Winston Cup race teams for practice sessions on NASCAR-sanctioned tracks would be \$5,000 per day plus additional expenses for emergency medical personnel. The fee for practice sessions on non-sanctioned tracks, such as the subject property, by Winston Cup race teams, would range between \$3,000 and \$3,500 per day.

10. In North Carolina, a county is required to value all property for ad valorem tax purposes at its true value in money, which is "market value." An important appraisal factor used in determining market value of property is its highest and best use. Thus, in order to reach market value, the subject property must be valued at its highest and best use as of the effective date of the appraisal.

11. In order to determine market value for the subject property, it is imperative to apply a method of valuation that will show what willing buyers will pay for the property. Thus, the appraisal process involves the application of the three accepted approaches to value, which are the cost approach, the sales comparison approach, and the income approach.

12. At the hearing, the Commission heard testimony from two expert real estate appraisers regarding their opinions of value when applying the three approaches of value to determine the fair market value for the subject property. The Taxpayer's expert witness, Mr. Harvey P. Jeffers, determined that the value of the subject property, as of the effective date of the reappraisal, was \$2,800,000 as indicated by the cost and income approaches to value. In arriving at his opinion of value, Mr. Jeffers' determined that the highest and best use of the property would be a local racetrack.

13. The County's expert witness, Mr. Arthur W. McElhannon, Jr., considered all three of the approaches to value, but relied upon the cost and income approaches to arrive at his opinion of value. Even though he considered the sales comparison approach, this approach was not utilized and developed because, in his opinion, there were no comparable sales to provide an indication of value through this appraisal method. As

stated in his report, Mr. McElhannon's opinion of value for the subject property, as of the effective date of the reappraisal, was \$7,125,000. In arriving at his opinion of value, Mr. McElhannon determined that the highest and best use of the subject property is a test and practice track.

14. The highest and best use of the subject property, which represents a former NASCAR-sanctioned Winston Cup Series racetrack, is the use as a practice and test facility. The numerous race teams located within the proximity of the subject property would contract for use of this facility to perform practice and test sessions.

15. Of the three traditional appraisal methods recognized by the Commission, cost approach, comparable sales approach, and income approach, the cost and income approaches to value are the most reliable methods in reaching market value for the subject property.

16. Even though the Commission considered the comparable sales approach to value, that approach would not yield fair market value and should not be relied upon to determine the value of the subject property.

17. Wilkes County did employ an arbitrary method of valuation when it appraised the subject property for ad valorem tax purposes at a total value of \$9,560,300.

18. The total value of \$9,560,300 assigned by the County Board to the subject property did **substantially** exceed the true value in money of the property.

19. The true value in money of the subject property as of January 1, 1999, was \$7,125,000.

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

1. The Commission has jurisdiction to hear this appeal and correct any assessment of real 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. 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, G.S. §105-283 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. Ad valorem assessments are presumed to be correct. In order for the taxpayer to rebut the presumption of correctness, the taxpayer must prove that the County employed an arbitrary or illegal method of valuation and that the assessment of the subject property substantially exceeded the true value in money of the subject property.

4. It is the function of the Commission to determine the weight and sufficiency of the evidence and the credibility of the witnesses, and to draw inferences from the facts and to appraise conflicting evidence. (See In Re S. Ry., 59 N.C. App. 119, 296 S.E.2d 463, rev'd on other grounds, 313 N.C. 177, 328 S.E.2d 235 (1985)).

5. Wilkes County did employ an arbitrary method when appraising the subject property at a total value of \$9,560,300 as of January 1, 1999.

6. The value assigned by the County Board to the subject property did **substantially** exceed the true value in money of the property as of January 1, 1999.

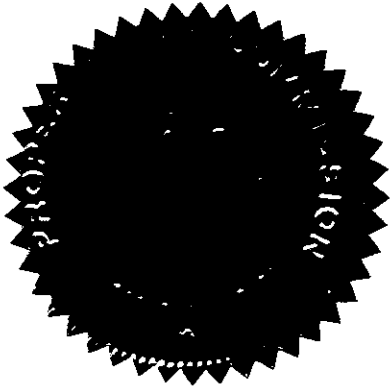
7. The true value in money of the subject property, as of January 1, 1999, was \$7,125,000.

THE COMMISSION NOW, THEREFORE, ORDERS, ADJUDGES AND DECREES that the decision of the 1999 Wilkes County Board of Equalization and Review assigning a total value of \$ \$9,560,300 to the subject property is hereby **MODIFIED**, and Wilkes County shall revise its tax records as may be necessary to reflect the Findings of Fact and Conclusions of Law of the Commission, assigning a total value of \$7,125,000 to the subject property, effective January 1, 1999.

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 his/her/its exhibits within 50 days after this decision has become a final resolution of this matter, then the Commission staff may dispose of the party's exhibits.

NORTH CAROLINA PROPERTY TAX COMMISSION



Terry L. Wheeler

Terry L. Wheeler, Chairman

Vice Chairman Cope and Commissioners Absher and Raynor concur. Commissioner Wilmoth respectfully dissents without a separate opinion.

Entered: January 18, 2002

ATTEST:

Janet L. Shires
Janet L. Shires, Secretary