



(a). The assessments affirmed by the decisions of the County Boards are upon the application of an arbitrary, illegal, or erroneous method of appraisal, resulting in the assignments of assessed values substantially greater than the true value in money of the subject parcels as of January 1, 2009.

(b). The method or methods applied by the County failed to consider all important factors affecting the values of the parcels.

(c). The County used arbitrary, improper, or illegal methods to arrive at the assessed values for the parcels for tax year 2009, failed to follow the statutory requirements of N.C. Gen. Stat. § § 105-283, 285, 286, 287, and 317 to estimate the true value in money of the real property, failed to take into account factual evidence and data relevant to the determination of the true value in money of the parcels, failed to develop and employ appropriate methods, schedules, standards, and rules of valuation and appraisal, and improperly applied those methods, schedules, and rules which might lawfully have been employed.

(d). The County, in its most recent general reappraisal of real property conducted pursuant to N.C. Gen. Stat. § 105-286 and made effective January 1, 2008, failed to properly consider the past and probable future income, location, age, utility, adaptability for commercial or other uses and other important factors affecting the value of the subject parcels.

Yancey County contends that the subject parcels were appraised in accordance with the County's duly adopted schedules of values, standards, and rules for the 2008 countywide general reappraisal. The County further contends that all important factors affecting the values of the subject parcels were considered and requests the Commission to affirm the values assigned to the 22 lots by the County Board for tax year 2009.

## **ISSUES**

In the Order on Final Pre-Hearing Conference, the parties agreed to the following issues to be tried by the Commission.

a. Did the County employ an arbitrary or illegal method of appraisal in reaching the property tax value of any part of the parcels under appeal for the year at issue?

b. Was the property tax value of any part of the parcels under appeal as determined by the Yancey County Board of Equalization and Review ("County Board") substantially greater than the true values of the subject parcels as of January 1 of the year at issue?

c. With regard to any part of the parcels under appeal, if the Appellant has shown that the County employed an arbitrary or illegal method of appraisal and that the tax values were substantially greater than the true value in money of the subject parcels, then what was the true value in money of the parcels as of January 1 for the year at issue?

In the Order on Final Pre-Hearing Conference, Yancey County also contended that the Commission should also consider the following issue:

Were the Appellant's appeals in appeal number 09 PTC 009 timely filed with the Property Tax Commission in accordance with N.C. Gen. Stat. 105-290(e)?

Since Yancey County withdrew its motion to dismiss Appellant's appeal in appeal number 09 PTC 009, the Commission did not rule on the timely filing of the notice of appeal with the Property Tax Commission in accordance with N.C. Gen. Stat. 105-290(e).

**FROM THE APPLICATION FILED IN THIS MATTER, ANY STIPULATIONS AND EVIDENCE PRESENTED, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:**

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

2. By North Carolina General Warranty Deed, prepared on June 22, 2007, Mountain Air Development Corporation conveyed title in the subject 22 lots to the Appellant, Settlers Edge Holding Company LLC. Said deed was recorded of record on June 25, 2007 in the Yancey County Register of Deeds Office and describes the subject parcels as follows:

A. PARCEL ONE: Containing Lot Nos. 1, 2, 3, 4, 5, 7, 8, 11, 12, 13, 14 and 16 in Unit Eight, Phase One (Settlers Edge Homesites), in Mountain Air Country Club, hereinafter described, as same are shown and delineated on a survey and plat by Webb A. Morgan, PLS L-1463 for Webb A. Morgan & Associates, P.A., dated 26 July 2000, Job File No. 90018-C-1002. Distances are horizontal lengths.

B. PARCEL TWO: Containing Lot Nos. 1, 2, 4, 5, 6, 7, 8, 9, 10, and 11, in Unit Nine, Phase One (Settlers Edge Signature Homesites), in Mountain Air Country Club, hereinafter described, as same are shown and delineated on a survey and plat by Gerald W. Stevenson, PLS L-2669 for Webb A. Morgan & Associates, P.A., dated July 26, 2000, last revised 1 May 2006, Job File No. 90018-C-1003. Distances are horizontal ground lengths.

C. PARCEL THREE: Containing the proposed Cabin Settlers and Grounds in Mountain Air Country Club, hereinafter described, as same are shown and delineated on a survey and plat by Gerald W. Stevenson, PLS L-2669 for Webb A. Morgan & Associates, P.A., dated 14 December 2006, last received May 8, 2007, Job File No. 90018-B-950. Distances are horizontal lengths.

3. Effective January 1, 2008, Yancey County conducted its most recent reappraisal and assessed the subject 22 lots in accordance with the duly adopted schedules of values, standards and rules.

4. In tax year 2009, the Appellant challenged Yancey County's assessment of the subject 22 lots by filing appeals to the County Board. By decisions dated May 21, 2009, the County Board assigned values to the subject 22 lots as shown on Exhibit B attached hereto. Thereafter, the Appellant filed notice of appeal with the Commission and requested a full hearing as provided in N.C. Gen. Stat. § 105-290.

5. The Appellant's appeals involve Yancey County's assessment of 22 different parcels as individual lots. In this appeal, the County Board assigned individual values to the subject 22 lots instead of valuing the property as a single entity (single tract). Yancey County considered the following factors when it valued the property as 22 individual lots:

- a. The Appellants designated the property as individual lots.
- b. Lots were sold and transferred as individual lots.
- c. The accessibility of designated roads to the subject property.
- d. The Appellant marketed the property for sale as individual lots.
- e. The property was marketed as individual lots sales.
- f. The property was marketed as a subdivision.

6. Yancey County also considered the three lots sales (Lots 6, 9, and 10) at purchase prices of \$855,000, \$1,000,000, and \$2,000,000 respectively that occurred prior to the January 1, 2008 reappraisal.

7. With regard to the marketing of the property, all materials provided to buyers did not indicate that the lots were not buildable or otherwise considered residential lots. The brochures furnished to buyers showed specific lots that were surveyed out and an artist's rendering of potential homes on those lots. The signature home site brochure showed specific lots with the artist's rendering of homes.

8. In North Carolina, counties are required to value all property, for ad valorem tax purposes, at its true value in money, which is "market value." N. C. Gen. Stat. § 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."

9. At the hearing, Yancey County's expert witness, Mr. Timothy Cain, testified that Yancey County considered the sales that occurred<sup>2</sup> prior to the January 1, 2008 general reappraisal to establish the assessment for the subject lots as of the reappraisal date. Mr. Cain

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<sup>2</sup> See Finding of Fact Number 6 above and the Timber Sky sales.

testified that Yancey County used the sales by Mountain Air Development Corporation to establish market value for the assessment of the 22 lots because the sales show what a willing and financially able buyer will pay for the property and what a willing seller would expect to receive from the buyer.

10. At the hearing, the Appellant's expert witness, J. Richard Marlow, gave testimony regarding his opinion of value for the properties appealed and belonging to Mountain Air Country Club, Inc. (09 PTC 240), Mountain Air Development Corporation (09 PTC 009 and 09 PTC 241) and Settlers Edge Holding Company LLC. In his appraisal report, the 22 lots are identified as "Parcel Number Six." As referenced in his appraisal report, the 22 lots are located within the Mountain Air residential development that is located off of Phipps Creek Road in Yancey County, North Carolina. The property that Mr. Marlow appraised consists of the golf course, clubhouse, and related amenities of Mountain Air Country Club as well as additional parcels located within the development.

11. Mr. Marlow's stated opinion of value for the 22 lots was a total value of \$6,500,000 as of January 1, 2008. When valuing the property at a total value of \$6,500,000, Mr. Marlow valued the 22 lots as a "single entity" since no subdivision plat was recorded.

12. The 22 lots are located at Settlers Edge, a single-family home site neighborhood, strategically located within Mountain Air. These lots are located on Settlers Edge Road and Nettle Cove Road adjacent to the front nine holes of the Mountain Air golf course as well as the Mountain Air airstrip. The lots vary in size from about 0.6 to 2.1 acres.

13. At the hearing, the Commission heard testimony of Mr. Timothy F. Cain<sup>3</sup> regarding Yancey County's assessment of the 22 lots. Initially, Mr. Cain testified regarding Yancey County's process of developing the 2008 schedule of values, standards and rules that were used to assess all property in Yancey County for the reappraisal, effective January 1, 2008. Mr. Cain testified that Yancey County performed statistical studies, regression studies, and put those components in place to build the tables in the schedules of values, standards and rules.

14. As to the assessment of the subject 22 lots, Yancey County considered actual sales that occurred in the county prior to the 2008 general reappraisal. Mr. Cain testified that Yancey County used all factual data relevant to the January 1, 2008 reappraisal to determine the true value in money of the individual lots. Such factual data included accessible roads, five transfers of title, marketing of lots for individual sale, and that the property was marketed as a subdivision.

15. Yancey County applied the duly adopted schedule of values, standards and rules and determined, in the case of land, that the county would apply a sales comparison approach. When applying the sales comparison approach, Yancey County can consider square footage,

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<sup>3</sup> Yancey County's expert witness in the appraisal of real property.

front footage, lot value or acreage value to assess land. Yancey County may determine the value of land based upon price per acre, comparable sales of similar lots, and similar tracts.

16. When assessing the subject parcels for the January 1, 2008 reappraisal based on factual evidence and data referenced above, the Yancey County Assessor followed the duly adopted schedule of values, standard and rules for the 2008 countywide general reappraisal to assess the Appellant's property and his assessment was consistent with the assessments of similarly situated properties that were appraised during the reappraisal.

**BASED UPON THE FOREGOING FINDINGS OF FACT, THE 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 based upon an arbitrary or illegal method of valuation and when such 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, N.C. Gen. Stat. § 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. When an appellant challenges the county's assessment of its property, it is required to produce evidence that tends to show that the County relied on illegal or arbitrary valuation methods and that the assessment substantially exceeds true value of the property.<sup>4</sup>

4. After the appellant produces such evidence as outlined above, the burden of going forward with the evidence and of persuasion that its methods would in fact produce true value then rests with the County; and it is the Commission's duty to hear the evidence of both sides, to determine its weight and sufficiency and the credibility of witnesses, to draw inferences, and to appraise conflicting and circumstantial evidence, all in order to determine whether the County met its burden.<sup>5</sup>

5. The assessments affirmed by decisions of the County Boards are not based upon the application of an arbitrary, illegal, or erroneous method of appraisal, and the values

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<sup>4</sup> *In re Amp, Inc.*, 287 N.C. 547, 215 S.E.2d 752 (1975).

<sup>5</sup> *In re Appeal of IBM Credit Corporation*, 186 App. 223, 650 S.E.2d 828 (2007), aff'd per curiam, 362 N.C. 228, 657 S.E.2d 355 (2008).

assigned to the properties did not substantially exceed the true value in money of the subject parcels as of January 1, 2009.

6. The County, in its most recent general reappraisal of real property conducted pursuant to N.C. Gen. Stat. § 105-286 and made effective January 1, 2008, properly considered the past and probable future income, location, age, utility, adaptability for commercial or other uses and other important factors affecting the values of the subject parcels.

7. The County applied a method that considered all important factors affecting the values of the lots when it assessed the 22 lots for tax year 2009.

8. The method used by Yancey County to arrive at the assessed values for the parcels for tax year 2009, does follow the statutory requirements of N.C. Gen. Stat. §§ 105-283, 285, 286, 287, and 317 and the county's assessment of the individual lots does reflect the true value in money of the real property when Yancey County did take into account factual evidence and data relevant to the determination of the true value in money of the parcels, and developed and employed appropriate methods, schedules, standards, and rules of valuation and appraisal, and properly applied those methods, schedules, rules to arrive at the individual lot values that the County Board assigned to the lots.

9. The values assigned to the 22 individual lots for tax year 2009 are based on an appraisal method that correctly values real property. When the values are correct the County has no authority to make a change or adjustment as provided in N.C. Gen. Stat. § 105-287.

10. The County Assessor did value the Appellant's property consistent with his appraisal of similarly situated property as required by G.S. 105-317.

11. When valuing the subject property, Yancey County employed a proper method of appraisal in reaching the assessed values that the County Board assigned to the subject lots, and Yancey County's assessment of the subject property did not substantially exceed the true value in money of the Appellant's property for tax years 2009 and 2008 respectively.

12. The individual lot values assigned to the 22 parcels by the County Board should be affirmed when Yancey County did not employ an arbitrary method, and the county's assessment of the subject property did not substantially exceed the true value in money of the Appellant's property for tax years 2009 and 2008 respectively.

**BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW THE COMMISSION NOW, ORDERS** that the decisions of the 2008 (09 PTC 009) and 2009 (09 PTC 242) Yancey County Boards of Equalization and Review are affirmed.



NORTH CAROLINA PROPERTY TAX COMMISSION

Terry L. Wheeler, Chairman

Commissioners Dixon and Pittman concur. Vice Chairman Plyler and Commissioner Wilmoth respectfully dissent.

Entered: February 8, 2011

Attest:

Janet L. Shires, General Counsel



# Exhibit 1

Acct #	Parcel Identifier	Name	Description	Yancey County Assessed Value	Mountain Air Opinion of Values
26294	01002 004428	MACC	Inclusive of the runway and golf holes #2 through #9.	5,782,600.00	\$0.00 The property is attributable to all of the residential individual properties and, by legal contract, is not allowed to be marketed and sold. The value of this property is reflected in the sale of the individual residential units
26775	11003 00551	MADC	Slickrock Green common area, golf hole #1, road right of way, Sales office, etc.	17,528,290.00	\$483,311.00 Most of this property is road right of way, and property attributable to all of the residential individual properties, and by legal contract, is not allowed to be marketed or sold. The value of this property is reflected in the sale of the individual residential units. Within this tract is an office for the Sales department that should be valued at \$483,311 based on the appraisal of James Gibbs for Blue Ridge Savings Bank (Improvement #1 in Appraisal - Office Campuses PDF).
21216	11005 0114	MADC	Learning Center Driving Range & Putting Green	484,200.00	\$0.00 The property is attributable to all of the residential individual properties and, by legal contract, is not allowed to be marketed and sold. The value of this property is reflected in the sale of the individual residential units
19431	11005 01141	MADC	Ned Ray Preserve	749,600.00	\$258,000.00 Similar topography to parcel 11003 00551, account #19431, which was originally had been given a valuation of \$1,044,200.00. Mountain Air appraised and property was adjusted to \$208,800.00. Mountain Air took the price per acreage of that lot and then applied against this property.
19431	11005 01153	MADC	Silver of property about Timbersky. Above parcel 11005 0115	613,800.00	\$0.00 Property consists of road right of way and boundary lines which are undevelopable and have no marketable value.
19431	11005 011522	MADC	Road right of way and boundary property bordering Old Growth.	1,975,400.00	\$240,000.00 8 acres at \$30,000 due to only portion of future developable property.
19431	11005 011524	MADC	Hermock Bluff / Austin View Park	337,200.00	\$0.00 Park / common area / road right of way
	01002 004428-8-11	Settlers Edge Holding Company LLC	Settlers Edge 11	794,900.00	
	01002 004428-8-12	Settlers Edge Holding Company LLC	Settlers Edge 12	798,000.00	
	01002 004428-8-13	Settlers Edge Holding Company LLC	Settlers Edge 13	799,500.00	
	01002 004428-8-14	Settlers Edge Holding Company LLC	Settlers Edge 14	805,200.00	
	01002 004428-8-16	Settlers Edge Holding Company LLC	Settlers Edge 16	1,297,400.00	
	01002 004428-8-1	Settlers Edge Holding Company LLC	Settlers Edge 1	862,400.00	
	01002 004428-8-10	Settlers Edge Holding Company LLC	Settlers Edge 10	1,300,000.00	
	01002 004428-8-10	Settlers Edge Holding Company LLC	Settlers Edge 10	1,214,400.00	
	01002 004428-8-11	Settlers Edge Holding Company LLC	Settlers Edge 11	956,800.00	
	01002 004428-8-2	Settlers Edge Holding Company LLC	Settlers Edge 2	1,936,000.00	
	01002 004428-8-4	Settlers Edge Holding Company LLC	Settlers Edge 4	1,482,800.00	
	01002 004428-8-5	Settlers Edge Holding Company LLC	Settlers Edge 5	1,309,000.00	
	01002 004428-8-6	Settlers Edge Holding Company LLC	Settlers Edge 6	1,310,100.00	
	01002 004428-8-7	Settlers Edge Holding Company LLC	Settlers Edge 7	1,300,800.00	
	01002 004428-8-8	Settlers Edge Holding Company LLC	Settlers Edge 8	1,300,700.00	
	01002 004428-8-9	Settlers Edge Holding Company LLC	Settlers Edge 9	536,400.00	
	11003 00551-08-01	Settlers Edge Holding Company LLC	Settlers Edge 1	506,300.00	
	11003 00551-08-02	Settlers Edge Holding Company LLC	Settlers Edge 2	492,000.00	
	11003 00551-08-03	Settlers Edge Holding Company LLC	Settlers Edge 3	469,900.00	
	11003 00551-08-04	Settlers Edge Holding Company LLC	Settlers Edge 4	470,800.00	
	11003 00551-08-05	Settlers Edge Holding Company LLC	Settlers Edge 5	54,000.00	
	11003 00551-08-06	Settlers Edge Holding Company LLC	Settlers Edge 6	785,400.00	
	11003 00551-08-07	Settlers Edge Holding Company LLC	Settlers Edge 7	551,300.00	
	11003 00551-08-08	Settlers Edge Holding Company LLC	Settlers Edge 8	48,858,990.00	
					\$6,630,000.00 Mountain Air believes these lots should be considered as one tract of land and not as lots based on the fact that no survey has been recorded. This value is based on the appraisal done by James Gibbs, MAI, on behalf of Integrity Bank with adjustments made to the time in which it would take to sell all of the lots. As of January 1, 2008, Mountain Air was selling 1.5 lots per year.
				48,858,990.00	\$7,611,311.00

## Exhibit A

PIN# 01002 004428-9-2  
Property Address: SETTLERS EDGE ROAD S

PIN# 01002 004428-9-1  
Property Address: SETTLERS EDGE ROAD S

PIN# 01002 004428-9-4  
Property Address: SETTLERS EDGE ROAD S

PIN# 01002 004428-9-5  
Property Address: SETTLERS EDGE ROAD S

PIN# 01002 004428-9-6  
Property Address: SETTLERS EDGE ROAD S

PIN# 01002 004428-9-7  
Property Address: SETTLERS EDGE ROAD S

PIN# 01002 004428-9-8  
Property Address: SETTLERS EDGE ROAD S

PIN# 01002 004428-9-10  
Property Address: SETTLERS EDGE ROAD S

PIN# 01002 004428-9-9  
Property Address: SETTLERS EDGE ROAD S

PIN# 01002 004428-9-11  
Property Address: SETTLER EDGE ROAD S

PIN# 11003 00551-08-02  
Property Address: NETTLE SPUR

PIN# 11003 00551-08-01  
Property Address: NETTLE COVE ROAD

PIN# 11003 00551-08-04  
Property Address: NETTLE COVE ROAD

PIN# 11003 00551-03  
Property Address: NETTLE SPUR

PIN# 01002 004428-8-16  
Property Address: NETTLE COVE RD

PIN# 01002 004428-8-13  
Property Address: NETTLE COVE RD

PIN# 01002 004428-8-12  
Property Address: NETTLE COVE RD

PIN# 11003 00551-08-05  
Property Address: NETTLE COVE RD

PIN# 11003 00551-08-07  
Property Address: NETTLE COVE RD

PIN# 01002 004428-8-11  
Property Address: NETTLE COVE RD

PIN# 11003 00551-08-08  
Property Address: NETTLE COVE RD

PIN# 01002 004428-8-14  
Property Address: NETTLE COVE RD

## Exhibit B

PIN# 01002 004428-9-2  
Property Address: SETTLERS EDGE ROAD S  
2009 Tax Value: \$956,800

PIN# 01002 004428-9-1  
Property Address: SETTLERS EDGE ROAD S  
2009 Tax Value: \$862,400

PIN# 01002 004428-9-4  
Property Address: SETTLERS EDGE ROAD S  
2009 Tax Value: \$1,996,000

PIN# 01002 004428-9-5  
Property Address: SETTLERS EDGE ROAD S  
2009 Tax Value: \$1,482,800

PIN# 01002 004428-9-6  
Property Address: SETTLERS EDGE ROAD S  
2009 Tax Value: \$1,309,000

PIN# 01002 004428-9-7  
Property Address: SETTLERS EDGE ROAD S  
2009 Tax Value: \$1,310,100

PIN# 01002 004428-9-8  
Property Address: SETTLERS EDGE ROAD S  
2009 Tax Value: \$1,300,600

PIN# 01002 004428-9-10  
Property Address: SETTLERS EDGE ROAD S  
2009 Tax Value: \$1,300,000

PIN# 01002 004428-9-9  
Property Address: SETTLERS EDGE ROAD S  
2009 Tax Value: \$1,300,700

PIN# 01002 004428-9-11  
Property Address: SETTLERS EDGE ROAD S  
2009 Tax Value: \$1,214,400

PIN# 11003 00551-08-02  
Property Address: NETTLE SPUR  
2009 Tax Value: \$506,300

PIN# 11003 00551-08-01  
Property Address: NETTLE COVE RD  
2009 Tax Value: \$536,400

PIN# 11003 00551-08-04  
Property Address: NETTLE COVE RD  
2009 Tax Value: \$469,900

PIN# 11003 00551-03  
Property Address: NETTLE COVE RD  
2009 Tax Value: \$492,000

PIN# 01002 004428-8-16  
Property Address: NETTLE COVE RD  
2009 Tax Value: \$1,297,400

PIN# 01002 004428-8-13  
Property Address: NETTLE COVE RD  
2009 Tax Value: \$799,500

PIN# 01002 004428-8-12  
Property Address: NETTLE COVE RD  
2009 Tax Value: \$798,000

PIN# 11003 00551-08-05  
Property Address: NETTLE COVE RD  
2009 Tax Value: \$470,800

PIN# 11003 00551-08-07  
Property Address: NETTLE COVE RD  
2009 Tax Value: \$785,400

PIN# 01002 004428-8-11  
Property Address: NETTLE COVE RD  
2009 Tax Value: 794,900

PIN# 11003 00551-08-08  
Property Address: NETTLE COVE RD  
2009 Tax Value: \$551,300

PIN# 01002 004428-8-14  
Property Address: NETTLE COVE RD  
2009 Tax Value: 805,200