NORTH CAROLINA

WAKE COUNTY

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
07 PTC 375

IN THE MATTER OF APPEAL OF:
Parkdale Mills and Parkdale America
from the decisions of the Davidson County Board of Equalization and Review concerning the valuation of certain real property for the tax year 2007

FINAL DECISION ON SECOND REMAND

This Matter was initially heard by the North Carolina Property Tax Commission ("Commission") in Raleigh, Wake County, North Carolina, on April 15, 2009, and May 13, 2009 (the "Initial Hearing"), pursuant to the appeals of Parkdale Mills Incorporated and Parkdale America, LLC ("Parkdale") from the decisions of the Davidson County Board of Equalization and Review concerning Davidson County's (the "County") assessments of Parkdale's real property for the tax year 2007.

On November 3, 2009, the Commission affirmed the County's assessments (the "Initial Decision"). Parkdale appealed to the North Carolina Court of Appeals. On May 17, 2011, the Court of Appeals vacated the Initial Decision and remanded the matter (the "First Remand") due to the Commission's failure to apply properly the applicable burden-shifting framework.[1]

On May 23, 2012, the Commission reaffirmed the County's assessments (the "Second Decision"). Parkdale appealed to the Court of Appeals a second time. On March 5, 2013, the Court of Appeals vacated the Second Decision and again remanded the matter (the "Second Remand"), holding that the three items of evidence[2] relied upon by the Commission as carrying the County's burden of proof were incompetent, immaterial, and insubstantial. In re Parkdale Mills, 741 S.E.2d 416, 421 (N.C. Ct. App. 2013). The Court of Appeals went on to explain:

> this Court is troubled by the substantial discrepancy between Parkdale's [valuation] and the County's assessed value. On remand, the Commission shall conduct additional hearings as necessary and make further findings of fact and

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[1] A tax assessment is presumed correct. To rebut this presumption, the taxpayer must present competent, material, and substantial evidence tending to show that the assessment (a) was based upon an arbitrary or illegal method of valuation; and (b) substantially exceeds the true value, as of the relevant valuation date, of the property subject to the appeal. If such evidence is presented, the taxing authority must prove by evidence other than its initial method of valuation that the assessment equated to true value, despite any evidence to the contrary. In re IBM Credit Corp., 201 N.C. App. 342, 689 S.E.2d 487 (2009).

[2] The three items of evidence improperly relied upon by the Commission in the Second Decision as carrying the County's burden of proof were (1) the County's suggestion that Parkdale's valuations were flawed; (2) the County's allegation that the County followed its 2007 Schedule of Values to develop its assessments; and (3) limited information of allegedly comparable sales.

> conclusions of law in order to reconcile this discrepancy. If the County cannot carry its assigned burden, or if the Commission again fails to rectify the inadequacies of its Final Decision, this Court may exercise its prerogative to remand for yet a third time with specific instructions for the Commission to adopt Parkdale's valuation of the [Subject Properties] as, unlike the County's valuation, it has not been held to be "arbitrary."

In re Parkdale Mills, 741 S.E.2d 416, 422 (N.C. Ct. App. 2013).

On Second Remand, the County asked to re-open the record so it could offer evidence not presented during the Initial Hearing. Parkdale moved to limit the scope of the hearing on Second Remand to the record created at the Initial Hearing. The Commission granted Parkdale's motion, allowed the parties to submit briefs for the Commission's consideration, and held a hearing on arguments from counsel on November 19, 2013 (the "Final Hearing").

John A. Cocklereece, Jr., Esquire and Justin M. Hardy, Esquire appeared at each hearing on behalf of Parkdale. Charles C. Meeker, Esquire appeared at each hearing on behalf of the County.

Chairman William W. Peaslee presided over the Final Hearing, with Vice Chairman Terry L. Wheeler and Commission members Aaron W. Plyler, David Allen Smith, and Jack C. Morgan III participating.

STATEMENT OF CASE

The properties subject to this appeal are located on Mill Street, Lexington, North Carolina (the "Lexington Facility") and Carmalt Street, Thomasville, North Carolina (the "Thomasville Facility" and, together with the Lexington Facility, the "Subject Properties"). The Lexington Facility is a 465,197 square foot cotton mill on 15.3392 acres. Approximately 79% of the facility was constructed in 1913, 1914 and 1923. Approximately 11% was constructed in 1962 and 1966. The remainder was constructed in 1983, 1989 and 1994. The Thomasville Facility is a 356,737 square foot cotton mill located on 9.18 acres. The bulk of the facility was constructed between 1909 and the mid-1950's. Both facilities are multi-level, with their manufacturing and warehousing space spread over various floors. Additionally, both have characteristics typical of manufacturing facilities constructed in the early 20th century, like detached and partitioned layouts, low interior clearances, narrow interior column spacing, wooden floors and roof structures, built-up roof coverings, inadequate truck loading areas, and access only through two-lane residential streets.

The County assessed the Lexington Facility as of January 1, 2007, at $5,040,429, or $10.84 per square foot of gross building area. Parkdale contends that the fair market value of the Lexington Facility as of January 1, 2007, was $905,000, or $1.95 per square foot of gross building area.

The County assessed the Thomasville Facility as of January 1, 2007, at $3,287,150, or $9.21 per square foot of gross building area. Parkdale contends that the fair market value of the Thomasville Facility as of January 1, 2007, was $625,000, or $1.75 per square foot of gross building area.

ISSUES

1. Did Parkdale present evidence tending to show that the County's initial method of valuation was arbitrary or illegal, and that the County's assessments substantially exceed the true values of the Subject Properties?
2. If so, did the County prove that its assessments of the Subject Properties equated to their true values, despite the evidence to the contrary?

HAVING HEARD THE EVIDENCE PRESENTED AT THE INITIAL HEARING, HAVING DETERMINED THE CREDIBILITY OF WITNESSES AND THE WEIGHT AND SUFFICIENCY OF THE EVDENCE, HAVING DRAWN INFERENCES THEREFROM, AND HAVING APPRAISED CONFLICTING AND CIRCUMSTANTIAL EVIDENCE, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

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

2. The properties subject to this appeal are the Lexington Facility and the Thomasville Facility.

3. The Lexington Facility consists of a 15.3392 acre parcel, a building containing 465,194 square feet of gross building area, and miscellaneous improvements.

4. The Lexington Facility was constructed in phases, with 79% built in 1913, 1914, and 1923; 11% built in 1962 and 1966; and the remainder built in 1983, 1989, and 1994.

5. Over 99% of the Lexington Facility is manufacturing and warehouse space, with 81% located on the main level; 15% located on the upper level; and 4% located in the basement.

6. The Lexington Facility's main level is further segmented by a difference in floor elevation.

7. The Thomasville Facility consists of a 9.18 acre parcel, a building containing 356,737 square feet of gross building area, and miscellaneous improvements.

8. The bulk of the Thomasville Facility was constructed between 1909 and the mid-1950's.

9. Over 97% of the Thomasville Facility is manufacturing and warehouse space, with 60% located on the main level; 7% located on the upper level; and 33% located in the basement.

10. In addition to their multi-level layouts and partitioned floor space, the Subject Properties are afflicted by other items causing functional and economic obsolescence, including low ceiling height, narrow column spacing, wooden flooring and roof structures, small and outdated

restroom facilities, inadequate truck loading areas, access only through two-lane residential streets, and the decline of the domestic textile manufacturing industry.

11. The cost approach, sales comparison approach, and income capitalization approach are the three recognized valuation methods in North Carolina.

12. The income capitalization approach is not applicable to the Subject Properties because they are not of the type regularly leased.

13. The cost approach is not a reliable approach to value the Subject Properties because it is extremely difficult to accurately calculate the value loss due to physical depreciation, economic obsolescence, and functional obsolescence.

14. The cost approach is not used by the market to value properties like the Subject Properties.

15. The sales comparison approach is the most reliable approach to value the Subject Properties because it directly reflects the market price at which they would likely sell.

16. Relying solely upon the cost approach, which it conducted through an attempted application of its 2007 Schedule of Values, the County assessed the Lexington Facility as of January 1, 2007, at $5,040,429, which equates to $10.84 per square foot of gross building area.

17. Relying solely upon the cost approach, which it conducted through an attempted application of its 2007 Schedule of Values, the County assessed the Thomasville Facility as of January 1, 2007, at $3,287,150, which equates to $9.21 per square of gross building area.

18. The County could have performed a sales comparison approach to determine the assessed values of the Subject Properties as of January 1, 2007.

19. The County's decision to rely solely upon the cost approach to develop the assessments of the Subject Properties as of January 1, 2007, was arbitrary.

20. The County's 2007 Schedule of Values mandates that when the County selects the cost approach as its valuation method, it must use a rent loss calculation to determine value loss due to economic and functional obsolescence.

21. When developing its assessments of the Subject Properties, the County failed to use a rent loss calculation or any other calculation accepted by appraisal science to determine value loss due to economic and functional obsolescence.[3]

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[3] The Commission rejects the County's contention that it was not obligated to conduct a rent loss calculation as part of its cost approach because conducting a rent loss calculation would have been impossible to perform. Upon discovering that it could not perform a cost approach in accordance with the mandate of its 2007 Schedule of Values, the County should have switched to a valuation methodology which it could have performed in accordance with its 2007 Schedule of Values.

22. The County's 2007 Schedule of Values mandates that once the County develops a valuation, it must test the reasonableness of that valuation by comparing the valuation to actual sales.

23. After deriving its valuations of the Subject Properties, the County failed to test the reasonableness thereof by comparison to actual sales.

24. The County's deviations from its 2007 Schedule of Values in its application of the cost approach rendered its method of valuing the Subject Properties as of January 1, 2007, illegal.

25. The County's arbitrary and illegal cost approaches, and the results thereof, do not constitute competent, material, and substantial evidence as to the true values of the Subject Properties as of January 1, 2007.

26. At the Initial Hearing, Parkdale offered the written appraisal reports and testimony of Mr. Paul G. Carter, Jr., MAI, SRA ("Carter"), who was qualified to testify as an expert as to the valuations of the Subject Properties as of January 1, 2007.

27. Relying upon the sales comparison approach, which he conducted in accordance with then-current Uniform Standards of Professional Appraisal Practice, Carter valued the Lexington Facility at $905,000, which equates to $1.95 per square of gross building area.

28. Relying upon the sales comparison approach, which he conducted in accordance with then-current Uniform Standards of Professional Appraisal Practice, Carter valued the Thomasville Facility at $625,000, which equates to $1.75 per square of gross building area.

29. Carter tested the reasonableness of his expert opinions of value in part through conversations with two real estate brokers and the County's own Director of Economic Development, who indicated collectively that Carter's expert opinions of value were within the range one would expect for properties like the Subject Properties.

30. At the Initial Hearing, the County offered the testimony of Mr. Jerry Ward, the County's Appraisal Supervisor ("Ward").

31. The County believes two of the five comparable sales properties relied upon by Carter were not physically comparable to the Subject Properties because Ward visited those two comparable sales properties years after their respective sale dates, at which time he observed that they were in poor condition.

32. The two comparable sales properties questioned by the County had been cannibalized and abandoned between the date of their respective sales and the dates of Wards visits, and the County had no information as to their conditions on their respective sale dates.

33. Carter verified through individuals with personal knowledge that all five of the comparable sales properties used in his sales comparison approaches were, at the respective times of their sales, in a physical condition similar the Subject Properties as of January 1, 2007.

34. Carter's expert opinions of value would not have changed had he omitted from consideration the two comparable sales properties questioned by the County, because there were several other available comparable sales properties not considered in his appraisal reports which further substantiated the validity of his expert opinions of value.

35. The County believes that none of the five comparable sales properties relied upon by Carter should be used to determine the values of the Subject Properties, because the comparable sales properties were not operating manufacturing facilities at the times of their sales whereas the Subject Properties were both operating as of January 1, 2007.

36. The County presented evidence of the hours of operation, productivity, and automation within the Subject Properties, which showed that the operations within the Subject Properties were productive as of January 1, 2007.

37. The County's focus and emphasis upon the productivity of the operations within the Subject Properties caused the County to implicitly measure the values of the Subject Properties as their subjective worth to Parkdale, which is not their objective value to another willing buyer.

38. The County's criticism of Carter's written appraisal reports and testimony are without merit.

39. Carter's written appraisal reports and related testimony tend to show, and do show, that the County's assessments substantially exceeded the true values of the Subject Properties as of January 1, 2007.

40. Carter's written appraisal reports and testimony constitute competent, material, and substantial evidence of the values of the Subject Properties as of January 1, 2007.

41. The County presented two spreadsheets purporting to be sales comparison analyses for the Subject Properties, which Ward created for the Initial Hearing (the "Post-Assessment Comparable Sales Analyses").

42. The Post-Assessment Comparable Sales Analyses list addresses, sales prices, sales dates, land areas, building areas, and years built for four "COMP" properties and one "ALT SALE ADAPTIVE USE" property.

43. In the Post-Assessment Comparable Sales Analyses, Ward made adjustments to the sales prices of each "COMP" property to account for the difference in their respective square footages as compared to the Subject Properties, which he then reduced to an indicated "Adjusted price range per square foot of building area" for each of the Subject Properties.

44. Ward excluded the ALT SALE ADAPTIVE USE sale data in his computation of the price range and average price per square foot of building area indicated for the Subject Properties by the Post-Assessment Sales Analyses.

45. On its face, the Post-Assessment Comparable Sales Analysis relating to the Lexington Facility indicated an adjusted price range per square foot of building area of $4.82 to $6.75, with an average of $6.18.

46. Ward made a mathematical error which, once corrected, revised the adjusted price range per square foot of building area indicated by the Post-Assessment Comparable Sales Analysis relating to the Lexington Facility to $4.42 to $6.72, with an average of $5.60.

47. On its face, Ward's Post-Assessment Comparable Sales Analysis relating to the Thomasville Facility indicated an adjusted price range per square foot of building area of $5.16 to $7.56, with an average of $6.29.

48. Ward made a mathematical error which, once corrected, revised the adjusted price range per square foot of building area indicated by the Post-Assessment Comparable Sales Analysis relating to the Thomasville Facility to $3.54 to $7.56, with an average of $5.82.

49. In addition to his mathematical errors, Ward failed to make downward adjustments to account for the various ways in which the Subject Properties were inferior to his "COMP" properties, including their age, land size, and multiple items causing functional obsolescence.

50. After accounting for Ward's mathematical error and the need for additional downward adjustments, the Post-Assessment Comparable Sales Analyses indicated that, as of January 1, 2007, the Lexington Facility and the Thomasville Facility were worth something less than $5.60 and $5.82 per square foot of gross building area, respectively.

51. The County failed to provide details about the "COMP" properties necessary to draw there from more specific and meaningful indications of value.

52. The limited information provided by the County about the "ALT SALE ADAPTIVE USE" property cannot be used to draw an indication of value for either of the Subject Properties, because the Subject Properties do not have as their highest and best use adaptive-reuse and cannot be valued for purposes of taxation as if they are or will be adaptive-reuse properties.

53. The Post-Assessment Comparable Sales Analyses do not constitute competent, material, and substantial evidence as to the true values of the Subject Properties as of January 1, 2007.

54. The discrepancy between the County's assessed value and Carter's opinions of value is due to (a) the County's arbitrary reliance upon the cost approach to develop its assessments; (b) the County's failure to use a rent loss calculation or other calculation accepted by appraisal science to determine the amount of value loss to the Subject Properties due to economic and functional obsolescence; (c) the County's failure to test the reasonableness of its flawed cost-approach derived valuations of the Subject Properties by comparing those valuations to actual sales; (d) the County's failure to conduct a meaningful sales comparison approach; and (e) the County's focus on the operations within the Subject Properties, which caused the County to implicitly value the Subject Properties at their subjective worth to Parkdale and not their objective value to an willing buyer.

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

1. Parkdale presented evidence tending to show that the County's initial method of assessment was arbitrary when it showed that the County relied solely upon the cost approach to assess the Subject Properties despite the availability of comparable sales with which to perform the sales comparison approach to value.

2. Parkdale presented evidence tending to show that the County's initial method of assessment was illegal when it showed that the County deviated substantially from its 2007 Schedule of Values by (a) failing to utilize a rent loss calculation or other type of calculation accepted by appraisal science to determine the amount of value loss to the Subject Properties due to economic and functional obsolescence; and (b) failing to check the reasonableness of its valuations of the Subject Properties by comparing them to actual sales.

3. Parkdale presented evidence tending to show that the County's assessment of the Lexington Facility of $10.84 per square foot of gross building area was substantially excessive when it (a) presented Carter's appraisal reports and testimony indicating that, as of January 1, 2007, the true value of the Lexington Facility was $1.95 per square foot of gross building area; (b) presented evidence that two real estate brokers and the County's own Director of Economic Development believed Carter's valuation was within the range one would expect to see from the sale of a property like the Lexington Facility; and (c) showed that Ward's Post-Assessment Comparable Sales Analyses indicated that the Lexington Facility was worth something less than $5.60 per square foot of gross building area.

4. Parkdale presented evidence tending to show that the County's assessment of the Thomasville Facility of $9.21 per square foot of gross building area was substantially excessive when it (a) presented Carter's appraisal reports and testimony indicating that, as of January 1, 2007, the true value of the Thomasville Facility was $1.75 per square foot of gross building area; (b) presented evidence that two real estate brokers and the County's own Director of Economic Development believed Carter's valuation was within the range one would expect to see from the sale of a property like the Thomasville Facility; and (c) showed that Ward's Post-Assessment Comparable Sales Analyses indicated that the Thomasville Facility was worth something less than $5.82 per square foot of gross building area.

5. Parkdale successfully rebutted the presumption of correctness of the County's assessments of the Subject Properties, and the burden of proof shifted to the County to prove that its assessments equated to true values despite the evidence to the contrary.

6. The County failed to present any competent, material, and substantial evidence proving that its assessment of the Lexington Facility at $10.84 per square foot of gross building area equated to true value.

7. The County failed to present any competent, material, and substantial evidence proving that its valuation of the Thomasville Facility at $9.21 per square foot of gross building area equated to true value.

8. The County failed to carry its burden of proving that its assessments of the Subject Properties equated their true values.

9. The true value of the Lexington Facility as of January 1, 2007, was $905,000.

10. The true value of the Thomasville Facility as of January 1, 2007, was $625,000.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION THEREFORE ORDERS AND DECREES that: (i) the decisions of the 2007 Davidson County Board of Equalization and Review are erroneous; (ii) the true value of the Lexington Facility as of January 1, 2007, was $905,000; (iii) the true value of the Thomasville Facility as of January 1, 2007, was $625,000; and (iv) the County shall adjust its books and records to reflect the aforementioned valuations and shall refund to Parkdale any overpayments made by Parkdale as a result of the County's over-assessment of its properties in the tax years 2007 through the present.

PROPERTY TAX COMMISSION

THE GREAT SEAL OF THE STATE OF NORTH CAROLINA

NORTH CAROLINA PROPERTY TAX COMMISSION

William (Bill) W. Peaslee, Chairman

Vice Chairman Wheeler and Commission members Plyler, Smith and Morgan concur.

Entered: April 8, 2014

Attest:

Janet L. Shires, General Counsel and Secretary