

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

IN THE MATTER OF THE APPEAL OF:

**AMERICAN HOMES 4 RENT
PROPERTIES ONE, LLC,
Appellant,**

20 PTC 0102

From the decision of the Mecklenburg
County Board of Equalization and Review

FINAL DECISION

This matter came on for hearing before the North Carolina Property Tax Commission (“Commission”), sitting as the State Board of Equalization and Review, via Webex on Wednesday, April 21, 2021, pursuant to the Appellant’s appeal from the decision of the Mecklenburg County Board of Equalization and Review (“Board”).

Chairman Robert C. Hunter presided over the hearing, with Vice Chairman Terry L. Wheeler and Commission Members Alexander A. Guess and June W. Michaux participating.

Attorney Robert S. Adden, Jr., appeared via Webex on behalf of Mecklenburg County (“County”). Attorney Lawrence J. Shaheen, Jr., appeared via Webex on behalf of the Appellant.

STATEMENT OF THE CASE

The property under appeal (“subject”) consists of two single-family residences, situated on separate parcels in the City of Charlotte. The first such residence is located at 6110 Gold Worthy Court, and is identified by the County by Parcel #165-073-37 (“Gold Worthy parcel”). The second such residence is located at 3319 Covelo Court, and is identified by the County by Parcel #029-192-58 (“Covelo Court parcel”). The County conducted its most recent countywide reappraisal with an effective date of January 1, 2019.

The Appellant disputed the January 1, 2019 assessed values of the subject property as determined by the County, and appealed said values to the Mecklenburg County Board of Equalization and Review (“Board”). By its written decisions dated February 14, 2020, the Board determined the value of the Gold Worthy parcel to be \$167,500, and the value of the Covelo Court parcel to be \$205,000. The Appellant appeals from these decisions of the Board, contending in

the Applications for Hearing filed in this matter that the true value of the subject property, as of January 1, 2019, was actually \$132,700 for the Gold Worthy parcel, and \$168,100 for the Covelo Court parcel.

ANALYSIS AND ISSUES

A county's ad valorem tax assessment is presumed to be correct.¹ A taxpayer may rebut this presumption by producing "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".² N.C. Gen. Stat. §105-283 requires all taxable property to be valued for tax purposes at its "true value," as that term is defined in the same section.

If the taxpayer produces the evidence required to rebut the presumption, then the burden shifts to the taxing authority to demonstrate that its methods produce true values.³

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

1. Whether the Appellant carried its burden of producing competent, material and substantial evidence tending to show that:
 - (a) The County employed an arbitrary or illegal method of valuation in determining the assessed value of the Appellant's property; and
 - (b) The assessed value substantially exceeded the true value of the property for the year at issue.
2. If the Appellant produced the evidence required to rebut the presumption, then whether the County demonstrated that its appraisal methods produced a true value for the property, considering the evidence of both sides; its weight and sufficiency and the credibility of witnesses; the inferences drawn therefrom; and the [evaluation] of conflicting and circumstantial evidence.⁴

(REMAINDER OF SPACE INTENTIONALLY BLANK)

¹ *In re Amp, Inc.*, 287 N.C. 547, 563, 215 S.E.2d 752, 762 (1975).

² *Id.* (capitalization and emphasis in original).

³ *In re Appeal of S. Ry. Co.*, 313 N.C. 177, 323 S.E.2d 235 (1985). *In 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).

⁴ *In re Parkdale Mills*, 225 N.C. App. 713, 741 S.E.2d 416 (2013).

**FROM THE EVIDENCE PRESENTED AND ALL DOCUMENTS OF RECORD,
THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:**

1. During the hearing, the Appellant stipulated that the County's "exceptionally well-developed sales comparison approach" is accurate for that approach. The Appellant's primary contention, however, is that the subject property should have been appraised by the County using the income approach to value, because the Appellant acquired and holds the subject property as rental (i.e., income-producing) property.
2. In support of its use of the subject property, the Appellant offered testimony from Bradley Wood, Senior Vice President of Acquisitions and Dispositions for the Appellant's parent organization. Mr. Wood testified that the Appellant's investment objectives are to purchase properties at prices that are based on pre-determined capitalization rates for the properties' anticipated revenue streams. Mr. Wood testified further that such properties tended to be purchased by the Appellant through foreclosure and portfolio sales and renovated as needed, all to produce the cash flow required to sustain the Appellant's expected investment return for the purchase price.
3. On cross-examination, Mr. Wood testified that the primary focus in property acquisition is the anticipated cash flow, with little concern for the market value of the property, and that these investment objectives limited the Appellant's opportunities for purchase, estimating that, for purchase offers made in attempting to acquire target properties, only one of "about five to seven offers" resulted in a purchase.
4. In reviewing Taxpayer Exhibit 5 (relating to the Gold Worthy parcel) and Taxpayer Exhibit 6 (relating to the Covelo Court parcel), Mr. Wood testified during continued cross-examination that the rate of return expected by the Appellant for both parcels was 7%, and that this rate was set and agreed to by the Appellant's investors and directors. Mr. Wood testified further that the Appellant's different investors expected differing rates of return, ranging from approximately 5% to 9%, and that a 5% expected return would permit the Appellant to purchase properties for a price much closer to market value.
5. On re-direct examination, Mr. Wood testified as to his opinion that commercial property owners should be taxed (for property tax purposes) based on the income stream of their income-producing properties.
6. In support of its income-based valuation approach, the Appellant offered testimony from Eric Brown, Tax Director for the Appellant's parent organization. Mr. Brown testified that

Taxpayer Exhibit 5 (indicating a value opinion of \$132,700 for the Gold Worthy parcel) and Taxpayer Exhibit 6 (indicating a value opinion of \$168,100 for the Covelo Court parcel) had been prepared by his office.

7. Mr. Brown testified further as to his opinion that the income approach was the best approach for appraising the subject property. In response to a question from the Commission, Mr. Brown testified as to his opinion that different valuation approaches could result in different valuations, even for identical properties, and that this situation would not create inequity for the owners of the properties if done appropriately. On redirect, Mr. Brown again testified that side-by-side properties could be valued differently (using different valuation approaches), but further opined that the Appellant should get the benefit of the income approach, "like every other commercial property." We note here that this position seems to presume that an income-based valuation of property would result in a lower value than a sales-based valuation of the same property. Given that sales are relevant to determining both market prices and market capitalization rates, we struggle to understand such a presumption.
8. The Appellant's final witness, John Bosworth, MAI, SRA, testified as to the valuation methodology employed by the Appellant, both generally and in developing Taxpayer Exhibits 5 and 6. Mr. Bosworth testified that the income approach is typically considered most strongly for income-producing properties, but that the income and sales comparison approaches should theoretically produce similar values. Mr. Bosworth testified further as to his opinion that the income approach should be considered for all income-producing properties, but later added that most single-family residences are owner-occupied, rather than income-producing.
9. Mr. Bosworth testified further as to his opinion that commercial property owners are more sophisticated than individual homebuyers, but agreed on cross-examination that properties should be valued no differently based on ownership. In response to questioning by the Commission, Mr. Bosworth agreed that the use of the subject property could be different as to its owner, but that the use as to its occupants was not different from other similar properties.
10. Mr. Bosworth testified that he did not know whether the Appellant's incomes as reported in Taxpayer Exhibits 5 and 6 were typical of market income, and that he had no opinion as to the value of the subject property, or as to the values determined by either the Appellant or the County. Mr. Bosworth did testify as to his opinion that values indicated by the income and sales comparison approaches should be similar, and that an appraiser would need to consider the credibility, assumptions, and support for the income approach components in order to reconcile large differences in value indicated by the two approaches.

11. The Appellant has thus provided an opinion of value based on the income approach, developed by considering both its own actual income as reported and its internal opinion as to the rate at which such income should be capitalized. Although there is no evidence before us that either the reported incomes or capitalization rates are reflective of income and capitalization rates typical for the relevant market, we find in this case that the Appellant's evidence is based upon the opinion of individuals apparently qualified to offer an opinion as to the value of the subject property because of their respective roles within the Appellant's parent organization and because of their experience in acquiring and managing a significant number of properties like the subject property.
12. The County's witness Ken Joyner, the Mecklenburg County Assessor, testified that the County stratified the approximately 260,000 single-family residences located in Mecklenburg County into more than 1,000 different neighborhoods, and examined sales data for all neighborhoods in order to establish typical values for each individual neighborhood. Mr. Joyner testified further that the County evaluated each neighborhood based on factors including the relative amounts of owner-occupied versus rental properties; the adequacy of sales data; and information on how properties were typically bought and sold, all of which indicated that single-family residences were typically bought by homeowners, and not by investors.
13. Mr. Joyner testified as to his opinion that the income experienced by any particular income-producing property must be evaluated in light of the appropriate market segment in order to be used as an indication of market value. We agree. In reviewing Taxpayer Exhibits 5 and 6, Mr. Joyner noted that there was no market support given for the information contained in the exhibits, and expressed his opinion that both exhibits simply reflected the Appellant's investment expectations, concluding that the Appellant's calculations would never equal market value unless investor expectations mirrored market activity.
14. In reviewing County Exhibits 3 and 4 (each being images of houses in the subject property's respective neighborhoods), Mr. Joyner stated his opinion that there was no apparent reason to appraise the subject property differently from other similar properties, and that ownership was not a factor in its valuation. Mr. Joyner described County Exhibit 5 as a review of properties purchased by the Appellant or a related entity for more than the value indicated by the Appellant's income approach, noting that none of these sales supported the Appellant's income-based opinion of value.
15. Mr. Joyner identified County Exhibit 13 as a list of qualified sales within the Gold Worthy parcel's neighborhood, and described these sales as supportive of the County's values.

Although the Appellant has stipulated to the accuracy of the County's sales comparison approach, we note here that the median sale price for the properties listed in County Exhibit 13 is \$165,000, and find this to be market-based support for the County's value of \$167,500 for the Gold Worthy parcel. Although the Appellant's opinion of value for the Gold Worthy parcel is \$132,700, the lowest sale price in this list is \$152,000.

16. Mr. Joyner identified County Exhibit 22 as a list of qualified sales within the Covelo Court parcel's neighborhood and again described these sales as supportive of the County's values. We note here that the median sale price for the properties listed in County Exhibit 22 is \$200,000, and find this to be market-based support for the County's value of \$205,000 for the Covelo Court parcel. Although the Appellant's opinion of value for the Covelo Court parcel is \$168,100, the lowest sale price in this list is \$175,000.
17. Mr. Joyner testified that the County had considered all three approaches to value (cost, income, and sales comparison) in appraising the subject property, but had placed most emphasis on the sales comparison approach, stating his opinion that the majority of buyers and sellers in the subject property's respective neighborhoods determined which approach and data were most relevant. Responding to questioning from the Commission, Mr. Joyner testified as to his opinion that the values for the subject property as suggested by the Appellant actually represent the subject property's investment values to the Appellant, but are not indicative of market values for the subject property.
18. At the outset of testimony offered by the County's witness Jeremy Blackwelder, Senior Real Estate Appraiser for the County, the Appellant reiterated its stipulation that the sales comparison analysis and corresponding values prepared by the County were accurate for the sales comparison approach.
19. We find, then, that the County considered all three recognized approaches to value in determining the appraised value of the subject property and concluded that the sales comparison approach was the most reliable indication of market value for the subject property, both because there was sufficient sales data to support such an approach and because the predominant market transaction for single-family properties like the subject property, and within the subject properties' respective neighborhoods, was and is a purchase made by an owner-occupant, and not by an investor.
20. We find that the Appellant primarily relied upon the income approach to value for the subject property, based on its use of the subject property as income-producing, single-family

residential rental property, but based solely on the actual income experienced by the subject property and the investment rate of returned expected by the Appellant.

21. While we find it appropriate to consider the income approach for income-producing property, such an approach must be developed using income and capitalization rates drawn from the relevant market, and not simply from the income experience and desired rates of return of an individual property in the hands of its owner. We find that the Appellant's approach to value, and therefore its opinion of value, is not based on market data. Accordingly, we find that the Appellant's opinion of value for the subject property is not market, or true, value.
22. We find that the County's value is primarily based upon actual sales transactions within the relevant market for the subject property, and we find further that the predominant transactions for single-family properties within the market relevant to the subject property involve purchases made by homeowners, rather than by investors. By definition, the development of the sales comparison approach indicates the market value of the subject property, and we note again that the Appellant has stipulated to the sufficiency and accuracy of the County's sales comparison approach. Accordingly, we give greater weight to the County's opinion of value for the subject property in determining its market value.

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

1. The Commission has jurisdiction over the parties and the subject matter of this appeal and has the authority to correct any assessment of real property when it 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. "True value" is defined in N.C. Gen. Stat. §105-283, and N.C. Gen. Stat. §105-317(a) provides specific elements of value that are to be considered when appraising real property in order to determine its true value.
3. N.C. Gen. Stat. §105-317 "has been interpreted as authorizing three methods of valuing real property: the cost approach, the comparable sales approach, and the income approach."⁵
4. The Appellant offered no evidence regarding the cost approach or the sales comparison approach, and offered little evidence as to the income approach, except for a description of the actual income experienced by the subject property and the Appellant's expected return on investment.

⁵ *In re Greens of Pine Glen Ltd.*, 356 N.C. 642, 648, 576 S.E.2d 316, 320 (2003)

5. Since the income approach requires the identification and analysis of market-based data in support of its development, and since the Appellant has provided none of the necessary data or analysis, the Appellant has not fully developed this method of valuation. Although the Appellant provided testimony tending to show that the County's value was substantially in excess of true value, and such testimony was based on the opinion of individuals apparently qualified to offer an opinion as to the value of the subject property, we ultimately determined that the Appellant's opinion of value for the subject property was not market, or true, value.
6. Even if the Appellant produced sufficient evidence to overcome the presumption of correctness of the County's assessment, the County was able to demonstrate that its methods produced true value by offering market-based evidence that the subject property's true value is consistent with the value at which it was assessed, and that the appraisal of the subject property was performed in compliance with recognized professional appraisal standards.

WHEREFORE, the Commission orders and decrees that the Board's decisions, determining that the value of the Gold Worthy parcel is \$167,500, and that the value of the Covelo Court parcel is \$205,000, both and each for the 2019 tax year, are hereby affirmed.



NORTH CAROLINA PROPERTY TAX COMMISSION

Robert C. Hunter, Chairman

Vice Chairman Wheeler and Commission Members
Guess and Michaux concur.

ATTEST:

Stephen W. Pelfrey, Commission Secretary

Date Entered: 6.24.2021