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:

BRYAN GRIFFIN and
CLARK D. HARBOLD,

19 PTC 0613

Appellants,

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

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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, January 13, 2021, pursuant to the Appellants' 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 William W. Peaslee, Alexander A. Guess, and June W. Michaux participating.

Attorney Robert S. Adden, Jr., appeared on behalf of Mecklenburg County ("County"). Bryan Griffin, one of the Appellants, appeared *pro se*.

STATEMENT OF THE CASE

The property under appeal ("subject") consists of a single unimproved residential lot owned jointly by the Appellants and situated between lots that each Appellant owns independent of the other. The subject lot is located at 4911 Fieldview Road in the city of Charlotte, and is identified by the County by Parcel # 18506204. The County conducted its most recent countywide reappraisal with an effective date of January 1, 2019.

The Appellants disputed the January 1, 2019 assessed value of the property as determined by the County, and appealed said value to the Mecklenburg County Board of Equalization and Review ("Board"). On October 22, 2020, the Board determined the value of the subject lot to be $382,500. The Appellants appeal from this decision of the Board, contending variously that the true value of the subject lot, as of January 1, 2019, was actually either $318,800 or $277,000.

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 Appellants carried their 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 Appellants' property; and

   (b) The assessed value substantially exceeded the true value of the property for the year at issue.

2. If the Appellants 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]

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

1. At the hearing, all exhibits submitted by the parties were admitted without objection.
2. The Appellants advance various contentions in furtherance of their value opinions. Initially, the Appellants contend that, in appraising the subject property, the County has relied in part

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[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.204 (2010).
[4] *In re Parkdale Mills*, 225 N.C. App.713, 741 S.E.2d 416 (2013).

on "demo sales," or sales of improved properties where the buyer demolishes the improvements shortly after the sale. The Appellants contend further that reliance on such sales is "both Arbitrary and Non-Reflective of True Market Price" (See Taxpayer Exhibit 8).

3. We have previously addressed the "demo sale" method, more accurately known as the market extraction method (see, for example, *Appeal of Glasgow*, 19 PTC 0422), and have determined it to be a recognized and logical technique for developing an indication of the market value for land. Accordingly, we do not address this contention further in this decision.
4. Referring to the *Glasgow* decision, the Appellants point to "multiple sales" language to suggest that the Commission's intent was to limit the validity of "demo sales" only to situations where there are multiple sales. To be clear, this suggestion is incorrect. In the *Glasgow* decision, we did note that there were multiple "demo sales," but the point is that a sale of this type is evidence of the value of the underlying land, regardless of the number of such sales. When there are multiple "demo sales," just as when there are multiple sales of any type, the collective data from all sales can be further used in analyzing the broader market.
5. At the hearing, the Appellants discussed several attributes of the subject property and its neighborhood, mentioning factors including the timing and effects of the local "Tree Save" ordinance; flooding issues in some areas of the neighborhood; the existence or lack of curbs and gutters in different areas; general volume of lot sales; whether or not lots had been subdivided; and the ability of lot owners to subdivide their lots, whether as the result of local ordinance or private restrictive covenants. Although we take notice of these various factors as presented, we are unable to glean any direct and specific market information from them, so as to apply any of these factors to the valuation of the subject property. Accordingly, these factors are not considered further in this decision.
6. Referring to Taxpayer Exhibit 5, the Appellants first discuss three nearby sales (labeled as property numbers 2, 3, and 4) that occurred in the last six months of 2018, just prior to the county reappraisal date of January 1, 2019. The Appellants characterize all three sales as "Tear Down" sales, which is an alternate term for "demo sales." Properties 2, 3, and 4 sold for $434,000, $419,000, and $345,000, respectively. The Appellants describe sale 2 as one in which the buyer "overpaid," and appear to consider this sale as irrelevant. Sale 4 is described as being situated on a creek, and is also apparently dismissed by the Appellants. Sale number 3 is described as "probably the only one the county is relying on," contending next that a single sale should not set the market valuation rate for the neighborhood as a whole. There is no analysis or even discussion as to why the prices for either Sale 2 or Sale 4 were not, or could

not be, adjusted to account for any differences they may have as compared to the subject lot, and we find it less productive to simply dismiss valid sales when they likely provide additional evidence of market conditions. We note, furthermore, that Sale 4 is the lowest sale price shown for all of the sales listed in Taxpayer Exhibit 5, and that the remaining two sale prices are well in excess of the assessed value of the subject lot. Even the median ($419,000) and average (approximately $399,300) of all three values both exceed the assessed value of the subject lot.

7. Sales 5 and 6 were not discussed at the hearing because they took place after the January 1, 2019 reappraisal date, and there was no evidence that an appropriate time adjustment of the sale prices had been considered[5]. Sales 7 and 8 from 2016 were not discussed in any detail, but we note that those sale prices, included in Taxpayer Exhibit 5, were for $408,000 and $410,000, respectively.
8. As to their final contention relating to Taxpayer Exhibit 5, the Appellants explain that Sales 9, 10, and 11 were of lots that were subdivided into two separate lots following the sale. The Appellants contend that the proper assessed value for each of the new subdivided lots should be exactly half of the original sale price. For example, the price for Sale 9, a single residential lot, was $400,000. Therefore, the Appellants contend that the two lots that were later created from the single lot should be assessed at $200,000 each. We disagree, and note that there is no evidence to support this notion.
9. It appears undisputed that the subject property is situated in a desirable area with an active real estate market. When buildable lots have value and are in finite supply, the ability to create multiple lots from a single lot not only increases the utility of the original land, but also provides new opportunities to purchase a scarce resource. A comprehensive review of appraisal theory is not necessary here, but in the context of this decision, we find that subdivision creates new value, and does not simply apportion the former value.
10. On page 81 within Taxpayer Exhibit 8, the Appellants extend the application of their theory regarding subdivided lots and conclude that, by averaging the evenly-divided sale prices for selected properties, the value of the subject property should be $277,000, or "at $350,000 worse case," where $350,000 was the 2015 purchase price of a single lot (we note that the subject lot was also purchased in 2015, for $285,000), and half of the $700,000 purchase price in 2016 of a lot that was later subdivided into two lots. We find that neither the $277,000

[5] See, e.g., *In re Lane Company-Hickory Chair Div.*, 153 N.C. App. 119, 571 S.E.2d 224 (2002)

opinion of value nor the "$350,000 worse case" value to be supported by any recognizable appraisal analysis.

11. The Appellants next consider the County's assessment of land in other neighborhoods (see Taxpayer Exhibits 6 and 7), contending that the subject property and its neighborhood should be assessed at land rates more similar to the lower rates assessed in those neighborhoods. The Appellants testified as to their opinion that those neighborhoods are similar in some ways as to location, as compared to the subject property's neighborhood. We recognize that differences in assessed values can be the result of arbitrary valuation, but they can also result from natural differences among the properties in question as to market areas and other value factors. Apart from general location comments, we have no evidence concerning, for example, market activity, zoning, and desirability for these neighborhoods, in order to adequately assess their differences and similarities.
12. The Appellants suggest further that the County may not have properly balanced the land and building values in its total assessments for all of the neighborhoods discussed. Again, there may be valid reasons for different land-building value proportions. Predominant structure type, size, and age, in addition to lot size and other neighborhood characteristics can all influence the proportional values between land and buildings. There is no evidence that would enable us to determine either that the land and building values are improperly proportioned, or even that the total values are incorrect.
13. The County's witness testified that the subject property's neighborhood had been reviewed and adjusted for the 2020 tax year, with the result being that the subject property was now assessed at $380,000 for 2020, and should actually have been assessed at $380,000 for 2019, but for a misapplication of the County's Schedule of Values for the 2019 reappraisal.
14. The County offered further testimony that all three 2018 sales referenced by the Appellants in Taxpayer Exhibit 5 (and discussed in more detail above) were supportive of at least the $380,000 value for the subject property, due to their proximity to the subject property in terms of of location, time, and type. The County further referenced a sale (see County Exhibit 3), situated across the street behind the subject property, which sold for $400,000 in 2017 as a "tear down," and now was improved with a custom home valued at $1,800,000.
15. In response to the Appellants' contention that the subject property's neighborhood should be assessed at the same level as two other neighborhoods, the County's witness testified that the three neighborhoods are not part of the same market, as indicated by the review of sales in each neighborhood. The County's witness testified further that the same methods had been used in

reviewing comparable sales and in calculating market-extraction land values, but that the sales in those neighborhoods simply reflected different market prices than the subject neighborhood.

16. The County's witness testified that the County's appraisal had been conducted in compliance with the Uniform Standards of Professional Appraisal Practice; with standards developed by the International Association of Assessing Officers; and with the Uniform Schedules of Values, Standards and Rules adopted by the County for the 2019 reappraisal.
17. The County's witness further testified as to his opinion that the true value of the subject property as of January 1, 2109, was $380,000, as supported by market data such as that described above.

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."[6]
4. The Appellants offered no evidence regarding the cost approach or the income approach, and offered little evidence as to the sale prices of properties that they considered comparable to the subject properties, although they did appear to agree that at least one sale at $149,000 was for a comparable property. Most of the evidence offered as to other properties involved the discussion of relative assessed values and the Appellants' contention that the values of lots resulting from subdivision was no more than the original parcel value divided by the number of resulting lots.
5. Since the sales comparison approach requires the identification of comparable properties that sold during a relevant time period, and market-based adjustments to those sales in order to address any differences between the sold properties and the subject property, and since the Appellants have provided none of the required data or analysis, the Appellants have not developed this method of valuation. Thus, the Appellants did not provide competent,

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

material, and substantial evidence regarding the three authorized methods of valuing real property. Accordingly, we find that the Appellants did not offer competent, material and substantial evidence that the County's values were either arbitrary or illegal, and substantially in excess of true value.

6. The County has stipulated that the subject property should actually be assessed at a value of $380,000 for the year under appeal. Even if the Appellants produced sufficient evidence to overcome the presumption of correctness of the County's $382,500 assessment, the County was able to demonstrate that its methods produced true value by offering evidence that the subject property's true value is at least 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 2019 tax value of the subject property is $380,000, and that the Mecklenburg County abstracts and tax records be changed to give effect to this decision.

NORTH CAROLINA PROPERTY TAX COMMISSION

Robert C. Hunter, Chairman

~~Vice Chairman Wheeler and Commission Members~~ Peaslee, Guess, and Michaux concur.

ATTEST:

Stephen W. Pelfrey, Commission Secretary

Date Entered: 3.22.2021