

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
11 PTC 838

IN THE MATTER OF:
THE APPEAL OF: **Denny E. and
Deborah C. King** from the decision
of the Haywood County Board of
Equalization and Review regarding
the valuation of certain real property
for tax year 2011.

FINAL DECISION

This matter came on for hearing before the Property Tax Commission (“Commission”) sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina at its regularly scheduled session of hearings on Friday, January 18, 2013 pursuant to the appeal of **Denny E. and Deborah C. King** (“Appellants”). Appellants are appealing the decision of the 2011 Haywood County Board of Equalization and Review (“County Board”) regarding the valuation of certain real property for tax year 2011.

Chairman Terry L. Wheeler presided over the hearing with Commission members Aaron W. Plyler and Nancy R. Stallings participating.

Appellants appeared at the hearing *pro se*. Charles Meeker, with the law firm of Parker, Poe, Adams, and Bernstein appeared at the hearing on behalf of Haywood County.

STATEMENT OF THE CASE

The property under appeal is a single-family residence situated on a parcel consisting of 3.1 acres that is located at 296 Rough Water Point, Canton, Haywood County, North Carolina.

In its general reappraisal of real property, effective January 1, 2011, the Haywood County Tax Assessor assessed the subject property at a total value of \$210,900. Appellants challenged the tax assessment by filing an appeal with the Haywood County Board of Equalization and Review (“County Board”). By decision mailed on September 2, 2011, the County Board reduced that tax assessment to a total value of \$205,100. From the County Board’s decision, Appellants filed an appeal with the Commission, and requested a hearing as provided in N.C. Gen. Stat. § 105-290 (2011).

In the Application for Hearing, Appellants contend that the County Board failed to consider the assessed values of like properties during its 2011 reappraisal and failed to act in accordance with Haywood County’s 2011 schedule of values, standards, and rules when assessing the subject property at a total value of \$205,100. As such, Appellants contend that the value of the subject property was \$165,232 as of January 1, 2011.

Haywood County contends that the subject property was appraised in accordance with the County’s duly adopted schedule of values, standards, and rules for the 2011 reappraisal.

Haywood County further contends, based on its analysis of comparable properties, in like neighborhoods, that the subject property has not been appraised in excess of its true value, nor has it been assessed inequitably with neighboring properties. Haywood County further asserts that in its appraisal of the subject property, all important factors affecting the value of the property have been considered, and asks that the value determined by the local board be affirmed.

ANALYSIS AND ISSUES

A county's *ad valorem* tax assessment is presumptively correct.¹ The taxpayer rebuts this presumption by presenting "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 If the taxpayer rebuts the initial 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:

1. Did Appellants carry their burden of producing competent, material and substantial evidence tending to show that:
 - (a). Haywood County employed an arbitrary or illegal method of appraisal in reaching the property tax value for Appellants' property, and
 - (b). The County Board assigned a value that is substantially greater than the true value in money of the subject property?
2. If Appellants produce evidence as to both (a) and (b) above, then what was the true value in money of the subject property as of January 1, 2011?

FROM APPELLANTS' APPLICATION FOR HEARING; ANY STIPULATIONS AND EVIDENCE PRESENTED, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The property under appeal is a single-family residence situated on a parcel consisting of 3.1 acres that is located at 296 Rough Water Point, Canton, Haywood County, North Carolina.
2. In its general reappraisal of real property, effective January 1, 2011, the Haywood County Tax Assessor assessed the subject property at a total value of \$210,900.
3. Appellants challenged the real property tax assessment by filing an appeal with the Haywood County Board of Equalization and Review ("County Board").
4. By decision mailed on September 2, 2011, the County Board reduced that tax assessment to a total value of \$205,100. From the County Board's decision, Appellants filed an

¹In re Amp, Inc., 287 NC 547, 215 S.E.2d 752 (1975).

²Id.

³In 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).

appeal with the Commission, and requested a hearing as provided in N.C. Gen. Stat. § 105-290 (2011).

5. Haywood County is 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 (2011). Market value is defined in the statute as:

“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 to 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.”

6. At the hearing, Appellants provided evidence⁴ that Haywood County overvalued their property, and that the value assigned to the subject property by the County Board should, in their opinion, be reduced by thirty percent (30%) to recognize the watershed issues associated with the property.
7. At the hearing, the Commission also heard testimonial evidence by Mr. James Messer.⁵ Mr. Messer testified that Haywood County did consider the 2011 schedule of values, standards, and rules when assessing the subject property, and that the value assigned by the County Board was consistent with the values assessed to similarly situated properties when considering Haywood County’s 2011 general reappraisal.
8. Accordingly, after hearing and considering the evidence presented by the parties, the Commission determined that the value of \$205,100 assigned to the subject property by the County Board did not reflect true value of the property as of January 1, 2011. Consequently, the Commission determined that the market value of the property was \$172,200 as of January 1, 2011.

BASED UPON THE FOREGOING FINDINGS OF FACT, THE COMMISSION MAKES THE FOLLOWING CONCLUSIONS OF LAW:

1. A county’s *ad valorem* tax assessment is presumptively correct. The taxpayer rebuts this presumption by presenting 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.⁶ If the taxpayer rebuts the initial presumption, then the burden shifts to the taxing authority to demonstrate that its methods produce true values.⁷

⁴Hearing Testimony of Appellant, Mr. Denny E. King.

⁵ Mr. Messer is a Real Property Appraiser employed by the Haywood County Tax Department.

⁶*In re Amp, Inc.*, 287 NC 547, 215 S.E.2d 752 (1975).

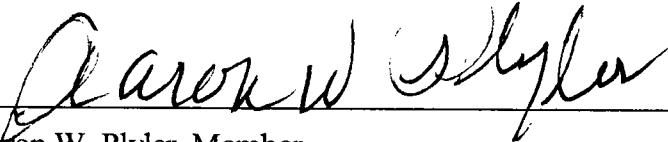
⁷*In re IBM Credit Corp. (IBM Credit II)*, 201 N.C. App. 343, 689 S.E.2d 487 (2009), disc. review denied and appeal dismissed, 363 N.C. 854, 694 S.E. 2d 204 (2010).

2. In this appeal, Appellants did present evidence tending to show that the county tax supervisor used an arbitrary method of valuation; and that the county's assessment substantially exceeded the true value in money of the property.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION THEREFORE ORDERS that the value assigned to the subject property by the Haywood County Board of Equalization and Review is **modified**; and Haywood County shall revise its tax records as may be necessary to reflect the Findings of Fact and Conclusions of Law of the Commission arriving at a total valuation of \$172,200 for the subject property as of January 1, 2011.

NORTH CAROLINA PROPERTY TAX COMMISSION



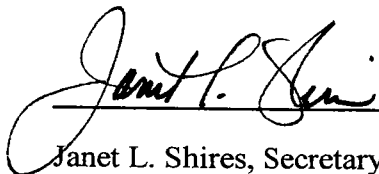


Aaron W. Plyler, Member

Commission member Stallings concurs. Chairman Wheeler respectfully dissents. Vice Chair Dixon and Peaslee did not participate in the hearing or deliberation of this appeal.

Entered: June 21, 2013

ATTEST:



Janet L. Shires, Secretary and General Counsel