

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
07 PTC 891

IN THE MATTER OF:
APPEAL OF: **W. Henry Edwards**
from the decision of the Rutherford
County Board of Equalization and
Review concerning the valuation of
certain property for tax year 2007

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 in the City of Raleigh, Wake County, North Carolina, at its regularly scheduled Session of Hearings on Wednesday, June 17, 2009. It involves the appeal of **W. Henry Edwards** ("Appellant") from the decision of the Rutherford County Board of Equalization and Review ("County Board").

Chairman Terry L. Wheeler presided over the hearing with Vice Chairman Anthony L. Young and Commissioners R. Bruce Cope and Wade F. Wilmoth participating.

The Appellant appeared at the hearing pro se. Attorney Shelley T. Eason appeared at the hearing on behalf of Rutherford County.

STATEMENT OF CASE

The property under appeal is located at 722 Duncan Road, Rutherfordton, North Carolina. The Rutherford County Tax Office identifies the property under appeal as pin number 16-35663. On June 11, 2007, the Rutherford County Board of Equalization and Review assigned a value of \$561,900 to the subject property. From the County Board's decision, the Taxpayer filed an appeal to Property Tax Commission.

In the Application for Hearing, the taxpayer contends that the subject property has been appraised in excess of true market value because Rutherford County is taxing property that is in the right of way. The County contends that the subject property has been appraised in accordance with the County's duly adopted schedule of values for the 2007 reappraisal because the schedule of values, standards and rules does not include a factor for the reduction of assessed value of property due to the state right of way. The County asserts that in its appraisal of the subject property, the pertinent factors affecting market value of the property have been considered, and ask that the value determined by the local board be affirmed.

ISSUE

In the Order on Final Pre-Hearing Conference, the parties did not agree on the issue to be presented to the Commission. The issue considered by the Commission is stated as follows:

Whether the County used an arbitrary or illegal method of valuation when assessing the Appellant's property and, if so, whether Rutherford County's assessed value substantially exceeds the true value in money of the property as of January 1, 2007.

AFTER CONDUCTING A HEARING IN THIS MATTER, AND CONSIDERING ANY STIPULATIONS, 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 property subject to this appeal is located at 722 Duncan Road, Rutherfordton, North Carolina and consists of approximately 328 acres. Of the 328 acres, eight (8) acres is the subject of this appeal because of the right of way easement.
3. Effective January 1, 2007, Rutherford County assessed a total value of \$561,900 to the subject property. The Appellant challenged Rutherford County's assessment of the subject property by filing an appeal to the County Board. After conducting a hearing, the County Board affirmed Rutherford County's assessment of the property. From the County Board's decision, the Appellant filed an appeal to the Commission and requested a hearing.
4. When presenting his appeal to the Commission, the Appellant argued that Rutherford County's assessment of his 328 acres of land included eight (8) acres that were subject to a highway right of way easement. As such, the eight (8) should not be taxed by Rutherford County.¹
5. At the hearing, the Commission heard testimony from the County's witness that 13 up to 15 acres of Appellant's land were subject to the highway right of way easement.
6. The Commission also heard testimony that Rutherford County's current tax system was not capable of excluding property that was situated within the highway right of way easements from the tax base under the current reappraisal.

¹ Mr. W. Henry Edwards believed that the highway right of way easement only included eight (8) acres of land.

7. The Commission also heard testimony that Rutherford County would be capable of excluding property within the highway right of way easements when the new system designed for the county's next general reappraisal is placed on line. As such, under the new system, property within highway right of way easements would be excluded from the tax base within the county.

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

1. When an appellant challenges the county's assessment of his property, he is required to produce evidence that tends to show that the County relied on an illegal or arbitrary valuation method and that the assessment substantially exceeds true value of the property.²

2. 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.³

3. After considering all of the testimony, reviewing the exhibits offered at the hearing, the Commission concludes that the County did use an arbitrary method of valuation; and that the assessment of the subject property did substantially exceed the true value in money of the property as of January 1, 2007.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION THEREFORE ORDERS that the decision of the Rutherford County Board of Equalization and Review assigning a total value of \$561,900 to the Appellant's property, as of January 1, 2007, is reversed; and Rutherford County is instructed to revise its tax records to reflect a downward adjustment subtracting up to 15 acres within the highway right of way from the valuation of Appellant's property. Rutherford County is instructed to apply its schedule of values, standards and rules to determine the valuation of the subject property.

Ordered by the Commission Wednesday, June 17, 2009

² *In re Amp, Inc.*, 287 N.C. 547, 215 S.E.2d 752 (1975). *In re Appeal of IBM Credit Corporation*, 186 App. ___, 650 S.E.2d 828 (2007), aff'd per curiam, 362 N.C. 228, 657 S.E.2d 355 (2008).

³ *In re Appeal of IBM Credit Corporation*, 186 App. ___, 650 S.E.2d 828 (2007), aff'd per curiam, 362 N.C. 228, 657 S.E.2d 355 (2008).



NORTH CAROLINA PROPERTY TAX COMMISSION

Terry L. Wheeler, Chairman

Vice Chairman Young and Commissioners Cope and Wilmoth
concur.

ENTERED: October 6, 2009

ATTEST:

Janet L. Shires, Secretary