

This is an informational bulletin only. Please refer to the North Carolina Administrative Code for the specific Property Tax Commission Rules at <http://www.dornc.com/practitioner/administrativecode.html>. (See Title 17, Chapter 11.). Names and addresses for the County Assessors and County Attorneys are available at: <http://www.dornc.com/taxes/property/counties.html>.

THE NORTH CAROLINA PROPERTY TAX COMMISSION

Creation, Powers and Duties

The Property Tax Commission is constituted as the state board of equalization and review for the valuation and taxation of property in the State. It is authorized to hear appeals from listing and appraisal decisions of county boards of commissioners and boards of equalization and review and from orders of county boards of commissioners adopting schedules, standards and rules for use in revaluation programs. It also hears appeals by public service companies from the valuation of their property by the Department of Revenue, and appeals from decisions of county boards of commissioners denying requests for refund of overpayment of tax. (N. C. Gen. Stat. §§ 105-288, 290, and 228.37).

Membership and Staff

The Commission is composed of five members: three are appointed by the Governor and one each by the Senate President Pro Tempore and Speaker of the House. The terms of the members are for four years and expire on June 30. The Chairman is designated by the Governor and the Vice-Chairman is elected by the Commission members. A majority of the members constitute a quorum for the transaction of business (N. C. Gen. Stat. § 105-288).

The staff of the Property Tax Division has been designated by the Secretary of Revenue as staff to the Property Tax Commission. In this capacity, a staff valuation specialist will make contact with each property owner who appeals to the Property Tax Commission. This contact may be by telephone or in writing. A staff member will attempt to review the appeal with the property owner and the county assessor to determine the issues to be decided by the Commission; and, in some cases, will make a personal inspection of the property under appeal. For appeals that are not withdrawn or otherwise resolved, the staff member explains procedures and answers questions concerning the presentation of an appeal before the Commission (N. C. Gen. Stat. § 105-288).

Grounds of Appeal

Listing decisions may be appealed on the grounds that (1) the property listed is not taxable, (2) the property has been assessed against the wrong person, or (3) procedural requirements have not been met.

Valuation decisions by county officials are presumed to be correct. As a result of this presumption, when such assessments are attacked or challenged, the burden of proof is on the taxpayer to show that the assessment was erroneous. [See *In re Bosley*, 29 N.C. App. 468, 224 S.E.2d 686, cert. denied, 290 N.C. 551, 226 S.E.2d 509 (1976)]. Because of this presumption, a taxpayer seeking to challenge an assessment bears the burden of producing evidence to show that the county's assessment is erroneous. A taxpayer may rebut the presumption by producing competent, material and substantial evidence that tends to show: (1) either the county assessor used an arbitrary method of valuation; or (2) the county assessor used an illegal method of valuation; and (3) the assessment substantially exceeded the true value in money of the property. [See *In re AMP, Inc.*, 287 N.C. 547, 215 S.E.2d 752 (1975)]. After the taxpayer 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. [See In re Appeal of IBM Credit Corporation, 186 App. 223, 650 S.E.2d 828 (2007), aff'd per curiam, 362 N.C. 228, 657 S.E.2d 355 (2008) and In re Appeal of Southern Railway Co., 313 N.C. 177, 328 S.E.2d 235 (1985)].

"It is not enough for the taxpayer to show that the means adopted by the assessor were wrong; he must also show that the result arrived at is substantially greater than the true value in money of the property assessed, i.e., that the valuation was unreasonably high." [Refer to In re Highlands Dev. Corp., 80 N.C. App. 544, 342 S.E.2d 588 (1986)].

Notwithstanding this language, appellants should state the reason for the appeal in detail. Appeals cannot be based solely on the percentage of increase in value nor change in value from the previous appraisal, the amount of taxes incurred as a result of the present assessment, nor the economic ability of the owner to pay the anticipated tax.

Orders adopting schedules, standards and rules may be appealed on the ground that their application will not result in the appraisal of all real property in the county at its true value in money.

Timely Appeal

Appeals to the Property Tax Commission from orders of the board of equalization and review or from the board of county commissioners shall be filed* within thirty (30) days after said board has mailed notice of its decision. In the absence of other information, the date of the board's notice is deemed to be the mailing date (N. C. Gen. Stat. § 105-290(e)). **A faxed copy is not acceptable.**

Appeals to the Property Tax Commission concerning schedules of value shall be filed within thirty (30) days of the date the order adopting the schedules, standards, and rules was first published as required by N. C. Gen. Stat. § 105-317(c). **A faxed copy is not acceptable.**

*A notice of appeal submitted to the Property Tax Commission by a means other than United States mail is considered to be filed on the date it is received in the office of the Commission. A notice of appeal submitted to the Property Tax Commission by United States mail is considered to be filed on the date shown on the postmark stamped by the United States Postal Service. If an appeal submitted by mail is not postmarked by the United States Postal Service or the United States Postal Service postmark does not show the date of mailing, the appeal is considered to be filed on the date it is received in the office of the Commission. A property owner who files an appeal with the Commission has the burden of proving that the appeal is timely (N. C. Gen. Stat. § 105-290(g)).

Conduct of Hearings

Hearings before the Commission are "de novo" (new hearings) and are not merely a review of the hearing before the county board. The hearings are generally held in Raleigh, N.C., and are conducted under the rules of evidence as practiced in the general courts of justice of the State. A court reporter records all hearings but the record is not transcribed unless requested and paid for by one or both of the parties. Following the hearing, the Commission will issue a decision setting forth its findings of fact and conclusions of law.

Appeals of Property Tax Commission Decisions

Appeals of Commission decisions or orders are to the North Carolina Court of Appeals and are based on the record made at the Commission hearing. A notice of appeal and exceptions to the N. C. Court of Appeals will be deemed timely filed if ***received*** in the office of the Property Tax Commission within thirty (30) days after the entry of the final decision or order of the Commission. This notice shall include exceptions which set forth specifically the ground or grounds upon which the party is appealing the order or decision. The appealing party shall furnish copies of the notice of appeal and exceptions to each party

to the proceeding. The appealing party is directed to N. C. Gen. Stat. § 7A-29 which sets forth the procedures for appeal to the Court of Appeals (N.C. Gen. Stat. § 105-345).

Commission Rules and Procedures (See N.C.A.C. T17: 11 TOC-1)

In order to establish the necessary requirements for administering the appeal process, the Property Tax Commission has adopted the following procedures:

1. **Notice of Appeal and Application for Hearing** may be filed with the Commission by the following:
 - a. Property owner or party having an ownership interest in the property;
 - b. Attorney representing the property owner who is licensed to practice law in the State of North Carolina;
 - c. Attorneys who are licensed to practice law in North Carolina may sign the notice of appeal and application for hearing on behalf of the taxpayers that they represent;
 - d. General Partner, if property owner is a partnership;
 - e. Officer of corporation or attorney for corporation, if property owner is a corporation;
 - f. Any taxpayer in the county where the subject property is situated.

Note: A tax representative or agent is not authorized to prepare and sign the Notice of Appeal and Application for Hearing (Form AV-14).

2. A copy of the letter acknowledging the Notice of Appeal and Application for Hearing will be sent to the county assessor and to the county attorney. The county attorney will be allowed 20 days from the receipt of the completed Notice of Appeal and Application for Hearing (Form AV-14) to file a written Answer to the appeal. A copy of the Answer shall be sent to the appellant at the same time. The County's failure to file an Answer, however, shall not constitute a waiver of the County's rights or an admission of the appellant's allegations.
3. A Notice of Appeal and Application for Hearing (Form AV-14) submitted to the Property Tax Commission by a means other than United States mail is considered to be filed on the date it is received in the office of the Commission. A Notice of Appeal and Application for Hearing (Form AV-14) submitted to the Property Tax Commission by United States mail is considered to be filed on the date shown on the postmark stamped by the United States Postal Service. If a Notice of Appeal and Application for Hearing (Form AV-14) submitted by mail is not postmarked by the United States Postal Service or the United States Postal Service postmark does not show the date of mailing, the Notice of Appeal and Application for Hearing (Form AV-14) is considered to be filed on the date it is received in the office of the Commission. A property owner who files a Notice of Appeal and Application for Hearing (Form AV-14) with the Commission has the burden of proving that the Notice of Appeal and Application for Hearing (Form AV-14) is timely. **A faxed copy is not acceptable.**
4. Appellants must fully complete the Notice of Appeal and Application for Hearing (Form AV-14) and provide any documentation or evidence in their possession which supports both their grounds for appeal and their opinion of value. Examples of appropriate evidence include appraisal reports (*N. C. Gen. Stat. § 93E-1-2.1: As of October 1, 1995, any person engaging in the real estate appraisal business must obtain a license or certificate from the Appraisal Board.*), evidence of sales of comparable or similar property, non-returnable photographs (particularly those showing a factual condition not considered in the county's appraisal), and documentation which clearly identifies an item which affects the value of the property under appeal, such as zoning orders, health department reports or percolation tests, etc.
5. At least 10 days prior to the date of the hearing, each party to the appeal shall furnish to the Secretary of the Commission six copies of all documents to be introduced at the hearing, including maps, pictures, property record cards and briefs. This requirement may be modified by the Commission if it is shown that compliance would cause an undue hardship on one or both parties.

(*Example:* Only one copy of large items (e.g. Tax Maps) is required.) Each party to the appeal shall also exchange one copy of all documents as indicated above at least 10 days prior to the hearing date. Failure to comply with this requirement may result in the appeal being dismissed.

IMPORTANT: All notices, briefs and other similar documents filed with the Commission should be on letter-size (8 1/2 x 11) paper.

6. Parties will be required to enter into a pre-hearing order before an appeal will be heard. This order will include stipulations, if any, of the parties; lists of exhibits and witnesses; and a concise statement of the issue or issues to be considered by the Commission. The Secretary of the Commission will furnish a sample order to all appellants. The Commission urges that the parties stipulate to all uncontroverted essential facts and agree upon the qualifications of expert witnesses in the order. The appellant shall forward six copies of the executed order to the Secretary at least 10 days prior to the date of hearing. Failure to comply with this requirement may result in the appeal being dismissed.
7. Approximately 50 days prior to a proposed Commission session, the Secretary of the Commission will mail to affected parties a proposed hearing notice showing the tentatively scheduled dates for hearing their appeal. Any party objecting to the dates set for hearing an appeal must so notify the Secretary in writing setting forth the specific objections in the form of a "motion for continuance." Such motion must be filed within 10 days of the mailing of the proposed hearing calendar. The Commission or its Chairman will rule on motions for continuances timely made. The final hearing notice showing the exact time and date of the hearing will be mailed approximately 20 days before the beginning of a session. In some cases, the appeal may be placed on a Pre-Hearing Calendar, notice of which will be self-explanatory.
8. The Commission is authorized to subpoena documents and witnesses for appeals that are set for hearing. The travel expenses of any witness subpoenaed and the cost of serving any subpoena shall be paid by the party that requested the subpoena (N. C. Gen. Stat. § 105-290). The Commission is also authorized to consider motions to quash the subpoena as provided in N. C. Gen. Stat § 105-290(d). Upon filing a motion to quash the subpoena, the Commission shall convene a hearing as provided in N. C. Gen. Stat. § 105-290(d1).
9. Individual taxpayers are entitled to represent themselves before the Commission but may not be represented before the Commission by any person not admitted to practice law in this state. The hearings are governed by the rules of evidence as practiced in the courts. Corporate taxpayers and counties must be represented by an attorney licensed to practice law in North Carolina. An appellant represented by an attorney who is a member of a law firm is urged to see that another member of the firm be prepared to present his case in the event the primary attorney is unable to attend the hearing.
10. All parties, attorneys and witnesses shall be present for the hearing of their case at least 30 minutes before the time it is scheduled.
11. Communications with the Commission should be addressed to:

Janet L. Shires, General Counsel
N. C. Property Tax Commission
P. O. Box 871
Raleigh, North Carolina 27602
Telephone: (919) 733-7711