

**Public Comment for County Commission Meeting  
June 6, 2011**

The following is a dialog of sorts between North Carolina Department of Justice Assistant Attorney General Mark Teague and me.

I initiated the dialog with a query sent to him on May 20, 2011. This dialog continued when he responded to my query on May 31, 2011, and ended with my thanking him for his response on June 3, 2011.

The pages include a summary of the dialog, in chronological order.

I intend to read the last document, my thank you letter of June 3, 2011 during the Public Comment Session at the June 6<sup>th</sup> county commission meeting.

Monroe A. Miller Jr.

Monroe A. Miller, Jr.  
19 Big Spruce Lane  
Waynesville, NC 28786  
(828) 456-3718  
May 20, 2011

Mark Teague  
Assistant Attorney General  
Property Control Section  
State of North Carolina  
**Department of Justice**  
P.O. Box 629  
Raleigh, NC 27602

Dear Mr. Teague,

There is a problem here in Haywood County regarding overall property values and I am seeking your guidance and opinion on what to do. To provide a little background, several events are happening concurrently:

- The proposed county budget was submitted Monday, and will have to be passed by the end of June,
- The county commissioners decided to do a property revaluation this year, even though it was not required until 2014,
- The Revenue-Neutral Tax Rate Calculation has just been submitted with the proposed budget,
- Many taxpayers are incensed with the results of the revaluation for reasons too numerous to list here, have submitted to an informal hearing, and will now begin the process of having to beg to get their assessment back to where it should be before a Board of Equalization and Review.

Your letter to Stephen Martin on April 13, 2011 (attached) regarding some of his clients was brought to my attention. Simultaneously, I was presented with a spreadsheet of sorts created by either Judy Ballard, Haywood County Tax Assessor or David Francis, the Haywood County Tax Collector, (attached - no title or author shown) and the two documents are diametrically opposed to each other.

Reiterating your comments in your letter to Stephen Martin:

“... Further, in the thirty (30) months since the completion of the appraisal, real estate values have dropped precipitously. Indeed, the State Property Office is of the opinion that there has been a minimum diminution in the real estate market of approximately thirty (30) percent. ...”

The spreadsheet created by Judy Ballard or David Francis begins in the year 2006, the year of the last revaluation in Haywood County, and ends in 2011, showing partial results of the informal appeals of the revaluation. The total property value always increases each year. There is never a downward trend, especially during the last thirty (30) months.

“Why?”, I asked myself.

I spoke to Judy Ballard yesterday, and asked her that question. She indicated that there are two inputs she uses to create the spreadsheet:

- The pre-bill. That is the sum of all tax bills sent to taxpayers each year. Since they don't change each year (unless there is a change in the actual tax rate), that is basically a constant or baseline number, and

- New Construction. Each year, values of new construction are added to the sum of the pre-bills.

Why doesn't the spreadsheet reflect your statement about property values decreasing precipitously over the last 30 months, I asked myself.

The reason is that, based on the criteria Judy Ballard or David Francis are using to establish overall property values in Haywood County, the number can only go up! There is no mechanism to ever reduce the number.

Of equal significance, it appears this spreadsheet forms the basis for the overall property values used in the CAFR (Certified Annual Financial Report). The CAFR values are used in the Revenue-Neutral Tax Rate Calculation.

I plotted several of these variables on my own little spreadsheet (attached) and created a graph (attached). They include:

- A baseline of 5.963 bn, the Pre-bill's, which extends the entire time period,
- The total values for each year of Ballard's spreadsheet,
- A curve depicting a reduction of the baseline starting in 2008 to 2011 dropping a total of 30%,
- Superimposing the rise due to new construction on the modified baseline.

The resultant plot now looks more like the standard curve you see that is typical of what is happening nationally, or on web sites such as Zillow.com. I have never seen a similar county that resembles the La-La Land depicted by David Francis' or Judy Ballard's total property value curve.

Finally, I added a final set of data from the county's CAFR (attached for each year). It contains an item called Secondary Market Disclosures, which include an item called Total assessed valuation. This Total assessed valuation is the sum of Real property, Personal property, and Public Service companies. The values closely mirror David Francis's values, but are generally a little higher, taking into account the addition of personal property and public service companies. The trend of the curve is nearly identical to the David Francis values.

The problem, and the main reason for my letter to you, is that the CAFR values are used in the Revenue-Neutral Tax Rate Calculation (attached).

I contend that the CAFR values, which appear to have been adapted from the values created by Judy Ballard and David Francis are fatally flawed, in that they do not reflect the decrease in property values of 30% over the past 30 months you indicated that were the opinion of the State Property Office.

I spoke with David Francis about my concerns this morning. As far as his spreadsheet never decreasing, he indicated that if there was a fire and a building burned down, that would be removed. (I suppose this would be removed from the pre-bill portion, as you would have difficulty collect tax from a person whose building has burned down). As far as the statements in your letter, he had the following comments:

- What does the Attorney General know about property values?
- He never heard of the "State Property Office".
- His said your statement was not specific about this applying to all of Haywood County, and
- "I'll take this under advisement".

I asked what the next step was, and since he did not seem to have one, I offered to get a clarification from you. I don't have to convince you that there has been a 30% drop in property values over the past 30 months, you are the one who told us.

I have also included a newsletter I create and post on the internet (attached), and it contains a summary of the property value numbers discussed here for all to see, and also a tutorial regarding what Revenue-Neutral really means to the taxpayers of Haywood County.

The consequence of applying the precipitous drop in property values, as you have indicated, should mean that taxpayers should be paying less property taxes. This method David Francis and Judy Ballard have chosen to what appears to keep an artificially high property value in place seems to me to be unfair to Haywood County Taxpayers.

I would appreciate your looking into this matter and letting me know your comments.

Sincerely,

Monroe A. Miller, Jr.  
Haywood County Taxpayer.

enc:

- Your letter to Stephen Martin on April 13, 2011
- A spreadsheet of sorts created by either Judy Ballard or David Francis
- My own little spreadsheet, Haywood County Revaluation Problem, May 20, 2011
- Haywood County CAFR's
- Revenue-Neutral Tax Rate Calculation
- Toeprints, Vol #2, Issue #18



State of North Carolina

ROY COOPER  
ATTORNEY GENERAL

Department of Justice  
PO Box 629  
Raleigh, North Carolina  
27602

Reply to: G. Mark Teague  
Property Control Section  
Telephone: (919) 716-0154  
FAX: (919) 733-2947  
[gteague@ncdoj.gov](mailto:gteague@ncdoj.gov)

April 13, 2011

Mr. Stephen J. Martin  
Stephen J. Martin, P.A.  
492 South Main Street  
Waynesville, North Carolina 28786

**VIA TELEFAX AND FEDEX OVERNIGHT DELIVERY**

Re: [REDACTED] v. [REDACTED]; [REDACTED];  
[REDACTED]; and the State of North Carolina  
06-SP-54

Dear Steve:

I apologize for my delay in responding to your correspondence of March 29. In your letter you stated that your clients, Jim and Eileen [REDACTED] would be willing to deed their undivided 1/14th interest in the three tracts comprising the approximately 42 acres that is the subject of the present partition action (the "Property") for the sum of \$40,000.00.

The State commissioned Douglas K. Gibson of Suncrest Appraisal Service to appraise the Property in 2008. This appraisal has an effective date of December 3, 2008 and was completed at a cost to the State of \$5,000.00. I have attached the compilation of analysis from the appraisal report (I will send a full copy of the nearly 100 page appraisal to you via overnight delivery). A copy of the State's appraisal will also be provided to the other co-tenants at their request. On or about April 7, 2010, the State Property Office authorized Mr. Gibson to provide a copy of its appraisal to the commissioners appointed in the present partition action. We were under the impression that the commissioners would provide this appraisal to the new appraiser that they were to engage.

You will note that the appraisal indicates that the total value of the Property, not including improvements, is \$594,800.00. The State contends that this value determination was not accurate as to all of the tracts comprising the Property at the time the appraisal was conducted and that it also would not be reflective of the current value of the Property. The appraiser arrived at a value for the 26.707 acre tract (PIN [REDACTED]-8499) by assuming that access to Lake Logan Road could be gained by constructing a bridge over the Pigeon River. There is insufficient evidence to justify the appraiser's assumption that a bridge over the Pigeon River is either physically possible or legally permissible. As the construction of a bridge over the Pigeon River to access the 26.707 acre tract

Mr. Stephen J. Martin  
April 13, 2011  
page 2

is not a viable possibility, the State Property Office believes that at time the appraisal was completed a more accurate value of this tract would have been \$10,000 per acre or \$267,000.00.


\*

Further, in the thirty (30) months since the completion of the appraisal, real estate values have dropped precipitously. Indeed, the State Property Office is of the opinion that there has been a minimum diminution in the real estate market of approximately thirty (30) percent. For these reasons, it is the State's position that the current value of the Property, less improvements, is approximately \$300,000. Thus, the State cannot accept your clients' proposal to purchase their 1/14th undivided interest in the Property for \$40,000.

\*

~~XXXXXXXXXX~~

We look forward to your response concerning the State's offer to purchase your clients' interest in the Property.

Sincerely,  
  
G. Mark Teague  
Assistant Attorney General

GMT/s  
enclosures

**MAY 19 2011**

*Does not include  
Blaine bridge*

	2006	2007	2008	2009	2010	2011	5/16/2011
Town of Canton	251,787,800	254,174,750	258,572,880	259,788,150	266,287,980	271,208,300	262,488,000
Beaverdam	538,446,260	559,839,350	577,726,240	588,200,210	594,570,860	617,505,490	601,381,190
Cataloochee	5,753,480	5,988,140	6,215,410	6,486,610	6,629,790	6,675,800	6,602,700
Cedell	52,823,372	54,457,482	57,868,552	58,604,062	57,548,162	58,406,200	57,682,400
Town of Clyde	56,763,540	58,487,500	60,818,560	62,193,770	63,281,220	67,554,900	66,376,200
Clyde Out	345,840,700	356,481,340	366,148,920	369,871,675	349,238,075	341,393,000	337,260,400
Crabtree	258,678,120	269,605,420	282,056,650	302,801,150	298,868,070	286,951,500	281,458,300
East Fork	173,245,050	202,927,680	207,512,670	211,640,890	213,409,580	206,637,600	195,478,800
Fines Creek	184,088,820	202,042,780	208,801,480	217,325,360	225,356,260	198,430,700	192,865,800
Iron Duff	132,868,560	156,857,910	169,848,320	179,210,740	184,630,120	186,182,700	162,673,700
Jonathan Creek	359,840,360	382,322,710	413,003,080	431,309,560	504,835,030	502,777,500	489,021,300
Town of Maggie	268,741,570	289,655,170	331,591,700	386,358,510	390,827,020	388,006,600	374,304,700
Pigeon	361,583,170	389,682,840	376,852,270	382,275,070	388,782,240	380,013,000	383,833,200
Town of Waynesville	899,771,710	910,770,740	946,152,160	957,386,959	987,480,480	1,028,146,300	1,006,032,100
Waynesville Out	1,148,586,260	1,185,651,850	1,235,385,100	1,280,432,050	1,287,919,630	1,283,270,000	1,280,420,000
White Oak	64,036,620	76,108,980	79,209,710	79,887,120	79,375,440	65,141,600	63,577,000
Ivy Hill	888,412,400	902,245,480	941,787,270	930,231,370	988,744,300	913,315,100	880,727,900

5,983,379,792    6,257,155,922    6,530,671,982    6,684,214,350    6,787,564,357    6,791,618,290    6,621,401,690

873,516,060    153,542,374    103,350,001    4,053,933    170,216,600

*Probid  
New Contract*

*From David Francis  
5/19/2011*





State of North Carolina

ROY COOPER  
ATTORNEY GENERAL

Department of Justice  
PO Box 629  
Raleigh, North Carolina  
27602

Reply to: G. Mark Teague  
Property Control Section  
Telephone: (919) 716-0154  
FAX: (919) 733-2947  
[gsteague@ncdoj.gov](mailto:gsteague@ncdoj.gov)

May 31, 2011

**JUN 3 2011**

Mr. Monroe A. Miller, Jr.  
19 Big Spruce Lane  
Waynesville, North Carolina 28786

Re: Inquiry Regarding Letter to Attorney Steve Martin dated April 13, 2011

Dear Mr. Miller:

I am in receipt of your correspondence of May 20 concerning the above-referenced letter. As the letter which forms the basis of your inquiry involves an ongoing legal proceeding to which you are not a party, I am reticent to comment in great detail on its contents. I think it is suffice to say that my letter of April 13 was written as part of an effort to negotiate the settlement of said legal proceeding and consequently dealt with the value of several specific tracts of land as reflected in an appraisal report made more than two years ago.

Although my letter does not concern tax values or any property other than that which is the subject of the legal proceeding, you have seized on two sentences in the letter to support your argument that a recent county-wide tax revaluation overstates land values. Specifically, you cite the following two sentences appearing some four paragraphs into my letter:

“Further, in the thirty (30) months since the completion of the appraisal, real estate values have dropped precipitously. Indeed, the State Property Office is of the opinion that there has been a minimum diminution in the real estate market of approximately thirty (30) percent.”

If these two sentences are taken out of context, it is understandable that one who is unfamiliar with the process by which counties conduct real estate tax assessments might infer that a state agency has made a determination concerning land values that maybe contrary to the conclusion reached by the local taxing authority.

However, when these two sentences are placed in context, it should be readily apparent that my intent was to question the value reflected in an out-dated appraisal of several specific tracts of land in order to negotiate a lower settlement amount than that desired by the opposing party. To ascribe any other meaning to these two sentences is a distortion of the point I was attempting to make. In light of the unintended application of these words to a tax revaluation, I would now revise



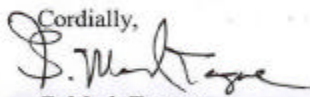
Mr. Monroe A. Miller, Jr.  
May 31, 2011  
page 2

the two sentences set forth above to more succinctly state my contention; to wit: "The State Property Office is of the opinion<sup>1</sup> that if a current appraisal, conducted by a duly licensed appraiser, were made of these particular tracts of land, the value reflected in such an appraisal would be lower than the value indicated in the 2008 appraisal, perhaps by as much as thirty percent."

The State Property Office is the agency charged with acquiring and disposing of interests in real property on behalf of the State of North Carolina (with some exceptions, including land for right-of way purposes). The State Property Office does not conduct mass appraisals of real estate and has no involvement in the determination of property values for ad valorem tax purposes. When negotiating the purchase of a parcel of land targeted for acquisition, the State Property Office, much like any other prospective purchaser of real estate, obtains an appraisal in order to determine the value of the property. Thus, the State Property Office has no opinion as to the general value of real estate in any county.

As a result of your efforts, I have received inquiries from county officials about the content of my letter. I regret that my letter has been appropriated and used in such a manner as to perhaps cause confusion in the otherwise difficult process of conducting a county-wide tax reevaluation. In order to eliminate any further confusion, I am providing the County Tax Administrator and the County Attorney with a copy of this correspondence.

I trust this explanation of my April 13 letter will result in the discontinuance of its use in discussions concerning tax revaluations. If you believe the tax assessment of your property is inaccurate, I suggest that you utilize the appeal process prescribed by law. No doubt, the personnel in the county tax office will gladly provide you with information about this process.

Cordially,  
  
G. Mark Teague  
Assistant Attorney General

GMT/s

cc: Leon M. Killian, III, Haywood County Attorney (via fax)  
David B. Francis, Director, Haywood County Office of Tax Administration (via fax)  
Steve Martin (via fax)

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<sup>1</sup>"opinion" as used in this sentence has the following meaning: "A belief or conclusion held with confidence, but not substantiated by positive knowledge or proof." American Heritage Dictionary, pg. 872 (Second College Edition, 1991).

Monroe A. Miller, Jr.  
19 Big Spruce Lane  
Waynesville, NC 28786  
(828) 456-3718  
June 3, 2011

Mark Teague  
Assistant Attorney General  
Property Control Section  
State of North Carolina  
**Department of Justice**  
P.O. Box 629  
Raleigh, NC 27602

Dear Mr. Teague,

Thank you for taking the time to respond to my query to you on May 20, 2011 with your letter of May 31, 2011. I don't actually have your letter yet, but was able to obtain a copy of your letter that you sent to David Francis on May 31, 2011 via fax, by making a Public Information Request to Marty Stamey on June 1, when he indicated to me that David Francis had brought a copy of your letter that was addressed to me to his office that afternoon. I am looking forward to the day that I will eventually receive the letter that you sent to me.

This letter, by the way, will be sent to you via your e-mail address, copied to some other folks, but your name is at the top of the list, insuring that you will technically be the first to receive this.

Thank you for pointing out that I may have taken two of your sentences in your April 13, 2011 letter to Steve Martin out of context, and taking the time to create two new sentences to replace your original sentences. You replaced your original two sentences:

“... Further, in the thirty (30) months since the completion of the appraisal, real estate values have dropped precipitously. Indeed, the State Property Office is of the opinion that there has been a minimum diminution in the real estate market of approximately thirty (30) percent. ...”

with these two sentences:

“... The State Property Office is of the opinion<sup>1</sup> that if a current appraisal, conducted by a duly licensed appraiser, were made of these particular tracts of land, the value reflected in such an appraisal would be lower than the value indicated in the 2008 appraisal by as much as thirty percent. ...”

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<sup>1</sup> “**opinion**” as used in this sentence has the following meaning: “A belief or conclusion held with confidence, but not substantiated by positive knowledge of proof.” American Heritage Dictionary, pg. 872 (Second College Edition, 1991).

<sup>1a</sup> “**opinion**” as understood through my life experiences: “A lawyer can only express an opinion, a judge makes the ruling”.

“**diminution**”. I had to look this one up. “Diminution in value is a legal term of art used when calculating damages in a legal dispute, and describes a measure of value lost due to a circumstance.” en.wikipedia.org  
“**diminution**”: Incompleteness. A word signifying that the record sent up from a inferior court to a superior court for review is incomplete, or not fully certified. In such case the party may suggest a "diminution of the record" which may be certified by certiorari . 2 Tidd. Pr. 1109; Stepp v. Steep 195 Ga. 595, 25 S.E.2d 6, 8. Blacks Law Dictionary 4th Edition.

“**diminutio**”. In civil. Diminution : a taking away: loss or deprivation. Diminutio capitis, loss of status or condition. See Capitis Diminutio.

I'm confused about one point in your new and improved clarified sentences. You stated originally that "there has been a minimum diminution in the real estate market of approximately thirty (30) percent". Translation: to me, that says it was at least 30% minimum drop in value, but your new and improved sentence says "the value reflected in such an appraisal would be lower than the value indicated in the 2008 appraisal by as much as thirty percent". That says to me that it only approached or was equal to a 30% drop in value. Has there been a change in the precipitous drop in value from your original letter of April 13 to May 31?

It is my understanding that you had a little entourage from Haywood County visit, or at least speak to you on the phone, the previous Wednesday, which included Chip (a.k.a. Leon) Killian, David Francis, and Marty Stamey. This evidently resulted in a clarification of your two sentences of your original April 13<sup>th</sup> letter.

However, your May 31<sup>st</sup> letter does not address the specific problems that are being identified here in Haywood County, namely the estimation of the total property value of Haywood County from the years 2006 to 2011, a year in which the county foolishly decided to proceed with revaluations in 2011, a year when values continue to slide, while other counties wisely delayed this process.

As I mentioned in my May 20<sup>th</sup> letter to you, David Francis created a spread sheet during those years which show a constantly increasing total value for Haywood County property. As I mentioned, he used two primary inputs for this spreadsheet:

- Pre-Bills. These are the sum of all tax bills sent out to Taxpayers each year. Since the numbers only change when a revaluation is made, these are constant for each year.
- New Construction. Any new construction during the year is added to this value.

There is **no** provision for any decrease, unless a house burns down, then it is removed. The fatal flaw in his assessment is that he fails to account for any decrease due to a drop in demand or any other factor.

His numbers are evidently source material for the Certified Annual Financial Reports (CAFR's), although I am scheduling a meeting with the Haywood County Finance Director, Julie Davis, in hopes of getting a clear understanding of how these numbers are actually translated in to the CAFR's.

I contend that David Francis' numbers are wrong. If they are used as input to the CAFR's, then I contend that the CAFR numbers are wrong. The CAFR values from 2007 to 2011 are used in the Revenue-Neutral Tax Rate Calculation [re: NCGS 159-11(e)], and if the CAFR numbers are wrong, then I contend that will have an adverse impact on the taxpayers of Haywood County. It gives the appearance of the county relying on artificially inflated and internally produced values, perhaps hoping to gain added revenue without raising rates.

I'll let you know if anything here changes significantly with the investigation of David Francis's spreadsheet numbers. Who knows, this may add additional credence to your letter to Steve Martin which would support your original opinion that there has been a precipitous drop in property values over the last 30 months of 30%.

I presume that I am free to use your new and improved clarified sentences regarding a specific tract of land in Haywood County for future references.

By the way, I intend to read this letter during the public comment session at our next County Commission Meeting, scheduled for June 6, 2011 at 9:00am.

Sincerely,

Monroe A. Miller, Jr.  
Haywood County Taxpayer.

Enc: Faxed copy of your letter of May 31, 2011 that was sent to David Francis.

cc via e-mail:

Chip Killian, a.k.a. Leon Killian, Nelson Mullins  
David Francis, Haywood County Tax Collector  
Marty Stamey, Haywood County Manager  
Mark Swanger, Chairman, Haywood County Commissioner  
Kirk Kirkpatrick, Vice Chairman, Haywood County Commissioner  
Michael Sorrells, Haywood County Commissioner  
Bill Upton, Haywood County Commissioner  
Kevin Ensley, Haywood County Commissioner [e-mail blocked by his delete button, don't send.]  
Julie Davis, Haywood County Finance Director  
Roy Cooper, North Carolina Attorney General

cc via USPS:

Steve Martin