

What We Know

ARTICLES & INSIGHTS

ABOUT THE AUTHOR



[John Narron](#) is a Board Certified Family Law Specialist and has been practicing law in North Carolina since 1977, with a practice concentration in all manner of civil disputes that frequently involve complex equitable distribution proceedings, alimony trials, will caveats, employment disputes, personal injury trials and negotiations, and a wide variety of commercial business disputes. John has served as a mediator in more than 200 family law disputes in Wake County, Franklin County, Johnston County, Wayne County, Guilford County, Forsyth County, and Pender County.

Ad Valorem Tax Values and Equitable Distribution

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In many equitable distribution cases, where the value of real estate is an issue, the parties at least in negotiations debate the relative accuracy of the ad valorem tax value ("Tax Value or Tax Values") of the property as a starting point to a valuation discussion. There are even some equitable distribution affidavit forms that the Court mandates the parties complete, which have space for the parties to insert the Tax Value of the real property.

However, for purposes of a trial, it is very clear in the law that Tax Values are not competent to establish the fair market value of real property. The North Carolina Supreme Court has explicitly ruled that Tax Values are not competent to determine the fair market value of real property.;

Our Supreme Court has held that ad valorem tax records are not competent to establish the market value of real property. *Star MFG. Co v. Atlantic Coastline RR.*, 222 N.C. 330, 332-33 (1942); *Bunn v. Harris*, 216 N.C. 366 (1939); *Hamilton v. Seaboard*, 150 N.C. 193 (1909). ...this is because "in the valuation of land, for taxation, the owner is not consulted...it is well understood that it is the custom of the assessors to fix a uniform, rather than actual valuation." *Bunn*, 216 N.C. at 373. Further, "the assessors were not witnesses in the case, sworn and subject to cross-examination in the presence of the (fact-finder)." *Cardwell*, 68 N.C. at 487.

With such a clear mandate from our Supreme Court, one would think that while Tax Values are discussed and considered for purposes of negotiations Tax Values would have no place in a court room where the issue was the actual fair market value of a property. However, that was not true in the recent North Carolina Court of Appeals case of *Edwards v. Edwards* decided January 17, 2017. In *Edwards*, an issue involved the fair market value of a residential property called St. Mary's Church Road property. During the trial, the husband offered into evidence the testimony of a real estate appraiser who valued the St. Mary's Church Road property at \$61,000.00 as of the time of trial in 2015. However, the parties had separated in 2012. The appraiser did not offer an opinion of the value of the property at the time of separation. Wife next presented evidence from the Wilson County tax records indicating that the property had a Tax Value of

\$193,195.00 as of January 1, 2008. The evidence regarding the Tax Value was not objected to by husband's attorney at trial.

Since the Tax Value evidence was not objected to at trial, the District Court, in this case, was entitled to consider the evidence even though it should have been excluded had a proper and timely objection been made. Therefore, the Court of Appeals upheld the trial Judge's decision valuing the St. Mary's Church Road property at \$193,195.00 because there was evidence in the record (the tax value) to support that conclusion.

The lesson here for family law practitioners is clear. If the Tax Value of the property creates a problem for your client (whether the Tax Value is too high or too low as the case may be), then you simply need to object every time someone refers to the Tax Value in the context of the valuation of the property. As cited in this article, there is an abundance of North Carolina Supreme Court cases that stand for the proposition that ad valorem tax records or Tax Values are not competent evidence in Court to establish the fair market value of real property. You must object to the evidence when it is offered. If not and the Tax Values are admitted into evidence, a Trial Judge may rely on the Tax Value as happened in the *Edwards* case.

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