

The 2016 County of New Kent Board of Equalization met on Thursday, June 23, 2016 in the Boardroom of the Administration Building, 12007 Courthouse Circle, New Kent, Virginia, at 5:00 p.m. This was a continuation from Friday, June 17<sup>th</sup> for the purpose of hearing additional information regarding the Stitzer-Ingo Company LLC properties.

ROLL CALL: A roll call determined that Mr. William Wallace, Mr. Mathew Starr, Ms. Amy Pearson, Mr. Baird Jones and Mr. William Chandler were present. Representing the Commissioner's Office were Deputy Shannon McLaughlin and Commissioner of Revenue Laura Ecimovic.

HEARINGS/CONSIDERATION OF APPEALS: Hearings had been continued for the following PID numbers: 3162, 3163, 3164, 3166 and 3167 belonging to Stitzer-Ingo Company LLC.

Mr. Brandt Stitzer and Mr. Mihir Elchuri with Hirschler Fleischer Attorneys At Law and Michael Simerlein with Simerlein Appraisals had met with the Board on Friday, June 17, 2016, in support of the Stitzer-Ingo Company LLC appeals. The Commissioner of Revenue had made some property value adjustments which the Board reviewed. Additional information on the mitigation easement had been provided and GIS had been used to delineate the RPA (Resource Protection Area). It had been noted that the Stitzer properties were among the nineteen recently reviewed waterfront properties for which reduced assessments were being recommended. Mr. Stitzer had suggested the property was so restricted that it could be used for nothing more than recreation and its value should be significantly reduced. Ms. Ecimovic had indicated it was necessary to delineate which acreages were in the various programs, i.e., AFD or mitigation easement. Mr. Simerlein had suggested that 650 acres were unencumbered and 2029 acres were in wetlands mitigation. Ms. Ecimovic had indicated her office had received additional information regarding the easement and noted more review could be done. The meeting had been continued and the Board had set 5:00 p.m. on Thursday, June 23, 2016 as the date and time to reconvene for additional discussion on the properties.

Mr. Brandt Stitzer was the only individual meeting with the Board during today's session. He had met with the Commissioner of Revenue on Tuesday, June 21, 2016 to discuss the properties and indicated he had received revised tax cards for the five parcels under appeal. He still had some concerns and had circulated a memo earlier that day outlining those concerns. He asked if the Board wished to review the concerns collectively or by parcel. Chairman Starr indicated he felt it would be best if the Board looked at each parcel individually and suggested the Commissioner present her findings first. Mr. Starr indicated he understood from Mr. Stitzer's email that he was not happy with the Commissioner's revised figures. Mr. Stitzer indicated this was correct and he wished to discuss further the impact of the mitigation on the property. He indicated his memo had addressed all mitigated land together and not by tax parcel. Mr. Starr asked if the County knew how many acres of mitigated land could be attributed to each parcel. Ms. Ecimovic and Ms. McLaughlin both indicated the mitigation acreage had been

delineated for each parcel and was shown on the revised property cards. Mr. Starr noted he would need something specific to each parcel to substantiate a change in value. Mr. Chandler agreed and noted the Board needed to consider each parcel individually and would need some justification for any changes. Because the Board was required to make a decision on each parcel, Mr. Starr asked Mr. Stitzer to begin with Parcel 14-2 (PID #3162) and to share any facts that would substantiate changing the value.

**STITZER-INGO COMPANY LLC PID #3162** – Mr. Stitzer began by disputing the value assigned to the home site. He pointed out the current value of the home site was \$561,495 and indicated it had been difficult to find comparable properties. He reviewed what he had found and suggested that based on the values of those properties, the value of this parcel should be closer to \$200,000. Ms. Ecimovic indicated a part of the determination of value had been a permit issued several years ago for a new building to be constructed as an accessory to a B&B (bed and breakfast). She noted the home was currently not being used as a B&B and was under renovation. The home site property had an excellent long water frontage with easy river access and a good water view from the house. She indicated all of these factors had been taken into consideration. Mr. Stitzer pointed out the house was currently gutted and had not been lived in for seven years. He also pointed out there was no commercial designation on the property and his family currently had no plans to renovate the home. Ms. Ecimovic indicated permitting data had been used in the evaluation and the data had indicated the accessory building had been allowed because someone had substantiated there would be a B&B on the property. Mr. Stitzer challenged the Commissioner to show something that authorized a B&B on this property. Ms. Ecimovic indicated Ms. McLaughlin had researched with the permitting department and had been told they had allowed the building to be constructed as an accessory to a B&B. Permitting had indicated this information was included in the file notes for this project. Mr. Wallace asked Mr. Stitzer if he had any estimates on how much it would cost to complete the renovation on the home. Mr. Stitzer suggested depending on how much they did, the cost would be between \$100,000 and \$250,000. Mr. Wallace asked if this much money was put into the house, would it be worth \$561,495. Ms. McLaughlin noted the \$561,495 value was on the land and not the home. The home's value was in the \$50,000 range. Mr. Chandler noted the property card indicated the home site value was \$561,495 and asked if this included the value of the home. Ms. McLaughlin indicated it did not include the home, the value was only the land. Mr. Stitzer stated that under no circumstances had they built the accessory building with the assurance that a B&B would ever be built.

Mr. Starr suggested the issue of the home site value had been discussed and asked Mr. Stitzer if there were any other facts regarding this parcel that he wished to share with the Board. Mr. Stitzer indicated he did have additional information regarding the mitigation easement. He pointed out the property card indicated two types of mitigation easements on the property; woodlands assessed at \$2,460.00 per acre and wetlands assessed at \$959.40 per acre. Mr. Wallace asked if this woodland property was restricted from timbering. Mr. Stitzer confirmed the property could not be timbered or subdivided, any leases on the property could not be renewed and no roads could be built on the property. He suggested the intent of the easement had been to give up all value in the property. He

pointed out conservation easements were not as restrictive as mitigation easements and therefore this property could not be easily compared to the York River Preserve property. He suggested the York River Preserve was similar to Stitzer-Ingo in all respects other than one was under a conservation easement and the other was under a mitigation easement. He pointed out the York River Preserve could be used in many ways his property could not and the York River Preserve conservation acreage was only valued at \$600.00 to \$1,000.00 per acre. Mr. Starr asked Ms. McLaughlin if she had any idea why the mitigated property had been given much higher values. Ms. McLaughlin indicated they had used the appraisal and sales information provided by Mr. Simerlein. Ms. McLaughlin pointed out 363 acres of the Stitzer property was not subject to the easement. Mr. Stitzer drew attention to property where the Commissioner had noted the presence of an eagle's nest and had given the property a low value (\$800.00 per acre) because nothing could be done with the property as long as the nest was present. He suggested the mitigation easement property should be treated in a similar way. Mr. Starr asked if Mr. Stitzer had any comparables that were strictly mitigation easements. Mr. Stitzer indicated there was one in Suffolk. Mr. Wallace pointed out the property card contained an adjustment for a powerline on the property (\$831.00 per acre) and suggested the mitigated property should be given a similar value. Mr. Jones noted some of the mitigated land was valued at \$2,460.00 per acre and Mr. Stitzer had reported finding conservation land with a much lower value. Ms. McLaughlin suggested all but twelve acres of the York River Preserve mentioned by Mr. Stitzer was swamp land.

Ms. Ecimovic noted that ultimately her office was responsible for determining the fair market value of the property. Each parcel had to be evaluated and decisions had to be made regarding where the waterfront value would be put. She noted the waterfront would impact the value of the home site and her office needed to be sure that the value of all of the pieces added up to the fair market value of the total parcel. She pointed out the Stitzer property still contained over 300 acres of property not encumbered by the mitigation easement and she felt the assessment was fair. It had been suggested that an independent appraisal be done and she noted agreement with this suggestion and using the appraisal as the fair market value. She offered to pay for half of the cost of the appraisal with funds from her department.

Mr. Stitzer indicated he'd like to discuss the AFD program and its impact on the property value. He suggested the Commissioner had told him the property subject to the mitigation easement would have to be removed from the AFD Program and the assessed values "would be a wash". Ms. Ecimovic suggested this comment had been taken out of context and that her office only looked at fair market value when making assessments. Mr. Stitzer went on to suggest the assessed value of the mitigated land should not generate more tax dollars than had been generated while the property was in the AFD program. He pointed out property in the mitigation easement was being taxed at a much higher rate than AFD program property. Mr. Chandler stressed that the Board could only look at fair market value and the question was, if the property was on the market, what would be the selling price. Mr. Starr pointed out the Board was responsible for determining the value of the property and value could not be assigned based on the AFD program. Mr. Stitzer indicated he understood this but again noted he did not see how this

property could be taxed at a higher rate than the York River Preserve. Mr. Wallace suggested apples were being compared to oranges. He indicated he had reviewed the sales information provided by Mr. Stitzer and didn't see any that were similar to his. He noted he wasn't sure this Board could figure this out and suggested it may be appropriate to have an appraiser evaluate the property. He stressed that the Board had to determine fair market value and he suspected the mitigation easement had not been fully taken into consideration. Ms. Ecimovic argued the mitigation had been taken into consideration and pointed out there were no comparables for this property. Mr. Starr asked Mr. Stitzer what he considered the fair market value to be. Mr. Stitzer indicated he didn't have a figure and suggested the value should be set at the previous year's assessment. He again suggested he had been lead to believe that if the property was pulled from the AFD, the assessed value on the mitigated acreage would be reduced. Ms. McLaughlin noted the County had learned of the mitigation easement several years ago when reviewing AFD renewals. A request had been made for the property owners to provide details of the easement so an accurate AFD determination could be made. She indicated information had not been received until recently. Ms. Ecimovic noted the property owners had continued to provide signed affidavits documenting the property was eligible for inclusion in the AFD program well beyond the establishment of the easement. She suggested the easement documents did not clearly define which portions of the properties were included in the easement.

Mr. Starr suggested that given the uniqueness of the property he did not believe anyone at the table had the ability to accurately predict the value. He noted he would be in favor of getting an appraiser to evaluate the property. Ms. Ecimovic again indicated she was also in agreement. Mr. Starr asked if she would be okay with using Mr. Simerlein. Ms. Ecimovic indicated agreement. Mr. Starr then asked Mr. Stitzer if he would be okay with using an assessment determined to be appropriate by Mr. Sumerlein. Mr. Stitzer indicated he would have to check with the property owners. He noted he understood the goal was fair market value but he just wanted "to be assessed like the guy down the street." He continued to argue that the Preserve property could be used as a comparable. He pointed out that much more could be done with this property than could be done with the Stitzer property and for that reason the value of the Stitzer property should be less. Discussions continued. Mr. Jones noted what Mr. Stitzer was saying was that the Stitzers could do much less with their property than could be done with conservation property. He pointed out the per acre value given to agricultural acreage (\$4,221.20 per acre) on the Stitzer property compared to mitigated woodland acreage (\$2,460.00 per acre) and indicated he had a hard time understanding why the mitigated woodland acreage value was still so high. Ms. Ecimovic noted the per acre value of woodlands in the AFD program was set at \$650.00. Mr. Stitzer suggested removing the property from the AFD had put him at a huge disadvantage and the only reason he had agreed to removing the property was because the Commissioner had said it would "be a wash at the end of the day". Ms. Ecimovic suggested what she had meant and what Mr. Stitzer had thought she meant were two different things. Mr. Stitzer asked her to explain. Ms. Ecimovic stated her comments had been about the fair market value and determining fair market value was why they were meeting with the Board of Equalization. She pointed out fair market value had nothing to do with taxes or the AFD program. She noted AFD was handled by

a completely different board and unless the land was actively being farmed or timbered, it was not considered eligible for this tax program. She pointed out mitigation was a change of use which should have been reported to her when it happened. She added that it was the owner's responsibility to report any changes in use and remove any acreage that no longer qualified from the AFD program. Mr. Stitzer suggested there were other properties in the AFD program that were either conservation or mitigation encumbered. Ms. Ecimovic indicated she had recently been made aware of such a property and she would be dealing with that property owner separately.

Mr. Wallace asked if there was a separate value assigned to mitigation land. Ms. Ecimovic indicated there was no separate value and her office was discounting the value based on the information and facts provided. Several other Board members noted agreement with Mr. Starr regarding the Board's ability to set the fair market value for these properties. Mr. Starr noted he understood Mr. Stitzer wanted the property to be treated equally and asked him how he would suggest they do that. Mr. Stitzer suggested they review each parcel line by line and compare the values to similar properties without a mitigation easement. He indicated he understood they would never be able to find a perfect comparison. Mr. Wallace noted an appraiser would give the fair market value for the property and asked Mr. Stitzer if he agreed fair market value was what the Board was trying to determine. Mr. Stitzer agreed. Mr. Chandler asked Mr. Stitzer if he would be willing to accept an appraisal done by Mr. Simerlein. Mr. Stitzer indicated he could not speak for the owner. Mr. Starr suggested the Board had two decisions to make. He indicated that based on what the Board knew now and based on the facts, he did not feel the Board had the expertise to set the value on this property. He noted the Board did have the ability to affirm the current \$4.5 million assessment but if they did that, Mr. Stitzer would not be able to go back to the Commissioner and ask that the figures be changed. He noted the Commissioner was offering to set the values based on an appraisal. He suggested the best chance Mr. Stitzer would have would be to agree to an independent appraisal. Ms. Ecimovic again noted she would be willing to pay for half of the cost. She indicated she believed sales supported the current assessment but would be willing to accept appraisal figures. Mr. Wallace suggested if the appraisal was conducted and the owners were not happy with the appraisal value, the next step would be to go to the courts for a determination. Mr. Chandler noted if Mr. Stitzer did not wish to pursue the appraisal, the Board would have no choice but to make decisions based on the information in hand. Mr. Wallace indicated he believed an appraisal would come in much lower than \$4.5 million dollars. He added that his personal opinion was the figure would be much closer to \$2.5 million. Mr. Starr suggested he felt the Board was prepared to make a motion to support going to an independent appraisal unless Mr. Stitzer had another suggestion. Mr. Stitzer indicated his only other suggestion would be to compare the properties to those immediately adjacent. Mr. Starr noted the problem with taking that approach was that the adjacent properties were not exact comparables. He agreed with Mr. Stitzer's earlier comment that there would never be an exact comparable. He went on to suggest the Board did not have the knowledge to make those decisions. He further suggested there were too many variables and because of the unique nature of the property he suspected there were a number of variables that would devalue the property. He suggested it would be best if an appraiser made those determinations.

Mr. Stitzer again suggested the property be compared to the York River Preserve. Mr. Starr noted the problem with this was the conservation easement on the Preserve made it much different from the Stitzer property. He suggested the Board members were not experts and could not rightfully make a decision. He noted he didn't feel the Board could comfortably adjust the values on mitigated property based on conservation property values. Mr. Stitzer suggested the County should have a set value for mitigated land. Mr. Wallace asked if that was an opinion or was it based on facts. Mr. Stitzer indicated his comment was based on the limited ability to utilize the land. Mr. Chandler noted the Board could not force Mr. Stitzer to agree to an independent appraisal and suggested the only other alternative was to agree with the Commissioner's figures. Mr. Stitzer indicated he would have to talk with the land owner and could not make this decision. There was some discussion regarding the County's authority to order an appraisal. Ms. Ecimovic indicated this was not something the County had done in the past. She noted she understood Mr. Stitzer's point of view and the confusion regarding the AFD program but pointed out the only thing they were dealing with was fair market value. Mr. Wallace suggested he didn't know where the money would come from but thought if Mr. Stitzer was agreeable to the appraisal, New Kent County should pay the total cost. He suggested the Board could send a recommendation to the Board of Supervisors requesting that this be done and funding provided. He asked Mr. Stitzer if he would be agreeable to the appraisal. Mr. Stitzer indicated he would have to call the owner. Mr. Starr called for a brief recess at 6:08 p.m. to allow Mr. Stitzer to call the owner.

The meeting reconvened at 6:14 p.m. Mr. Stitzer indicated he had spoken to the wife of the land owner and she had indicated they were comfortable with going to an independent appraiser. Mr. Stitzer indicated he would not agree to the appraisal without the understanding that he would be given an opportunity to review and comment on the findings. Mr. Starr indicated if the Board did not make a decision today, Mr. Stitzer's only avenues would be with the Commissioner or the Circuit Court. Mr. Stitzer asked if he would be given an opportunity to review and comment on the appraisal. Ms. Ecimovic indicated he would be allowed to review and comment with her and if the Board did not change the values, it would not jeopardize his rights. No decision by the Board would allow the Commissioner and Mr. Stitzer to continue to work together and possibly avoid any costly measures for either side. She added if an appraisal was done, she would be open to discussing how that would impact the value and to hopefully come up with a mutually acceptable resolution. She indicated it was mutually beneficial to resolve this and she would rather the Board not take action to uphold the figures provided. She again noted no action would allow both parties to continue to work together on the assessment. Mr. Stitzer indicated he had not researched the consequences of no action and wasn't sure he was comfortable with it. Mr. Jones suggested no action meant the figures would stay as they were and the Commissioner and the Stitzers could continue to negotiate based on an appraisal or whatever other information was available. Mr. Stitzer asked if they provided an appraisal, would the Commissioner have to accept those figures. Ms. Ecimovic indicated she would not have to accept the figures but noted the Stitzers would still be able to take their case to the courts. Mr. Stitzer expressed concerns noting that earlier discussions had suggested the Commissioner would be bound

to accept the appraisal findings. Ms. Ecimovic noted if the Board took action requiring an appraisal and requiring that she accept the figures, she would have to. Mr. Starr reminded everyone if the Board ordered the appraisal and ordered the Commissioner to accept it, the appraisal could come in higher. Mr. Stitzer suggested an appraisal would be higher because he believed the unencumbered agricultural land was much more valuable than the proposed assessment. Mr. Starr noted the Board would like Mr. Stitzer to make a decision as to whether he would like them to go ahead and take action requiring the appraisal and that the appraisal figures will be the assessments or the Board could do nothing, Mr. Stitzer would get the appraisal and then he could come in and discuss the findings with the Commissioner. Mr. Stitzer received a call and left the room. Upon returning, Mr. Stitzer indicated he had spoken with the owner of the property and he had indicated he was willing to go with the appraisal. Mr. Starr suggested the best thing to do would be for the Board to take no action, the Stitzers could then get the appraisal and meet with the Commissioner to work this out. Mr. Stitzer agreed. Upon a motion made by Mr. Starr and seconded by Mr. Chandler, the Board voted to take no action on all five of the Stitzer-Ingo Company, LLC appeals (PID #s 3162, 3163, 3164, 3166 and 3167), by a vote of 5:0. Ms. Ecimovic and Mr. Stitzer began discussing the necessary parameters of the appraisal. Ms. Ecimovic suggested Mr. Stitzer could make the arrangements and have an invoice for half of the cost sent to her office. Mr. Stitzer asked if the County would be paying the other half. Ms. Ecimovic indicated a formal request for funding could be made to the Board of Supervisors. Ms. Ecimovic indicated she was still open to sitting down with the Stitzers to see if a resolution could be reached before going to the expense of an appraisal. She noted what was important would be that the end result be a proper value for the entire property. Ms. Pearson asked Mr. Stitzer what he believed the value of the properties should be. Mr. Stitzer indicated he believed the value of the nine parcels collectively would be in the five to six million dollar range.

**OTHER BUSINESS:** Mr. Starr asked if there were any pending cases carried forward from previous hearing dates. Secretary Wanda Watkins indicate all other cases had been finalized. Mr. Starr asked Ms. Ecimovic if she would continue to meet with the Board for a few minutes to discuss the nineteen waterfront properties. Mr. Starr noted Mr. Moore (Taylor Moore) and Mr. Gregory (Linwood Gregory) had been happy with the adjustments they had been able to work out with the Commissioner and the basis for those adjustments had been applied to all nineteen of the properties. He noted it had been previously discussed that the Board of Equalization send a letter to the nineteen property owners giving them a time to respond and an avenue to come back to the Board of Equalization if they were not happy with the results. He noted additional information had come to light since that discussion. He had spoken with County Administrator Rodney Hathaway and County Attorney Brendan Hefty and had learned the Board of Equalization had to have all decisions made by June 30<sup>th</sup>. Mr. Starr indicated he had thought the Board could get a Circuit Court Order to extend the deadline to allow these owners to come back to the Board. After talking with Mr. Hefty, he had learned the only thing the Circuit Court could extend was the Commissioner's timeframe and it was New Kent County Code which required the Board of Equalization to finish all work by June 30<sup>th</sup>. The only way the deadline could be extended would be to have the Board of Supervisors change the ordinance and the Supervisors would not be meeting again until

after the June 30<sup>th</sup> deadline had expired. He also noted the Board would need to advertise any additional meetings and there would be no time to do this before the deadline expired. He reported it had been decided the Commissioner would send the notification letters regarding the corrected assessments and give the owners a period of time to respond to her if they had any concerns. They would be able to work with her and hopefully resolve any concerns. Ms. Ecimovic indicated these property owners would be given until July 31, 2016 to contact her. Mr. Starr pointed out that only two of the nineteen assessments had gone up and those increases had been minimal. He stressed the importance of giving the nineteen some avenue to have their concerns heard. He also noted if any of these parties had concerns that could not be resolved with the Commissioner, they would still have the option to appeal to the Circuit Court.

ADJOURNMENT: There being no other business to be discussed, on a motion made by Mr. Wallace and seconded by Mr. Jones, the meeting was adjourned at 6:55 p.m.

William Wallace	Aye
Mathew Starr	Aye
Amy Pearson	Aye
William B. Chandler	Aye
E. Baird Jones	Aye

Approved by email

Mathew Starr, Chairman

Date Finalized: 3/7/17