

Patty Baker Clerk of Superior Court Cherokee Cty, GA

**CHEROKEE COUNTY**

**STATE OF GEORGIA**

**GRAND JURY PRESENTMENTS**

**TO: The Honorable N. Jackson Harris  
Chief Judge, Superior Court  
Cherokee County, Georgia**

**The Honorable Ellen McElyea  
Judge, Superior Court  
Cherokee County, Georgia**

**The Honorable David L. Cannon, Jr.  
Judge, Superior Court  
Cherokee County, Georgia**

We, the members of this Grand Jury, chosen and sworn to serve the September 2017 term of the Superior Court of Cherokee County, hereby submit the following report and recommendations.

We, the September 2017 Grand Jury, heard 208 bills of indictment, returned 208 true bills and 0 no bill.

PRESENTMENT 1

We, the September 2017 Grand Jury, commend Superior Court Chief Bailiff Jane Johnson, Bailiff Johnny Champion, Tyrone Gates and Bailiff Fay McCurry for their diligent assistance in arranging materials for Grand Jury proceedings, managing the schedule for cases to be presented, coordinating Grand Jury payroll, and ensuring that the proceedings ran smoothly.

PRESENTMENT 2

We, the September 2017 Grand Jury, received information about current Petit and Grand Jurors' pay and bailiff pay from Clerk of Court, Patty Baker, and recommend pay for Petit Jurors, Grand Jurors and bailiffs be maintained at the amount currently amount.

PRESENTMENT 3

We, the September 2017 Grand Jury, commend District Attorney Shannon Wallace, each of her Assistant District Attorneys and staff members, each law enforcement officer and investigator associated with the cases brought before this Grand Jury for their professionalism and hard work.

#### PRESENTMENT 4

We, the September 2017 Grand Jury, sincerely express thanks to the Honorable Judge N. Jackson Harris for his professional and informative empanelment and orientation of this Grand Jury.

#### PRESENTMENT 5

##### Written Report, Findings, and Recommendations regarding the Board of Equalization:

In an interim presentment dated November 14, 2017, the Grand Jury created a committee to investigate the complaint filed against five Board of Equalization members. The committee consisted of Richard Howe, Chad Wille, Kim Russell Frazier, Tracey Ireland, and Alexander Stephens Skelton, II.

The committee met on November 14, 2017, November 15, 2017, November 28, 2017, and December 7, 2017, and interviewed the following individuals as a part of their investigation: Clerk of Court Patty Baker, Senior Residential Appraiser Ricky Hitt, Chairman of Board of Tax Assessor Dan Clifford, Board of Tax Assessor member Larry Berry, Board of Tax Assessor member Marion Wilson, Vice Chairman of the Board of Tax Assessor member Dennis Conway, Additional Alternate Board of Equalization member Patricia Tanner, Additional Alternate Board of Equalization member William Dewrell, Attorney Doug Flint, Chairman of Board of Equalization Donald Sams, County Attorney Aaron Meyer, Board of Equalization member J.E. White, Numbered Alternate Board of Equalization member Charles Heard, Jr., Additional Alternate Board of Equalization member Nancy Carson, Additional Alternate Board of Equalization member Dawn Bingham, Additional Alternate Board of Equalization member Robert Rugg, Numbered Alternate Board of Equalization member Cynthia Castello, Board of Equalization member Lee Wynn, Numbered Alternate Board of Equalization member Claude Pettit, Jr., Additional Alternate Board of Equalization member John Hodgson, and Senior Deputy Clerk Lisa Cline.

The committee received and reviewed the following documentation: Complaint against Board of Equalization members J. E. White, Bill Dewrell, Pat Tanner, Donald Sams and Charles Heard filed by Cherokee County Board of Tax Assessors; Complaint for Mandamus, temporary Restraining Order Injunction and Quo Warranto filed by Doug Flint on behalf of William Dewrell, Donald Sams, J.E. White, Charles Heard, Jr., and Patricia Tanner; Letter to Doug Flint from County Attorney Aaron Meyer; Motion to Dismiss, Brief in Support of Motion to Dismiss, and Verified Answers filed by the County Attorney Aaron Meyer; 2016 and 2017 appeals logs of Board of Equalization hearings received from Ricky Hitt; property report card for parcel #03N24 175B and report showing Board of Equalization hearings for September 12, 2017 and October 4, 2017 broken down into morning and afternoon sessions received from Ricky Hitt; Cherokee County Board of Equalization notes from Board of Equalization hearings on August 15, 2017, August 29, 2017, September 12, 2017, and October 4, 2017, received from Senior Deputy Clerk Lisa Cline; Georgia Department of Revenue Local Government Services Division Boards of Equalization 40 Hour Workshop manual provided by BOE member Nancy Carson; Email

regarding the scheduling of an emergency meeting of the BOE by William Dewrell and email regarding resolution received from BOE member Lee Wynn; oaths of office of all Board of Equalization provided by Clerk of Court Patty Baker; email from Senior Deputy Clerk Lisa Cline regarding dates of service for all Board of Equalization members and email from Lisa Cline to the BOE members regarding alleged meeting scheduled for October 21, 2017; and a copy of O.C.G.A. §48-5-311.

Findings:

Through the investigation into this complaint, it was discovered that there are no minutes of the Board of Equalization hearings, the documentation submitted by the parties at the hearings are being destroyed after the hearings, and the findings do not "specify the reason or reasons for each such decision as to the specific issues of taxability, uniformity of assessment, value, or denial of homestead exemptions depending upon the specific issue or issues raised by the taxpayer in the course of the appeal" as required by O.C.G.A. §48-5-311(e)(6)(D)(i). While a decision form labeled "Cherokee County Board of Equalization hearing notes" that includes the signatures of the panel Board of Equalization members, how each member votes, and the final determination of value of the appealed property is maintained by the appeal administrator for each case, no specific reasoning for the reduction in the property value was listed on any decision form reviewed by the Grand Jury. This form is the only record currently being maintained from the Board of Equalization hearings. Therefore, the Grand Jury could not make any determinations as to the rationale used by the Board of Equalization in determining the questions presented. Since there is a complete lack of documentation from the Board of Equalization hearings, it is impossible for the Grand Jury to determine if the Board of Equalization is currently determining all questions presented to it on the basis of the best information available to the Board as required by O.C.G.A. §48-5-311(e)(4).

According to O.C.G.A. §48-5-311, it is the duty of the Board of Equalization to hear and determine appeals from assessments and denials of homestead exemptions. The process for the appeal by taxpayers to the Board of Equalization is outlined in O.C.G.A. §48-5-311(e). Per this statute, the tax assessors have the burden of proving its opinions and value and the validity of its proposed assessment by a preponderance of evidence and the Board of Equalization is required to determine all questions presented to it on the basis of the best information available to the board. O.C.G.A. §48-5-311(e)(4) & (5).

A Board of Equalization member is not allowed to serve on a panel of a hearing with "respect to any appeal concerning which he or she would be subject to a challenge for cause if he or she were a member of a panel of jurors in a civil case involving the same subject matter." O.C.G.A. §48-5-311(i)(1). Likewise, each Board of Equalization member is required to decide all issues before them "without favor or affection to any party and without prejudice for or against any party," and agrees to "faithfully and impartially discharge [their] duties... to the best of [their] skill and knowledge." O.C.G.A. §48-5-311(c)(5).

No member of the Board of Equalization is aware of any specific procedures, written or otherwise, of the Board of Equalization for the conducting of appeals which is required by

O.C.G.A. §48-5-311(d)(3). Likewise, no minutes are currently kept of the Board of Equalization hearings other than the decision form labeled "hearing notes." While there is a chairman appointed for each panel hearing, there is no secretary appointed to take notes in the hearing and any notes the individual BOE members takes during the hearing are currently being discarded in the trash after the conclusion of the hearings.

Pursuant to O.C.G.A. §48-5-311(a) & (a.1)(1), the Clerk of Court is the appeal administrator and "is vested with the administrative authority in all matters governing the conduct and business of the board of equalization" and is responsible for the scheduling all of the meetings and hearings of the Board of Equalization. The statute does not give authority for any other person or entity to schedule or call a meeting of the Board of Equalization. While the appeal administrator does provide all of the necessary documentation and supplies to the Board of Equalization members prior to the hearings, schedules all meetings and arranges which members will sit on which hearings, the appeal administrator does not currently stay in the room for the actual hearings.

According to the Board of Equalization members and Deputy Clerk Lisa Cline, a calendar with the cases to be heard is sent to the individual BOE members at least three weeks before the hearing. This calendar includes the taxpayers' names and property information and is used by the BOE members to determine conflicts for the hearings.

The Board of Equalization hearings are currently being held in the courtroom of the Historic Courthouse in Canton. The Board of Equalization members discussed that some of the hearings have been contentious and there were security concerns as there is currently no security present in the courtroom or in the building for the Board of Equalization hearings.

The Grand Jury learned that many members of the Board of Equalization, including Donald Sams, Lee Wynn, J.E. White, and Claude Pettit, Jr., have been honorably serving on the Board of Equalization for well over twelve years. Likewise, there were several Board of Equalization members, including Patricia Tanner and John Hodgson, who have not yet served a full year on the Board of Equalization. Member Donald Sams has been honorably serving on the Board since 1993 and member J.E. White has been honorably serving on the Board since 1994. Neither Mr. Sams nor Mr. White sought another term on the Board and their term expires December 31, 2017.

Several Board of Equalization members indicated to the grand jury committee that they had witnessed at least one appraiser from the Tax Assessors office who was present for a BOE hearing act rude and unprofessional during a hearing. While this did not appear to be a routine issue, several board members expressed concern.

Board of Equalization member William Dewrell indicated on his resume dated September 19, 2013, and confirmed in his interview before the Grand Jury committee that he holds "free property tax appeal seminars," and listed as one of his hobbies as "helping people save money on their tax bill." Likewise, Mr. Dewrell told the committee he owns several rental properties throughout the county and has been before the Board of Equalization appealing his property valuations since he was appointed to the Board of Equalization. Mr. Dewrell, however, did not

participate in the panel that heard these matters. During the investigation, Senior Tax Assessor Ricky Hitt indicated he was concerned about Mr. Dewrell's ability to be fair and impartial on appeals dealing with rental properties since Mr. Dewrell owned several rental properties and had expressed in a hearing to a taxpayer that he was sympathetic to the appellant, Cold River Land, since he was a landlord himself. Mr. Dewrell indicated to the committee that this statement was taken out of context.

The committee was presented with information from members of the Board of Equalization that Mr. Dewrell had contacted individual members of the Board of Equalization on October 19, 2017, to schedule "an emergency meeting of the BOE" for Saturday October 21, 2017, to discuss "recent scheduling changes with BOE members and possible conflicts with County appraisal staff." Mr. Dewrell did confirm to the committee that he had scheduled this meeting and did meet several, but not all, BOE members along with attorney Doug Flint on October 21, 2017 at the RT Jones Public Library in Canton. The committee was presented with information that the appeal administrator did not call this meeting and was unaware of the meeting until she received several calls inquiring about the meeting. The committee also received information from several Board of Equalization members that Mr. Dewrell had requested each BOE member to sign a resolution requesting funds to be allocated to Flint, Connolly & Walker to represent the Board of Equalization on November 14, 2017.

In reviewing the materials provided by the Tax Assessors Office it was determined that the Board of Equalization heard 787 appeals in 2016 which resulted in a total reduction in property values of \$5,300,000. Board of Equalization member William Dewrell was involved in 102 (13%) of those appeals which resulted in a \$2,400,000 (45%) reduction in property values. In 2017, the Board of Equalization heard 531 appeals which resulted in a total reduction in property values of \$17,000,000. Board of Equalization member William Dewrell was involved in hearing 95 (18%) of those appeals which resulted in a total reduction in property values of \$14,400,000 (83%). No other Board of Equalization member was involved in this significant amount of reduction in property values. See 2017 Board of Equalization bar graph attached as Exhibit "A" and hereby incorporated into these presentments for a breakdown of each individual Board of Equalization member in 2017.

After all of the interviews were conducted and all of the material was reviewed, there was insufficient evidence to establish that BOE members Patricia Tanner or Charles Heard had acted inappropriately or failed to be impartial in fulfilling their duties as Board of Equalization members.

Since BOE members Donald Sams and J.E. White have not sought to be re-appointed and their term is expiring December 31, 2017, the complaint against these members is deemed moot by the Grand Jury.

While there is insufficient evidence that BOE member William Dewrell has violated O.C.G.A. §16-10-1, there is sufficient evidence that he has failed to comply with state law and regulations in that he has failed to act impartially in his duties by showing favoritism towards appellant tax payers and is technically incompetent to be a member of the Board of Equalization.

After reviewing the documentation provided by the Tax Assessors Office from the 2016 and 2017 Board of Equalization hearings, the Grand Jury makes the following Recommendations:

Recommendation 1:

We, the September 2017 Grand Jury, recommends that more checks and balances be implemented to ensure the Board of Equalization is complying with state law and regulations. The Grand Jury recommends that each September Grand Jury inspect a sample of records from the Board of Equalization hearings to ensure strict compliance with O.C.G.A. §48-5-311.

Recommendation 2:

We, the September 2017 Grand Jury, recommends that a secretary for each panel of the Board of Equalization hearing cases be appointed to take minutes of the hearings and to ensure that a reason is specified in writing as to each decision made by the Board of Equalization. The Grand Jury also recommends that the Chairman of each panel of Board of Equalization hearing cases be responsible for ensuring that the Board of Equalization is strictly complying with O.C.G.A. §48-5-311, to include certifying that no panel member has a conflict in hearing any of the scheduled appeals.

Recommendation 3:

We, the September 2017 Grand Jury, recommends that future Grand Juries interview applicants for the Board of Equalization in order to determine any potential bias and to determine technical competence. Likewise, the Grand Jury recommends that future Grand Juries not appoint members to the Board of Equalization for more than two terms (6 years).

Recommendation 4:

We, the September 2017 Grand Jury, recommends that all county and public officials participating in Board of Equalization hearings remain courteous and professional to each other and to the public at all times.

Recommendation 5:

In light of the contentious nature of the Board of Equalization hearings, We, the September 2017 Grand Jury, recommends that all future BOE hearings be held in the Frank C. Mills, III, Justice Center which will afford all parties on both sides onsite security. In the alternative, the Grand Jury recommends that onsite security be provided by the Cherokee County Sheriff's Office wherever the Board of Equalization hearings are held.

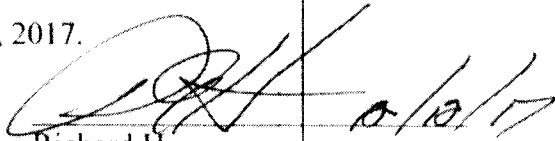
Recommendation 6:

We, the September 2017 Grand Jury, recommends that the appeal administrator provide the Board of Equalization hearing panel the list of properties to be heard no more than 24 hours prior to the appeals hearing.

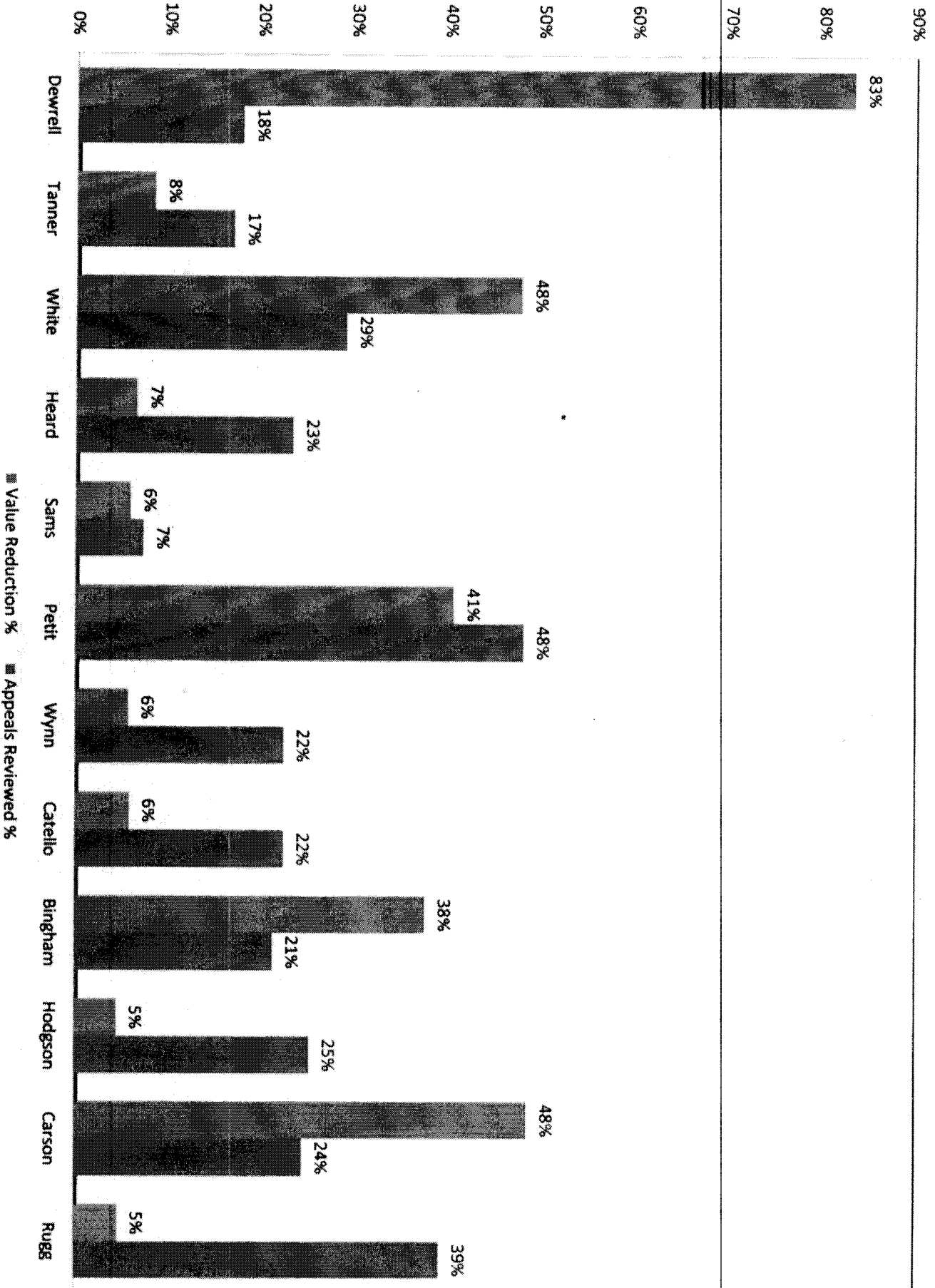
Recommendation 7:

We, September 2017 Grand Jury, based on the investigation conducted by this Grand Jury hereby immediately remove William Dewrell from the Board of Equalization. The Grand Jury requests that Patricia Tanner and Charles Heard remain on the Board of Equalization and their ability to hear appeals be reinstated immediately. The Grand Jury also requests Donald Sams and J.E. White remain on the Board of Equalization and be allowed to hear appeals until their term expires on December 31, 2017.

Respectfully submitted this 12<sup>th</sup> day of December, 2017.

  
Richard Howe  
Grand Jury Foreman

# 2017 Board of Equalization





CHEROKEE COUNTY

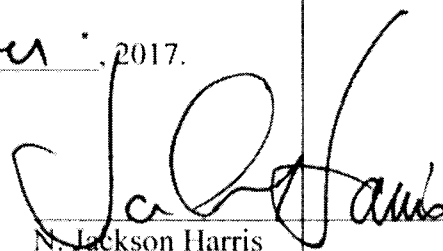
STATE OF GEORGIA

ORDER

It is ordered that the within and foregoing Grand Jury Presentments having been read and considered, the same be filed.

It is further ordered that a copy of the Presentments along with a copy of this Order be sent to the Cherokee Tribune for publication and the usual fees paid thereon.

This the 12 day of December, 2017.



N. Jackson Harris  
Judge, Superior Court  
Blue Ridge Judicial Circuit