

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE
STATE BOARD OF EQUALIZATION AND REVIEW

IN THE MATTER OF THE APPEAL OF:

**WOODLAND PROPERTY
INVESTMENTS, LLC,**

21 PTC 0330

Appellant,

ORDER OF DISMISSAL

Regarding an appeal from the decision of
the 2021 New Hanover County Board of
Equalization and Review

This matter came on for hearing before the North Carolina Property Tax Commission, (“Commission”) sitting as the State Board of Equalization and Review, via Webex on Thursday, January 13, 2022, pursuant to the Motion to Dismiss the Appellant’s appeal filed by New Hanover County (“County”).

Chairman Robert C. Hunter presided over the hearing, with Vice Chairman Terry L. Wheeler and Commission Members Alexander A. Guess and June W. Michaux participating.

Attorney Sharon J. Huffman appeared at the hearing on behalf of the County. The Appellant did not appear at the hearing, nor did counsel appear on the Appellant’s behalf.

FROM THE MOTION FILED IN THIS MATTER AND ALL DOCUMENTS OF RECORD, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Appellant is the owner of certain real property situated in New Hanover County, and the Appellant appealed the 2021 assessment of said real property to the New Hanover County Board of Equalization and Review (“Board”).
2. The Board considered the Appellant’s appeal, and provided notice of its decision.
3. On July 14, 2021, the Appellant filed a Notice of Appeal and Application for Hearing with the Commission, appealing the decision of the Board.
4. As evidenced by the Affidavit of the County’s tax administrator, appointed as the County tax assessor (see County Exhibit 8), the assessor did not receive a copy of the notice of appeal from the Appellant. There was no evidence offered by the Appellant that any such copy was sent to the county tax assessor.
5. As evidenced by the Affidavit of the County’s Deputy County Attorney (see County Exhibit 9), the county attorney did not receive a copy of the application for hearing from the Appellant. There was no evidence offered by the Appellant that any such copy was sent to the county attorney.
6. Accordingly, we find that the Appellant did not send a copy of the notice of appeal to the county assessor, and did not send a copy of the application for hearing to the county attorney.

7. On December 21, 2021, by letter bearing the same date, the Commission mailed notice to the Appellant of the time, date, location, manner, and purpose of this hearing.

BASED UPON THE FOREGOING FINDINGS OF FACT, THE PROPERTY TAX COMMISSION CONCLUDES AS A MATTER OF LAW:

1. N.C. Gen. Stat. §105-290(f) provides as follows: “Notice of Appeal. - A notice of appeal filed with the Property Tax Commission shall be in writing and shall state the grounds for the appeal. A property owner who files a notice of appeal shall send a copy of the notice to the appropriate county assessor.”
2. The Appellant failed to comply with the filing requirements of N.C. Gen. Stat. §105-290(e) because the Appellant did not send a copy of the notice of appeal to the county assessor.
3. “[B]ecause the right to appeal to an administrative agency is granted by statute, compliance with statutory provisions is necessary to sustain the appeal.¹”
4. Because the Appellant did not perfect the appeal in the manner required by statute, the Appellant’s appeal is subject to dismissal.
5. 17 NCAC 11 .0212(b) provides in pertinent part that “A copy of the completed application for hearing must also be sent to the county attorney....”
6. The Appellant failed to comply with the filing requirements of 17 NCAC 11 .0212(b) because the Appellant did not send a copy of the application for hearing to the county attorney. Accordingly, the Appellant’s appeal is subject to dismissal for failure to comply with Commission rules.
7. In addition, 17 NCAC 11 .0217(b) provides in pertinent part that “If no continuance is requested or granted, the failure of the Appellant or his attorney to appear at the scheduled time and date for hearing shall be grounds for dismissal of Appellant’s appeal.” Neither the Appellant nor the Appellant’s attorney appeared at the scheduled time and date for this hearing, and no continuance of the hearing was requested or granted. The appeal is therefore also subject to dismissal for the Appellant’s failure to appear at the scheduled hearing.
8. The County properly moved to dismiss the Appellant’s appeal to the Commission because the Appellant failed to comply with the statutory provisions governing the Appellant’s right to appeal; because the Appellant failed to comply with Commission rules; and because the Appellant failed to appear at the scheduled hearing.

(REMAINDER OF SPACE INTENTIONALLY BLANK)

¹ *Gummels v. N.C. Dept. of Human Resources*, 98 N.C. App. 675, 678, 392 S.E.2d 113, 115 (1990)

WHEREFORE, the Commission grants the County's Motion, and orders that the Appellant's appeal must be, and is hereby, dismissed for lack of jurisdiction.



NORTH CAROLINA PROPERTY TAX COMMISSION

A handwritten signature in cursive script, reading "Robert C. Hunter", is written over a horizontal line.

Robert C. Hunter, Chairman

Vice Chairman Wheeler and Commission Members
Guess and Michaux concur.

Date Entered: 2-16-2022

ATTEST:

A handwritten signature in cursive script, reading "Stephen W. Pelfrey", is written over a horizontal line.

Stephen W. Pelfrey, Commission Secretary