

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
14 PTC 0007

IN THE MATTER OF:

APPEAL OF:

Betty J. Daughtride

FINAL DECISION

from a decision of the Buncombe County Board of Equalization and Review to remove certain real property from the present-use value program effective for tax year 2013.

This appeal was heard before the North Carolina Property Tax Commission (“Commission”) sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina on Friday, May 15, 2015, pursuant to the appeal of **Betty J. Daughtride** (“Appellant”). The Appellant appealed to the Commission from the decision of the Buncombe County Board of Equalization and Review (“County Board”), in which the County Board decided that the real property owned by Appellant did not qualify for present-use value for tax year 2013, and that the deferred taxes, plus interest, were due and payable.

Chairman William W. Peaslee presided over the hearing with Vice Chairman Terry L. Wheeler and Commission Members David A. Smith and Jack C. (Cal) Morgan III participating.

The Appellant appeared at the hearing pro se. Buncombe County was represented at the hearing by Curtis W. Euler, Assistant Buncombe County Attorney.

STATEMENT OF THE CASE

The Appellant has filed an appeal to the Commission challenging the decision of the County Board, which decided that certain real property located at 126 Parham Road, Buncombe County, owned by the Appellant did not qualify for present-use value classification for tax year 2013, and that the deferred taxes, plus interest, were due and payable. According to the County Board’s minutes and the recorded history from the Buncombe County Tax Office, the property subject to this appeal was classified for agricultural use and/or forestry use prior to the audit conducted by the Buncombe County Tax Assessor (“Tax Assessor”).

In tax year 2012, the Tax Assessor selected the property to conduct an audit as part of Buncombe County's present-use value compliance program as provided in N.C. Gen. Stat. § 105-296(j). In August 2013, Buncombe County conducted a field inspection of the property, and determined that the property was not engaged in the commercial production of growing crops, animals, or timber. During the audit, Buncombe County also determined that Appellant failed to submit a forestry management plan to Buncombe County. Accordingly, Buncombe County removed 50 acres of the subject property from the present-use value program and sent notice to Appellant relating to the disqualification of the property.

After receiving the notice, Appellant appealed to the County Board. At the hearing, the County Board determined that the Appellant, Ms. Daughtridge, did not produce evidence tending to show that the property continued to qualify for the present-use value program. Consequently, the County Board removed 50 acres designated as agricultural land from the present-use value program and the deferred tax bill was levied in tax year 2013. From the County Board's decision, the Appellant appealed to the Commission and requested a hearing as provided in N.C. Gen. Stat. § 105-290.

In the Application for Hearing, the Appellant contends that the County failed to consider all of the facts relating to the disqualification of the subject property from present-use value classification and that the County did not conduct a thorough review. The Appellant contends that there were many discrepancies in the review and appeal process thus far; and when she was not aware¹ that the property was classified under the present-use value program, she does not feel she should be responsible for payment of the deferred taxes.

Buncombe County contends that it did take into consideration all of the facts pertaining to the property's classification, and also performed its duties within the context of N.C. Gen. Stat. § 105-296(j). Buncombe County also contends that its review of the property in compliance with this statute that the property does not qualify for present-use value classification as defined in N.C. Gen. Stat. § 105-277.3, and requests the Commission to affirm the decision of the County Board.

ISSUES

In the Order on Final Pre-hearing Conference filed with the Commission, the parties did not agree on the contested issues to be tried by the Commission. Thus, the issues considered by the Commission are stated as follows:

1. Does the subject property qualify for enrollment in the present-use value program as forestry land that is actively engaged in the commercial growing of timber?
2. Does the subject property qualify for enrollment in the present-use value program as agricultural land that is actively engaged in the commercial growing of crops or animals?

¹ Ms. Daughtridge testified at the hearing that her husband managed all affairs relevant to the deferred status of the subject property under the present-use value program.

At the hearing before the Commission, the Appellant offered testimony concerning the subject appeal, but did not offer any documentary evidence. At the conclusion of the Appellant's presentation of evidence, Buncombe County, through counsel, moved to dismiss the Appellant's appeal on the ground that the Appellant had failed to produce competent, material, and substantial evidence from which the Commission could conclude (1) that the subject property qualified for present-use classification as forestry land that is actively engaged in the commercial growing of timber or (2) agricultural land that is actively engaged in the commercial growing of crops or animals.

The Commission voted unanimously to grant Buncombe County's motion to dismiss the subject appeal because the Appellant failed to produce competent, material, and substantial evidence from which the Commission could conclude that the subject property qualified for present-use classification as forestry land that is actively engaged in the commercial growing of timber or (2) agricultural land that is actively engaged in the commercial growing of crops or animals.

APPLICABLE LAW

This case arises from a review of the Appellant's property conducted by the Tax Assessor pursuant to N.C. Gen. Stat. § 105-296(j) in tax year 2012 that resulted in the Tax Assessor's conclusion that Appellant's real property did not qualify for present-use value classification for tax year 2013, and that the deferred taxes, plus interest, were due and payable. The County Board considered the Appellant's appeal and concluded that the subject property did not qualify for present-use value classification for tax year 2013, and that the deferred taxes, plus interest were due and payable.

FROM THE APPLICATION FOR HEARING FILED IN THIS MATTER, AND THE EVIDENCE PRESENTED AT THE HEARING, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Commission has jurisdiction over the parties and the subject matter of this appeal.
2. The property under appeal is identified by the Buncombe County Tax Office as Parcel Number 8782-76-5633-00000.
3. In tax year 2012, the Tax Assessor selected the property to conduct an audit as part of Buncombe County's present-use value compliance program as provided in N.C. Gen. Stat. § 105-296(j).
4. In August 2013, Buncombe County conducted a field inspection of the property, and determined that the property was not engaged in the commercial production of growing of crops, animals, or timber.

5. During the audit, Buncombe County also determined that the Appellant failed to submit a forestry management plan to Buncombe County.

6. As a result of the audit, the Tax Assessor removed the property from the present-use value program and sent notice to Appellant relating to the disqualification of the property.

7. The Appellant appealed the Tax Assessor's determination to the County Board. After conducting a hearing, the County Board determined that the Appellant, Ms. Daughtridg, did not produce evidence tending to show that the property continued to qualify for present-use value program. Consequently, the County Board removed 50 acres, designated as agricultural land, from the present-use value program and the deferred tax bill was levied in tax year 2013.

8. The Appellant was notice of the County Board's decision by the notice of decision letter mailed on December 20, 2013.

9. The Appellant then filed an appeal with the Commission and requested a hearing as provided in N.C. Gen. Stat. § 105-290.

10. At the hearing before the Commission, the Appellant testified that she was not aware² that the property was classified under the present-use value program; and that she does not feel it is her responsibility to pay the deferred taxes when she was had knowledge that the subject property was being taxed under the present-use value deferment program.

11. At the hearing before the Commission, Ms. Daughtridg did not produce any evidence showing that the subject property was actively engaged in the commercial growing of crops or animals when there was no showing that the subject property was being used to grow crops or animals under a sound management plan.

12. Instead, Ms. Daughtridg testified that the subject property is not suitable for the commercial production of growing crops, animals, or timber.

13. The property under appeal is not used the by Appellant for the commercial production of growing crops, animals, or timber.

14. The subject property does not qualify for enrollment in the present-use value program as forestry land that is actively engaged in the commercial growing of timber under a sound management plan as that term is defined in N.C. Gen. Stat. § 105-277.7(2).

² Ms. Daughtridg testified at the hearing that her husband handled all affairs relevant to the deferred status of the subject property under the present-use value program.

15. The subject property does not qualify for enrollment in the present-use value program as agricultural land that is actively engaged in the commercial growing of crops, plants, or animals under a sound management plan as that term is defined in N.C. Gen. Stat. § 105-277.7(1).

16. The subject property does not qualify for present-use value classification when Appellant is not using the subject property for the commercial production of growing crops, plants, animals, or timber as provided in the above referenced statutes.

BASED ON THE FOREGOING FINDINGS OF FACT, THE COMMISSION MAKES THE FOLLOWING CONCLUSIONS OF LAW:

1. The Appellant, Betty J. Daughtride, failed to produce competent, material, and substantial evidence from which the Commission could conclude that the subject property qualified for present-use classification as forestry land that is actively engaged in the commercial growing of timber.

2. The Appellant failed to produce competent, material, and substantial evidence from which the Commission could conclude that the property under appeal qualified for present-use value classification as agricultural land that is actively engaged in the commercial growing of crops or animals.

3. Because the Appellant failed to produce competent, material, and substantial evidence concerning the two issues set out above, Buncombe County's motion to dismiss Appellant's appeal should be granted.

4. The subject appeal is dismissed when the Appellant failed to produce competent, material, and substantial evidence tending to show that the subject property qualified for present-use classification as forestry land that is actively engaged in the commercial growing of timber; and that the property under appeal qualified for present-use value classification as agricultural land that is actively engaged in the commercial growing of crops or animals.

WHEREFORE THE NORTH CAROLINA PROPERTY TAX COMMISSION THEREFORE ORDERS that the decision of the County Board ruling that the Appellant's real property did not qualify for present-use value classification for tax year 2013, and that the deferred taxes, plus interest were due and payable is affirmed; and the Appellant's appeal to this Commission is dismissed.



NORTH CAROLINA PROPERTY TAX COMMISSION

William W. Peaslee, Chairman

Vice Chairman Wheeler and Commission Members Smith and Morgan concur.

ENTERED: June 22, 2015

ATTEST:

Janet L. Shires, General Counsel
Commission Secretary