

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
15 PTC 215

IN THE MATTER OF:
APPEAL OF:

Emotions Organizations

FINAL DECISION

from the decision of the
Duplin County Board of
Equalization and Review
concerning the taxation of
certain real property for
tax year 2015.

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 Tuesday, July 12, 2016, pursuant to the appeal of **Emotions Organization** (“Appellant”). Appellant is appealing the decision of the 2015 Duplin County Board of Equalization and Review (“County Board”) not to grant Appellant’s application for property tax exemption for tax year 2015.

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

Ms. Yvonnceria Sutton appeared at the hearing on behalf of the Appellant. Shelley T. Eason, Esquire appeared at the hearing on behalf of Duplin County.

STATEMENT OF THE CASE

Appellant, **Emotions Organization**, appeals the decision of the Duplin County Board of Equalization and Review (“County Board”) denying the application for property tax exemption for certain real property located at 211 Julia Drive, Warsaw (the “Subject Property”) in Duplin County, North Carolina. The Subject Property is a lot and house, a prefabricated metal carport structure and a partially completed, roofless rectangular structure made of concrete blocks. The Subject Property is zoned Residential.

In tax year 2002, Ms. Sutton’s parents quitclaimed the Subject Property to Appellant. In tax year 2002, Appellant applied for and received an educational property tax exemption for the Subject Property from Duplin County. Effective as of January 1, 2012, the Duplin County Tax Assessor (“Tax Assessor”) revoked the educational tax exemption for the Subject Property by determining that the Subject Property was not being used for an educational purpose. Appellant challenged the Tax Assessor’s denial of the exemption application for tax year 2015 by filing an appeal with the County Board. After conducting a hearing, the County Board issued a decision

affirming the Tax Assessor's denial of the application for exemption for the Subject Property for tax year 2015. Appellant then challenged the County Board's decision by filing a Notice of Appeal and Application for Hearing with the Commission.

ISSUE

In the Order on Final Pre-Hearing Conference, the parties did agree upon the issue to be considered by the Commission. The issue considered by the Commission is stated as follows:

Did Emotions Organization wholly and exclusively use the Subject Property for educational purposes as of January 1, 2015, such that the Subject Property is entitled to property tax exemption pursuant to N.C. Gen. Stat. § 105-278.7?

FROM THE NOTICE OF APPEAL AND APPLICATION FOR HEARING FILED IN THIS MATTER, STIPULATIONS, IF ANY, AND 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. Appellant, Emotions Organization, challenges the decision of the County Board affirming the Tax Assessor's decision to deny the application for exemption from property taxes for tax year 2015.
3. Appellant is a nonprofit organization that owns the Subject Property that is located at 211 Julia Drive, Warsaw in Duplin County, North Carolina (the "Subject Property"). The Subject Property is a lot and house, a prefabricated metal carport structure and a partially completed, roofless rectangular structure made of concrete blocks. The Subject Property is zoned Residential.
4. In tax year 2002, Ms. Sutton's parents quitclaimed the Subject Property to Appellant Emotions Organization. In tax year 2002, Appellant applied for and received an educational property tax exemption for the Subject Property from Duplin County.
5. Effective as of January 1, 2012, the Duplin County Tax Assessor revoked the educational tax exemption for the Subject Property by determining that the Subject Property was not being used for an educational purpose.
6. At the hearing, Ms. Sutton testified that the Subject Property is the headquarters for Emotions Organization and that certain celebrations and special events such as Black History Month, Easter, child abuse awareness, and annual Christmas gatherings were conducted at the site.
7. As of January 1, 2015, the house located on the Subject Property was not connected to water, sewer, gas, or a heating system. The house located on the Subject Property had no permanent electrical connection.

8. As of January 1, 2015, the Appellant used the house and accessory structures for storage of files and materials used by Emotions Organization.

9. As of January 1, 2015, the Subject Property is not used for classes. Classes and computer labs are held at other locations belonging to the Appellant's community partners.

10. Since the Appellant uses the site for occasional celebrations and special events, the Appellant did not demonstrate that regular instruction or courses of study, development of knowledge or skill for individual persons occurred on the land.

11. Appellant's use of the subject site for occasional celebrations and special events is not a sufficient use to constitute wholly and exclusive use of the Subject Property for educational purposes when the Appellant failed to demonstrate that regular instruction or courses of study, development of knowledge or skill for individual persons occur on the land.

12. The Subject Property is not entitled to the property tax exemption when the buildings and improvements were not being used for educational purposes.

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

1. All property, real and personal, within the jurisdiction of the State shall be subject to taxation unless it is excluded from the tax base or exempted from taxation.¹

2. Requests for exemption are based upon the use of the property as of January 1 of the tax year at issue. In this case, the date is January 1, 2015.

3. Each property applying for exemption has the burden of proving that it is entitled to it.²

4. With regard to educational exemptions, N.C. Gen. Stat. §105-278.7(a) provides that:

Buildings, the land they actually occupy, and additional adjacent land reasonably necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) Wholly and exclusively used by its owner for nonprofit educational purposes....

¹N.C. Gen. Stat. §105-274.

² N.C. Gen. Stat. § 105-282.1(a). *In re University for the Study of Human Goodness and Creative Group Work*, 159 N.C. App. 85, 90, 582 S.E.2d 645, 649 (2003).


5. In deciding whether property qualifies as an educational purpose, North Carolina Courts have consistently held that it is not the nature or the character of the owning entity that ultimately determines whether property shall be exempt from taxation, but it is the use to which the property is dedicated which controls.³

6. Accordingly, the present use of the property is the determining factor.

7. Appellant did not wholly and exclusively use the buildings for nonprofit educational purposes when the use of the subject site for occasional celebrations and special events is not a sufficient use to constitute wholly and exclusive use of the Subject Property for educational purposes as provided by N.C. Gen. Stat. §105-278.7(a).

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION THEREFORE ORDERS that the decision of the Duplin County Board of Equalization and Review denying Appellant's application for property tax exemption for tax year 2015 is affirmed.

NORTH CAROLINA PROPERTY TAX COMMISSION



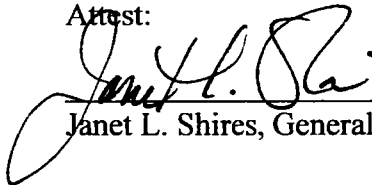
Terry L. Wheeler, Vice Chairman

Commission Members Morgan and Guess concur. Chairman Peaslee respectfully dissents. Commission Member Smith did not participate in the hearing or deliberation of this appeal.



Entered: September 16, 2016

Attest:



Janet L. Shires, General Counsel

³ *In re Master's Mission*, 152 N.C. App. 640, 568 S.E.2d 208 (2002).