

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

13 PTC 0742
14 PTC 0010

IN THE MATTER OF:
APPEAL OF:

Haliwa-Saponi Indian Tribe and
Haliwa-Saponi Tribe, Inc.

FINAL DECISION

from the decisions of the Halifax
County Board of County
Commissioners concerning
the taxation of certain real
real property for tax years
2013 and 2014.

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 Wednesday, May 13, 2015, pursuant to the appeals of Haliwa-Saponi Indian Tribe and Haliwa-Saponi Tribe, Inc. (“Appellant”). Appellant is appealing the decisions of the 2013 and 2014 Halifax County Board of County Commissioners (“County Board”) not to grant Appellant’s applications for property tax exclusion and/or exemption for tax years 2013 and 2014.

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.

Charles H. Mercer, Jr., Esquire appeared at the hearing as counsel for the Appellant. M. Glynn Rollins, Jr., Halifax County Attorney appeared at the hearing on behalf of Halifax County.

STATEMENT OF THE CASE

Appellant, Haliwa-Saponi Indian Tribe and Haliwa-Saponi Tribe, Inc., appeals the decisions of the Halifax County Board of County Commissioners (“County Board”) denying Appellant’s applications for property tax exclusion and/or exemption for certain real property located at 39076 Highway 561, Hollister, (the “Property”) in Halifax County, North Carolina. The subject property, consisting of approximately 28.85 acres (the “Property”), is identified by Halifax County as Parcel Identification Number 01-01066. The Property is improved with a residential dwelling.

Appellant purchased the Property in 2012 for the intended purpose to construct a new school at some time in the future. Pending the construction of a new school on the Property, the residential dwelling situated on the Property was used for the purpose of low-income housing; and the land surrounding the dwelling (approximately 20 acres) was used for the harvesting of plants, growing animals, gathering clay and other natural items for educational instruction and cultural classes that are taught to members of the tribal community and the surrounding Halifax County communities.

For tax years 2013 and 2014, Appellant applied for exclusion and/or exemption from real property taxation. The Halifax County Tax Administrator (“Tax Administrator”) denied Appellant’s request for property tax exemption and exclusion because he believed the property did not qualify for exclusion and/or exemption from property taxation.

Appellant challenged the Tax Administrator’s denial of Appellant’s exemption and/or exemption applications for tax years 2013 and 2014 by filing appeals with the County Board. After conducting hearings, the County Board issued decisions affirming the Tax Administrator’s denials of the applications for exemption and/or exclusion for the Property for tax years 2013 and 2014. Appellant then challenged the County Board’s decisions denying its applications for property tax exemption by filing Notices of Appeal and Applications for Hearing with the Commission. The subject appeals, designated 13 PTC 0742 and 14 PTC 0010, were consolidated for hearing.

At the hearing, Appellant contended that the Property should be granted an exclusion or exemption from property taxes pursuant to N.C. Gen. Stat. §§ 105-275(12), (18) or (19); or N.C. Gen. Stat. §§ 105-278.3, 105-278.6 or 105-278.7. The County contended that the Property is not excluded or exempted from property taxation since the Property does not meet the criteria set forth in N.C. Gen. Stat. §§ 105-275(12), (18) or (19); or N.C. Gen. Stat. §§ 105-278.3, 105-278.6 or 105-278.7 for exclusion or exemption from property taxation as of January 1, 2013 and January 1, 2014.

ISSUES

In the Order on Final Pre-Hearing Conference, the parties did not agree upon the issues to be presented to the Commission. The issues considered by the Commission are stated as follows:

1. Did Halifax County err when it denied Appellant’s request to exclude Tax Parcel Number 0101066 from property taxation as provided in N.C. Gen. Stat. §§ 105-275(12), (18) or (19)?
2. Did Halifax County err when it denied Appellant’s request to exempt Tax Parcel Number 0101066 from property taxation as provided in N.C. Gen. Stat. §§ 105-278.3, 105-278.6 or 105-278.7?

FROM THE NOTICES OF APPEAL AND APPLICATIONS FOR HEARING FILED IN THIS MATTER, STIPULATIONS OF THE PARTIES 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, Haliwa-Saponi Indian Tribe and Haliwa-Saponi Tribe, Inc., challenges the decision of the County Board affirming the Tax Administrator's decisions denying applications for exclusion and/or exemption from property taxes for tax years 2013 and 2014.
3. Appellant is a non-profit entity, originally named The Haliwa Indian Tribe, until the entity was renamed to Haliwa-Saponi Tribe, Incorporated.¹ Appellant is recognized by Internal Revenue Service as a 501(c)(3) charitable non-profit tax exempt entity.²
4. Based on the Articles of Incorporation, filed with the North Carolina Secretary of State, Haliwa-Saponi Tribe, Incorporated is organized and operated exclusively for charitable, educational, and scientific purposes pursuant to Section 501(c)(3).³
5. In March 2012, Haliwa-Saponi Indian Tribe through its Haliwa-Saponi Indian Tribe, Inc. purchased the property that is the subject of this appeal (the "Property"), with the intent that it be used for the purpose of constructing a new school at some time in the future.
6. Pending the construction of a new school on the Property, the Property has been used since its purchase and continues to be used for following purposes. First, the house located on the Property has been, and will continue to be used for low-income housing; and the land surrounding the residence (approximately 20 acres) is used for the harvesting of plants, growing of animals, gathering of clay and natural items for educational instruction and cultural classes that are taught to members of the tribal community and the surrounding Halifax County communities.
7. The family of three renting the house on the Property has a current annual income of \$33,372. This annual amount is within the low-income amounts for a family of three under the laws of the Tribe (\$43,800), as well as the guidelines for Halifax County (\$34,650) and North Carolina (\$40,450). As of fiscal year 2013, the federal HUD median family income for Halifax County was \$43,100.⁴
8. Low income rent obtained from the Property is used for maintenance of the low-income housing, as well as the surrounding property consistent with its purposes.

¹ See Exhibit A, attached to Affidavit of Earl Evans.

² See Exhibit B, attached to Affidavit of Earl Evans.

³ See Exhibit A, attached to Affidavit of Earl Evans.

⁴ See Exhibit C attached to Affidavit of Earl Evans.

9. Effective as of January 1, 2013 and January 1, 2014, Appellant submitted applications to the Tax Administrator requesting that the Property, located at 39076 Highway 561, Hollister in Halifax County, North Carolina, be excluded or exempted from property taxes as provided in N.C. Gen. Stat. §§ 105-275(12), (18) or (19); or N.C. Gen. Stat. §§ 105-278.3, 105-278.6 or 105-278.7 as of January 1, 2013.

10. The Halifax County Tax Administrator (“Tax Administrator”) denied Appellant’s requests for exemption and/or exclusion from property taxation for the Property because he believed the property did not meet the requirements for property tax exclusion or exemption as provided in the statutes.

11. When challenging the Tax Administrator’s decisions, the Appellant filed appeals with the County Board, and after conducting hearings, the County Board rendered decisions affirming the decisions of the Tax Administrator for tax years 2013 and 2014.

12. At the hearing, Appellant offered the testimony of Mr. Earl Evans, Vice Chairman for the Haliwa-Saponi Indian Tribe. Mr. Evans first testified that he was born and raised in the Haliwa-Saponi Indian tribe community located in Halifax and Warren Counties, North Carolina.

13. Consistent with his leadership role in the Haliwa-Saponi Indian tribe community, Mr. Evans helped establish several local Native American youth organizations, two national organizations, the chartered Haliwa-Saponi Tribal School and assisted with other economic development projects across the country.

14. Mr. Evans also assisted with other tribal-related matters including, but not limited to, federal regulations impacting American Indian set aside programs, contracts, economic development, cultural and historic property/NAGPRA (Native American Graves Protection and Repatriation Act) issues, and federal Indian trust reform.

15. Concerning the issues raised in this appeal, Mr. Evans is very familiar with the history and activities of the Haliwa-Saponi Indian Tribe relating to the properties that the Haliwa-Saponi Indian Tribe owns in Halifax County, North Carolina, which Property is the subject of this appeal based on his personal experience for at least the last twenty years.

16. In 1974, the Tribe incorporated a non-profit entity, originally named The Haliwa Indian Tribe, Incorporated. In 1979, that entity was renamed to Haliwa-Saponi Tribe, Incorporated (the “Haliwa-Saponi Tribe”).

17. As shown on page 4 of the Haliwa-Saponi Tribe's Articles of Incorporation, the Haliwa-Saponi Tribe is organized and operated exclusively for charitable, religious, educational, and scientific purposes pursuant to Section 501(c)(3) of the Internal Revenue Code and is recognized by Section 501(c)(3) of the Internal Revenue Code as a charitable non-profit tax-exempt entity.⁵

18. Except for a rural road, the Property (approximately 20 acres) is almost contiguous with other properties owned by Haliwa-Saponi Indian Tribe, Inc. that are improved with buildings that Appellant uses for educational purposes such as harvesting of plants, growing animals, gathering clay and other natural items for educational instruction and cultural classes that are taught to members of the tribal community and the surrounding Halifax County communities.

19. Appellant is a nonprofit corporation providing housing for individuals or families with low or moderate incomes as provided in N.C. Gen. Stat. § 105-278.6.

20. As of January 1, 2013, Appellant conducted activities at the Property for educational and scientific purposes as a protected natural area with all types of wild nature, flora and fauna, and other biotic areas that are preserved for observation and study that yields knowledge.

21. As of January 1, 2014, Appellant conducted daily and weekly educational and cultural activities at the Property benefiting the community.

22. The educational and cultural activities conducted at the Property were for the benefit of the Tribal community and the surrounding areas of Halifax and Warren Counties.

23. The Tax Administrator did grant Appellant property tax exemption for all other property that Appellant owned that was being used for educational and cultural activities.

24. Appellant is entitled to property tax exemption for the Property when the Property was used, as of the effective dates of the subject appeals, by a nonprofit corporation providing housing for individuals or families with low or moderate incomes; and by a nonprofit organized exclusively for educational and scientific purposes for the benefit of the community and the surrounding communities.

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.⁶

⁵ See Exhibit B, attached to Affidavit of Earl Evans.

⁶N.C. Gen. Stat. §105-274.

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 applicable dates are January 1, 2013 and January 1, 2014.

3. Each property applying for exemption has the burden of proving that it is entitled to it.⁷

4. With regard to real and personal property used for charitable purposes,⁸ N.C. Gen. Stat. §105-278.6(a)(8) states that “A nonprofit organization providing housing for individuals or families with low or moderate incomes shall be exempted from taxation if (i) As to real property, it is actually and exclusively occupied and used, and as to personal property, it is entirely and completely used, by the owner for charitable purposes; (ii) and the owner is not organized or operated for profit.”

5. The Appellant is a nonprofit corporation. It has been and is providing housing on the Property for a family with low or moderate income. The real property is actually and exclusively used for charitable purposes, and Appellant is not organized or operated for profit.

6. Accordingly, the Property is exempt from property taxation under N.C. Gen. Stat. §105-278.6(a)(8).

7. With regard to educational exemptions, N.C. Gen. Stat. §105-278.7(a) states as follows:

“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 as defined in subsection (f), below.”

8. N.C. Gen. Stat. §105-278.7(c)(7) states that “A nonprofit community or neighborhood organization is an agency that may obtain property tax exemption under this section, when the other requirements of this section are met.”

9. An educational purpose is defined within the meaning of N.C. Gen. Stat. §105-278.7(f)(1), as a purpose “that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individuals persons.”

⁷ 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).

⁸ The residence and site improvements.

10. A scientific purpose is defined within the meaning of N.C. Gen. Stat. §105-278.7(f)(2), as a purpose “that yields knowledge systematically through research, experimentation, or other work done in one or more of the natural sciences.”

11. A cultural purpose is defined with the meaning of N.C. Gen. Stat. §105-278.7(f)(5), as a purpose “that is conducive to the enlightenment and refinement of taste acquired through intellectual and aesthetic training, education, and discipline.


12. The Property is not used for pecuniary profit or for purposes inconsistent with the educational, cultural or scientific purposes.

13. Accordingly, the Property does meet the requirements for property tax exemption as provided in N.C. Gen. Stat. §105-278.6(a)(8) since the Property is (i) used by a nonprofit organization providing housing for individuals or families with low or moderate incomes; and (ii) the Property is exempt from property taxation as provided in N.C. Gen. Stat. §105-278.7 since the Property is used by a nonprofit community or neighborhood organization for educational, scientific and cultural purposes as such terms are defined in N.C. Gen. Stat. §105-278.7(f)(1) (2) and (5).

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION THEREFORE ORDERS that the decisions of the Halifax County Board of County Commissioners denying Appellant’s applications for property tax exemption for the tax years at issue are reversed.

NORTH CAROLINA PROPERTY TAX COMMISSION



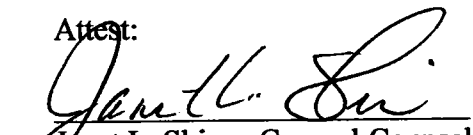


William W. Peaslee, Chairman

Vice Chairman Wheeler and Commission Member Morgan concur.
Commission Member Smith respectfully dissents.

Entered: September 15, 2015

Attest:



Janet L. Shires, General Counsel
Commission Secretary