

NORTH CAROLINA

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
01 PTC 214

WAKE COUNTY

IN THE MATTER:
THE APPEAL OF PAVILLON
INTERNATIONAL

FINAL DECISION

from the decision of the Polk County
County Board of Equalization and Review
concerning property tax exemption for tax
year 2001.

This Matter came on for hearing before the North Carolina Property Tax Commission (hereinafter "Commission"), sitting as the State Board of Equalization and Review at its regularly scheduled Session of Hearings in the City of Raleigh, Wake County, North Carolina on Thursday, January 16, 2003, pursuant to the appeal of **Pavillon International** (hereinafter "Taxpayer") from the decision of the Polk County Board of Equalization and Review (hereinafter "County Board") concerning property tax exemption for tax year 2001.

Chairman Terry L. Wheeler presided over the hearing with Vice Chairman R. Bruce Cope and Commission members Wade F. Wilmoth, Harvey W. Raynor, III and Anthony L. Young participating.

Charles H. Mercer, Jr., and Reed J. Hollander, Attorneys at Law, represented the Taxpayer at the hearing. Charles C. Meeker, Attorney at Law, represented Polk County at the hearing.

STATEMENT OF THE CASE

The Taxpayer submitted an application for property tax exemption for tax year 2001 concerning certain real and personal property located at 500 Pavillon Place, Mill Spring, Polk County, North Carolina. The property subject to this appeal consists of an addition to the existing residential treatment and renewal facility, known as Pavillon International, totaling 8,800 square feet. After the Polk County Tax Administrator (hereinafter "Tax Administrator") denied Taxpayer's application for property tax exemption regarding the subject property, the Taxpayer filed an appeal with the County Board challenging the Tax Administrator's denial of the application for property tax exemption. By written decision, the County Board notified the Taxpayer of its decision to sustain the Tax Administrator's denial of the Taxpayer's application for property tax exemption for tax year 2001. Thereafter, the Taxpayer, through counsel, filed a timely Notice of Appeal and Application for Hearing with Commission regarding the County Board's decision and requested a hearing pursuant to N.C. Gen. Stat. § 105-290.

The Taxpayer, through counsel, contends that the subject property is exempt from ad valorem taxation because the subject property is wholly and exclusively used for charitable or educational purposes and otherwise meets the requirements for exemption set forth in N.C. Gen. Stat. § 105-278.7. The Taxpayer also contends that the subject property is exempt from ad valorem taxation because the property is actually and exclusively used for charitable hospital purposes and otherwise meets the requirements for exemption as set forth in N.C. Gen. Stat. § 105-278.8.

Polk County, through counsel, contends that the subject property is not entitled to exemption from ad valorem taxation under the provisions of the Machinery Act. Polk County further contends that the subject property, which is an addition, is not wholly and exclusively used for educational or charitable purposes. Thus, Polk County asserts that the subject property is not exempt from ad valorem taxation under N.C. Gen. Stat. § 105-278.7. Polk County also asserts that the subject property is not exempt from ad valorem taxation under N.C. Gen. Stat. § 105-278.8 because the property is not owned or used for charitable hospital purposes. Thus, Polk County requests the Commission to affirm the decision of the County Board denying Taxpayer's application for property tax exemption of the subject property.

ISSUES

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

1. Is the Taxpayer's property wholly and exclusively used and owned for educational or charitable purposes and entitled to exemption from ad valorem taxation pursuant to N.C. Gen. Stat. § 105-278.7?
2. Is the Taxpayer's property actually and exclusively used for charitable hospital purposes and entitled to exemption from ad valorem taxation pursuant to N.C. Gen. Stat. § 105-278.8?

BASED ON THE EVIDENCE PRESENTED, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Taxpayer, Pavillon International, is incorporated as a non-profit corporation under the laws of Michigan and has obtained a certificate of authority to conduct affairs in North Carolina. Since 1996, the Taxpayer has operated a residential and treatment center, known as Pavillon International, in North Carolina, that provides treatment and renewal for individuals with addictions, disorders, and life crises.

2. For tax year 2001, the Taxpayer submitted an application requesting property tax exemption for certain real and personal property located at 500 Pavillon Place, Mill

Spring, Polk County, North Carolina. The new facility, which is the subject of this appeal, is an addition to the existing residential treatment and renewal facility and consists of approximately 8,800 square feet. This addition provides space for 20 additional individuals at the residential treatment and renewal facility.

3. The Taxpayer offers an intensive residential program that consists of a 4-week closed-group session at the subject property. The 4-week program occurs in stages, and each stage addresses the personal and unique needs of the individuals that are enrolled. The program incorporates treatment methods based upon human development, 12-step and psychiatric models.

4. As of January 1, 2001, The Taxpayer charged a fee of \$12,500 for the 4-week closed-group session programs. The Taxpayer grants admission to individuals who qualify for indigent care in the 4-week programs at the subject property. At least 10% of the beds are reserved for indigent individuals who are admitted to the programs.

5. Scholarships are also available to individuals that need financial assistance to participate in the programs that are offered at the subject property.

6. In tax year 2000, the Taxpayer provided \$178,550 in indigent care and financial assistance to individuals that were admitted to the residential programs at the subject property.

7. The Taxpayer offers training programs at the subject property for professionals who counsel and treat individuals with additions and disorders. These programs are provided to the professionals and counselors at no charge.

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

1. N.C. Gen. Stat. § 105-278.7 governs tax exemption for real and personal property used for educational, scientific, literary, or charitable purposes. N.C. Gen. Stat. § 105-278.7 provides as follows:

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

(1) Wholly and exclusively used by its owner for nonprofit educational, scientific, literary, or charitable purposes as defined in subsection (f), below;”

“(c) The following agencies, when the other requirements of this section are met, may obtain property tax exemption under this section:

- (1) A charitable association or institution,
- (2) A historical association or institution,
- (3) A veteran’s organization or association
- (4) A scientific association or institution,
- (5) A literary association or institution,
- (6) A benevolent association or institution,
- (7) A nonprofit community or neighborhood organization.”

2. N.C. Gen. Stat. § 105-278.7(f)(4) defines “charitable purpose” as:

One that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without the expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.

3. The subject property is used by the Taxpayer as a residential center that provides treatment to individuals with additions, psychiatric disorders and life crises. The Taxpayer grants admission to individuals who qualify for indigent care in the 4-week programs at the subject property. Scholarships are available to individuals that need financial assistance in order to participate in the programs that are offered at the subject property.

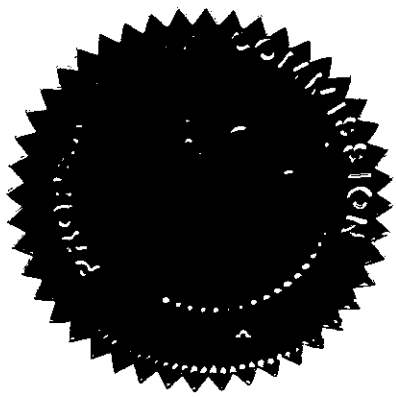
4. The Taxpayer, Pavillon International, did show that the subject property is wholly and exclusively used by its owner for a nonprofit charitable purpose. The activities conducted by the Taxpayer at the subject property benefits humanity and a significant segment of the community without the expectation of pecuniary profit or reward.

5. The Taxpayer did show that the subject property is used for a charitable purpose and entitled to exemption from ad valorem taxation pursuant to N.C. Gen. Stat. § 105-278.7?

6. The Taxpayer did show that it meets the requirements for an exemption from ad valorem taxation pursuant to N.C. Gen. Stat. § 105-278.7.

7. The Taxpayer’s application for property tax exemption for the subject property should be granted pursuant to N.C. Gen. Stat. § 105-278.7 for tax year 2001.

THE COMMISSION NOW, THEREFORE, ORDERS, ADJUDGES AND DECREES that the decision of the Polk County Board of Equalization and Review denying Taxpayer’s application for property tax exemption for the subject property is **Reversed**.



NORTH CAROLINA PROPERTY TAX COMMISSION

A handwritten signature in black ink, appearing to read "Terry L. Wheeler", written over a horizontal line.

Terry L. Wheeler, Chairman

Vice Chairman Cope and Commission members
Wilmoth, Raynor and Young concur.

Entered: May 21, 2003

ATTEST:

A handwritten signature in black ink, appearing to read "Janet L. Shires", written over a horizontal line.

Janet L. Shires, Secretary