

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:

19 PTC 0240

ANTHONY ALVARO GARCIA,
Appellant

ORDER OF DISMISSAL

From the decision of the Moore 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 in the City of Raleigh, Wake County, North Carolina on Wednesday, January 15, 2020, pursuant to the Appellant’s appeal from the decision of the Moore County Board of Equalization and Review (“Board”).

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

Attorney R. Ward Medlin appeared at the hearing on behalf of Moore County (“County”). The Appellant did not appear, nor did counsel appear on the Appellant’s behalf.

FROM ALL DOCUMENTS OF RECORD, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Appellant filed an appeal with the Moore County Board of Equalization and Review (“Board”).
2. Following the Appellant’s hearing before the Board, the Board mailed notice of its decision to the Appellant on June 28, 2019.
3. On July 3, 2019, the Appellant filed a notice of appeal with the Property Tax Commission, appealing the Board’s decision.
4. On November 22, 2019, the Commission mailed a letter bearing the same date to the Appellant, informing the Appellant that a hearing on this matter would be scheduled for the Commission’s January 2020 session of hearings, and also included a sample copy of the Pre-Hearing Order required by 17 NCAC 11 .0214.
5. On December 23, 2019, the Commission mailed a letter bearing the same date to the Appellant, informing the Appellant that a hearing on this matter would be scheduled for January 15, 2020, at 9:00 a.m., and also included a reminder of the Appellant’s obligation to enter into and file a Pre-Hearing Order at least ten days before the hearing date, all as required by 17 NCAC 11 .0214.

6. The Commission did not receive a Pre-Hearing Order completed and signed by the Appellant.
7. Prior to the hearing, the County filed a motion to dismiss the Appellant's appeal, based on the Appellant's failure to enter into a Pre-Hearing Order with the County, and also based on the Appellant's failure to file an executed Pre-Hearing Order.

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

1. 17 NCAC 11 .0214 provides in pertinent part that "The Appellant shall forward six copies of the executed [pre-hearing] order to the secretary [of the Commission] at least 10 days prior to the date of hearing." The Appellant failed to file the Pre-Hearing Order at least 10 days prior to the date of hearing.
2. Because the Appellant did not comply with the requirements of 17 NCAC 11 .0214, the Appellant's appeal is subject to dismissal.
3. The County properly filed a motion to dismiss the Appellant's appeal for failure to comply with the requirements of 17 NCAC 11 .0214.
4. 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. Accordingly, the Appellant's appeal is subject to dismissal.

WHEREFORE, the Commission orders and decrees that the County's Motion is granted, and that this appeal is hereby dismissed.

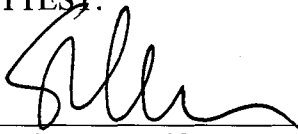


NORTH CAROLINA PROPERTY TAX COMMISSION


Robert C. Hunter, Chairman

Vice Chairman Wheeler and Commission Members
Peaslee, Guess and Michaux concur.

ATTEST:


Stephen W. Pelfrey, Commission Secretary

Date Entered: 2.24.2020