

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:

**BETSY WALTON UMBERGER,**  
**Appellant**

**17 PTC 0182**

From the decision of the Wake County  
Board of Commissioners concerning  
the untimeliness of a certain application  
for the Present-Use Value program for  
tax year 2017

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**FINAL DECISION**

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, November 15, 2017, pursuant to the Appellant’s appeal from the decision of the Wake County Board of Commissioners (“Board”).

Chairman Robert C. Hunter presided over the hearing, with Vice Chairman Terry L. Wheeler and Commission Members Alexander A. Guess and Charles W. Penny participating.

Kenneth R. Murphy, III, Senior Assistant County Attorney for Wake County, appeared on behalf of Wake County (“County”). The Appellant appeared *pro se*.

**STATEMENT OF THE CASE**

The property under appeal is a parcel containing approximately 26.92 acres, and designated by the County as Parcel ID Number 1608 28 5816. The Appellant became sole owner of the subject property upon the death of her husband in 2014. The property originally was used for a horse boarding operation, but the Appellant began a haying operation after she assumed sole control of the property. The property has not been previously enrolled in the Present-Use Value (“PUV”) program.

The Appellant submitted an untimely application to participate in the PUV program on February 24, 2017. The Board did not find good cause to approve the untimely application. The Appellant appealed the Board’s decision to the Commission.

## **ANALYSIS AND ISSUES**

The Present-Use Value program is governed by N.C. Gen. Stat. §105-277.2 through §105-277.7. In the program, property must meet certain statutory requirements in order to qualify for participation as agricultural land, horticultural land, or forestland. Among other requirements, the program provides specific requirements for application, including late application.

In this appeal, the issue presented for the Commission is whether good cause exists, as provided in N.C. Gen. Stat. §105-277.4(a1), to approve the Appellant's untimely application.

### **FROM THE EVIDENCE PRESENTED AND ALL DOCUMENTS OF RECORD, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:**

1. On or about February 24, 2017, the Appellant submitted her application.
2. Testimony offered at the hearing by the County's witness, Deputy Assessor William Witt Putney, III, indicated that the Appellant's application was forwarded for review by the Wake County Tax Committee ("Committee"), comprised of the finance officers for the County and some of its municipalities. Following its May 18, 2017 meeting, the Committee recommended denial of the Appellant's application to the Board.
3. The Appellant stated that she had not received notice of the Committee's meeting for the purpose of reviewing her untimely application, and had not been given the opportunity to be heard either at the Committee meeting or before the Board. Mr. Putney confirmed that the Appellant had not participated in the Committee review, but that he had participated by telephone. The Board ultimately did not find good cause to approve the untimely application.
4. The Appellant testified as to the lasting impact to her of her husband's death, stating that her husband had handled all of the farm's affairs during his life; that she was continuing to learn to handle the farm's affairs as a widow; that she had only recently learned of the PUV program; that she was not sure why the property had not been in the program previously; and that she only happened to find the deadline for application to the PUV program while investigating the program on the County's website.
5. Mr. Putney testified that the property would have qualified for participation in the PUV program for 2017, had the application been filed timely.

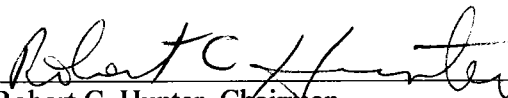
**BASED UPON THE FOREGOING FINDINGS OF FACT, THE PROPERTY TAX COMMISSION CONCLUDES AS A MATTER OF LAW:**

1. The Commission has jurisdiction over the parties and the subject matter of this appeal.
2. N.C. Gen. Stat. §105-277.4(a) generally requires an initial application for the PUV program to be submitted “during the regular listing period of the year for which the benefit...is claimed.” N.C. Gen. Stat. §105-307 defines the listing period as the month of January, unless extended as provided in the statute.
3. The application submitted on or about February 24, 2017 was untimely under the provisions of N.C. Gen. Stat. §105-277.4(a).
4. N.C. Gen. Stat. §105-277.4(a1) permits an untimely application to be approved by the Board “[u]pon a showing of good cause by the applicant for failure to make a timely application,” and further provides in pertinent part that “[d]ecisions of the county board may be appealed to the Property Tax Commission.”
5. Given that the Appellant’s application was filed shortly after the end of the listing period; that the Appellant offered testimony and other evidence of the impact of the death her husband on the management of the farm’s affairs; and that the Appellant seemingly had no opportunity to be heard in order to show good cause both to the Committee and to the Board, we find good cause for the Appellant’s untimely application.

**WHEREFORE**, the Commission orders and decrees that the Appellant’s untimely application be approved for 2017.

NORTH CAROLINA PROPERTY TAX COMMISSION



  
Robert C. Hunter, Chairman

Vice Chairman Wheeler and Commission Member Guess concur.

Commission Member Penny dissents without separate opinion.

ATTEST:

  
Stephen W. Pelfrey, Commission Secretary

Date Entered: 2/22/18