

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:

CHR SANFORD SQUARE LLC,
Appellant

20 PTC 0277

ORDER

Regarding the timeliness of an appeal to the
2020 Lee 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 Monday, September 14, 2020, pursuant to the Motion to Dismiss the Appellant’s appeal filed by Lee County (“County”).

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

Attorney Whitney Parrish appeared at the hearing via Webex on behalf of the County. Attorney Philip S. Anderson appeared via Webex on behalf of the Appellant.

FROM THE MOTION FILED IN THIS MATTER AND ALL DOCUMENTS OF RECORD, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Appellant is the owner of certain real property identified by the County by Parcel Identification Numbers 9652-44-5508-00 (“subject property”).
2. The Lee County Board of Equalization and Review (“Board”) adjourned on April 17, 2020 for the 2020 tax year.
3. Prior to the said adjournment date, the Appellant gave notice to the County of its appeal of the value of the subject property. The County was aware of and reviewed the Appellant’s appeal via an “informal” appeal process. It is undisputed that a portion of the review and appeal was conducted via email exchange between the Appellant and the County.
4. On or about March 24, 2020, the County mailed the Appellant notice of its “informal appeal decision.” The decision notice also stated that “further appeal of this decision may be made to the [Board];” provided a link to an online appeal form and submission method; and further advised that “[i]n order for the Board of Equalization & Review to consider your appeal timely, your appeal form must be **received by the Board** as of 12:00 p.m. or **postmarked by the U.S. Postal Service** by **Friday, April 17, 2020, the advertised date for adjournment**” [emphasis in original].
5. The County received an envelope, postmarked April 21, 2020, from the Appellant, containing the same information previously submitted during the “informal” appeal process.

6. By letter dated April 24, 2020, the Clerk to the Board notified the Appellant that the Appellant's appeal to the Board was untimely, and would not be heard by the Board.
7. The Appellant filed a Notice of Appeal and Application for Hearing with the Property Tax Commission, appealing the denial of Appellant's appeal before the Board.
8. At the hearing, the County contended that the Appellant's appeal could have been heard by the Board if any timely written request, including one made by email, had been made to the Board.

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

1. N.C. Gen. Stat. §105-322(g)(2)(a) provides in pertinent part that "A request for hearing under this subsection shall be made in writing to or by personal appearance before the board prior to its adjournment."
2. Pursuant to N.C. Gen. Stat. §105-322(e), the Board is not authorized to convene "earlier than the first Monday in April." Since N.C. Gen. Stat. §105-296(i) provides that "[p]rior to the first meeting of the board of equalization and review, the assessor may, for good cause, change the appraisal of any property subject to assessment for the current year," North Carolina's counties will typically make use of this period of time prior to the Board's convening as an "informal" appeal period, whereby the assessor will review (and perhaps resolve) appeals, without involving the Board.
3. Undoubtedly, this approach is beneficial to property owners seeking to have their values reviewed; however, we note that N.C. Gen. Stat. §105-322(g)(2)(a) does not require a separate written notice of appeal in order for the property owner to participate in both the "informal" and statutory appeal processes.
4. Here, it is undisputed that the Appellant's appeal of the subject property's value was communicated by email to the County prior to the adjournment of the Board. The County has also confirmed that it would consider an appeal timely submitted by email to meet the requirements of N.C. Gen. Stat. §105-322(g)(2)(a). We conclude, therefore, that the Appellant gave timely written notice of its appeal prior to the Board's adjournment, and that the Board should have considered the Appellant's appeal.
5. Although not necessary to this decision, we further observe that the initial review of the timeliness of an appeal to the Board would be more efficiently considered by the Board itself rather than by the Commission. In general, we would recommend that Boards of Equalization and Review consider the timeliness of an appeal request and render its decision, rather than simply denying an appeal without hearing from the appellant.

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WHEREFORE, the Commission orders and decrees that this matter be remanded to the Lee County Board of Equalization and Review or, if that Board is not in session, then to the Lee County Board of County Commissioners, for hearing concerning the valuation of the subject property for the 2020 tax year.

NORTH CAROLINA PROPERTY TAX COMMISSION



Robert C. Hunter
Robert C. Hunter, Chairman

Commission Members Peaslee and Michaux
concur.

Vice Chairman Wheeler dissents without separate
opinion.

Date Entered: 11.24.2020

ATTEST:

Stephen W. Pelfrey
Stephen W. Pelfrey, Commission Secretary