

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:

GMRI, INC.,
Appellant

18 PTC 0325

ORDER OF DISMISSAL

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 Thursday, May 23, 2019, pursuant to the Motion to Dismiss the Appellant’s appeal, filed by Forsyth County (“County”), for the Appellant’s failure to timely authorize and designate a nonattorney representative as provided in N.C. Gen. Stat. §105-290(d2), and for the Appellant’s failure to file a complete application for hearing as required by 17 NCAC 11 .0212.

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

Attorney Frederick P. Johnson appeared at the hearing on behalf of Forsyth County. The Appellant did not appear, either through counsel or through a duly authorized and designated nonattorney representative as provided in N.C. Gen. Stat. §105-290(d2).

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

1. On October 29, 2018, the Property Tax Commission received a Notice of Appeal and Application for Hearing (Form AV-14) filed by a Vice President for the Appellant, purporting to appeal the decision of the Forsyth County Board of Equalization and Review (“Board”).
2. Form AV-14 provides in pertinent part as follows: “NOTE: A copy of the County Board’s decision must be submitted with this Application to verify that you appeared before the board.”
3. A copy of the Board’s decision was not submitted with Form AV-14.
4. The Appellant, a business entity, was not represented by a North Carolina-licensed attorney, and did not elect an authorized nonattorney representative, as permitted through N.C. Gen. Stat. §105-290(d2) and 17 NCAC 11 .0216(a).
5. On January 28, 2019, the County filed a Motion to Dismiss the Appellant’s appeal, for the Appellant’s failure to timely authorize and designate a nonattorney representative, and for the Appellant’s failure to file a complete application for hearing.

6. On March 29, 2019, the Commission mailed a letter bearing the same date to the Appellant, informing the Appellant that a hearing on the Motion to Dismiss filed in this matter would be scheduled for the May 20-23, 2019 session of Commission hearings. The letter further noted that no AV-63 had been filed with the Commission.
7. On April 30, 2019, the Commission mailed a letter bearing the same date to the Appellant, informing the Appellant that the hearing on the County's motion would be scheduled for Thursday, May 23, 2019, at 9:00 a.m.

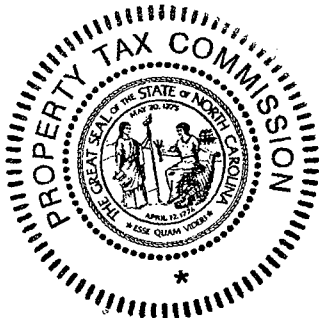
BASED UPON THE FOREGOING FINDINGS OF FACT, THE PROPERTY TAX COMMISSION CONCLUDES AS A MATTER OF LAW:

1. 17 NCAC 11 .0216(a) provides in pertinent part that "Notice of non-attorney representation pursuant to G.S. 105-290(d2) shall be filed with the Commission within 30 days of filing a Notice of Appeal or the appeal shall be subject to dismissal." N.C. Gen. Stat. §105-290(d2) specifies the manner of filing such notice by providing in pertinent part that "Authority for and prior notice of nonattorney representation shall be made in writing, under penalty of perjury, to the Commission on a form provided by the Commission." The form provided by the Commission is the previously mentioned Form AV-63. The Appellant did not file Form AV-63 with the Commission. Accordingly, the Appellant's appeal is subject to dismissal.
2. 17 NCAC 11 .0212(b) provides in pertinent part that "Unless an extension has been requested and granted, the application for hearing must be filed within 30 days of the date of the letter of acknowledgment or the appeal may be dismissed." Because the application for hearing, the previously mentioned Form AV-14, was not complete according to its stated instructions, and because no extension of time in which to file Form AV-14 was requested or granted, the notice of hearing was not timely received. Accordingly, the Appellant's appeal is subject to dismissal.
3. 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." The Appellant did not appear, either through counsel or through a properly authorized nonattorney representative as provided in N.C. Gen. Stat. §105-290(d2), 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.

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WHEREFORE, the Commission grants the County's Motion to Dismiss, and orders and decrees that this appeal should be, and is hereby, dismissed.

NORTH CAROLINA PROPERTY TAX COMMISSION



Robert C. Hunter
Robert C. Hunter, Chairman

Vice Chairman Wheeler and
Commission Member Peaslee concur.

ATTEST:

Stephen W. Pelfrey
Stephen W. Pelfrey, Commission Secretary

Date Entered: 8-14-19