

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:

HOLMES LAND & TIMBER LLC,
Appellant

16 PTC 0193

From the decision of the Chatham
County Board of Equalization and
Review concerning the timeliness of a
certain application for the Present-Use
Value program

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 Thursday, January 11, 2018, pursuant to the Appellant’s appeal from the decision of the Chatham 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 Charles W. Penny participating.

Attorney C.B. McLean, Jr., appeared on behalf of Chatham County (“County”). Attorney William S. Cherry, III, appeared on behalf of the Appellant.

STATEMENT OF THE CASE

The property under appeal consists of two parcels containing approximately 240.7 total acres, and which are designated by the County as Parcel ID Numbers 0081909 and 0006478. The Appellant acquired the subject property by deed recorded on January 6, 2015. At the time of the transfer, the property was enrolled in the Present-Use Value (“PUV”) program.

The Appellant contacted the County regarding the property’s continued enrollment in the PUV program both prior to and after acquiring the property, but the Appellant did not submit the County’s application form to continue participating in the PUV program until some date in February of 2016. The County ultimately removed the property from the PUV program, and the County’s decision was

upheld by the Chatham County Board of Equalization and Review. 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 issues presented for the Commission are:

- 1) whether the Appellant's application for continued participation in the PUV program was timely; and
- 2) if the application was untimely, 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. The Appellant provided documentary evidence (Taxpayer's Exhibit 2) of an internal email message dated January 5, 2015, which illustrates the Appellant's understanding at that time of the process by which the property could (continue to) participate in "special use," or PUV, based on conversations between one of the Appellant's members and County staff, as well as the understanding that the county would send application forms within one month after the recording of the deed to the property.
2. The deed to the Appellant for the subject property was recorded January 6, 2015.
3. On January 13, 2015, the Appellant mailed to the County, by certified mail with return receipt requested, payment for outstanding taxes due on the subject property, along with a cover letter that referenced the purchase, the name of the purchaser (the Appellant), and the Appellant's intent "to continue to keep this property under special use." Both the County (County Exhibit 5) and the Appellant (Taxpayer's Exhibit 5) submitted copies of the letter and certified mailing receipts.
4. On or about March 18, 2015, the County mailed notice (Taxpayer's Exhibit 6) to the subject property's former owner, stating that the property had been disqualified from the PUV program for 2015, and further stating that the County had, the previous month, "sent out a

final notice” requesting additional documentation and an application from the former owner, after having “made repeated attempts since October 2014” to obtain this material from the former owner.

5. The County did not mail notice of the disqualification to the Appellant, nor did the County inform the Appellant of the information it required in order to prevent the disqualification. The County apparently initiated no contact with the Appellant prior to sending the 2015 tax bill.
6. On or about January 12, 2016, the County mailed the Appellant a letter (County Exhibit 6) indicating that the Appellant could appeal the disqualification, but further noted that, should the Board remove the disqualification, the property would still be disqualified because the Appellant “did not file an application for continued use in the present use program after purchasing the property.”
7. There is no dispute that the property was enrolled in the forestry PUV program at the time of the Appellant’s purchase. There is no dispute that the Appellant has continued to actively manage the property for the commercial growing of trees since purchasing the property.

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

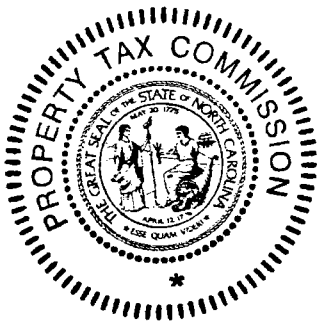
1. The Commission has jurisdiction over the parties and the subject matter of this appeal.
2. The North Carolina Court of Appeals has held that the purpose of an application statute is “to establish a uniform method of informing a county of a property owner’s intent to claim a tax exemption.”¹ Although the PUV program has a different application statute than the one involved in the *Valley Protein* case, we find the interpretation to be equally applicable here.
3. The *Valley Protein* Court went on to say, “The County was clearly aware of taxpayer’s intent and received all the relevant information it needed. We hold that taxpayer’s application was timely filed in substantial compliance with the statute within the calendar year for which it claimed the exemption.”
4. There is evidence here that the Appellant informed the County both shortly before and shortly after its purchase of the subject property that it intended “to continue to keep this

¹ *In re Appeal of Valley Proteins, Inc.*, 128 N.C. App. 151, 494 S.E.2d 111 (1997)

property under special use.” There is no evidence that the County misunderstood the Appellant’s wording of “special use” instead of “present-use valuation.”

5. The subject property was actually enrolled in the PUV program as of the date of its transfer to the Appellant.
6. For a property presently enrolled in the PUV program, N.C. Gen. Stat. §105-277.4(a) generally requires a new application to be submitted by a new owner “within 60 days of the date of the property’s transfer” in order to be timely.
7. Because the property was transferred on January 6, 2015, the application submitted in February of 2016 was untimely; we note, however, that no particular application form is required by the statute.
8. By certified mailing dated January 12, 2015 and mailed January 13, 2015, the Appellant informed the County of its intent to continue participating in the PUV program. January 13, 2015 is well within the 60-day application window that began with the transfer of the property on January 6, 2015. Therefore, the Appellant’s application was timely filed in substantial compliance with the statute for 2015, the year for which the Appellant first claimed the benefit of the PUV program.

WHEREFORE, the Commission orders and decrees that the Appellant’s application be approved as timely for 2015.




NORTH CAROLINA PROPERTY TAX COMMISSION


Robert C. Hunter, Chairman

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

ATTEST:


Stephen W. Pelfrey, Commission Secretary

Date Entered: 3/15/18