

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:

**MARTHA ANN BRICE,**  
**Appellant**

**17 PTC 0087**

From the decision of the Wilson  
County Board of Commissioners  
concerning the untimeliness of a  
certain application for the Present-Use  
Value program for tax year 2016

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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, October 11, 2017, pursuant to the Appellant’s appeal from the decision of the Wilson County Board of Commissioners (“Board”).

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

Attorney Charles C. Meeker appeared on behalf of Wilson County (“County”). The Appellant appeared *pro se*.

**STATEMENT OF THE CASE**

The property under appeal is a parcel containing approximately 62.63 acres, and designated by the County as Parcel ID Number 3752-64-6592. The Appellant inherited an interest in the subject property, along with another heir, whose interest was ultimately conveyed to her by deed recorded July 1, 2015 in the Wilson County Registry. The property was enrolled in the Present-Use Value program at the time of the inheritance.

The County mailed the Appellant a letter dated March 24, 2016, advising the Appellant that it had recognized a change in ownership of the subject property, and further advising that a

new application must be filed by May 26, 2016, in order for the property to continue to participate in the Present-Use Value program. The Appellant submitted an application on December 19, 2016. 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 July 1, 2015, a deed was recorded in the Wilson County Registry, conveying another heir's interest in the subject property to the Appellant.
2. By letter dated March 24, 2016, the County notified the Appellant that it had recognized the change in ownership of the subject property, and further notified the Appellant that a new application should be filed by May 26, 2016 in order for the property to continue participating in the Present-Use Value program.
3. On or about June 16, 2016, the County prepared bills for the property taxes previously deferred on the property, but now due as a result of the property's removal from the Present-Use Value program.
4. On or about December 19, 2016, the Appellant submitted her application. At the hearing, the Appellant testified that she had not filed an application by the May 26, 2016 deadline, and had not filed any other application prior to the one filed December 19, 2016.
5. The Appellant further testified as to her understanding that, by submitting her application within the same calendar year that the county issued the deferred tax bill, she had complied with the provisions of the Present-Use Value Program Guide

published by the North Carolina Department of Revenue, and had thereby successfully submitted an untimely application.

**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) both requires a new application to be submitted when a previously qualifying property is transferred, and further provides in pertinent part that “[a]n application required due to transfer of the land may be submitted at any time during the calendar year **but must be submitted within 60 days of the date of the property’s transfer**” [emphasis added]. The deed recorded on July 1, 2015 constituted a transfer of an ownership interest in the property, and therefore a transfer of the land. Although the evidence indicates that the County would have accepted an application as timely if filed by May 26, 2016, or perhaps even later, a new application was properly due within 60 days of the date of transfer, which was actually much earlier than that date.
3. The application submitted on December 19, 2016, was untimely under the provisions of N.C. Gen. Stat. §105-277.4(a).
4. N.C. Gen. Stat. §105-277.4(a1) provides in pertinent part that “[a]n untimely application approved under this subsection applies only to **property taxes levied** by the county or municipality **in the calendar year in which the untimely application is filed**” [emphasis added]. Thus, an untimely application must be filed within the year for which relief is sought, whether from that year’s property tax bill or from a bill for previously deferred taxes issued that year. As to the guidance on this topic provided by the North Carolina Department of Revenue (NCDOR), it is clear that an untimely application may be filed within the same calendar year as the one in which the deferred tax bill is issued, but there is no distinction either in the statutes or in the NCDOR Present-Use Value Program Guide regarding an untimely application that is required due to a transfer of the property. An application that is untimely for any reason cannot be approved unless good cause is found to do so.

5. N.C. Gen. Stat. §105-277.4(a1) further 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.”
6. The only evidence to show good cause offered by the Appellant was her testimony that she was unable to obtain a forest management plan to submit in connection with a timely application.
7. The Appellant has not shown good cause for failure to make a timely application when there is no showing of her attempting to comply with the statutory deadline.

**WHEREFORE**, the Commission, by unanimous decision, orders and decrees that the Appellant’s untimely application is not approved for 2016.




NORTH CAROLINA PROPERTY TAX COMMISSION

  
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Robert C. Hunter, Chairman

Vice Chairman Wheeler and  
Commission Member Penny concur.

Date Entered: 2/2/18

ATTEST:  
  
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Stephen W. Pelfrey, Commission Secretary