

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
07 PTC 374

In the Matter of the Appeal of:
Meadowlands Golf, LLC
from the decision of the Davidson
County Board of Equalization and
Review concerning the valuation
of certain real property for tax
year 2007.

ORDER

This Matter was heard before the North Carolina Property Tax Commission ("Commission") sitting as the State Board of Equalization of Review in the City of Raleigh, Wake County, North Carolina, at its regularly scheduled hearing on Thursday, July 16, 2009, pursuant to the Motion to Dismiss Appeal of Davidson County in connection with the Notice of Appeal of Meadowlands Golf, LLC ("Meadowlands") from the Final Decision entered by the Commission on April 1, 2009.

Chairman Terry L. Wheeler presided over the hearings with Vice Chairman Anthony L. Young and Commission members R. Bruce Cope, Wade Wilmoth and Aaron Plyler participating.

Attorney Michael F. Schultze represented the Meadowlands at the hearing. Attorney Charles C. Meeker represented Davidson County at the hearing.

Based on the Commission's files, the materials submitted by the parties as well as having reviewed the authorities submitted and having heard the argument of counsel, the Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On April 1, 2009, the Commission entered its Final Decision in the Appeal of Meadowlands Golf, LLC ("Meadowlands").
2. On May 1, 2009, the Meadowlands mailed from Charlotte its notice of appeal and exceptions to said Final Decision. This Notice was received by the Commission on May 4, 2009, and said Notice did not contain a United States mail postmark showing the date of mailing.
3. By letter dated May 5, 2009, the Commission advised the Meadowlands that its notice of appeal had been received by the Commission on May 4, 2009.
4. By Motion filed May 8, 2009, Davidson County moved to dismiss the Meadowlands' appeal because its Notice was not timely.

5. The parties' subsequently filed materials confirming the above circumstances and facts concerning the mailing of Meadowlands' notice of appeal.

Based upon the foregoing Findings of Fact, the Commission makes the following Conclusions of Law:

CONCLUSIONS OF LAW

1. N. C. Gen. Stat. § 105-345(a) requires that a notice of appeal from a final order or decision of the Commission be filed within thirty (30) days after the entry of such final order or decision. This statute does not have a provision concerning the mailing of a notice in certain circumstances as being considered the filing of that notice.

2. The filing of a notice of appeal within thirty (30) days is jurisdictional, and a party's failure to file a timely notice requires dismissal of its appeal. See In re Appeal of General Tire, 102 N.C. App. 38 (1991).

3. The Meadowlands' reliance on N.C. Gen. Stat. § 105-290(g) is not correct because this statute applies to an appeal from a county equalization and review board to this Commission, not to an appeal from this Commission to the North Carolina Court of Appeals. Moreover, even if this statute did apply, the Meadowlands' notice did not contain a United States mail postmark showing the date of mailing. See In re Appeal of Bass Income Fund, 115 N.C. App. 703 (1994).

4. Since N. C. Gen. Stat. § 105-345(a) is the applicable statute Meadowlands' appeal must be dismissed because the notice of appeal was filed more than thirty (30) days after the entry of the Final Decision in this matter. As such, Meadowlands' notice of appeal was not timely filed.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Commission hereby dismisses Meadowlands' appeal from the Final Decision entered by the Commission on April 1, 2009 because its notice of appeal was not timely filed.

Ordered and decided by the Commission on Thursday, July 16, 2009.

NORTH CAROLINA PROPERTY TAX COMMISSION




Terry L. Wheeler, Chairman

Vice Chairman Young and Commission members Cope,
Wilmoth and Plyler concur.



Entered: October 20, 2009

Attest:


Janet L. Shires, General Counsel