

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:

**20 PTC 0281**

**MILLCREEK GENERAL STORE 2, LLC,**  
**Appellant,**

**ORDER OF DISMISSAL**

From the decision of the Surry County Board  
of Equalization and Review

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This matter came on for hearing before the North Carolina Property Tax Commission (“Commission”) in the City of Raleigh, Wake County, North Carolina, on Wednesday, August 26, 2020, pursuant to the Motion to Dismiss the Appellant’s appeal filed by Surry County (“County”).

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

Attorney Edwin M. Woltz appeared at the hearing via Webex on behalf of the County. There was no appearance by the Appellant.

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

1. Pursuant to N.C. Gen. Stat. §105-312(h), the County imposed penalties on the taxes that were due following the discovery of certain property owned by the Appellant.
2. N.C. Gen. Stat. §105-312(k) provides that the Board of Equalization and Review has the power to compromise discoveries, including waiver of penalties.
3. On or about April 27, 2020, the Appellant appealed to the Surry County Board of Equalization and Review (“Board”) regarding the penalties imposed. The Board determined that it would not waive the penalties and notified the Appellant of its decision by Notice of Decision dated April 28, 2020.
4. The Appellant filed a Notice of Appeal and Application for Hearing (form AV-14) with the Commission and requested the Commission to waive the penalties.

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

1. The Power to Compromise as set forth in N.C. Gen. Stat. §105-312(k) is a power delegated by the General Assembly to the boards of county commission and/or to the local boards of equalization and review. The Power to Compromise is a discretionary power and is not subject to review by the Commission.
2. N.C. Gen. Stat. §105-290 provides that the Commission shall have authority to hear appeals from a local Board regarding the "listing, appraisal or assessment of property." The statute does not provide authority to the Commission to compromise the imposition of penalties.
3. In addition, N.C. Gen. Stat. §105-312(k) provides that the Power to Compromise does not arise until after the tax receipt, which includes taxes and penalties, has been computed and prepared and "delivered and charged to the tax collector..." Accordingly, the Power to Compromise discoveries and associated penalties is a billing or collection issue, which is not within the jurisdiction of the Commission.
4. The Commission does not have jurisdiction over the Appellant's request for waiver of penalties.
5. The County properly moved to dismiss the Appellant's appeal to the Commission because the Commission does not have jurisdiction over the issue.

**WHEREFORE**, the Commission grants the County's Motion to Dismiss, and the Appellant's appeal is hereby dismissed.



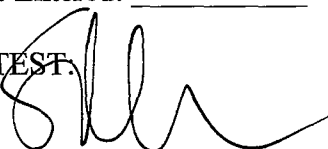
NORTH CAROLINA PROPERTY TAX COMMISSION

  
Robert C. Hunter, Chairman

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

Date Entered: 10.12.2020

ATTEST.

  
Stephen W. Pelfrey, Commission Secretary