

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:

**TIMOTHY PARKS and
AMBER PARKS,
Appellants**

19 PTC 0115

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

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 Monday, November 4, 2019, pursuant to the Appellants’ appeal from the decision of the Randolph 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 June W. Michaux participating.

Attorney Aimee C. Scotton appeared on behalf of Randolph County (“County”). The Appellants appeared *pro se*.

STATEMENT OF THE CASE

The Appellants are owners of a parcel of land containing approximately 12.5 acres of land, together with the Appellants’ residence. The property is located at 6192 Muddy Creek Road in Archdale, Randolph County, North Carolina, and is identified by the County as Parcel 7738506201.

In January of 2019, the Appellants applied to participate, either as agricultural land or, alternatively, as horticultural land, in the Present-Use Value (“PUV”) Program governed by N.C. Gen Stat. §105-277.2 through 105-277.7. On February 1, 2019, the County notified the Appellants that their PUV application had been denied for the 2019 tax year, for failure to have a qualifying tract in production as of January 1, 2019. Subsequently, the Randolph County Tax Commission, on behalf of the Randolph County Board of Equalization and Review, notified the Appellants by letter dated May 13, 2019 that the Appellant’s property did not qualify to participate in the PUV

program for tax year 2019, because the property did not meet either of the statutory requirements for size and income. On May 31, 2019, the Appellants 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 that are not in dispute here, each program provides specific size and income requirements for qualification.

N.C. Gen. Stat. §105-277.2(1) defines agricultural land as “[l]and that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program.” To participate in the PUV program, most agricultural land “must consist of at least 10 acres that are in actual production” and “must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000).” (N.C. Gen. Stat. §105-277.3(a)(1))

N.C. Gen. Stat. §105-277.2(3) defines horticultural land as “[l]and that is a part of a horticultural unit that is actively engaged in the commercial production or growing of fruits or vegetables or nursery or floral products under a sound management program.” To participate in the PUV program, most horticultural land must consist of “at least five acres that are in actual production,” with the same three-year-average income requirement as that for agricultural land. (N.C. Gen. Stat. §105-277.3(a)(3))

In these appeals, the issues presented for the Commission are:

1. Whether the subject property met the statutory income requirements for participation in either the agricultural or the horticultural Present-Use Value program as of January 1 of 2019, the year of application; and
2. Whether the subject property met the statutory size requirements for participation in either the agricultural or the horticultural Present-Use Value program as of January 1 of 2019, the year of application.

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

1. Although the Appellants included both the agricultural and the horticultural programs in their application, there is no evidence that the subject property has been used for the “commercial production or growing of fruits or vegetables or nursery or floral products.” Accordingly, we find that the subject property could not qualify for the horticultural program, and hereafter review this matter solely in the context of the agricultural PUV program.
2. At the hearing, the Appellants testified that they had acquired the subject property in late 2017 and, in 2018, had begun making plans to farm the property. The Appellants also built and moved into a residence on the subject property in 2018.
3. As of the time of the hearing, the Appellants testified that approximately three acres of the total parcel was and had been leased to a farmer for crop production; that another 7-8 acres had been fenced for livestock; and that the remainder was either attributed to the residence or was wasteland.
4. The Appellants testified further that they had not raised any livestock on the property in 2018, but that they had acquired pigs and goats in 2019, and had subsequently sold the pigs.
5. On cross-examination, the Appellants conceded that they were not actually farming the subject property as of January 1, 2019, but suggested that their 2018 preparations in anticipation of acquiring livestock in 2019 could be sufficient. The Appellants stated further, however, that they were not clear on whether they actually met the statutory requirements.
6. In support of the income requirement in connection with their application, the Appellants submitted to the County the front page of the tenant farmer’s Federal tax return. The return was for a single tax year (2017), and did not indicate what portion of the total income came from the subject property, or whether the subject property had produced income in prior years. Accordingly, we find that there is no evidence to establish that the subject property itself actually met the statutory income requirement.

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. §105-277.3(a)(1) provides in pertinent part that property “must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000)” in order to qualify

for the agricultural PUV program. Because we have found no evidence that the subject property, on its own, produced the required average income, the subject property cannot qualify for the program for 2019.

3. It is less clear whether the subject property meets the size requirement to participate in the agricultural PUV program. Such a determination is not necessary to this decision, however, because failure of the income requirement alone is sufficient to disqualify the subject property. Accordingly, we do not consider the size requirement further in reaching our decision.

WHEREFORE, the Commission orders and decrees that the decision of the Randolph County Board of Equalization and Review, denying participation of the subject property in the Present-Use Value Program for 2019, is hereby affirmed.



NORTH CAROLINA PROPERTY TAX COMMISSION


Robert C. Hunter, Chairman

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

ATTEST:



Stephen W. Pelfrey, Commission Secretary

Date Entered: 12.16.19