

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:

**TPAC, LLC,**  
**Appellant**

**19 PTC 0060**

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

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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 Thursday, June 27, 2019, pursuant to the Appellant’s appeal from the decision of the Guilford 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<sup>1</sup>.

Attorney Matthew J. Turcola appeared on behalf of Guilford County (“County”). Attorney Christina F. Pearsall appeared on behalf of the Appellant.

### **STATEMENT OF THE CASE**

The property under appeal is a certain parcel of land located in Guilford County, North Carolina, at 125 Summit Avenue in the City of Greensboro, and is designated by the County as Parcel Number 0000846. The Appellant acquired the subject property from the City of Greensboro by deed recorded on July 13, 2017. At the time of the transfer, the property was exempt from property taxation under N.C. Gen. Stat. §105-278.1 because its owner on January 1, 2017 was the City of Greensboro, a unit of government. By Lease Agreement, also dated July 13, 2017, the Appellant began leasing the subject property back to the City of Greensboro for \$1 per year. At the conclusion of the construction

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<sup>1</sup> Although Mr. Penny is no longer a Commission Member as of the date this decision is entered, he was a Member at the time of this hearing, and participated in the hearing and resulting decision.

of a performing arts center upon the subject property, the property and performing arts center are to be reconveyed to the City of Greensboro.

The County contacted the Appellant in January, 2019, regarding an outstanding property tax bill for the 2018 tax year, the first year in which the subject property was listed in the name of the Appellant. The Appellant thereafter filed an application with the County seeking tax exemption for the 2018 and subsequent tax years. The County granted the exemption beginning with the 2019 tax year, but denied the exemption request for 2018 for being untimely, and the County's denial was upheld by the Guilford County Board of Equalization and Review. The Appellant appealed the Board's decision to the Commission.

### **ANALYSIS AND ISSUES**

The exemption program sought by the Appellant, and approved by the County beginning in 2019, is governed by N.C. Gen. Stat. §105-278.7. The application procedure for this program, and others, is governed by N.C. Gen. Stat. §105-282.1. Among other requirements, the statute provides specific requirements for application, including late application. In this appeal, the issue presented for the Commission is whether the Appellant's application for participation in the exemption program was timely.

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

1. The parties hereto have stipulated to a number of facts in this matter. It is stipulated that the Appellant did not file an application for exemption until February of 2019, and that the County had billed the Appellant for taxes on the subject property for the 2018 tax year. It is further stipulated that the bill was mailed to an incorrect address for the Appellant, and that the Appellant did not actually receive the 2018 bill until some time in early 2019. The Appellant was not aware of the 2018 assessment until receipt of the bill in 2019.
2. Because the Appellant promptly responded to the County upon receipt of the bill, it is reasonable to assume that the Appellant would have responded both promptly and in 2018, had the bill been mailed to the Appellant's correct address. But for the incorrect address, the evidence indicates that the Appellant would have filed the application for exemption in the 2018 calendar year, and the exemption would have been granted for 2018.

3. The deed to the Appellant for the subject property was recorded July 13, 2017, and contained the following explicit restriction: “THE USE (sic) of this property is restricted to a public use (within the meaning of N.C.G.S. 160A-279 or any successor statute) by the Grantee, and said restriction shall run with the land.”
4. N.C. Gen. Stat. §105-282.1 provides in pertinent part as follows: “An untimely application for exemption or exclusion 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.”
5. The County offered no separate evidence in this matter, and contended only that it had no authority to grant the exemption for the 2018 tax year, because 2019 was the “calendar year in which the untimely application [was] filed,” thus limiting the County’s ability to grant the exemption for an earlier year.
6. The Commission has previously found that untimely applications can be deemed timely for good cause (see, e.g., *Appeal of Christ Church Greensboro, Inc.*, 16 PTC 0405).

**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.”<sup>2</sup>
3. The *Valley Proteins* 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. The recorded deed conveying the subject property to the Appellant clearly restricted the property to a public use. Because the deed was a matter of public record, the County had notice of this restriction, and therefore, of the likelihood that this property would be exempt from property taxes.
5. Because the County had notice of the property’s status as of January 1, 2018, the Appellant’s application was timely filed in substantial compliance with the statute for 2018.

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

WHEREFORE, the Commission orders and decrees that the Appellant's application be approved as timely for 2018.

NORTH CAROLINA PROPERTY TAX COMMISSION



Robert C. Hunter  
Robert C. Hunter, Chairman

Vice Chairman Wheeler and  
Commission Member Penny concur.

Commission Members Peaslee and Guess dissent  
without separate opinion.

ATTEST:

Stephen W. Pelfrey  
Stephen W. Pelfrey, Commission Secretary

Date Entered: 8-14-19