

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:

**COUNTY REINSURANCE, LIMITED,
Appellant**

20 PTC 0393

From the decision of the Forsyth County
Board of Equalization and Review
concerning the exemption of certain real
property for tax year 2020

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, via Webex on Monday, April 19, 2021, pursuant to the Appellant’s appeal from the decision of the Forsyth County Board of Equalization and Review (“Board”).

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

Attorney Frederick P. Johnson appeared via Webex on behalf of Forsyth County (“County”). Attorneys John A. Cocklereece and Justin M. Hardy appeared on behalf of the Appellant.

STATEMENT OF THE CASE

At issue is the potential exemption of certain real property (“subject property”) located at 6201 Towncenter Drive in Clemmons, North Carolina, and consisting of two parcels identified by the County by Parcel Number 5883-95-7798 and Parcel Number 5883-95-7789.

The Appellant filed an application for the 2020 tax year, seeking for the subject property either of the exemptions authorized by N.C. Gen. Stat. §105-278.1 or N.C. Gen. Stat. §105-278.7. The County denied the request as to each exemption. The Appellant timely appealed the County’s denial to the Forsyth County Board of Equalization and Review (“Board”), which affirmed the County’s denial. The Appellant timely appealed the Board’s denial to the Commission.

ANALYSIS AND ISSUES

N.C. Gen. Stat. §105-278.1 provides in pertinent part that “[r]eal and personal property belonging to the State, counties, and municipalities is exempt from taxation,” and “[a] specified unit of government (federal, State, or local) includes its departments, institutions, and agencies.” The exemption requires only that property be owned by an appropriate unit of government in order to qualify. Thus, the issue presented for the Commission with respect to this exemption is whether the subject property is owned by an appropriate unit of government.

N.C. Gen. Stat. §105-278.7 provides in pertinent part that “[b]uildings, the land they actually occupy, and additional adjacent land necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by [a charitable association or institution]..., and if...[w]holly and exclusively used by its owner for nonprofit...charitable purposes.” Although the statute also authorizes exemption for educational, scientific, and literary purposes, the Appellant’s contention in this matter relates solely to its use of the subject property for charitable purposes.

The §105-278.7 exemption requires both a qualifying owner and a qualifying use in order for the property to be exempted. Accordingly, the issues presented as to this exemption are:

- a) whether the Appellant is a “charitable association or institution;” and, if so, then
- b) whether the subject property is “wholly and exclusively used by its owner for nonprofit charitable purposes.”

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

1. By joint stipulation (See Order on Final Pre-hearing Conference Exhibit S-1), the parties agree:
 - a. that the Appellant is a “a Vermont corporation the income of which is excluded from gross income under Section 115 of the Internal Revenue Code;” and
 - b. that the Appellant “is wholly owned by twenty-eight self-insurance pools. Membership of each of the self-insurance pools is made up entirely of local government members. Two of the pools owning [the Appellant] are the North Carolina Association of County Commissioners – North Carolina Counties Liability and Property Joint Risk Management Agency and the North Carolina Association of County Commissioners – Joint Risk Management Agency Workers’ Compensation Fund (the ‘North Carolina Pools’).”

2. The Appellant's stated purpose is "to provide reinsurance coverage to its owner-member governments, including property reinsurance, liability reinsurance, workers' compensation reinsurance, underwriting management, and claims management" (see Item 7 of Taxpayer Exhibit 3). While we do not reach the same conclusion here as the Appellant that the participating governments are the Appellant's owners, we do find its description of the Appellant's reinsurance activities to be illustrative of its purpose.
3. The Appellant further describes the nature of its organization and activities by reference to a ruling from the Internal Revenue Service (see Taxpayer Exhibit 3, beginning with Bates numbered page 0051), which provides in pertinent part:
 - a. "The [Appellant] Company provides a pooling network for participating risk-sharing pools of political subdivisions of various states."
 - b. "The [Appellant] Company is a nonprofit organization organized and licensed under the laws of [the State of Vermont]. The [Appellant] Company is organized as a mutual industrial insured captive insurance company to provide various types of insurance and reinsurance coverage solely to its members."
 - c. "Under the Bylaws of the [Appellant] Company, membership is limited to non-profit risk-sharing pools of political subdivisions of states, all of the income of which is excludable under §115 [of the Internal Revenue Code], and that are authorized by a state association or a risk-sharing pool affiliated with a state association to participate in the [Appellant] Company ('Member Pool')."
 - d. "Membership in the [Appellant] Company is not transferable and will terminate if the Member Pool ceases to be reinsured by the [Appellant] Company or if the Member Pool is dissolved."
4. The Appellant offers an example Interlocal Agreement (see Taxpayer Exhibit 5) by which a North Carolina county or local government agency may become a Member of the North Carolina Association of County Commissioners Risk Management Agency ("Agency"), thereby obtaining access to the two self-insurance pools organized by the Agency for membership in the Appellant company.
5. The Interlocal Agreement refers to the Agency as the "Risk Pool," and refers to the two self-insurance pools collectively as "Pools."

6. The Interlocal Agreement provides in pertinent part that “This Agreement and coverage with Pool(s) may be canceled by the Risk Pool on the renewal date after providing written notice...to the Member...,” and “[t]he Risk Pool may also cancel this Agreement and/or the coverage provided at any time pursuant to the following: (a) after giving ten (10) days written notice to the Member in accordance with the Payment Policy adopted by the Board of Trustees; (b) if the Member reorganizes or dissolves; or (c) if the Member fails to initiate and administer any reasonable loss prevention recommendation submitted by the Risk Pool to the Member.”
7. In our review of the above, we observe that the Appellant is distanced from any North Carolina unit of government by at least two levels—a unit of government must first elect to become a Member of the Agency, and the Agency must elect to become a Member of the Appellant. At each level, membership is neither automatic nor guaranteed to continue, and there is no evidence that a unit of government is capable of exercising any control over the activities of either the Agency or the Appellant. A unit of government is entitled only to participate in the insurance and reinsurance services as they are offered by the Appellant, and only for so long as its respective memberships are in effect. We find, therefore, that there is no ownership of the Appellant by one or more units of government.
8. In advancement of its alternate theory of exemption, the Appellant describes itself as a “public benefit corporation” (see Exhibit A to Taxpayer Exhibit 3) organized under Vermont law (see Taxpayer Exhibit 4), and further points to the previously-mentioned Internal Revenue Service ruling that the income of the Appellant is excludable from gross income for federal income tax purposes. In addition, the Appellant contends that it “...provides its government member-owners with appropriate levels of reinsurance at lower costs, ‘...which benefits all of the citizens of member governmental units and thus benefits a significant rather than limited segment of the community without expectation of pecuniary profit or reward’” (see Item 9 of Taxpayer Exhibit 3).
9. We recognize that part of the Appellant’s explanation includes a modified excerpt from N.C. Gen. Stat. §105-278.7, which defines a charitable purpose as “one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.” We note, however, that the statutory language appears to emphasize benevolence, rather than governmental efficiency. We find

that the offering of insurance and reinsurance services, regardless of the ultimate consumer of those services, is not a charitable activity, and therefore, that the Appellant is not a charitable organization.

UPON REVIEW OF THE FILINGS IN THIS MATTER, 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 plain language of N.C. Gen. Stat. §105-278.1 provides that qualifying property must be owned by an appropriate unit of government. The subject property is not directly owned by a unit of government. In support of its contention that the subject property is ultimately owned by one or more units of government, the Appellant offers examples of cases¹ where the North Carolina courts have found an entity other than the legal title holder to be the property owner for purposes of a property tax exemption. We distinguish each of these cases from this matter by noting that the qualifying entity in each case had some actual ownership interest in, and control over, the subject property. That is not the case here, when units of government are mere consumers of the Appellant's services and products. Accordingly, the subject property cannot and does not qualify for the exemption offered in N.C. Gen. Stat. §105-278.1.
3. The plain language of N.C. Gen. Stat. §105-278.7, as it applies to this matter, provides that qualifying property must be owned by a charitable association or institution that uses the property wholly and exclusively for charitable purposes. The subject property is not used for a charitable purpose when the sole activity claimed to be charitable is the reduction of total insurance costs to local government customers. Accordingly, the subject property cannot and does not qualify for the exemption offered in N.C. Gen. Stat. §105-278.7.
4. Since N.C. Gen. Stat. §105-278.7 requires both a qualifying use and a qualifying owner, the property cannot qualify for the exemption when it is not used for a charitable purpose, regardless of the property's owner. Nonetheless, we find additionally that the subject property is not owned by a qualifying owner, because the Appellant is not a charitable organization, as determined in our findings of fact. Accordingly, and for this additional reason, the subject property cannot and does not qualify for the exemption offered in N.C. Gen. Stat. §105-278.7.

¹ *In re Appeal of Appalachian Student Housing Corp.*, 165 N.C.App. 379, 598 S.E.2d 701 (2004); *In re Fayette Place LLC*, 193 N.C.App. 744, 668 S.E.2d 354 (2008); and *In re Appeal of Blue Ridge Hous. Of Bakersville LLC*, 226 N.C.App. 42, 738 S.E.2d 802 (2013)

WHEREFORE, the Commission orders and decrees that the property under appeal is to be assessed for the 2020 tax year without the benefit of the exemption provided in N.C. Gen. Stat. §105-278.1, and without the benefit of the exemption provided in N.C. Gen. Stat. §105-278.7.



NORTH CAROLINA PROPERTY TAX COMMISSION



Robert C. Hunter, Chairman

Vice Chairman Wheeler and Commission Members
Guess and Michaux concur.

ATTEST:



Stephen W. Pelfrey, Commission Secretary

Date Entered: 7-6-2021