

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW
09 PTC 783

IN THE MATTER OF:

THE APPEAL OF: **Summitt, an Evangelical
Covenant Church f/k/a Redeemer Covenant
Church** from the County Board's denial of
property tax exemption for certain property
for tax year 2008.

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 at its regularly scheduled Session of Hearings in the City of Raleigh, Wake County, North Carolina on Friday, June 18, 2010, pursuant to the appeal of Summitt, an Evangelical Covenant Church f/k/a/ Redeemer Covenant Church ("Appellant") from the decision of the Wake County Board of County Commissioners ("County Board") denying the Appellant's application for property tax exemption for certain real property for tax year 2008.

Chairman Terry L. Wheeler presided over the hearing with Vice Chairman Aaron W. Plyler and Commission members Wade F. Wilmoth, Georgette Dixon and Paul Pittman participating.

Paul Stam, Esquire, appeared at the hearing as counsel for the Appellant. Lucy Chavis, Assistant Wake County Attorney appeared at the hearing on behalf of Wake County.

STATEMENT OF THE CASE

This is an appeal from the decision of the County Board denying the Appellant's application for property tax exemption as to certain real property for tax year 2008. The Appellant, Summitt, an Evangelical Covenant Church, f/k/a/ Redeemer Covenant Church is seeking an exemption for its new worship center facility that is located at 590 Westhigh Street, Cary, North Carolina.

In this appeal, the Wake County Revenue Department ("Revenue Department") sent a letter, dated April 20, 2009, to Redeemer Covenant Church advising that 2008 property taxes were due on the property located at 590 Westhigh Street, Cary, North Carolina. By letter dated April 28, 2009, Richard J. Lawless, Jr., treasurer for the Appellant, informed the Revenue Department that the subject property was owned by the Appellant and requested the Revenue Department to grant its application for property tax exemption for tax year 2008. By letter dated August 25, 2009, the Revenue Department denied the Appellant's request for property tax exemption for tax year 2008. The Revenue Department granted the Appellant's request for property tax exemption status for tax year 2009. By decision dated September 28, 2009, the County Board also denied the Appellant's request to exempt the subject property from property taxes for tax year 2008. On appeal to the Commission, the Appellant is requesting the Commission to grant property tax exempt status for the subject property for tax year 2008.

ISSUE

In the Order on Final Pre-Hearing Conference, the parties did not agree upon the issue to be presented to the Commission. The issue considered by the Commission is stated as follows:

Is the North Carolina Property Tax Commission authorized to order the exemption of property taxes for tax year 2008 for the subject property located at 590 Westhigh Street, Cary, NC 27513, and owned by the Appellant, Summitt, an Evangelical Covenant Church?

FROM THE APPLICATION FILED IN THIS MATTER, STIPULATIONS AND EVIDENCE PRESENTED, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. As of January 1, 2008, the Appellant, Summitt, an Evangelical Covenant Church, a nonprofit corporation, owned the property that is subject to this appeal that consists of 8.19 acres and improvements located at 590 Westhigh Street, Cary, NC 27513.
2. In 2003, Redeemer Covenant Church purchased the subject property for the purpose of constructing a new worship center facility.
3. In 2004, Redeemer Covenant Church changed its name to Summitt, an Evangelical Covenant Church.
4. On December 10, 2006, the Appellant held its groundbreaking ceremony on the property to begin building its new worship facility.
5. Prior to 2003, the Revenue Department granted the Appellant a religious exemption for church property located at 111-D Chatham Street, Cary, NC 27511.
6. The Appellant uses the subject property for religious purposes, as well as activities that emphasize learning since the property is used by the YMCA of the Triangle Area, Inc., a nonprofit corporation, as classrooms from Monday through Friday for preschool services beginning on September 15 and ending on May 15th. The YMCA also uses the property for classrooms during the week for summer camp services beginning on June 30th and ending on August 30th. As such, the Appellant uses the property for religious worship services and allows the YMCA to conduct classes at the property.
7. The Appellant did not submit an application to the Revenue Department for property tax exemption after it purchased the subject property since it was not informed that an application was necessary for the subject property to receive exempt property tax status for tax year 2008.
8. On April 20, 2009, the Revenue Department sent a letter addressed to Redeemer Covenant Church stating that taxes were assessed against the subject property for tax year 2008.

9. Upon receiving the notification, the Appellant's treasurer notified the Wake County Tax Department explaining why the church had not paid the tax bill and requested information regarding the formal process of exemption.

10. Prior to 2006, the Appellant, Summitt, f/k/a as Redeemer Covenant Church, existed as a religious organization in the Cary/Apex area for almost 16 years. Wake County acknowledges the Appellant's religious affiliation by approving its request for property tax exemption for the subject property for tax year 2009.

11. The Appellant was not aware that the Revenue Department assessed property taxes for tax year 2008 until it received the April 20, 2009 letter from the Revenue Department. The Appellant would have filed an exemption application within the 2008 calendar year if it had received the notice of property tax assessment in tax year 2008.

12. The Appellant did not have an opportunity to file a timely application requesting tax exemption for the subject property during the 2008 calendar year.

BASED ON THE FOREGOING FINDINGS OF FACT, THE COMMISSION CONCLUDES AS A MATTER OF LAW:

1. All property, real and personal, within the jurisdiction of the State shall be subject to taxation unless it is excluded from the tax base or exempted from taxation. *See* N.C. Gen. Stat. § 105-274.

2. N.C. Gen. Stat. § 105-278.3 governs tax exemption for real and personal property used for religious purposes. N.C. Gen. Stat. § 105-278.3 provides in pertinent part:

(a) Buildings. – Buildings, the land they actually occupy, and additional adjacent land reasonably necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) Wholly and exclusively used by its owner for religious purposes as defined in subsection (d)(1), below; or

(2) Occupied gratuitously by one other than the owner and wholly and exclusively used by the occupant for religious, charitable, or nonprofit educational, literary, scientific, or cultural purposes.

(c) The following agencies, when the other requirements of this section are met, may obtain exemption for their properties:

(1) A congregation, parish, mission, or similar local unit of a church or religious body; or

(2) A conference, association, presbytery, diocese, district, synod, or similar unit comprising local units of a church or religious body.

(d) Within the meaning of this section:

(1) A religious purpose is one that pertains to practicing, teaching, and setting forth a religion. Although worship is the most common religious purposes, the term encompasses

other activities that demonstrate and further the beliefs and objectives of a given church or religious body.

3. The subject property does meet the criteria of N.C. Gen. Stat. § 105-278.3 when the property is wholly owned by an agency listed in subsection (c) above, and is used by its owner for a religious purpose within the meaning of N.C. Gen. Stat. § 105-278.3(d)(1).

4. At various times, (September 15 through May 15, and June 30 through August 30), the Appellant also allows the subject property to be occupied gratuitously by the YMCA of the Triangle Area for nonprofit educational purposes. As such, the property is used for an educational purpose as that term is defined in N.C. Gen. Stat. § 105-278.3(d)(3).

5. Under *In re Appeal of Valley Proteins, Inc.*, 128 N.C. App. 151, 494 S.E.2d 111 (1997), the purpose for the exemption application requirement in N.C. Gen. Stat. § 105-282.1 is to inform the county of a taxpayer's intention to seek exemption for its property. A taxpayer that intends to seek property tax exemption for its property will file a timely application within the calendar year if a taxpayer is aware of the application requirement.

6. In this appeal, the Appellant was not aware of the requirement to file an exemption application in tax year 2008 since the notice assessing property taxes for the subject property was not mailed until April 20, 2009. If the Appellant had received the notice during the calendar year, it could have filed a timely exemption application as provided in N.C. Gen. Stat. § 105-282.1

7. N.C. Gen. Stat. § 105-282.1(a1) restricts the County Board's ability to approve applications that are not filed during the current calendar year.

8. N.C. Gen. Stat. § 105-282.1(a1) allows the Commission authority to approve a late application for property tax exemption upon showing of good cause.

9. The Commission may in its discretion, upon a showing of good cause, approve a late application for property tax exemption. *In Re Appeal of Eastern North Carolina Episcopal District, Inc.*, 08 PTC 090 (February 4, 2010).

10. Since there is evidence showing the subject property qualifies for property tax exemption as provided in N.C. Gen. Stat. § 105-278.3, and upon the Appellant's showing of good cause to grant the exemption application, the subject property is exempt from property taxes for tax year 2008.

WHEREFORE, THE COMMISSION THEREFORE ORDERS the decision of the 2008 County Board denying the Appellant's request for property tax exemption for the subject property for tax year 2008 is reversed. Wake County is instructed to revise its tax records as may be necessary to reflect the Findings of Fact and Conclusions of Law of the Commission, granting property tax exemption for the subject property for tax year 2008.

NORTH CAROLINA PROPERTY TAX COMMISSION



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Terry L. Wheeler, Chairman

Vice Chairman Plyler and Commission members Wilmoth, Dixon
and Pittman concur.

Entered: December 2, 2010

ATTEST:

A handwritten signature in black ink, appearing to read "Janet L. Shires", is written over a horizontal line.

Janet L. Shires, General Counsel