

STATE OF NORTH CAROLINA  
WAKE COUNTY

BEFORE THE PROPERTY TAX COMMISSION  
SITTING AS THE STATE BOARD OF  
EQUALIZATION AND REVIEW  
10 PTC 147

IN THE MATTER OF:

THE APPEAL OF: **Congregation Sha'Arei  
Shalom** from the decision of the Wake  
County Board of County Commissioners  
denying property tax exemption for tax  
year 2009 for certain real property.

**FINAL DECISION**

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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 **Congregation Sha'Arei Shalom** ("Appellant") from the decision of the Wake County Board of County Commissioners ("County Board") denying the Appellant's application for property tax exemption for tax year 2009 for the property subject to this appeal.

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.

Ansel Brown, 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 for real property for tax year 2009. The Appellant, Congregation Sha'Arei Shalom is seeking an exemption for its property located at 700 Old Apex Road, Cary, North Carolina. The property was purchased by the Appellant in tax year 2008. As of January 1, 2009, the property was listed in the Appellant's current name, and a tax bill was issued for the property and mailed to the wrong billing address. In January 2010, the Appellant discovered the existence of the tax bill, and that the bill remained unpaid. The Appellant submitted an application for property taxation exemption for the property. The Revenue Department denied the Appellant's request for property tax exemption for tax year 2009. By decision dated March 12, 2010, the County Board also denied the Appellant's request for property tax exemption for tax year 2009.

**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 Commission authorized to order property tax exemption for the Appellant's property located at 700 Old Apex Road, Cary, North Carolina that is owned by a religious congregation and used as a place of religious worship?

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

1. As provided in its January 6, 2006 Articles of Incorporation, the Appellant, Congregation Sha'Arei Shalom, is organized as a religious congregation.
2. As of January 1, 2009, the Congregation Sha'Arei Shalom owned the lot and improvements located at 700 Old Apex Road, Cary, North Carolina.
3. Congregation Sha'Arei Shalom purchased the subject property from an existing church. The Appellant continues to use the property as a place of religious worship.
4. Before the subject property was purchased by Congregation Sha'Arei Shalom the Revenue Department granted a religious exemption to the former owner.
5. The Revenue Department's first 2009 tax bill for the subject property was mailed to an unknown address. The second 2009 tax bill was mailed to an incorrect address.
6. Congregation Sha'Arei Shalom did not submit an application for property tax exemption after it purchased the subject property in tax year 2008 because it was not aware that the property was subject to *ad valorem* taxes until January 2010.
7. Wake County acknowledged Congregation Sha'Arei Shalom's religious affiliation by approving its 2010 application for property tax exemption for the subject property.
8. When Congregation Sha'Arei Shalom discovered that property taxes were due on the property, the Appellant immediately contacted the Revenue Department to explain why the church had not paid the tax bill, and requested information to obtain an exemption for the subject property for tax year 2009.
9. Congregation Sha'Arei Shalom did not have an opportunity to file a timely application requesting property tax exemption during the 2009 calendar year when the tax bill, issued by the Revenue Department on July 27, 2009, was not discovered until tax year 2010.

**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. 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 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;

(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 meets 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. 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. In this appeal, the Appellant was not aware of its requirement to file an exemption for property tax for the subject property when the subject property was receiving a religious exemption when it purchased the property.

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

6. 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).

7. There is a showing of good cause to grant the application for property tax exemption when the evidence shows that the subject property qualifies for a religious exemption as provided in N.C. Gen. Stat. § 105-278.3; and the subject property was exempt from *ad valorem* taxation prior to tax year 2009.

**WHEREFORE, THE COMMISSION THEREFORE ORDERS** that the decision of the Wake County Board of County Commissioners denying the Appellant's request to exempt the subject property from property taxes for tax year 2009 is reversed.

NORTH CAROLINA PROPERTY TAX COMMISSION



A handwritten signature in black ink, appearing to read "Terry L. Wheeler", written over a horizontal line.

Terry L. Wheeler, Chairman

Vice Chairman Plyler and Commissioners Wilmoth and Dixon  
and Pittman concur.

Entered: February 2, 2011

Attest:

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

Janet L. Shires, General Counsel