

MINUTES

2015 Board of Equalization and Review
December 16, 2015

Board Members Present:

Jennifer Marsh, Chair
Patricia Roberts, Regular
Pamela Davis, Regular

Staff Members Present:

Roger Gunn, Chief Appraiser
Mike Sutton, Revaluation Manager
Ms. Brenda Riley, Business Property Appraiser
Nancy Freeman, Recording Secretary
Alicia Bartholomew, Office Assistant

The meeting was called to order at 2:01 PM on Wednesday, December 16, 2015 by Chair, Ms. Jennifer Marsh.

Crescent Hillsborough LLC

PIN 9874820866

Mr. Richard Rogers elected not to appear before the Board on behalf of Crescent Hillsborough LLC. He requested that his documentation serve as his appeal. The current value assigned by the County is \$1,979,300. Mr. Rogers states in his documentation that the taxpayer's opinion of value for the property is \$1,199,600.

Mr. Sutton of Orange County explained that the three properties provided by Mr. Rogers to support his opinion of value are zoned agricultural and are rural and/or residential properties and therefore are not relevant to the appellant's property as these properties are not zoned or approved for higher density development.

Mr. Sutton presented data on four properties that are assessed based on approval for higher density development. Mr. Sutton discussed the four properties and indicated that the assessed value per acre for these four properties range from \$38,434 to \$66,000. Mr. Sutton mentioned that the subject property is zoned "Entrance Way Special Use" and the four properties discussed are also zoned "Entrance Way Special Use" or "Mixed Residential Special Use", a similar zoning to that of the subject. Mr. Sutton presented a map to show the location of the four properties and noted that in comparison to the properties in his analysis, the subject parcel is a much larger tract of land with no roads or infrastructure to date. Mr. Sutton stated that the County would recommend changing the size adjustment for the subject property from -35% to -45%, which would lower the value of the subject property to \$1,674,800. The resulting value per acre from the adjustment would be less than the values for the four similar properties, which would be consistent for a larger parcel due to economies of scale.

Ms. Marsh motioned to accept the County's recommendations and lower the value of the subject property to \$1,674,800. Ms. Davis seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Tapp

PIN 9842347199

Mr. Lindsay Tapp appeared before the Board to appeal the denial of his 2015 application for forestry Present Use Value. Mr. Tapp stated that he purchased a 12 acre wooded lot in February 2014 and in April 2014 he came to the Orange County Tax Office to bring a Forestry Management Plan and application for Present Use Value. Mr. Tapp explained that he was aware that the Plan was written after January 1, 2014 and Present Use Value would not be effective for 2014. However, he was told by the person who administered the Present Use Value Program at that time that everything was in order and it would be no problem for the property to be approved for forestry Present Use Value for 2015.

Mr. Tapp assumed that he had been approved and was not aware that he had not been approved until he received the 2015 tax bill for this property. Mr. Tapp stated that when he submitted his application and his Forestry Management Plan, he asked if there were any other requirements and was not told that he needed to do anything different. He stated that he does have the required plan and he follows the plan, even though it costs him some money to follow it. Mr. Tapp also owns the adjoining lots and they are also covered in the plan.

The appellant stated that after he received his 2015 tax bill and asked why he was not approved for 2015, he was told that the deed for this parcel is not worded exactly the same as his other properties. Mr. Tapp stated that he was not informed prior to receiving the 2015 tax bill that it did not qualify. Mr. Tapp stated that he was told when he brought the application into the office that his application was in order and was not told that the property did not qualify. He states that he should have been told that the deed needed to be changed and he could have had it done so that he would qualify for 2015.

Roger Gunn spoke on the County's behalf. Mr. Gunn stated that there is no issue with Mr. Tapp's Forestry Management Plan; the issue is due to the fact that the ownership entity on January 1, 2015 for the subject property was different than the ownership entity for all the other properties owned by Mr. Tapp that are in the Present Use Value Program. The subject parcel in question was under the ownership of T. Lindsay Tapp and the appellant's other properties are under the ownership of T. Lindsay Tapp Trustee. Mr. Gunn stated that the parcel in question was deeded to T. Lindsay Tapp in February 2014 and in October 2015, Mr. Tapp had the ownership changed to T. Lindsay Tapp, Trustee to match the ownership of his other parcels in Present Use Value. Mr. Gunn stated that statutorily, this property would not qualify for 2015 based on the recorded ownership as of January 1, 2015. The County stated that the property does qualify for 2016 and Mr. Tapp will receive a letter to that effect, but that legally and statutorily, Present Use Value should not be granted for 2015. Mr. Tapp reiterated that he should have been notified earlier so that he could have made the change to ownership before January 2015.

Ms. Marsh asked if the County has a policy in place for following up once an application has been submitted. Mr. Gunn stated that there is a policy of notification for the applications. He further explained that when Mr. Tapp applied there was another person handling these duties, and that person has since retired. Mr. Gunn has assumed the duties of administering the Present Use Value program. Ms. Marsh inquired if the appellant was notified of the denial. Mr. Gunn stated that a letter was sent to Mr. Tapp in October 2015 to notify him that his property did not qualify for 2015.

Ms. Roberts stated she agreed with the appellant. Mr. Gunn reiterated that the statute is very clear that the ownership entity for all properties in the farm unit must be the same, as reflected on the respective deeds.

As the ownership entity for the subject parcel was different than the other properties that Mr. Tapp has in the Present Use Value program, the parcel in question could not qualify on its own separately as it does not meet the minimum size requirement of twenty acres in forestry production.

The Board deliberated. Ms. Roberts and Ms. Davis discussed being in favor of allowing Mr. Tapp's property to be included in the program for 2015 due to the fact that Mr. Tapp was not notified earlier of his denial for the parcel. Ms. Marsh noted that based on the statute, she does not feel that that Present Use Value should be granted for 2015. Ms. Roberts motioned to approve Mr. Tapp's property for Forestry Present Use Value for 2015. Ms. Davis seconded the motion. Ms. Marsh voted no. The motion passed.

Ayes: 2

Noes: 1

Talberts Tire Inc.**1055212**

Owner Marla Talbert appeared before the Board to represent Talberts Tire Inc. Ms. Talbert is appealing the listing penalties arising from a discovery of business personal property for tax years 2010 through 2015. Ms. Talbert is asking for a compromise of the listing penalties in the amount of \$2,115.52. Ms. Talbert stated that she was initially notified of the discoveries and penalties by mail. As she was confused about what the County was requesting, she immediately contacted Ms. Riley at the County about the notice. Ms. Talbert stated that she gave the information to her tax representative to handle for her; however this person has since died. Ms. Talbert contacted another tax representative for advice and was told that generally, CPAs do not handle County taxes because it is not their responsibility to do so. Ms. Talbert stated she was not aware of her responsibility to list business personal property with Orange County and she makes sure that she pays her bills on time, but she was just not aware of her responsibility to list.

Ms. Davis asked when her tax representative passed away, and Ms. Talbert responded that it was in April or May of this year. Ms. Davis also asked how long Ms. Talbert had worked with her tax representative. Ms. Talbert responded that she had used the same person since the business opened in 2004. Ms. Davis asked how the tax representative would not have known to submit a listing, and Ms. Talbert responded that she worked from her home and basically did Talbert's state and federal income taxes.

Ms. Riley represented the County. Ms. Riley stated that she did receive a listing for 2015 in September 2015 and realized at that time the County needed to do a discovery. Per Ms. Riley, after the death of Ms. Talbert's regular tax representative, Ms. Talbert secured the services of a new tax representative who submitted the 2015 listing form. Ms. Riley stated that a discovery was done for 5 prior years, 2010 through 2014 as allowed by statute. Ms. Riley noted that the request by the appellant is for compromise of late listing penalties only, not for the tax on the discovery, and the appellant agrees on the values that were discovered. Ms. Riley provided the Board members with a summary of the penalty amounts for the applicable years.

The Board reviewed and questioned the County on the process of discoveries. The Board deliberated. Ms. Davis made a motion to compromise the penalty by 50%. Ms. Roberts seconded the motion and the motion carried.

Ayes: 3

Noes: 0

Paige M. Otos from Blackman and Sloop, CPAs appeared before the Board to represent Finn Facial Plastics PA. Ms. Otos provided a Power Of Attorney from the property owner, Dr. J. Charles Finn. Dr. Finn also provided a letter for the Board since he is seeing patients today and is unable to attend the hearing. Dr. Finn is appealing the listing penalties arising from discovery of business personal property for tax years 2011 through 2015. Ms. Otos is asking for a compromise of the listing penalties in the amount of \$11,903.91.

Ms. Otos stated that Dr. Finn opened the clinic in 2010. Dr. Finn hired a CPA who was a sole practitioner. Unfortunately, this person had his CPA certification revoked and Dr. Finn then hired Blackmon and Sloop as his CPAs. Due to the situation, Blackman & Sloop did a close review of their new client's account, and they were immediately aware that there had been no business listings submitted, and that Dr. Finn had never paid business personal property taxes. Ms. Otos stated that Dr. Finn had totally relied on his previous CPA and neither Dr. Finn nor his previous CPA was aware that business personal property should be listed. Ms. Otos stated that as soon as Blackmon and Sloop was able to get Dr. Finn's books in order, they submitted the 2015 listing form to the Tax Office, knowing that there would be a series of bills. Ms. Otos stated that Dr. Finn is requesting abatement of the penalties due to the circumstances.

Ms. Riley stated that when the Tax Office received the 2015 listing form, discoveries were immediately issued for tax years 2011 through 2014 with the amount of penalties totaling \$11,903.91. Ms. Riley summarized the discovery and penalty amounts for the respective tax years. Ms. Otos stated that Dr. Finn has paid taxes through 2014, with the exception of the penalties, and plans to pay the 2015 taxes this month. Dr. Finn wants to be compliant; he was just not aware of his responsibility to list until Blackmon and Sloop became his CPA.

Ms. Marsh asked if Dr. Finn asked the former CPA why he did not list for him, and Ms. Otos stated that the CPA explained that there were issues getting the depreciation schedule to balance, and therefore did not file. Ms. Roberts asked if Dr. Finn had asked the former CPA to pay these penalties, and Ms. Otos surmised that the former CPA would likely not have the financial capabilities to pay the penalties, even if he still has clients. Ms. Otos asked if the Board was not inclined to compromise the entire amount of penalties if the Board would consider compromising a percentage of the penalties.

The Board deliberated. Ms. Marsh pointed out that the taxpayer did pay the back taxes, less the penalties, which shows that he does want to be compliant. Ms. Davis motioned to compromise 50% of the penalty. Ms. Roberts seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Max Mason appeared before the Board to represent Britthaven Inc. Mr. Mason is a full time employee of Britthaven. Mr. Mason is appealing the listing penalties arising from a discovery of business personal property for tax years 2012 through 2014 and is asking for a compromise of the penalties in the amount of \$3,737.41.

Mr. Mason explained that he was not the representative who was scheduled to be at the hearing but as a last minute decision, he was selected to appear. The appellant stated that Britthaven has been in existence since the late 1980's. Ms. Marsh asked if Britthaven had been listing prior to 2012. Mr. Mason confirmed that Britthaven was filing prior to 2012. Ms. Marsh asked why Britthaven stopped submitting listing forms. Mr. Mason explained that a new company was created and the personal property was sold to the new company (Everest) who began filing. He stated that both companies had been filing and feels that there was a discrepancy. Ms. Riley stated that the appellant did file an appeal on the value but it was denied because of the statute of limitation. Ms. Riley further stated that listings had been submitted for both companies but the County taxes what is submitted by the respective companies on the listing forms. Ms. Riley noted that for 2016, there will only be a listing by one company.

Ms. Riley reminded the Board that only the listing penalties are being appealed. Mr. Mason stated that both companies have been sold and are no longer located in Orange County. Mr. Mason provided copies of the bills for both companies from 2011 through 2014. He believes that between the listings for both companies that all of the business personal property from the discovery was listed and taxed. Ms. Riley stated that the County actually received listing forms from both companies. One company listed medical equipment and the other company listed office equipment. Tax Management Associates performed an audit of Britthaven and the results of the audit triggered the discovery.

Ms. Roberts inquired of the appellant if there is documentation to show the comparisons of what was reported on the listing forms and what was not reported. The appellant stated that he did not have anything for the Board, and as he was not originally the person who was scheduled to represent Britthaven, he was not fully prepared. The appellant provided the Board with copies of the bills that were paid. Mr. Mason wanted to make sure that the County has the point of contact correct since both companies are now closed and will not be receiving correspondence from the County.

Ms. Riley asked where should the correspondence be sent in the future and Mr. Mason provided the address, and Ms. Riley provided contact information for herself.

The Board deliberated. Ms. Marsh motioned for no compromise of penalty based on the fact that the appellant did not provide sufficient evidence to show why the penalty should be waived. Ms. Roberts seconded the motion. Ms. Davis abstained from voting.

Ayes: 2
Noes: 0

Steel String LLC**1054347**

Mr. Andrew Scharfenberg appeared before the Board to represent Steel String LLC. Mr. Scharfenberg is appealing the listing penalties arising from a discovery of business personal property for tax years 2013 through 2015 and is asking for a compromise of the listing penalties in the amount of \$2,076.30. Steel String LLC is a brewery located at 106 South Greensboro Street in Carrboro.

Ms. Riley represented the County. Ms. Riley stated that the County received a 2015 listing and saw the need to create a discovery for tax years 2013 through 2015. Ms. Riley summarized the penalties for the respective tax years. Ms. Marsh asked Mr. Scharfenberg if the taxes were paid, and he confirmed that the taxes less the listing penalties have been paid.

Mr. Scharfenberg stated that he is the owner and did not know that he needed to pay the business personal property taxes. His accountant did not previously check to see that the business was listing taxes but did check in 2015. Ms. Marsh questioned if the appellant had asked his accountant to take on the liability for the listing penalties.

The Board deliberated. Ms. Roberts stated that she is for start-up Orange County businesses so she suggested he should get some relief. Ms. Davis motioned to waive 75% of the penalty. Ms. Roberts seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Cooper**218349**

Mr. John Cooper was scheduled to appear before the Board to appeal the value of a Jet Ski but did not appear.

Ms. Riley presented Mr. Cooper's letter to the Board and the presented the County's evidence. Mr. Cooper paid \$10,000 for 2 jet skis & a trailer. Ms. Riley explained that Mr. Cooper did not have a problem with the value of the other jet ski or trailer, but he felt that the value of the 2008 Honda Aquatrax jet ski was too high and should only be \$4,800. The County has the jet ski valued at \$5,490 based on the ABOS guide that the County uses for valuing all boating equipment.

Ms. Marsh made a motion for no change to the value based on the lack of documentation provided by the appellant to support a change. Ms. Roberts seconded the motion, and the motion carried.

Ayes: 3
Noes: 0

Carolina Vein Institute LLC**1055596**

Ashley Baquero appeared before the Board to represent Carolina Vein Institute LLC. The appellant is appealing the listing penalties arising from a discovery of business personal property for tax years 2013 and 2014 and is asking for a compromise of the listing penalties in the amount of \$585.29. Carolina Vein Institute LLC is located at 100 Europa Drive in Chapel Hill.

Ms. Riley stated that the listing form for 2015 was provided on time, and once the Tax Office received the form, a discovery was issued for 2013 and 2014. The appellant stated that the business opened in 2012. Ms. Baquero stated the appellant was not aware of his responsibility to list and pay business personal property taxes. The appellant secured a new accountant who submitted the 2015 listing. The former CPA never stated that listing business personal property was necessary. The taxes for prior years have been paid.

Ms. Riley stated that the appellant agreed with the value and is only requesting compromise of the penalties, which Ms. Riley summarized for the Board.

The Board deliberated. Ms. Roberts motioned to reduce the listing penalty by 50 %. Ms. Davis seconded the motion and the motion carried.

Ayes: 3

Noes: 0

Aanika Hotels DBA Sienna Hotel

1054345

Prateek Chandak appeared before the Board to represent Aanika Hotels DBA Sienna Hotel. The appellant is appealing the listing penalties arising from a discovery of business personal property for tax year 2010 and is asking for a compromise of the listing penalties in the amount of \$7,028.77. Aanika Hotels is located at 1505 East Franklin Street in Chapel Hill.

Ms. Riley was included in a site visit with TMA during an audit on Sienna Hotel. The County performed the 2010 discovery and TMA is still working on discoveries for tax years 2011 through 2014. Sienna Hotel is appealing the listing penalties. The appellant stated that the hotel was purchased in 2009 and the transaction happened very quickly. The appellant assumed that all invoices and tax related paperwork was sent to their accountant. The appellant was notified by their accountant that Sienna Hotel had not been listing business personal property and no business personal property taxes had been paid to Orange County. The appellant stated that it was never their intention to not pay their tax bills and wanted to make it clear that they are not here to argue the assessment but are looking for relief of the listing penalties.

Ms. Riley reiterated that TMA is still working on the discoveries for 2011 through 2014 but the County went ahead and assessed the property for 2010 because otherwise, the County would lose the statutory right to bill for 2010 on January 1, 2016. Ms. Roberts asked what years were applicable for the appeal today. Ms. Riley explained again that the appeal is only for 2010 because the 2011 through 2014 discovery has not yet been completed. Ms. Riley said that the appellant would have the right to appeal the discovery from 2011 through 2015 once the discovery is completed with TMA. Ms. Riley explained that the last time the appellant listed was 2009 but the appellant has been very cooperative in the discovery process.

The Board deliberated. Ms. Roberts stated that she is inclined to waive the penalty because she understands that there will be more penalties for the next five years' discoveries. Ms. Davis stated that the appellant should be responsible for some penalty amount. Ms. Riley stated that the upcoming discoveries will be substantial once TMA is finished with the audit as this is a \$6 million business account.

Ms. Davis made a motion to reduce the penalty by 50%. But there was no second to the motion offered. Ms. Marsh motioned for full waiver of penalty because of the fact they are compliant and cooperative. Ms. Roberts seconded the motion. Ms. Davis voted no.

Ayes: 2

Noes: 1

Krisztina Kometika Inc.

1057595

Krisztina Ligo appeared before the Board to request the waiver of the listing penalties associated with the discovery of business personal property for tax years 2010 through 2014. The appellant stated that she is the owner of Krisztina Kozmetika, but that she was not managing the financial reporting aspect of the business. The financial reporting was performed by a CPA and her ex-husband performed all the administrative aspects of the business. Ms. Ligo was not aware that the business property was not properly listed during these years as she had entrusted her CPA and husband to manage this aspect of the business. Ms. Ligo has contacted the County and taken steps to correct the tax listings and pay the taxes owed, and she simply asks that the listing penalties be waived.

Ms. Riley stated that the 2015 Business Personal Property listing form was timely filed. A discovery letter was created for the tax years 2010 through 2014 and sent to the appellant. The appellant did not agree with the discovery findings and contacted the Tax Office to amend the discovery. Upon review, the County corrected those values and the discovery.

After deliberation, Ms. Marsh motioned to waive the penalties based on the fact that the appellant was not the person in charge of the business finances. Ms. Roberts seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Bring and Tiwari LLC DBA Rasa and Red Lotus Inc

119626 & 1057818

Wei Wei Zhu appeared before the Board to represent Bring and Tiwari LLC DBA Rasa. The appellant is appealing the listing penalties associated with the discovery of business personal property for tax years 2014 and 2015 and is asking for a compromise of the listing penalties in the amount of \$344.81. Rasa is located at 1826 Martin Luther King Jr Blvd in Chapel Hill.

Ms. Riley stated that the County received the 2015 listing in August 2015. A discovery was done for 2014 and 2015. Mr. Zhu is asking for a compromise of the listing penalties for 2014 and 2015. Mr. Zhu stated that Rasa is the second business he has opened in Orange County and was unaware that he had to pay taxes for equipment. Mr. Zhu also mentioned that he also did not list business personal property for the first business he opened (Red Lotus) for the same reason and his accountant did not tell him that he had to pay property taxes on his business personal property. Mr. Zhu stated that he actually listed the wrong amount for 2015 which means that he over-listed, but understands that he cannot appeal the value because it was over 30 days when the error discovered. Mr. Zhu stated that the mailing address for Rasa was not correct and he did not even receive the discovery letter and other correspondence for Rasa.

The appellant stated that he listed equipment but did not depreciate the equipment as the equipment is twenty years old. Mr. Zhu reiterated that the property was over-listed which means that the tax bill is for much more than it should be. Ms. Roberts asked about the value for the tax bill, and Ms. Riley explained that the appellant appealed the value, but as it was past thirty days from the notification of value, he did not have the right to appeal the value. Therefore, he is only appealing the penalties. Ms. Davis asked about the purchase price of the equipment and Mr. Zhu stated that there really was no value in the equipment. He explained that they buy the business, not necessarily the personal property in the building. Mr. Zhu stated that the purchase price for existing equipment is much less than new equipment in a new location. Mr. Zhu stated that Rasa is his second restaurant and there is no source that gives you all the information needed when one opens a business.

The Board deliberated. Ms. Davis said she would be inclined to waive the penalty because he stated that he is overpaying based on the value. Ms. Riley reminded them that Mr. Zhu did not prove that the value is incorrect. Ms. Davis motioned to waive the entire penalty because the appellant was not aware that he needed to list. Ms. Roberts seconded the motion. Ms. Marsh voted no.

Ayes: 2

Noes: 1

Wei Wei Zhu also appeared before the Board to represent Red Lotus Inc. The appellant is appealing the listing penalties associated with the discovery of business personal property for tax years 2010-2015 and is asking for a compromise of the listing penalties in the amount of \$3,577.36. Red Lotus is located at 239 South Elliot Road in Chapel Hill.

The Red Lotus is the first business that Mr. Zhu opened. As was the case with Rasa, Mr. Zhu was not aware he should be paying business personal property taxes. Red Lotus has been in business since 2009.

After deliberation, a motion was made by Ms. Roberts to waive 50% of the penalty. Ms. Davis seconded the motion. Ms. Marsh voted no.

Ayes: 2

Noes: 1

Top Spirits LLC**1031566**

Mr. Scott Maitland was scheduled to appear before the Board to request the waiver of the listing penalties associated with the discovery of business personal property for tax year 2012, asking for a compromise of the late list penalties in the amount of \$7,287.42. Top Spirits LLC is located at 505 West Franklin Street in Chapel Hill. Mr. Maitland did not appear at his scheduled appointment time.

Ms. Riley presented a letter from the appellant and information for the County. Ms. Riley stated that an audit for this business has been ongoing for a year. The appellant started the business in 2012. The County received a listing form with equipment listed for 2013 through 2015. In the audit, TMA discovered CIP (construction in progress). The owner had purchased the equipment but did not list it in 2012 because the equipment was not yet in use. The appellant paid for taxes on the equipment in 2013 through 2015, but not in 2012. However, the equipment was on the business's location on January 1, 2012 uninstalled. Ms. Davis asked what type of equipment was discovered. Ms. Riley stated that the equipment was copper distillery. Mr. Maitland stated in his letter that he had lots of problems with permits when starting up his business. Ms. Riley pointed out that Mr. Maitland stated he did not know that he should list the equipment not in use.

The Board deliberated. Ms. Davis made a motion to waive 50% of the penalty because the listing omission was unintentional. Ms. Roberts seconded the motion. Ms. Marsh voted no.

Ayes: 2

Noes: 1

Mr. Chris Cheney elected not to appear before the Board on behalf of Merritts Gravel Pit Inc. He requested that the documentation serve as the appeal. Mr. Cheney is appealing the late listing penalty from a business personal property discovery for tax years 2010 through 2015. The penalty amount is \$4,905.17. The property is located at 3200 Damascus Church Road.

Ms. Riley presented the Board a letter from the appellant. The written statement from the appellants reads:

“Merritt’s Gravel Pit Inc. is owned and operated by Tony and Ilene Merritt. The Merritts have always run their business with honesty and integrity and they understand the importance of filing and paying their taxes. They know about income, payroll and property taxes but unfortunately were not aware of the filing requirements for business personal property taxes.”

Ms. Riley stated that Merritt’s was notified by the Orange County Tax Office on September 22 about its unreported business personal property. Immediately upon receiving the notice, Merritt’s forwarded the notice to our office and asked for our assistance in filing the missing forms. The required information was provided timely to Christy Carden, a business personal property appraiser at the Orange County Tax Office.

The original discovery notice reported a total assessed value of \$198,534. Based on the information provided to Ms. Carden, the final discovery notice reflected a total assessed value of \$1,124,099, and the resulting tax liability for years 2010 through 2015 was \$ 12,900.39 in taxes and \$ 4,905.17 in penalties. Based on the total amount due, the Merritts have indicated that they are unable to pay the entire balance at this time. They have paid the taxes for years 2010 and 2011 which totals \$5,491.04. Their intent is to pay the remaining balance as soon as possible.

The appellants are asking for a waiver of the penalties based on the following circumstances:

1. The taxpayer’s lack of filing was not based on willful intent. Once they discovered their filing requirements they immediately provided information to the Tax Office. If the taxpayer’s intent was to ignore or minimize their tax responsibility they would not have provided the information. Instead they would have signed the original discovery notice which would have resulted in an assessed value of 1/10 of the final value.
2. Even though the Company’s cash flow is extremely limited this time of year, the taxpayers have paid two of the six years of tax assessment and will pay the others as soon as possible.
3. All future tax forms will be filed and paid in a timely manner.

The County stated that the appellant had only listed the business personal property in 2004.

After deliberation, Ms. Davis made a motion not to waive the penalties stating that Merritts Gravel Pit is a long-standing business and the owners should have known to list business personal property. Ms. Roberts stated that the business opened in 1964. Ms. Marsh seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Trader Joes East Inc #745**305674**

Ms. Patricia Patanne elected not to appear before the Board on behalf of Trader Joes East Inc. #745 but requested that her documentation serve as her appeal. Ms. Patanne is appealing the listing penalty from a business personal property discovery for 2015. The penalty amount is \$810.92. The property is located at 1800 East Franklin Street, Unit 29 in Chapel Hill.

Ms. Riley presented a letter from Ms. Patanne. Ms. Riley stated that Trader Joes listing was submitted on time but the Tax Office created the discovery for 2015 in order to be consistent with an audit discovery created by TMA for tax years 2010 through 2014. The audit indicated equipment moved from one property schedule to another schedule, with some of the equipment being under-reported and some equipment being over-reported. The 2015 discovery was created to be in compliance with the audit finding and to avoid inconsistencies in future listings.

After deliberation, Ms. Marsh motioned to waive the penalty based on the fact that the property was timely listed. Ms. Davis seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Boddie Noel Enterprises Inc DBA Hardees**93900 & 34491**

Lee Seybert elected not to appear before the Board on behalf of Boddie Noel Enterprises Inc DBA Hardees. The appellant requested that the documentation serve as the appeal. The appellant is appealing the late listing penalties from a business personal property discovery for tax years 2011 through 2015. The total amount of the penalties is \$1,014.02. The property is located at 380 South Churton Street in Hillsborough.

Ms. Riley presented the Board with a letter from Mr. Seybert requesting the removal of the penalties. Ms. Riley explained that the discovery is a result of a TMA audit. Ms. Riley stated that the appellant listed timely and that TMA discovered equipment that the appellant thought was included in the real property value.

The Board deliberated. Ms. Roberts made a motion to waive the entire amount of the penalties due to the appellant making an honest mistake and the fact that the appellant is being cooperative and now in compliance. Ms. Davis seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Brand Energy & Infrastructure Services**1057375**

Debbie Dahl elected not to appear before the Board on behalf of Brand Energy & Infrastructure Services. The appellant requested that the documentation serve as the appeal. The appellant is appealing the listing

penalty arising from a business personal property discovery for 2015. The penalty amount is \$506.01. The property is located at Manning and Harding in Chapel Hill.

Ms. Riley presented the Board a letter from Ms. Dahl. Ms. Riley stated that this discovery is for leased equipment and that the appellant did not realize the equipment was located in Orange County. The equipment is located at Manning and Harding Drive, which is on the campus of UNC. Ms. Riley stated that the appellant actually submitted a listing, and this equipment will be in Orange County for a while. The company listed the equipment, but it was untimely listed.

Ms. Riley noted that all late listings with the County are assessed a 10% late listing penalty. Ms. Roberts asked how a business would know that they have the responsibility to list. Mr. Gunn stated that a new business should research what the responsibilities are for that business with regard to taxation. Ms. Riley stated that the appellant listed in April 2015 but did not request an extension in January, which is statutorily required in order to be granted an extension. Ms. Riley stated that records indicated that the appellant moved the equipment into the County in 2014.

After deliberation, Ms. Marsh made a motion to not compromise the penalty based on the fact that the listing was filed late and subject to the penalty. The motion was seconded by Ms. Roberts and the motion carried.

Ayes: 3
Noes: 0

Carrboro Pizza Oven Corp

1057734

Craig Samuels elected not to appear before the Board on behalf of Carrboro Pizza Oven Corp. He requested that the documentation serve as the appeal. Mr. Samuels is appealing the listing penalty arising from a business personal property discovery for tax years 2013 through 2015. The penalty amount is \$1,860.35. The property is located at 200 North Greensboro Street in Carrboro.

Ms. Riley presented the Board a letter from Kelly Swedt on behalf of Mr. Samuels. The letter stated that since opening of the business, the owner has never received a listing form and was unaware that he needed to file. Ms. Riley stated that the County received the 2015 listing form in September 2015.

The Board deliberated. Ms. Roberts motioned that the penalty be reduced by 50% due to the fact that the appellant was unaware of the responsibility to list but has now submitted a listing and is now compliant. The motion was seconded by Ms. Davis. Ms. Marsh voted no.

Ayes: 2
Noes: 1

Luihn Four Inc DBA KFC Taco Bell

119626

Debbie Burlison, Assistant Controller elected not to appear before the Board on behalf of Luihn Four Inc DBA KFC Taco Bell. The appellant requested that the documentation serve as the appeal. The appellant is appealing the listing penalty arising from a business personal property discovery for tax years 2012

through 2015. The penalty amount is \$311.91. The property is located at 353 S Churton Street in Hillsborough.

Ms. Riley presented the Board a letter from Ms. Burleson. The discovery is a result of a TMA audit. Ms. Riley stated that the appellant listed timely and that TMA discovered equipment that the appellant did not realize was not real estate. The appellant has been listing annually and timely.

The Board deliberated. Ms. Roberts made a motion to waive the full amount of the penalty due to a misunderstanding of the real property value and because the appellant is cooperative and made an honest mistake. Ms. Marsh seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Phillips Medical Capital LLC**1057466**

Matt Conner elected not to appear before the Board on behalf of Phillips Medical Capital LLC. The appellant requested that the documentation serve as the appeal. The appellant is appealing the late listing penalty arising from a business personal property discovery for 2014. The penalty amount is \$28,368.86. The property is located at 101 Manning Drive in Chapel Hill.

Ms. Riley presented the Board a letter from Mr. Connor. Ms. Riley explained that the discovery is for monitors at UNC hospital. The monitors were listed timely for 2015 but they were not listed for 2014. The appellant was under the impression that since the equipment was located on tax exempt real property, the equipment was not subject to taxation. Although the appellant contends that a listing form for 2014 was submitted, it was never received by the Tax Office.

The Board deliberated. Ms. Marsh pointed out that the Board has waived penalties in the past where it involved a large corporate taxpayer because they are a good solid contributor to the County. Ms. Davis stated that the penalty should not be waived at all. Ms. Riley confirmed that one of the bills was paid with the exception of the penalties. Ms. Roberts made a motion to reduce the penalty by 50% because the appellant has made an effort to comply. Ms. Davis seconded the motion. Ms. Marsh voted no.

Ayes: 2
Noes: 1

Liggett Group LLC**968824**

Ms. Ginny Bateman elected not to appear before the Board on behalf of Liggett Group LLC. She requested that her documentation serve as her appeal. Ms. Bateman is appealing the listing penalties arising from business listing discoveries for 2011 through 2014. The penalty amount is \$171.91. The property is located at 7723 Oakwood Street in Mebane.

Ms. Riley presented the Board a letter from Ms. Bateman. Ms. Riley stated that the discovery is due to an audit by TMA for 2011 through 2014. Ms. Riley stated that the property was timely listed. However, due

to the audit and the fact that the equipment was listed on the wrong schedule, a discovery was created. This discovery is for equipment located in a warehouse in Orange County.

After deliberation, Ms. Marsh motioned to waive the penalty based on the fact that the property was timely listed. Ms. Roberts seconded the motion and the motion carried.

Ayes: 3
Noes: 0

DiNatale**PIN 9825535437**

Ms. Patricia DiNatale elected not to appear before the Board and requested that her documentation serve as her appeal. Ms. DiNatale is appealing a 2015 listing penalty related to the removal of the homestead exclusion. The amount of the penalty is \$104.22. The property is located at 126 Bobwhite Way in Mebane.

Ms. DiNatale provided a letter to the Board explaining her issue. Mr. Gunn referenced the next to last paragraph in her letter. Mr. Gunn stated that although Ms. DiNatale stated that she had made effort to inform the County that she did not qualify for the homestead exclusion, the County applied the penalty to the discovery on the additional value added as result of the removal of the homestead exclusion. Mr. Gunn stated that the County would not advocate for the imposing of the penalty.

After deliberation, Ms. Marsh motioned to waive penalty based on the fact that the appellant made an effort to notify the Tax Office. Ms. Roberts seconded and the motion carried.

Ayes: 3
Noes: 0

Siller**PINs 9848880121 & 9848785185**

Ms. Carol Siller elected not to appear before the Board. She requests that her documentation serve as her appeal. Ms. Siller is appealing the listing penalties arising from a real property discovery for tax years 2010 through 2015 on improvements located at 1406 McDade Store Road in Cedar Grove. The appellant is asking for a compromise of the listing penalties in the amount of \$1,170.79.

Roger Gunn presented to the Board a letter from the appellant. Mr. Gunn stated that the discovery is for an addition on the property that was brought to the Tax Office's attention by the real estate agent who was selling the property for the appellant. Mr. Gunn stated that the property has already been sold. He explained that there are two parcels impacted by this discovery. The discovery for PIN 9848785185 is for tax years 2010 through 2013. The property was split in 2013 and the discovery for the newer PIN 9848800121 is for 2014 and 2015. Mr. Gunn stated that the appellant only wanted to appeal the penalty amounts, not the value of the discovery on either parcel. Mr. Gunn mentioned that the property just recently sold on December 10, 2015 and that the all outstanding taxes were paid, less the penalty amount on the discovery. Mr. Gunn referred the Board to the letter provided by the appellant for more details on the situation that caused the homeowner not to timely list the addition.

The Board deliberated. Ms. Marsh motioned to waive all penalties based on the fact that the contractor was at fault for not securing the necessary permits and the homeowner did not know of her duty to list the addition. Ms. Roberts seconded the motion and the motion carried.

Ayes: 3
Noes: 0

After hearing all appeals scheduled for the day, Ms. Marsh made a motion to adjourn the meeting. Ms. Roberts seconded the motion and the meeting was adjourned at 4:58 PM.



Jennifer Marsh, Chair



Nancy Freeman, Secretary