

MINUTES

Board of Equalization and Review

April 25, 2012

Board Members Present:

Chair: Karen Morrisette
Cynthia Campbell (Alt.)
John Timothy Kepley (Alt.)
Jennifer Marsh (Alt.)

Staff Members Present: Jenks Crayton, Director
Steve Hensley, Appraiser
Ray Jordon, Appraiser
Roger Gunn, Appraiser
Scherri McCray, Recording Secretary

Steve Pelfrey- North Carolina Department of Revenue
Annette Moore- Orange County Attorney's Office
Jennifer Galassi- Orange County Attorney's Office

Prior to the meeting being called to order, Karen Morrisette (Chair), Cynthia Campbell (Alternate), Tim Kepley (Alternate) and Jennifer Marsh (Alternate) were sworn in to the Board of Equalization and Review. Jenks Crayton welcomed everyone and provided opening remarks. Roger Gunn introduced Orange County Staff. The meeting was then called to order at 2:40 pm on Wednesday, April 25, 2012.

Mr. Pelfrey, from North Carolina Department of Revenue, addressed the Board to explain the scope of their duties. He highlighted the responsibility and expectations of the Board. Mr. Pelfrey wanted the Board to be aware of a slight change to the Board of Equalization and Review (BoER) Member's Handbook. He pointed out that Counties are now required to send a copy of the notice of decision to the Department of Revenue. The date this notice is sent will be the start of the appeal time frame to the Property Tax Commission (PTC). When a BoER appeal advances to the PTC, it will be considered a totally new appeal.

It was noted that the Board will begin regular meetings May 2nd, 2012 and adjourn June 14th, 2012. It is a statutory requirement that these meetings be scheduled and advertised. Mr. Pelfrey commented on the Handbook sections on powers and duties. He referenced page #2 of the Handbook. The BoER's responsibility is to correct whatever is wrong with tax records. It needs to listen to the Taxpayers' and County's appeals and to give effect to changes occurring from these appeals. The Board must give notice to the Taxpayers. It was noted to the Board that the Board needed to be aware of who can file an appeal. The Taxpayer can make an appeal in writing or in person as can a licensed attorney on behalf of a Taxpayer. Powers of Attorneys (POA) are acceptable at the County level but are not acceptable at the PTC level.

These policies are outlined on pages 2 & 3, section 4 of the Handbook. The statutes state that a person, other than the taxpayer, who wishes to file an appeal on behalf of the taxpayer, will require a POA. For commercial appellants, the Board should enlist the assistance of the County Attorney to confirm that the Taxpayer's representative has authority to bring an appeal before the Board. The Board can determine the format of its meetings.

Most of the appeals will be about the value of property including the owner's property and others' value. There are also appeals that may arise during the tax relief applications period.

Mr. Pelfrey instructed the BOER to review all items in the Handbook and to pay particular attention to what the regulations mandate as the Board's functions including what the Board may or may not do and what the Board can affect as far as property value is concerned. He informed the Board that there could be numerous changes to be made. He continued with a review of the items in the table of contents, instructing the Board to review legal references and to keep in mind that the values are based on what properties were worth as of January 1, 2009.

Page 33 of the Handbook cites the statute that determines what, why and when a value should be reappraised and/ or changes be made to the property value. It states that the Board can make changes due to misapplication of schedule of values, assessment errors and clerical errors. It cannot make value changes caused by regular depreciation inflation or deflation. The Board can adjust for a typical physical depreciation. Mr. Pelfrey reiterated that all changes must reflect what values were as of January 1, 2009 and always in the context of the schedule of values. These changes are not retroactive to prior years. Taxpayers are not entitled to a refund for prior years due to changes arising from a current Board decision.

Next, Annette Moore of the Orange County Attorney's Office addressed the Board. She started by saying that three years ago, the County got its own staff attorney. She noted that the Board had performed an outstanding job in 2011. Out of 50 cases, 4 are pending, 34 were settled and 12 went before the Property Tax Commission. Of those 12, 6 were dismissed. Ms. Moore outlined the procedures after an appeal was ruled by the BoER and the taxpayer was still not satisfied. Within the allotted time frame, a taxpayer may appeal to the PTC. The County Attorney is required to hold a preconference meeting with the Taxpayer prior to the PTC hearing. This is to ensure that both the County and Taxpayer have all the necessary information. On some occasions, a representative from the Department of Revenue will accompany a County staff member in conducting field reviews. She added that the County Attorney's Office is always in the business of improving their work. Ms. Moore wanted to make suggestions to the Board that would greatly help with appeals that do go forward to the PTC. She said that it was very important to have the minutes of the appeal reflect the reasons for the Board's ruling detailing why an adjustment was or was not made to the value. This should be done so that the PTC and attorneys would know the reason for the Board's decision before the hearing. The Board can request more information from the Taxpayer but it needs to be stated in the minutes whether the information was ever provided and what decisions were made based on that requested information. Ms. Moore also stated that the Board has subpoena powers in order to obtain pertinent information for a property.

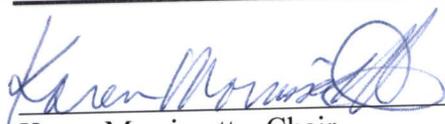
Ms. Moore also instructed the Board to avoid conflicts in hearings and to feel free to get information and advice from the County Attorney's Office when needed.

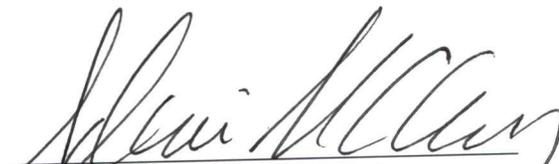
Ms. Moore asked "What happens if a taxpayer appeals to the BoER and provided information and does not show up and then he wants to appeal to PTC because he wants to be heard?" The Attorney requested that in these types of matters, the Board dismiss the appeal and that effectively ends the appeal. The Taxpayer would not have the right to appeal to the PTC but it will be noted that they had an opportunity to be heard at the BOER level but failed to appear. The minutes need to reflect that the person did not appear and that the case was dismissed due to no submission of evidence. Ms. Moore reiterated Mr. Pelfrey's instruction that if a person other than taxpayer appearing before Board, Counsel requests that there be a proper authorization by a POA or the person will not be heard or scheduled to be heard. There are people that would try to represent a taxpayer who are not the authorized representatives of the taxpayer. Only the Taxpayer can appeal to the PTC. Ms. Moore closed by stating the appreciation she had for the Board.

Mr. Jenks Crayton, Orange County Tax Director, addressed the Board. He informed the Board that taxpayers have the right to refuse access to their property. Mr. Crayton then brought a matter of business before the Board. He asked the Board to allow Orange County Staff to continue to update values and appropriately report these values to the Board.

Mrs. Morrisette made a motion to accept the request presented by Mr. Crayton. Ms. Marsh seconded this motion and the motion was carried.

There were no appeals scheduled on this day. Mrs. Morrisette made a motion to adjourn this meeting. Ms. Campbell seconded the motion and the meeting was adjourned at 4:00 pm.


Karen Morrisette, Chair


Scherri McCray, Recording Secretary