

Minutes of the March 6, 2013 Meeting of the 2012 Board of Equalization and Review

Members Present

Karen Morrisette, Chairman

Barbara Levine

Reg Morgan

Orange County Staff Present

Lee Harris, Deputy Tax Assessor

Roger Gunn, Chief Appraiser

Steve Hensley, Appraiser II

PIN 9874515668, TBLF Eno Haven, LLC.

Sherrod Banks, a principal of TBLF Eno Haven, LLC, appeared before the Board to appeal the 2011 valuation of \$6,057,800 for the subject property, a 76 unit senior living apartment complex known as Eno Haven. After a discussion between Orange County staff and the Board regarding the appeal history and communication relating to this appeal, the Board considered this appeal as still being open and considered the appeal only for the 2011 tax year.

Mr. Banks presented a short history of the appeal of this property. Mr. Banks stated that his initial notification of value was the tax bill he received in August 2011. He stated that he realized the \$6,057,800 value was incorrect as the property is a low income, tax credit property and was not valued using the income approach as mandated by the North Carolina General Statutes for this type of property. Mr. Banks then went on to detail his correspondence with the previous tax administrator and staff member, Roger Gunn. Mr. Banks noted that on November 7, 2011 an appointment was scheduled for November 15, 2011 to be heard by the Board of Equalization and Review, but on November 8, 2011, Brandon Coleman of Mr. Banks' office informed Roger Gunn that Mr. Banks would not be able to attend the scheduled meeting due to conflicting arrangements. Mr. Banks stated that Mr. Gunn told his representative that an appeal could be filed in 2012. Mr. Banks stated that it was not communicated that his appeal rights for 2011 were being forfeited and he was under the assumption that any value change arising from a 2012 appeal would be effective for 2011. Mr. Banks noted that an informal appeal was filed in January 2012 and the value was reduced for 2012 to \$2,835,900, but he received neither a notification of a retroactive value change for 2011 nor a refund for overpayment of 2011 taxes relating to the 2011 value.

When questioned by the Board, Orange County staff agreed that Mr. Banks' statements were generally accurate.

Karen Morrisette then verified with Mr. Banks that he was only appealing the value for the 2011 tax year and that he was satisfied with and did not contest the value placed on the property for 2012.

After deliberation by the Board, Karen Morrisette made the motion to change the value of the 2011 valuation from \$6,057,800 to \$2,835,900, the value corresponding with the 2012 tax year. Reg Morgan seconded the motion and the motion carried.

Ayes: 3

Opposed: 0

PIN 9870827443, Michael B. Curry, Trustee Et al

Lisa Fishbeck, Tom Fisher, and Syd Alexander appeared before the Board as representatives of The Advocate, an Episcopal Church, to appeal the denial of the religious exemption of the subject property for tax year 2012. The subject property is composed of a 2,082 square foot residence on 14.92 acres.

Tom Fisher spoke to the Board regarding the use of the property. Rev. Fisher noted that since the church purchased the property in 2011, the residence has been occupied at different times by two different couples who act as caretakers for the property. Rev. Fisher stated that the property is not leased to the caretakers, and no income is derived from the use of the property. Rev. Fisher states that since the purchase, the residence and some of the land has been used regularly for worship and church related activities as much as possible.

Lisa Fishbeck spoke to the Board regarding the history of The Advocate including the 2011 purchase of the subject property and the relocating of a historical Germanton, NC church to the subject property in 2012. Rev. Fishbeck supplied a document to the Board detailing the church-related activities that occurred in 2012 at the subject property. Karen Morrisette remarked that these activities were not really relevant based on the church's request for exemption for 2012 and that activities from 2011 would have been more useful. Rev. Fishbeck remarked that activities from 2011 could be furnished to the Board and they were essentially of the same nature as those detailed for 2012. Rev. Fishbeck also described the layout of the residence, describing how the living room is used for meetings and how other rooms contain file cabinets and bookshelves and are suitable for small group classes. Rev. Fishbeck also detailed the duties of the caretakers which included keeping the property presentable and the residence stocked with refreshments for church-related activities. Rev. Fisher and Mr. Alexander also elaborated on the residential structure and its use to support the church.

Lee Harris of Orange County noted to the Board that N.C.G.S. 105-278.3 is the applicable statute in this issue. Mr. Harris read from the statute and noted that the property must be used wholly and exclusively for religious purposes, and although some provisions exist for exemption based on custodial, janitorial, etc., the role of the caretakers of the subject property do not appear to adequately meet those provisions. Mr. Harris noted that it had been communicated to The Advocate that documentation of roles of the occupants and the church activities preceding 2012 needed to be provided to the Board. Mr. Harris also stated that based upon the information presented regarding the roles of the occupants and church related activities in 2012, the County would not be inclined to change our position regarding the exemption for 2012.

After deliberation by the Board, Karen Morrisette made the motion to uphold the denial of exemption for 2012 on the grounds that the manner in which the property has been used by the church is not sufficient to overrule the County's findings. Reg Morgan seconded the motion and the motion carried.

Ayes: 3

Opposed: 0

PIN 9890128181, Aatif M. And Sarwat M. Husain

Aatif Husain appeared before the Board to request a compromise of the penalties relating to a discovery of improvements on the subject property for tax years 2011 and 2012. Mr. Husain noted that he completed the residence in 2011 but received no notification of any value change for 2011. Mr. Husain also noted that, in 2012, he again received no notification of a value change but did receive a tax bill which he learned represented taxes owed only on the land. Mr. Husain stated that, after informing the tax department of this obvious error, Bill Hiltbold of Orange County visited the property in December 2012 to measure and list the property. A value was assigned to the property for 2012 and a subsequent discovery for 2012 and 2011 occurred. Mr. Husain stated that he met with Lee Harris regarding the new assessment and the corresponding discovery and penalties, agreed to the assessments for the years in question, and paid the principal amount of the discovery taxes for the years in question. He is asking that the penalties associated with the discovery be waived.

After deliberation, Karen Morrisette made a motion to waive the discovery penalties for both the 2011 and 2012 tax years. Barbara Levine seconded the motion, and the motion carried.

Ayes: 3

Opposed: 0

9768171955, Chris A. and Lita W. Russell

Chris Russell appeared before the Board to request a compromise of all taxes and penalties related to a discovery of improvements on the subject property for tax year 2011. Mr. Russell stated that in late 2010 he received a Certificate of Occupancy for a home he built in 2010, but until August 2012, no one from the Tax department had visited his property to measure and list the improvements. He stated that he was unaware that he needed to inform the Tax department that a new home had been built on his property because he knew that all necessary permits had been filed. Furthermore, Mr. Russell also said that he was informed by the Planning and Inspections department that the new residence would be valued in the next reassessment period, and he was unaware of any upcoming additional charges as the 2011 tax bill had been paid in full by his lender. Mr. Russell stated that having to pay any additional 2011 taxes and penalties is unfair and presents an unfair financial burden on him and he does not believe he should be required to pay any additional amount related to a 2011 tax bill.

After deliberation, Karen Morrissette made the motion to waive the penalty associated with the discovery but to uphold the amount of additional taxes arising from the discovery. Reg Morgan seconded the motion and the motion carried.

Ayes: 3

Opposed: 0

9778992122 and 9778992150, Community Home Trust (formerly Orange Community Housing and Land Trust)

Anita Badrock, Jan Gjestvang-lucky, and Trish Cates appeared before the Board to request a compromise of penalties associated with discoveries of improvements on these parcels for the 2011 and 2012 tax years. Ms. Badrock gave an overview of Community Housing Trust (CHT) and CHT properties and the history of development and sale of the leasehold interests for the referenced CHT properties. Ms. Badrock provided evidence that she had made numerous attempts since 2011 to have the referenced properties assessed and taxed. Ms. Badrock then acknowledged that the current tax administration staff has cooperated and that CHT is in agreement with the assessed values for the referenced properties. However, Ms. Badrock requested that the penalties associated with the discoveries be removed and that the affected owners of the leasehold interests be given the opportunity to repay the former years' taxes over time with no interest accruing because these owners have low incomes and payment of these prior years' taxes presents a financial hardship.

Karen Morrissette informed Ms. Badrock that the Board did not have the authority to authorize an interest free payment plan.

After deliberation, Karen Morrissette made a motion that all penalties associated with the discoveries for these properties be waived but the amount of the taxes associated with the discoveries be upheld. Barbara Levine seconded the motion and the motion carried.

Ayes: 3

Opposed: 0

9895243261, David L. Nicolaysen

David Nicolaysen appeared before the Board to appeal the rollback of deferred taxes for the 2008 tax year due to disqualification from the Present Use Value program in 2011. Mr. Nicolaysen stated that in August 2012 he received a notice of ineligibility to participate in the Present Use Value program and in December 2012, he received a notice of disqualification from the program and four tax bills. Three of the tax bills were 2012 bills for the respective tax years of 2011, 2010, and 2009. The other tax bill was a 2011 bill for tax year 2008. Mr. Nicolaysen stated he believed the August 2012 notice to cover the years 2012-2009 rather than the years 2011-2008 since the notice arrived in 2012 and it did not indicate the years that notice covered. Mr. Nicolaysen contends that the disqualification from the program occurred in 2012 and that the proper years to bill for deferred taxes were 2012-2009. As such, he contends that the bill for the 2008 taxes is invalid.

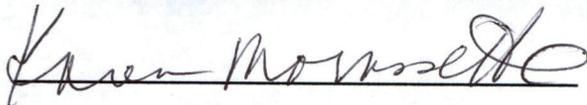
Lee Harris provided insight to the Board regarding the history of the review of the referenced property and cited the applicable statutes concerning this issue. Mr. Harris also gave a history of the notifications to the taxpayer and acknowledged that the wording in the 2012 notification could have been the cause of confusion for the taxpayer.

After deliberation, Karen Morrissette made a motion that, based on the wording in the 2012 notification, that the year of disqualification was 2012 and that the total amount of the 2008 bill be released. Barbara Levine seconded the motion and the motion carried.

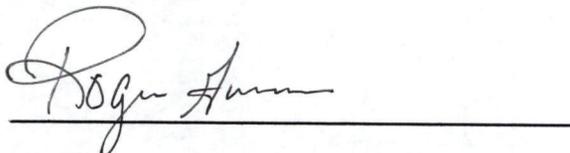
Ayes: 3

Opposed: 0

Having heard all the appeals scheduled for this date, the Board adjourned at 4:45 pm.



Karen Morrissette, Chairman



Roger Gunn, Clerk to the Board