MINUTES

Board of Equalization and Review
March 27, 2014

Board Members Present:
Chair: Jane Sparks
Jennifer Marsh
Barbara Levine

Staff Members Present: Roger Gunn, Chief Appraiser
Scherri McCray, Recording Secretary

The meeting was called to order at 2:00PM on Thursday March 27, 2014 by Chair, Ms. Jean Sparks.

Cameron Johnson **PIN# 9887675602**

Mr. Johnson appeared before the Board with his attorney, Samuel Coleman, to petition the Board for compromise of taxes related to a discovery of improvements on the appellant's property located at 4117 MCKEE SCHOOL ROAD, HURDLE MILLS for the tax years 2008 and 2013 and to request that the Board relieve the appellant of the obligation to pay any taxes that were assessed on these improvements for tax years 2008 and 2009.

Mr. Coleman states that the County had two opportunities to list the improvements to the property prior to the discovery of the improvements in 2013. The first opportunity was when the Certificate of Occupancy was issued in 2007 and the second opportunity as part of the 2009 revaluation. Furthermore, the appellant believed that the issuance of the Certificate of Occupancy by the County, payment of all fees, and the acquisition of all permits required by the County was sufficient for purposes of listing the improvements to the property. Also, because of the increase in the property valuation from 2008 to 2009, Mr. Johnson thought that he had complied with any tax obligations arising from the improvements to the property. The appellant acknowledges his tax obligation but is asking that the Board take into consideration both the good faith belief that he was in compliance with the listing requirements as well as the heavy financial burden that payment of the full tax amount owed would place on his family. Mr. Johnson is requesting that the Board waive all late listing penalties arising from the discovery of improvements to the property for tax years 2010-2013 and remove the entire tax liability resulting from the discovery for tax years 2008 and 2009.

The County stated that the claim by the appellant that the County failed to pick up the house is correct but added that the taxpayer did not list the improvements during the annual listing periods as required by statute. Mr. Gunn informed the appellant and the Board that in accordance with the North Carolina General Statute 105-312, the County is required to impose the tax for the year of the discovery and for any of the preceding five years during which the property escaped

taxation and that penalties are to be computed and imposed regardless of the County's failure to timely assess these improvements.

The Board reviewed all documents and information provided by the appellant and the County. After deliberation and review, Ms. Marsh made a motion to waive the penalties that arose from the discovery of improvements but she stated that the appellant must pay the taxes that were assessed in years 2008-2013. Ms. Levine seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Dina Porter Inc. **Business Personal Property**

Susan and Peter Coker, the owners of Dina Porter Inc., appeared before the Board to request an abatement of listing penalties associated from an audit that was conducted by Evans and Associates for the Orange County Tax Office. The findings of this audit resulted in a Notice of Discovery for leasehold improvements and non-listing of business personal property for the years 2008 thru 2013.

Mrs. Coker informed the Board that the appellants did not realize they had any business personal property and assumed that the mall owned all the property that was in the store. She added that she initially prepared the annual personal property tax form and thought that she was only to report the values for any additional property acquired during the year. After consulting with their accountant in Pennsylvania, the appellants discovered that the values they reported should have been a cumulative cost rather that a current year addition. Mr. Coker stated that their tax accountant in Pennsylvania handled all of the tax preparation for the company and that an inadvertent error occurred when filing the annual tax property forms. Furthermore, the accountant was not aware of these business personal property taxes because the State of Pennsylvania does not have such a tax. Ms. Coker told the Board that they understand that they owe business related taxes and will pay accordingly but they respectfully ask that the Board abate the penalties.

Ms. Brenda Riley, Business Personal Property Appraiser for the County, addressed the Board and affirmed that this property was part of an Evans and Associates audit of business. The findings of the audit resulted in a Notice of Discovery for taxes owed on business personal property. Ms. Riley stated that the appellants did pay the taxes owed when they were made aware of the audits conclusion and they are requesting a compromise of the penalties.

The Board reviewed all information presented by the appellants and the County. After deliberation, Ms. Marsh made a motion to not grant a compromise of penalties stating that the appellants' professional accountant should have been aware of the tax laws for North Carolina. Ms. Sparks seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Jennifer Van Vickle and Carolyn Cole PIN # 9789997928

Ms. Van Vickle appeared before the Board to request a waiver of listing penalties resulting from a Notice of Discovery on the property located at 2120 NORTH LAKESHORE DRIVE, CHAPEL HILL. The value of this property was under appeal on December 11, 2013 at which time the Board heard the appellants' and the County's case. Ms. Van Vickle provided the Board with a brief summary of the prior appeal and stated that she and Ms. Cole accepted the valuation decision outlined in the Discovery Amount After Decision notice for 2009 thru 2013 and has paid all the resulting taxes except for the listing penalties. The appellant feels that she has acted in good faith by making timely payments and requests that the Board waive the associated listing penalties. Ms. Van Vickle also informed the Board that Roger Gunn, Chief Appraiser for Orange County Tax Office was most helpful with the entire situation.

The County stated that it imposes the penalties as the law requires. It is in the Board's authority and discretion to remove the penalties.

The Board reviewed all the information and documentation provided by the appellants and the County. After deliberation, Ms. Marsh made a motion to waive the penalties based on the information provided by the appellants and the County. Ms. Levine seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Richard Daffner PIN # 9788036376

Mr. Daffner elected not to appear before the Board and requested that his documentation serve as his appeal. The appellant is requesting a compromise of taxes for unpaid listing penalties associated with a discovery of improvements on his property located at 819 EDWARDS STREET, CHAPEL HILL.

In his documentation, Mr. Daffner stated that he has been timely paying the property taxes on this property since 1985. In January of 2014, he decided to sell the property and contacted a Realtor to broker the sale. The Realtor performed a due diligence prior to listing the property and found that the property was listed with Orange County as an unimproved lot, rather than as a improved property. The appellant's counsel contacted the County to notify the County of the apparent mistake and seek a proper valuation for the property. Mr. Roger Gunn, Chief Appraiser for the Orange County Tax Office reassessed the property and established back taxes from 2009-2013 in the amount of $ 19,082.77 and listing penalties in the amount of $ 5,443.24. The appellant received a bill totaling $ 24,526.01. On February 27, 2014, Mr. Daffner remitted a check to the tax office in the amount of $19,082.77. He is requesting the Board issue a compromise of taxes for the unpaid penalties based on the following:

1. The improvements were never assessed during revaluations since the time of purchase.
2. The appellant was unaware of the erroneous listing of the property on the tax roll.
3. There has been no major construction or renovation on the property since the original construction.
4. All previous taxes were paid in a timely manner and in good faith.

The Board reviewed all documents and information provided by the appellant and the County. After review and deliberation, Ms. Marsh made a motion to waive the listing penalties. Ms. Levine seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Noodles & Company **Business Personal Property**

Mr. Chris Becker, an authorized representative for Noodles & Company, appeared before the Board to appeal the Notice of Discovery penalties resulting from an audit finding conducted by Evans and Associates on behalf of the Orange County Tax Office. This appeal is for the tax years 2009, 2010 and 2013.

Mr. Becker provided the Board with more information for their review. He explained that in 2013 he was new to filing returns in North Carolina and he was unaware that it was required to file the entire asset list with the return. He was under the impression that since Noodles and Company included the entire asset list in previous filings, it would be acceptable to include only the additions and deletions on future filings. When he discovered this error, he immediately sent the full list of assets to the Orange County Tax Office. Mr. Becker indicated that upon reviewing the 2009-2010 filings, he found that there were errors on the County's part. He revealed that Noodles and Company did include the complete list of assets, including leasehold improvements with each filing. However, the leasehold improvement items were not assessed in those years by the Tax Office, and due to the audit findings, were added as part of the audit. Furthermore, the appellant noted that there were clerical errors on the part of the assessor's staff in data entry that resulted in incorrect values although the assets were provided by Noodles & Company.
Mr. Becker stated that Noodles & Company have made a good faith effort to comply with the tax laws and hopes that they will not get penalized. Mr. Becker added that the Assessor's Office has been fair and most helpful in dealing with this matter.

The County states that the appellant is correct in his assertion that the 2009-2010 assessment was incorrect due to a clerical error on the County part. The audit was corrected and the matter was corrected. The 2013 assessment was added due to the audit.

The Board reviewed all information presented by the appellant and the County. After review and deliberation, Ms. Marsh made a motioned to waive 2009-2010 penalties, but did not grant a waiver of the 2013 penalties. Ms. Levine seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Thomas McCown PIN # 9778712532

Mr. McCown elected not to appear before the Board and requests that his documentation serve as his appeal. The appellant is requesting a compromise of taxes related to a discovery of improvements on his property located at 603 MANOR RIDGE DRIVE, CHAPEL HILL.
In a written statement, Mr. McCown requested to have the listing penalties associated with the discovery waived stating that the addition to his property included all of the required permits and inspections, so it was his expectation that upon completion, the Orange County Tax Office would appraise the improvement and that a change would appear on the bill. Furthermore, he viewed the annual tax listing form as a means to declare other property, such as boats or trailers.
When the appellant received the revised 2014 Individual Tax Listing Form, he noticed the section for improvements to the property was prominently placed on the front of the form. He was not sure if the improvement to his property had been appraised, so he called the Tax Office and was informed that the typical notification to the Tax Office of improvements was through building permits. He reasoned that the failure to assess his improvements must have been an oversight on the part of the Tax Office. This apparent oversight prompted him to add the improvement to the Individual Listing form and return it to the office. Mr. McCown states that he agrees with the improvement's valuation and will pay the back taxes owed resulting from this discovery. However, he does not agree with the penalties citing that certainly omissions were made on both his part, which he claims was not intentional, and on the Tax Assessor's part. Therefore, he does not believe that he should be responsible for any penalties.

The Board reviewed all the information presented by the appellant and the County. After review and deliberation, Ms. Marsh made a motion to waive the penalties. Ms. Levine seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Warren-Hay Mechanical Contractors, Inc. Business Personal Property

Mr. Jimmy Riley, the Controller for Warren-Hay Mechanical Contractors, Inc., appeared before the Board to request that the penalties imposed from an audit conducted by the Orange County Tax office for the company's 2012 Business Personal Property filing be waived.
Mr. Riley states that he agrees to the assessed value derived from the audit of the company's 2012 Business Personal Property filing but would like to appeal the penalties. The appellant claims that due to a transition of personnel within the company, an oversight occurred that resulted in a miscalculation and filing on the 2012 Business Personal Property listing form.

The County stated that an audit was created on Warren-Hay Mechanical Contractors, Inc. The information reviewed included depreciation schedules and other financial information. Machinery & Equipment, Furniture & Fixtures, and Computer Equipment did not materially reconcile with the taxpayer's records based upon original historical costs listed by acquisition

year. The major variance relates to the 2012 listing form submitted to the County that appeared to be significantly under reported. The County is required by law to apply penalties to the tax bill in accordance to the North Carolina General Statute 105-312.

The Board reviewed all the information presented by the appellant and the County. After review and deliberation, Ms. Marsh made a motion that the penalties assessed by the audit stand. Ms. Levine seconded that motion and the motion carried.

Ayes: 3
Noes: 0

The Talbots, Inc. # 116 **Business Personal Property**

The Talbots, Inc. # 116 did not appear before the Board as scheduled. In a written notification, the appellant requested a time and date to appear before the Board to take exception to the audit finding for the Business Personal Property listing years 2008 thru 2013.

The County submitted a schedule of values for the Board to review. Ms. Brenda Riley, a Business Personal Property Appraiser for the County, addressed the Board to convey the reason for the appellant's request and to explain that the representative for The Talbots, Inc. was located in the State of Texas and could not be present as previously requested.
She confirmed that an audit was conducted by Evans and Associates on behalf of the Orange County Tax Office and as such, the findings revealed that the appellant failed to include leasehold improvements to their Business Personal Property listing forms for the years 2008 thru 2013. During an Assessor's Conference call between Mr. Lee Harris, the Deputy Tax Assessor for the Orange County Tax Office, and Mr. Danny Walker, a representative for The Talbots, Inc., Mr. Walker explained that he thought leasehold improvements were considered real property. Mr. Harris informed him that North Carolina property tax laws state that leasehold improvements be listed as personal property if not included in the corresponding real property's value.

Ms. Riley is suggesting that the Board approve the values from the audit findings. She stated that there was a verbal agreement made by the appellant to accept the values. The County is required by law to apply penalties to the tax bill in accordance to the North Carolina General Statute 105-312.

The Board reviewed all the information provided by the appellant and the County. After review and deliberation, Ms. Sparks made a motion to accept the values that the County had proposed. Ms. Marsh seconded the motion and the motion carried

Ayes: 3
Noes: 0

CCS Restaurant Holdings, LLC **Business Personal Property**

The appellant elected not to appear before the Board. In a written statement, Gary Monroe, Manager of CCS Restaurant Holdings, LLC, requested consideration to waive or abate the 2013 penalties citing the late filing of the company's Business Personal Property Listing form was due to personnel issues that have since been rectified.

The County stated that the appellant's 2013 Business Personal Property listing was received October 16, 2013 along with the signed discovery notice for 2013 that was issued by the County. Furthermore, the appellant filed late listings in 2012 and a discovery was issued for tax year 2011. The County is required by law to apply penalties to the tax bill in accordance to the North Carolina General Statute 105-312.

The Board reviewed all information presented by the appellants and the County. After deliberation, Ms. Marsh made a motion that the late listing penalties not be waived. Ms. Levine seconded the motion and the motion carried.

Ayes: 3
Noes: 0

CIT Technology Financing Services, Inc. **Business Personal Property**

The appellant did not appear before the Board but submitted a written request to have the late listing penalties for the 2011 and 2012 tax years be removed. The appellant's letter states "The assets assessed on the accounts were filed to Orange County, North Carolina timely for the 2011 tax year. The assets were not assessed and the tax office indicated the assets did not belong in Orange County, North Carolina." Furthermore, "Based on the information provided by the Orange County Tax Office, the assets were erroneously filed to Alamance County, North Carolina for the 2012 tax year. When these assets were assessed for the 2011 and 2012 tax years, a discovery penalty was incurred; this discovery penalty should be removed."

The County's review noted that CIT Technology Financing Services, Inc. is a leasing company that leases computers and copiers to various locations in Orange County. The County stated that the appellant did list in 2012 but failed to file listing forms for two other properties. After communications with the appellant, the Tax Office received three Business Personal Property listings on December 18, 2013 for equipment that was not billed in 2011 and 2012. The bills were created on December 20, 2013. The County is required by law to apply listing penalties to the tax bill in accordance with the North Carolina General Statute 105-312.

The Board reviewed all information presented by the appellants and the County. After deliberation, Ms. Levine made a motion to waive the listing penalties. Ms. Sparks seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Nurtur Holdings, LLC **Business Personal Property**

The appellant elected not to appear before the Board and requests that the written documentation serve as their appeal. Nurtur Holdings, Inc. is requesting that the Board waive the late listing penalty for their 2012 and 2013 Business Personal Property taxes.

In a letter to the Board of Equalization and Review, Ms. Natasha Gadzala, Controller for Nurtur Holdings, Inc. states that it was her understanding that the 2012 personal property should have been reported by January 31, 2013 and was not sure why the information was not submitted on time. However, when Ms. Gadzala became aware of this issue, she spoke with the County Staff and immediately submitted the information. The appellant says that she is unfamiliar with North Carolina taxes since the corporate office is in Ohio. However, she assures that all taxes will be paid in a timely fashion.

The County reviewed that the 2012 and 2013 Business Personal Property listings that were received on October 23, 2013. Nurtur Holdings, LLC has listings back to 2005. The 2008 and 2011 listings were submitted timely. The listings for tax years 2010, 2009, 2007, 2006 and 2005 were listed late and listing penalties imposed. The County is required by law to apply penalties to the tax bill in accordance to the North Carolina General Statute 105-312.

The Board reviewed all information presented by the appellant and the County. After deliberation, Ms. Marsh made a motion that the late penalties not be waived. Ms. Levine seconded the motion and the motion carried.

Ayes: 3
Noes: 0

Having heard all of the appeals scheduled on this date, Ms. Sparks made a motion to adjourn this meeting. Ms. Marsh seconded the motion and the meeting was adjourned at 4:00 PM.

Jane Sparks, Chair

Scherri McCray, Recording Secretary