

# FORSYTH COUNTY

## BOARD OF COMMISSIONERS

MEETING DATE: April 28, 2014 AGENDA ITEM NUMBER: 13-B

SUBJECT: REPORT OF NORTH CAROLINA PROPERTY TAX COMMISSION ORDER  
THE TAYLOR GROUP FOUNDATION, INC.  
13 PTC 154

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:

ATTACHMENTS:  YES  NO

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
COUNTY MANAGER

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION  
SITTING AS THE STATE BOARD OF  
EQUALIZATION AND REVIEW  
13 PTC 154

IN THE MATTER OF:  
APPEAL OF: **The Taylor  
Group Foundation, Inc.**  
from decision of the Forsyth  
County Board of Equalization  
and Review concerning the  
taxation of certain real  
property for tax year 2012.

**FINAL DECISION**

This appeal was heard before the North Carolina Property Tax Commission ("Commission") sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina on Wednesday, January 15, 2014, pursuant to the appeal of **The Taylor Group Foundation, Inc.** ("Appellant"). Appellant is appealing the decision of the 2013 Forsyth County Board of Equalization and Review ("County Board") not to grant Appellant's application for property tax exemption for tax year 2012.

Chairman William W. Peaslee presided over the hearing with Vice Chairman Terry L. Wheeler and Commission members David A. Smith and Jack C. Morgan III participating.

Michael S. Fox, Esquire and Martha R. Sacrinty, Esquire, appeared at the hearing as counsel for the Appellant. B. Gordon Watkins, III, Assistant Forsyth County Attorney, appeared at the hearing on behalf of Forsyth County.

**STATEMENT OF THE CASE**

Appellant appeals the decision of the Forsyth County Board of Equalization and Review ("County Board") denying Appellant's application for property tax exemption for certain real property located at 1421 Lewisville Clemmons Road, Clemmons, Forsyth County, North Carolina. The subject property, which is identified by Forsyth County as Parcel Identification Number 5884-99-7161.00 (the "Property"), consists of 4.02 acres and is improved with a building approximately 50,236 square feet in size.

Appellant, The Taylor Group Foundation, Inc., which does business as the Vision Tennis Center, challenged the County Board's decision denying its application for property tax exemption by filing a Notice of Appeal and Application for Hearing with the Commission. In the Application for Hearing, Appellant contends that the subject property should be granted an exemption from property taxes pursuant to N.C. Gen. Stat. § 105-278.6 because it is a similar organization as a Young Men's Christian Association as provided in N.C. Gen. Stat. § 105-278.6(a)(1) and because the Property is used for charitable purposes. Appellant further contends that the Property is exempt from property taxation as provided in N.C. Gen. Stat. § 105-278.7 since it is a charitable association due to its exempt status from federal income tax under section 501(c)(3) of the Internal Revenue Code as a nonprofit charitable organization; and because the Property is used for a charitable purpose.

The County contends that the subject property is not exempt from property taxation since Appellant is not a similar organization as a Young Men's Christian Association; is not a charitable association as provided in N.C. Gen. Stat. § 105-278.7; and the Property is not used for a charitable purpose as required by these statutes. Accordingly, Forsyth County requests the Commission to affirm the decision of the County Board denying Appellant's application for property tax exemption for the subject property for tax year 2012.

## ISSUES

In the Order on Final Pre-Hearing Conference, the parties did agree upon the issue to be presented to the Commission. The issue considered by the Commission is stated as follows:

- (a) Whether the Property is exempt from taxation pursuant to N.C. Gen. Stat. § 105-278.6; and
- (b) Whether the Property is exempt from taxation pursuant to N.C. Gen. Stat. § 105-278.7?

### **FROM THE APPLICATION FOR HEARING FILED IN THIS MATTER, STIPULATIONS OF THE PARTIES AND EVIDENCE PRESENTED AT THE HEARING, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:**

1. The Commission has jurisdiction over the parties and the subject matter of this appeal.
2. Appellant, The Taylor Group Foundation, Inc., which owns and operates Vision Tennis Center, has been determined exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code as a nonprofit charitable entity.
3. The Property, subject to this appeal, is located at 1421 Lewisville Clemmons Road, Clemmons, Forsyth County, North Carolina. The Property, which is identified by Forsyth County as Parcel Identification Number 5884-99-7161.00, consists of 4.02 acres and is improved with a building approximately 50,236 square feet in size.
4. In tax year 2012, Appellant submitted an application for property tax exemption regarding the Property because it believes it is a similar organization as a Young Men's Christian Association as provided in N.C. Gen. Stat. § 105-278.6; and is a charitable association as provided in N.C. Gen. Stat. § 105-278.7; and that the Property is used for a charitable purpose as required by these statutes.
5. The real property located at 775 West End Boulevard, Winston-Salem, North Carolina and owned by the Young Men's Christian Association ("YMCA") is exempt from property taxation.
6. The real property located at 1300 S. Main Street, Winston-Salem, North Carolina and owned by The YWCA ("YWCA") of Winston-Salem and Forsyth County is exempt from property taxation.

7. The Forsyth County Tax Assessor (“Tax Assessor”) denied Appellant’s application for property tax exemption for the Property by determining that the real property does not meet the statutory requirements of N.C. Gen. Stat. §§ 105-278.6 and -278.7.

8. Appellant challenged the Tax Assessor’s decision denying the exemption application by filing an appeal with the County Board. On January 24, 2013, the County Board heard Appellant’s appeal regarding its request for property exemption for its real property. By decision mailed on January 28, 2013, the County Board denied Appellant’s request for property tax exemption; and affirmed the County’s assessment of the subject property at a total value of \$2,352,800. Thereafter, Appellant filed an appeal with the Commission and requested a hearing as provided in N.C. Gen. Stat. § 105-290.

9. In tax year 2012, Appellant charged annual membership fees of \$200.00 (individuals) and \$300.00 (families),<sup>1</sup> and monthly fees<sup>2</sup> for use of the Property’s tennis courts. An additional fee of \$50.00 per hour was paid by individuals (men, ladies and juniors) for private, semi-private or group arranged tennis lessons, and there were also charges associated with participation in tennis drills.

10. As of January 1, 2012, the Property’s tennis courts were used daily by individuals, families and groups for the following activities: (a) general recreational use; (c) private, semi-private, and group tennis lessons; (d) scheduled clinics to prepare members for league play and to test strokes and tennis knowledge in both single and double drill situations. In addition to the above daily uses, Appellant did host five tennis tournaments that were sponsored by other charitable organizations.<sup>3</sup>

11. Notwithstanding the Property’s incidental hosting of events sponsored by other charitable organizations, the Property principally benefits: (1) members that use the tennis courts for individual, group and family play times; (2) members that arrange private, semi-private or group tennis lessons; and (3) members and guests that sign up for clinics and drills.

12. Appellant is a nonprofit, 501(c)(3) tax exempt entity for federal income tax purposes, but it is not organized such as a YMCA,<sup>4</sup> or YWCA or other similar organization, association or institution, which properties (real and personal) receive an exception from property taxation as provided in N.C. Gen. Stat. §§ 105-278.6 and -278.7.

13. The Property is not used for a charitable purpose when the activities conducted at the Property do not benefit humanity or a significant rather than limited segment of the community without the expectation of pecuniary profit or reward as required by N.C. Gen. Stat. § 105-278.7(f)(4).

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<sup>1</sup> Appellant waived the initial fee of \$200 (individual) and \$300 (family) for new members.

<sup>2</sup> Individual \$37.00 bank draft monthly (\$444.00 if not drafted) and families were charged \$55.50 per month for bank draft (\$666.00 if not drafted)

<sup>3</sup> Tennis tournaments hosted at the Property in 2012 were Winston Adaptive Open; NC State Tar Heel Qualifier Tournament; USTA National Clay Court Championship – (Boys 12); NC State Senior Closed Evens Championships; and Smash Cancer Benefit for a total of 17 days in tax year 2012.

<sup>4</sup> N.C. Gen. Stat. §§ 105-278.6(a)(1) specifically exempts real and personal property owned by the YMCA, if the property is used for a charitable purpose.

14. The Property's incidental availability for charitable events that are open to the public does not meet the actual and exclusive use of the Property for charitable purposes when the activities conducted at the Property do not benefit humanity or a significant rather than limited segment of the community without the expectation of pecuniary profit or reward.<sup>5</sup>

**BASED ON THE FOREGOING FINDINGS OF FACT, THE PROPERTY TAX 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 [See N.C. Gen. Stat. §105-274].

2. N.C. Gen. Stat. § 105-278.6 governs tax exemption for real and personal property used for charitable purposes. N.C. Gen. Stat. § 105-278.6 provides in pertinent part:

- (a) Real and personal property owned by:
  - (1) A Young Men's Christian Association or similar organization;
  - (2) A home for the aged, sick and infirm;
  - (3) An orphanage or similar home;
  - (4) A Society for the Prevention of Cruelty to Animals;
  - (5) A reformatory or correctional institution;
  - (6) A monastery, convent, or nunnery;
  - (7) A nonprofit, life-saving, first aid or rescue squad organization;
  - (8) A nonprofit organization providing housing for individuals or families with low or moderate incomes

shall be exempted from taxation if: (i) As to real property, it is actually and exclusively used, and as to personal property, it is entirely and completely used, by the owner for charitable purposes, and (ii) the owner is not organized or operated for profit.

(b) A charitable purpose within the meaning of this section is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without the expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.

(c) The fact that a building or facility is incidentally available to and patronized by the general public, so as there is not material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

3. The subject property is not exempt from taxation as provided in N.C. Gen. Stat. § 105-278.6 when the property is not owned by an association or organization listed above, and is not wholly and exclusively used by its owner for a charitable purpose within the meaning of N.C. Gen. Stat. § 105-278.6(b), which is an activity that benefits humanity or a significant rather than limited segment of the community without the expectation of pecuniary profit or reward.

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<sup>5</sup>N.C. Gen. Stat. § 105-278.7(f)(4).

4. N.C. Gen. Stat. § 105-278.7 governs tax exemption for real and personal property used for charitable purposes. N.C. Gen. Stat. § 105-278.7 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 nonprofit purposes as defined in subsection (f), below; or

(2) Occupied gratuitously by an agency listed in subsection (c), below, other than the owner, and wholly and exclusively used by the occupant for nonprofit educational, scientific, literary, charitable, or cultural purposes.

(b) Personal property 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; or

(2) Gratuitously made available to one other than the owner and wholly and exclusively used by the possessor for religious, charitable, or nonprofit educational, literary, scientific, or cultural purposes.

(c) The following agencies, when the other requirements of this section are met, may obtain exemption under this section:

(1) A charitable association or institution,

(2) A historical association or institution,

(3) A veterans' organization or institution,

(4) A scientific association or institution,

(5) A literary association or institution, or

(6) A benevolent association or institution, or

(7) A nonprofit community or neighborhood organization.

(f). Within the meaning of this section:

(4) A charitable purpose within the meaning of this section is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without the expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.

5. The Property is subject to property taxation for tax year 2012 when the Property is not owned by a charitable organization, association or institution that is actually and exclusively used for charitable purposes

6. The Property is not exempt from taxation as provided in N.C. Gen. Stat. § 105-278.7 when the property is not wholly and exclusively used by its owner for a charitable purpose within the meaning of N.C. Gen. Stat. § 105-278.7(4), which is an activity that benefits humanity or a significant rather than limited segment of the community without the expectation of pecuniary profit or reward.

7. The County Board properly affirmed the Tax Assessor's decision denying Appellant's application for property tax exemption for the Property for tax year 2012 when the Property does not meet the criteria of N.C. Gen. Stat. § § 105-278.6 and -278.7.

**BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION THEREFORE ORDERS** that the decision of the Forsyth County Board of Equalization denying Appellant's application for property tax exemption for tax year 2012 is affirmed.

NORTH CAROLINA PROPERTY TAX COMMISSION



William W. Peaslee, Chairman

Vice Chairman Wheeler and Commission members Smith and Morgan concur. Commission member Plyler did not participate in the hearing or deliberation of this appeal.

Entered: April 15, 2014

Attest:

Janet L. Shires, General Counsel  
and Secretary