

IN THE MATTER OF APPEAL OF TYLETA W. MORGAN from the decision of the Henderson County Board of Equalization and Review concerning the taxation of certain real property for tax years 1995 through 2003

No. 582A07

FILED: 12 JUNE 2008

Taxation—ad valorem—county’s failure to assess house—immaterial irregularity—collection of back taxes

A decision by the Court of Appeals that a county’s failure to assess a taxpayer’s house for 1995 through 2003 after the owner listed the property was not an “immaterial irregularity” within the meaning of N.C.G.S. § 105-394 so that the county is barred from collecting the back taxes and interest is reversed for the reason stated in the dissenting opinion that the plain language of the statute provides that the county’s failure to assess the house does constitute an “immaterial irregularity” which does not prohibit the collection of back taxes and interest.

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 187 N.C. App. ___, 652 S.E.2d 655 (2007), affirming a final decision entered on 17 July 2006 by the North Carolina Property Tax Commission. Heard in the Supreme Court 7 May 2008.

DeVore, Acton & Stafford PA, by Fred W. DeVore, III, for taxpayer-appellee.

Parker Poe Adams & Bernstein LLP, by Charles C. Meeker and Benn A. Brewington, III, for appellant Henderson County.

Paul A. Meyer, Assistant General Counsel, North Carolina Association of County Commissioners, amicus curiae.

PER CURIAM.

For the reasons stated in the dissenting opinion, the decision of the Court of Appeals is reversed and this matter is remanded to the Court of Appeals for further remand to the North Carolina Property Tax Commission for further proceedings not inconsistent with this opinion.

REVERSED AND REMANDED.