

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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MICHAEL FORD,	)	
	)	Docket No. PT-2012-5
Appellant,	)	
-vs-	)	
	)	FACTUAL BACKGROUND,
	)	CONCLUSIONS OF LAW
DEPARTMENT OF REVENUE	)	ORDER and OPPORTUNITY
OF THE STATE OF MONTANA,	)	FOR JUDICIAL REVIEW
	)	
Respondent.	)	

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**Statement of Case**

Michael Ford (Taxpayer) appealed the final decision of the Department of Revenue (DOR) concerning the denial of application for Property Tax Assistance Program (PTAP). The matter was heard before the State Tax Appeal Board on the record using written submissions from the Taxpayer and the DOR.

The Board having fully considered the testimony, exhibits, written submissions and all matters presented, finds and concludes the following:

**Issue**

The issues before this Board is whether the Taxpayer timely filed his application for Property Tax Assistance and whether the Department of Revenue appropriately denied the Taxpayer's application for tax year 2012.

**Summary**

Michael Ford is the Taxpayer in this proceeding and, therefore, has the burden of proof. Based on a preponderance of the evidence, the Board affirms the final decision of the Department of Revenue.

### Findings of Fact

1. Due, proper and sufficient notice was given of this matter and of the time and place of the hearing. Both parties were afforded the opportunity to submit additional written statements to the Board.
2. The Taxpayer submitted a letter asking DOR to accept his request for reduction in property taxes on his house. DOR received the letter May 10, 2012. (DOR Ex. A.)
3. Because the letter failed to provide sufficient information, DOR mailed an application for the Property Tax Assistance Program (PTAP) to the Taxpayer, requesting the Taxpayer to complete, sign and return to DOR. This was on May 10, 2012. (DOR Ex. B.)
4. The Taxpayer submitted his completed application on May 22, 2012. (DOR Ex. C.)
5. The PTAP application must be filed on or before April 15 of the year for which the benefit is sought. (ARM 42.19.401 (1), (Section 15-6-134(4)(a)(iii),MCA.)
6. Qualifying applicants must occupy the residence for more than seven months during the preceding year. (Section 15-6-134(4)(a)(i),MCA.)
7. Under the Department's rules, applications received after April 15 will not be considered for the year unless two circumstance exist: (1) the applicant was unable to apply for the current year due to hospitalization, physical illness, infirmity, or mental illness; or (2) the applicant qualified for PTAP assistance in the prior year and suffered confusion from an infirmity which caused the applicant's failure to timely file the application. (ARM 42.19.401(1)(a)(b)(i)(ii).)

8. On May 23, 2012, DOR responded to the Taxpayer stating the untimeliness of the application and a failure to meet the occupancy requirements resulted in a denial of the application.
9. The Taxpayer appealed to this Board in a letter received June 5, 2012. His letter explained the cause of the untimeliness was due to his unawareness of the date of the deadline for the application and his recent employment at a distant jobsite made it difficult to submit the application. (DOR Ex. A.)
10. The Taxpayer also indicated he is the owner of the property and occupied the property, but received his mail elsewhere for personal reasons. (Taxpayer Letter 06-05-2012.)
11. The Board elected to hear the appeal on the record. A letter dated July 9, 2012 was sent to the Taxpayer advising him of this option. (Letter from State Tax Appeal Board, July 9, 2012, §15-2-301(2), MCA.)

#### **Principles of Law**

1. The State Tax Appeal Board has jurisdiction over this matter. (§15-2-302, MCA).
2. The State Tax Appeal Board must give administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise unlawful. (15-2-301(4) MCA.)
3. The Property Tax Assistance program reduces the property taxes of taxpayers with income below certain levels. 15-6-134(2)(b)(i) MCA.)
4. Applications for the PTAP are due on or before April 15 of the year the benefit is requested. (ARM 42.19.401(1), MCA 15-6-134(4)(a)(iii).)
5. Exceptions may be made if the claimant satisfies two requirements. The inability to apply because of hospitalization, physical illness, infirmity or mental illness in the year the assistance is being requested; and the applicants'

qualification for the assistance in the prior year coupled with the suffering of confusion from an infirmity causing the failure to timely file the application. (ARM 42.19.401(1)(a)(b)(i)(ii), 42.19.401(2)(a)(b).)

6. Qualified applicants must occupy the residence as their primary residence for more than 7 months during the preceding year. (15-6-134(4)(a)(i) MCA.)

### **Board Discussion and Conclusions of Law**

The Board must determine, based on a preponderance of the evidence, whether the DOR properly denied the Taxpayer's PTAP application for tax year 2012.

As a general rule, the appraisal of the Department of Revenue is presumed to be correct and the Taxpayer must overcome this presumption. The Department of Revenue should however, bear a certain burden of providing documented evidence to support its assessed values. *Farmers Union Cent. Exch. v. Department of Revenue*, 272 Mont. 471, 901 P.2d 561, 564 (1995); *Western Airlines, Inc., v. Michunovich*, 149 Mont. 347, 353, 428, P. 2d, 3, 7, *cert. denied* 389 U.S. 952, 19 L. Ed. 2d 363, 88 S. Ct. 336 (1967).

The Taxpayer submitted an application to the DOR requesting property tax assistance. The application, however, was submitted and postmarked after April 15 of the year for which the assistance was requested. The Taxpayer's explanation for the tardiness of the submission failed to meet any of the circumstances for a waiver of the due date provided in the rules.

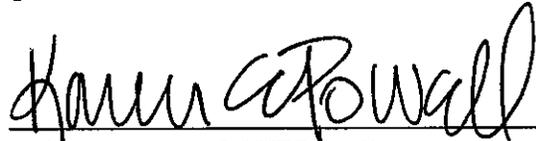
Thus, it is the opinion of this Board that the DOR was correct in denying the Taxpayer assistance under the Property Tax Assistance Program and upholds the decision of the DOR. As a result, this Board sees no reason to deliberate the merits of the question of occupancy of the property.

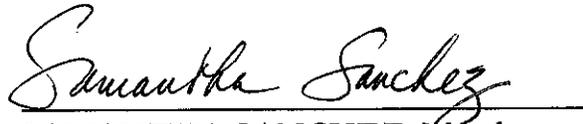
IT IS HEREBY ORDERED by the State Tax Appeal Board of the State of Montana that the application by the Taxpayer for qualification under the Property Tax Assistance Program for 2012 be denied.

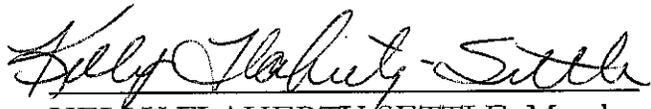
DATED this 5<sup>th</sup> day of September, 2012.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

(SEAL)

  
KAREN E. POWELL, Chairwoman

  
SAMANTHA SANCHEZ, Member

  
KELLY FLAHERTY-SETTLE, Member

Notice: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 6<sup>th</sup> day of September, 2012, a copy of the foregoing order was served on the parties hereto by placing a copy in the U.S. Mail and addressed as follows:

Michael Ford  
1413 Freeze Out Lane  
Deer Lodge, Montana 59722-9593

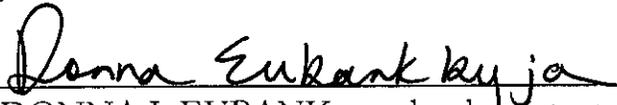
U.S. Mail, Postage Prepaid  
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DONNA J. EUBANK, paralegal assistant