

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

CELANDER FAMILY TRUST,)	
)	Docket No. EPT-2010-1
Appellant,)	
-vs-)	
)	FACTUAL BACKGROUND,
)	CONCLUSIONS OF LAW
DEPARTMENT OF REVENUE)	ORDER and OPPORTUNITY
OF THE STATE OF MONTANA,)	FOR JUDICIAL REVIEW
)	
Respondent.)	

Statement of Case

Celander Family Trust (Taxpayer) appealed the final decision of the Department of Revenue (DOR) concerning the denial of application for Extended Property Tax Assistance Program (EPTAP). Edwin Celander, on behalf of the Taxpayer, argues the DOR erred in calculating the EPTAP application. 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 issue before this Board is did the Department of Revenue appropriately deny the Taxpayer's application for EPTAP for tax year 2009?

Summary

Celander Family Trust 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.

Background and Evidence Presented

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 filed an application for EPTAP on October 20, 2009. (Exh. CEL-DOR 000001.)
3. The application was denied by the DOR for tax year 2009 on January 8, 2010, because the property value did not increase more than \$250.00. (Exh. CEL-DOR 000001.)
4. The Taxpayer appealed to this Board on May 25, 2010, stating: “Extended Property Tax Assistance Program disqualification. Our income is 54% of the qualifying \$75,000, and the tax increase is twice \$250.00 (495.10). The reason given for determination is based on, “Tax increase of less than \$250.00”.” (Appeal Form.)
5. The DOR requested this Board to dismiss the appeal based on a review completed by Les Saisbury of the Property Assessment Division. The DOR argued the review revealed that the taxable value of the property decreased by 17.52% and that their tax liability decreased by \$273. (Letter dated July 21, 2010.)
6. The DOR calculated the decrease in taxable value and tax liability upon the taxable market value before the application of any property tax assistance reduction for which the Taxpayer may have qualified. (Letter dated July 21, 2010.)
7. The Taxpayer responded to the dismissal on July 29, 2010, stating he could not correlate any of the DOR data supplied in the July 21, 2010 letter. He also supplied this Board with a copy of the Taxpayer’s 2009 Assessment Notice. (Letter dated July 29, 2010, Exh. A.)
8. DOR submitted additional evidence on August 11, 2010. (Exhs. CEL-DOR 000001-000006.)
9. This Board denied the DOR dismissal request on July 30, 2010 and set the matter for hearing on the record with all submissions due on or before August 23, 2010. (STAB Order dated July 30, 2010.)

Principles of Law

1. The State Tax Appeal Board has jurisdiction over this matter. (§15-2-301, MCA).
2. For purposes of calculating extended property tax relief, the dollar increase in tax liability is measured as the change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal in 2009 times 0.66 times 0.0301 times the tax year 2008 mill levy applied to the property. The tax liability after reappraisal is calculated by multiplying the 2009 market value after reappraisal times 0.53 times 0.0247 and finally times the tax year 2008 mill levy applied to the property. The tax year 2008 mill levy is the total of all mills applied to the property for fiscal year 2009. (§15-6-193(4)(c), MCA.)
3. The applicant is required to list total household income from all sources, including:
 - (a) net business income;
 - (b) otherwise tax-exempt income of all types; and
 - (c) income from all other owners of the property. (ARM 42.19.406(4).)
4. If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage increase in taxable value is greater than 36%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. (15-6-193(5)(c), MCA.)

Finding of Fact, 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 EPTAP application for tax year 2009.

The Legislature created a mechanism to mitigate extraordinary increases in property taxes for Montanans with income below a certain threshold. Section 15-6-193, MCA, is designed to mitigate extraordinary market value increases during revaluation cycles by adjusting the rate of taxation of qualified residences.

The Taxpayer argues that the taxable value and the tax liability on the property have both increased beyond the minimum threshold set out in §15-6-193, MCA to qualify for assistance.

The DOR contends they have properly applied the statutory requirements and therefore have no legal authority to grant the Taxpayer’s application. First, to determine whether the Taxpayer’s property qualifies for EPTAP relief, the DOR determines if the total household income is less than \$75,000. In this case, the Taxpayer’s undisputed household income is \$56,614. (Exh. CEL-DOR 000002.)

When the Board compares this household income to §15-6-193(5)(c), MCA, to determine taxable value increase, we find the Legislature required an increase in taxable value of 36% or greater to qualify for relief. The Taxpayer’s taxable value has not increased sufficiently to trigger assistance. Even if the Board uses the Taxpayer’s assessment notice listing the previous year taxable value as \$2,147.00 and the current year taxable value as \$2,828.00, in this case, it still is not greater than 36%. (*see* POL 4 & Exh. A.)

The Board, using information supplied by the Taxpayer and the DOR, reviewed the tax liability based on §15-6-193(4)(c), MCA, and finds the DOR calculations in exhibit CEL-DOR 000003 are correct and the Taxpayer has a decrease in tax liability according to statute.

Previous Year Market Value	Current Year Market Value
\$146,555	\$183,445
times (.66X.0301)	times (.53X.0247)
Taxable value = \$2,911	Taxable value = \$2,401
times County mills 608.7	times County mills 608.7
Tax Liability \$1,772.21	Tax Liability \$1,461.78

Therefore, this Board concludes the DOR is correct in denying this application.

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 Extended Property Tax Assistance Program for 2009 be denied.

DATED this 13th day of September, 2010.

BY ORDER OF THE
STATE TAX APPEAL BOARD

(S E A L)

/s/ _____
KAREN E. POWELL, Chairwoman

/s/ _____
DOUGLAS A. KAERCHER, Member

/s/ _____
SAMANTHA SANCHEZ, 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.

