

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

KATRINA RAUTHE,)	
)	DOCKET NO.: EPT-2012-2
Appellant,)	
-vs-)	FACTUAL BACKGROUND,
)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
THE DEPARTMENT OF REVENUE)	FOR JUDICIAL REVIEW
OF THE STATE OF MONTANA,)	
)	
Respondent.)	

Statement of Case

Katrina Rauthe (Taxpayer) appealed a final decision of the Department of Revenue (DOR) denying Extended Property Tax Assistance Program (PTAP) on her residential property in Flathead County, Montana. On July 24, 2012, DOR denied the Taxpayer's application for property tax assistance because she failed to provide evidence of total household income on or before the April 15, 2012 deadline specified in administrative rule.

Issue

The issue before this Board is whether the Department of Revenue properly denied property tax assistance when calculating the Taxpayer's property taxes.

Summary

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

Background and Evidence Presented

1. Due, proper and sufficient notice was given of this matter. The matter was heard on the record without objection from either party.
2. The subject property is a residential dwelling within the city limits of Somers, Montana, with the following legal description:

Lot 44, South Eighty 1 Addition to the City of Somers,
Section 23, Township 27, Range 21, County of Flathead,
State of Montana. (Appeal Form.)
3. For tax year 2012, the Taxpayer applied for property tax assistance on her property. The DOR received the application on May 1, 2012, approximately 15 days past the deadline date. The value assessed on the property is not at issue in the case.
4. Taxpayer did not include the required income documentation with the application. The DOR determined the Taxpayer did not qualify for property tax assistance because her application failed to provide evidence of total household income on or before April 15, 2012. (DOR letter of denial dated July 24, 2012 and DOR answer dated September 20, 2012.)
5. The Taxpayer indicated on her application for the Extended Property Tax Assistance Program that her husband had died on August 9, 2009. (DOR Exh. A.)
6. Mrs. Rauthe indicated that she was under the erroneous impression that her daughter had mailed in the original application for extended property tax assistance. (DOR Exh. A.)
7. The DOR has the ability to accept late submissions under certain extenuating circumstances. These include if the applicant was hospitalized, or subject to physical illness, infirmity or mental illness that existed in the period Jan. 1 to April 15; and this ailment would prevent the timely filing of the application.

8. It is the position of the DOR that the passing of Mrs. Rauthe's husband in 2009 is not an exception to the requirement to submit the application prior to April 15 for calendar year 2012. (Affidavit of Linda Sather.)
9. Linda Sather, for the DOR, also stated that even if the DOR had used Ms. Rauthe's income without the supporting tax return, her property value did not increase by 30 percent, as required by § 15-6-193 (5) (b), MCA. (Affidavit of Linda Sather.)

Principles of Law

1. The State Tax Appeal Board has jurisdiction over this matter. (§15-2-302, MCA.)
2. Property qualifying under the extended property tax assistance program is taxed at the rate of its taxable market value multiplied by a percentage figure based on the income for the preceding calendar year of the owner or owners who occupied the property as their primary residence. (§15-6-193(5)(b).)
3. By statute, for total household income greater than \$25,000 but less than or equal to \$50,000, the percentage increase in taxable value between the prior cycle and this cycle must be greater than 30% before the property can qualify for the extended property tax assistance program. (§15-6-193(5) (b), MCA.)
4. In order to receive the tax adjustment, the property owner must, by April 15, annually complete and forward an application to the Department of Revenue. (ARM 42.19.406 (4).)
5. The state tax appeal board must give an administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise unlawful. (§15-2-301(4), MCA.)

Finding of Fact and Conclusions of Law

In this instance, the Taxpayer requests that she be allowed to qualify for extended property tax relief, even though she filed her application late, did not provide income information, and her property value did not increase sufficiently to qualify for extended property tax relief. We can find no reason under the statute or regulations to allow for extended property tax relief in this matter.

The Taxpayer claims she thought her daughter had submitted the original application, but was in error. Additionally, the Taxpayer cites the death of her husband as a reason for the appeal. Unfortunately, neither explanation qualify as a cause for an allowance for the past date submission of the application. Even if the DOR had received her application in a timely manner, the Taxpayer failed to provide documented income information accompanying the application.

The parcel in question did increase in taxable value but did not reach the 30% threshold as required for relief, when considering Ms. Rauthe's income (which she subsequently provided.) Even if the Taxpayer had submitted a complete application within the deadline, the parcel does not qualify for EPTAP.

We find that the Taxpayer provided no evidence that the administrative rule or governing statute is in some manner unlawful, or that the DOR incorrectly applied statutes or administrative rule which govern EPTAP administration. As a result, this Board concludes the evidence presented by the DOR supported the correct application of the EPTAP statutes.

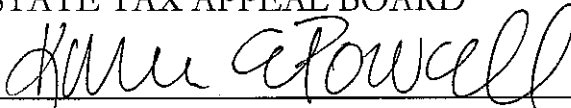
administration. As a result, this Board concludes the evidence presented by the DOR supported the correct application of the EPTAP statutes.

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the Taxpayer's appeal is denied and the decision of the Department of Revenue affirmed.

Dated this 15th day of November, 2012.

BY ORDER OF THE
STATE TAX APPEAL BOARD



KAREN E. POWELL, Chairwoman

(SEAL)



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 1st day of November, 2012, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

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