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8 **BOARD OF EQUALIZATION**
9 **STATE OF CALIFORNIA**

11 In the Matter of the Appeal of:

) **HEARING SUMMARY**

) **HOMEOWNERS AND RENTERS**
) **PROPERTY TAX ASSISTANCE APPEAL**

13 **SHIRLEY WILLIAMS¹**

) Case No. 436262

| <u>Year</u> | <u>Claim For Assistance</u> |
|-------------|---------------------------------|
| 2007 | \$647.00 ² |

17 Representing the Parties:

18 For Appellant: Elijah Keyes, Tax Appeals Assistance Program³

19 For Franchise Tax Board: Rachel Abston, Legal Analyst

21 **QUESTION:** Whether the Franchise Tax Board (FTB or respondent) properly denied appellant's claim
22 for property tax assistance.

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26 ¹ Appellant resides in San Jose, California.

27 ² The maximum amount of renter assistance for the 2007 claim year is \$347.50. (Rev. & Tax. Code, § 20544.).

28 ³ Harpaul Nahal, another student participating in TAAP, filed a brief in this appeal.

1 HEARING SUMMARY

2 Background

3 Appellant, a renter-claimant, claimed Homeowners and Renters Property Tax Assistance
4 (HRA) for 2007. Respondent issued a notice which denied assistance because appellant's residence is
5 allegedly not subject to property tax. (Resp. Op. Br., p. 2.) Appellant filed this timely appeal.

6 Contentions

7 On her claim, appellant reported living on Villa Monterey Road in San Jose during all of
8 2006 (the relevant year for 2007 claims). (Resp. Op. Br., exhibit B.) On appeal, appellant contends that
9 FTB should be estopped from denying her claim because the FTB had allowed her claim in previous
10 years.⁴ (App. Rep. Br., p.1.) Further, appellant contends that in the past she received HRA assistance,
11 but when FTB updated its files, appellant's 2007 claim was denied.⁵ (*Id.*) Appellant also contends that
12 she lived in a qualified residence subject to property tax.

13 Respondent contends that appellant's residence is exempt from property tax. (Resp. Op.
14 Br., p. 2.) Respondent contacted the Santa Clara County Assessor's office and was informed that the
15 total assessed value of the property was \$15,009,083, and that \$14,881,506 of this amount was exempt
16 from tax, resulting in a net taxable value was \$127,577. (Resp. Op. Br., exhibit D.) Respondent
17 calculates that the amount of taxes would be one percent of this amount, or \$1,275, which is far less than
18 80 percent of the taxes that would be due on a property that was fully taxable.⁶ Respondent contends
19 that this amount is not "substantially equivalent" to property taxes paid on non-exempt properties of
20 comparable market value, and that the property is therefore not a qualified rented residence for purposes
21 of the HRA program. (Citing *Appeals of Helen Cantor, et al.*, 2002-SBE-008, Nov. 13, 2002.)⁷

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24 ⁴ FTB records reflect that appellant filed claims for the 2002-2005 claim years and all were allowed because appellant met all
25 of the requirements. Appellant filed a timely 2006 claim, however, FTB denied the claim and appellant filed an appeal with
the Board. On August 14, 2007, the Board rendered a decision sustaining FTB's action denying the claim for assistance.
(Resp. Op. Br., p. 1.)

26 ⁵ On appeal, appellant also argued that she was disabled. However, FTB never contested that appellant was disabled. (App.
27 Rep. Br., p.1.)

28 ⁶ If the property had been fully taxable, the minimum amount of taxes that would have been owed would be \$150,090.83 (one
percent of the full assessed value of \$15,009,083).

⁷ Board of Equalization cases are generally available for viewing on its website (www.boe.ca.gov).

1 Respondent further states that its “exempt property file,” a database of tax-exempt properties, includes
2 the property in question.⁸ (Resp. Op. Br., exhibit C.)

3 Applicable Law

4 R&TC section 20541 permits certain renters of residential dwellings to claim property tax
5 assistance from the State of California; under R&TC section 20544 the amount of assistance is a
6 specified percentage of \$250, determined according to the claimant’s income. The maximum amount of
7 assistance that a renter-claimant may receive for a 2007 claim is 139 percent of \$250.00, which is
8 \$347.50. (Rev. & Tax. Code, § 20544, subd. (a)(2).) A renter-claimant must live in a residence on
9 which property taxes are paid, or on which “substantially equivalent” payments in lieu of taxes are
10 made. (Rev. & Tax. Code, § 20509.) Payments in lieu of taxes must be at least 80 percent of the
11 amount of taxes paid by a property of comparable assessed value to be “substantially equivalent.”
12 (*Appeals of Helen Cantor, et al., supra.*) Property used exclusively for scientific, religious, hospital, or
13 charitable purposes, such as housing for the elderly, handicapped families, or low income individuals,
14 and owned or held in trust by nonprofit organizations operating for those purposes is generally exempt
15 from property tax. (Rev. & Tax. Code, § 214, subs. (a), (f) & (g).)

16 Equitable estoppel is applied against the government only in rare and unusual
17 circumstances, when all of its elements are present, and its application is necessary to prevent manifest
18 injustice. (See *Appeal of Richard R. and Diane K. Smith*, 91-SBE-005, Oct. 9, 1991; *California*
19 *Cigarette Concessions, Inc. v. City of Los Angeles* (1960) 53 Cal.2d 865.) The four elements of
20 equitable estoppel are: (1) the government agency must be shown to have been aware of the actual facts;
21 (2) the government agency must be shown to have made an incorrect or inaccurate representation to the
22 relying party and intended that its incorrect or inaccurate representation would be acted upon by the
23 relying party or have acted in such a way that the relying party had a right to believe that the
24 representation was so intended; (3) the relying party must be shown to have been ignorant of the actual
25 facts; and (4) the relying party must be shown to have detrimentally relied upon the representations or
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28 ⁸ Respondent states that appellant and others in the same complex may have received HRA payments in the past. Respondent explains that it had not, until recently, updated its exempt property file. Therefore, appellant and/or other residents may have received HRA payments in error. (Resp. Op. Br., p. 2.)

1 conduct of the government agency. (*Appeal of Western Colorprint*, 78-SBE-071, Aug. 15, 1978;
2 *Strong v. County of Santa Cruz* (1975) 15 Cal.3d 720; *Appeal of Priscilla L. Campbell*, 79-SBE-035,
3 Feb. 8, 1979.) Where one of these elements is missing, there can be no estoppel. (*Hersch v. Citizens*
4 *Savings & Loan Assn.* (1983) 146 Cal.App.3d 1002, 1011.)

5 The Board presumes the FTB's denial of assistance was correct, and appellant has the
6 burden of proving error. (*Appeals of Jeremiah Xavier Spicer, et al.*, 2001-SBE-003, May 31, 2001.)
7 Further, each tax year must be examined individually and considered on its own merits (see *Appeal of*
8 *Duane H. Laude*, 76-SBE-096, Oct. 6, 1976); this rule applies to HRA appeals as well (see *Appeals of*
9 *Helen Cantor, et al., supra*, at fn. 4).

10 STAFF COMMENTS

11 Staff notes that respondent has provided an email from the Santa Clara County assessor
12 indicating that the property at issue was substantially exempt from property tax. Unless appellant can
13 provide evidence that supports her position, it appears that the property she rents is not a qualified
14 residence for purposes of HRA law. Staff notes that appellant has argued that respondent should be
15 estopped from denying assistance because it made HRA payments to appellant in prior years. At the
16 hearing, appellant should be prepared to explain whether this argument is consistent with this Board's
17 prior decisions in *Appeal of Duane H. Laude, supra*, and footnote 4 of *Appeals of Helen Cantor, et al.,*
18 *supra*. Also, the parties should be prepared to discuss whether the requirements for equitable estoppel
19 have been satisfied.

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