Blake Blackwell
Legal Intern
Grant S. Thompson
Acting Supervising Tax Counsel
Board of Equalization, Appeals Division
450 N Street, MIC:85
PO Box 942879
Sacramento CA 95814
Tel: (916) 322-2167
Fax: (916) 324-2618

Attorney for the Appeals Division

BOARD OF EQUALIZATION

STATE OF CALIFORNIA

In the Matter of the Appeal of:	**HEARING SUMMARY**
	HOMEOWNERS AND RENTERS PROPERTY TAX ASSISTANCE APPEAL
SYDELL DUBLIN[1]	Case No. 437737

Year	Claim Amount
2007	$1.00 or more[2]

Representing the Parties:

For Appellant: Sydell Dublin

For Franchise Tax Board: Rachel Abston, Legal Analyst

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

///

///

[1] Appellant resides in Beverly Hills, California.

[2] Appellant did not indicate a claim amount on her form, which form indicates that the claim amount will be calculated by the FTB if it is not completed by the claimant. The maximum amount of renter assistance for the 2007 claim year is $347.50. (Rev. & Tax. Code, § 20544.).

NOT TO BE CITED AS PRECEDENT - Document prepared for Board review. It does not represent the Board's decision or opinion.

STATE BOARD OF EQUALIZATION
HOMEOWNERS AND RENTERS PROPERTY TAX ASSISTANCE

HEARING SUMMARY

Background

Appellant, a renter-claimant, claimed Homeowners and Renters Property Tax Assistance (HRA) for 2007. The Franchise Tax Board (FTB or respondent) issued a notice which denied assistance because appellant's residence is allegedly not subject to property tax. (Resp. Op. Br., p. 1.) Appellant filed this timely appeal.

On her claim, appellant reported living on North Crescent Drive in Beverly Hills during all of 2006 (the relevant year for 2007 claims). (Resp. Op. Br., exhibit A.) On appeal, appellant contends that her complex is legally funded by HUD but owned by the Menorah Housing Foundation. (App. Op. Br., p. 1.) Appellant contends that she pays rent so the building cannot be a welfare building. Further, appellant contends that her complex does not qualify to be listed as a welfare building because it is not a hospital. (*Id.*)

Respondent contends that appellant's residence is exempt from property tax. (Resp. Op. Br., p. 2.) Respondent contacted the Los Angeles County Assessor's office and was informed that the property was fully tax exempt during the 2006-2007 fiscal year. (Resp. Op. Br., exhibit C.) Respondent further states that its "exempt property file," a database of tax-exempt properties, includes the property in question.[3] (Resp. Op. Br., exhibit B.)

Applicable Law

R&TC section 20541 permits certain renters of residential dwellings to claim property tax assistance from the State of California; under R&TC section 20544 the amount of assistance is a specified percentage of $250, determined according to the claimant's income. The maximum amount of assistance that a renter-claimant may receive for a 2007 claim is 139 percent of $250.00, which is $347.50. (Rev. & Tax. Code, § 20544, subd. (a)(2).) A renter-claimant must live in a residence on which property taxes are paid, or on which "substantially equivalent" payments in lieu of taxes are made. (Rev. & Tax. Code, § 20509.) Payments in lieu of taxes must be at least 80 percent of the

[3] Respondent states that appellant and others in the same complex may have received HRA payments in the past. Respondent explained 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.)

NOT TO BE CITED AS PRECEDENT - Document prepared for Board review. It does not represent the Board's decision or opinion.

amount of taxes paid by a property of comparable assessed value to be "substantially equivalent." (*Appeals of Helen Cantor, et al.*, 2002-SBE-008, Nov. 13, 2002.)[4] Property used exclusively for scientific, religious, hospital, or charitable purposes, such as housing for the elderly, handicapped families, or low income individuals, and owned or held in trust by nonprofit organizations operating for those purposes is generally exempt from property tax. (Rev. & Tax. Code, § 214, subds. (a), (f) & (g).)

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

STAFF COMMENTS

Staff notes that respondent has provided substantial evidence, including an email from the Los Angeles County assessor, that the property at issue was exempt from property tax. In addition, the property information submitted in respondent's exhibit D, which respondent indicates appellant submitted, shows the property as being exempt from property tax. Unless appellant can provide credible evidence demonstrating that the property was not exempt from property tax, she is not entitled to assistance.

///

///

///

Dublin_bcb

[4] Board of Equalization cases are generally available for viewing on our website (www.boe.ca.gov).

NOT TO BE CITED AS PRECEDENT - Document prepared for Board review. It does not represent the Board's decision or opinion.

STATE BOARD OF EQUALIZATION
HOMEOWNERS AND RENTERS PROPERTY TAX ASSISTANCE