TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Thomas Gormley Map 117-06-0, Parcel 52.00 Residential Property Tax Year 2006	))))	Davidson County

CORRECTED
INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$220,000	$1,211,000	$1,431,000	$357,750

An Appeal has been filed on December 13, 2006, on behalf the property owner with the State Board of Equalization.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. A jurisdictional hearing was conducted on March 15, 2007, at the Division of Property Assessments. Present at the hearing were Thomas Gormley, the taxpayer who represented himself, and Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The subject property consists of a single family residence located at 2310 Hampton Avenue, in Nashville, Tennessee.

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee generally requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412 (b). A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(b)(2); 67-5-1412 (e). Nevertheless, the legislature has also provided that:

> The taxpayer shall have a right to a hearing and determination to show **reasonable cause** for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year subsequent to the year in which the assessment is made *(emphasis added).*

In analyzing and reviewing T.C.A. § 67-5-1412 (e), the Assessment Appeals Commission, in interpreting this section, has held that:

> The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is **due to illness or other circumstances beyond the taxpayer's control.** *(emphasis added), Associated Pipeline Contractors Inc.,* (Williamson County Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets, (*Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from timely appealing to the State Board of Equalization. It is the taxpayer's burden to prove that they are entitled to the requested relief. In this case the taxpayer contends that during the time he received the *Notice of Prorated Assessment*[1] he was consumed with trying to get his family back into their home. It appears that the taxpayer/homeowner was having his home renovated. The contractor had promised the have the job completed by May of 2006 and that did not occur. Mr. Gormley stated that he was concerned with making sure his family was settled and back in the home so that when school started his children would be in their correct zoned school. He further stated that he was moving furniture out of the rental house back into the home as well as finishing up with the contractor. Mr. Gormley stated that he got the official occupancy permit on October 11, 2006, while the contractor did not actually finish until December of 2006.

After reviewing the documentation, there is regrettably not sufficient reasonable cause to maintain that incidents beyond the taxpayers control prevented him from filing with the State Board within the time allotted by statute.

ORDER

The administrative judge believes that "reasonable cause" does not exist and the taxpayer has not sustained his burden and, therefore, the State Board of Equalization does not have jurisdiction to hear this appeal.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. T.C.A.

[1] From the date on the Notice the appeal to the SBOE should have occurred by October 21, 2006, instead it was filed, as noted on December 13, 2006.

§ 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"; or

2. A party may petition for reconsideration of this decision and order pursuant to T.C.A. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to T.C.A. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

Entered on this the 13th of April, 2007.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Thomas Gormley
Jo Ann North, Assessor of Property