BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

In Re:	Dorothy Stockard, LCSW Personal Property Account #P-087415 Tax Year 2007	)) Davidson County)

INITIAL DECISION AND ORDER FINDING JURISDICTION

Statement of the Case

The Davidson County Assessor of Property ("Assessor") has valued the subject property for tax purposes as follows:

APPRAISAL	ASSESSMENT
$44,500	$13,350

On October 23, 2007, the State Board of Equalization ("State Board") received an appeal by the taxpayer. As indicated on the appeal form, this assessment was not appealed to the Davidson County Board of Equalization ("county board") during its regular annual session for tax year 2007.

The undersigned administrative judge conducted a hearing on this matter on March 10, 2008 at the Davidson County Assessor's Office. Present at the hearing were the taxpayer, Dorothy Stockard, LCSW,[1] Allen Morgan, from the Davidson County Assessor's Office, Personalty Division and Jenny Hayes, attorney from the Metro. Legal Department representing the interest of the Assessor's Office.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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 to the State Board of Equalization. T.C.A.§§ 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. T.C.A. §§ 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).*

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[1] Licensed Clinical Social Worker

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 her control prevented her from appealing to the Davidson County Board of Equalization. It is the taxpayer's burden to prove that they are entitled to the requested relief.

In this case, the taxpayer, Ms. Stockard, a Licensed Clinical Social Worker, states that Charles Smith[2] is the owner of the building and she rents a small office from him; she has been in business since 1977. She states she had an associate whose responsibility it was to return the schedules, in fact, she had been told by the associate that the tax was paid and did not know otherwise until she received the tax bill from the Trustee. (The associate has since left the practice.)

Tenn. Code Ann. § 67-5-1412(b) (1) provides that:

> The taxpayer or owner must first make complaint and appeal to the local board of equalization unless the taxpayer or owner has not been duly notified by the assessor of property of an increase in the taxpayer's or owner's assessment or change in classification as provided for in section 67-5-508.

In 1991, the General Assembly amended Tenn. Code Ann. § 67-5-1412(e) by adding the following language:

> The taxpayer or owner shall have the 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 1 of the year subsequent to the year in which the assessment was made.

Ms. Stockard, in the opinion of the Administrative Judge, has demonstrated that there is reasonable cause to excuse her failure to go to the County Board.

ORDER

It is, therefore ORDERED that this appeal shall be docketed for further hearing on the issue of value. A Notice of Hearing shall accordingly be sent to the taxpayer and the County.

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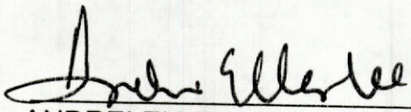
[2] The name on the appeal form will be corrected to reflect Dorothy Stockard, LCSW.

ENTERED this 9th day of April, 2008.



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

c: Ms. Dorothy C. Stockard
Jo Ann North, Assessor of Property