

**STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS**

FINAL DECISION

OAL DKT. NO. CAF 1914-16

(ON REMAND CAF 8971-15)

AGENCY DKT. NO. RRE0035048

PETER PROVENZANO

Petitioner,

v.

**DEPARTMENT OF COMMUNITY AFFAIRS,
SANDY RECOVERY DIVISION**

Respondent.

OAL DKT. NO. CAF 1916-16

(ON REMAND CAF 8972-15)

AGENCY DKT. NO. RSP0035046

**DEPARTMENT OF COMMUNITY AFFAIRS,
SANDY RECOVERY DIVISION**

Petitioner,

v.

PETER PROVENZANO

Respondent.

Having reviewed the Initial Decision of the Administrative Law Judge in this matter, together with any exceptions or replies submitted, I reject the decision. Primary residence is finite. Either Petitioner can show that the residence was occupied as his primary residence or he cannot. Therefore, I find the ALJ's split decision to be arbitrary and capricious.

Turning to the facts submitted, Petitioner has not proven that he occupied the damaged property as his primary residence. Petitioner did not have any of the required primary documents. Therefore, for both programs, we turn to the secondary evidence. While the Resettlement program specifically mentions insurance documentation and RREM does not, the RREM program does indicate that other documentation may be

considered on a case by case basis. Here, then, the insurance document is one item of secondary proof for both programs. Unfortunately, none of the other items submitted by Petitioner are strong enough to carry the burden of proof. The Homestead rebate for 2012 would have been applied for after the date of the storm, and Petitioner's 2012 tax return used the Piscataway address. Property tax bills for the damaged property were also sent to Piscataway. While Petitioner offered a water and sewer bill addressed to the damaged property, those items are not strong enough to sustain the burden of proof as a property would receive water and sewer bills if it was a primary or secondary residence.

Based on the proofs submitted, I cannot find that Petitioner sustained his burden of proof as to primary residence. Therefore, I find that Petitioner is ineligible for both programs.

Date: 4/25/16



CHARLES A. RICHMAN
Commissioner