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CHRIS CHRISTIE
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KIM GUADAGNO
Lt. Governor

CHARLES A. RICHMAN
Commissioner

March 26, 2018

Via Regular Mail

Christopher A. Barrett, Esq.
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1125 Atlantic Avenue
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Via Electronic Mail

Luciana DiMaggio
Sandy Recovery Division
101 South Broad Street
P.O. Box 823
Trenton, New Jersey 08625

Re: Steven Sooy v. DCA, Sandy Recovery Division
OAL Docket Nos. CAF 05695-16 and 05698-16

Dear Parties:

Enclosed please find a copy of the Final Decision in the matter referenced above. Should you wish to appeal from this Decision, you have the right to take an appeal with the Appellate Division of the Superior Court [Rules Governing the Courts of New Jersey, 2:2-3(a)(2)]. You must do so, however, within 45 days from the date of service of this Decision.

Sincerely,

Donald Palombi
Director of Policy and Regulatory Affairs

Enclosure



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

FINAL DECISION

STEVEN SOOY,
Petitioner,

OAL DKT. NOs. CAF 05695-16
and 05698-16
AGENCY DKT. NOs. RE0008429
and RSP 0027581

v.

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

AND,

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

v.

STEVEN SOOY,
Respondent.

Having reviewed the Initial Decision of the Administrative Law Judge (“ALJ”) in this matter, as well as the exceptions filed by Respondent Steven Sooy, and the reply to those exceptions filed by the Sandy Recovery Division, I hereby ADOPT the Initial Decision as the Department’s Final Agency Decision, for the reasons set forth in that Initial Decision, as well as those set forth below.

The facts of this matter are fully set forth in the Initial Decision, and I hereby ADOPT those findings of fact.

The sole issue in this case is whether Respondent demonstrated that the damaged property at issue, owned by him and located in Brigantine, was in fact his “primary residence” on the date of Superstorm Sandy. Proof of primary residence is required for participation in both of the programs at issue here: the Resettlement Program (“RSP”) and the Reconstruction, Rehabilitation, Elevation and Mitigation Program (“RREM”).

The ALJ found that Respondent had previously lived in Brigantine, but that he moved to Atlantic City in April 2012. Respondent admittedly did that in order to increase his chances of obtaining a job with the Atlantic City Police Department, as the City had a first preference in hiring for City residents. Respondent changed his license and voter records to reflect his address in Atlantic City. Ultimately, he was successful in securing a position with the City. While he testified that he moved back to Brigantine before the storm, he did not change his license or voter record until February 2014. He stopped working for Atlantic City in March of 2013, after he obtained a job with the Police Department in Brigantine. The ALJ concluded that Respondent had failed to establish that Brigantine was his primary residence at the time of the storm.

In his exceptions, Respondent argues that the issue is whether he established a “domicile” in Brigantine, which involves “an act of volition” on his part. Respondent Exceptions, page 5. He goes on to say that he “regarded and subjectively intended” the address in Brigantine to be his domicile. Ibid. He concludes that he thus met the eligibility requirements for the RSP and RREM programs.

Following Superstorm Sandy, the U.S. Department of Housing and Urban Development, through the Community Development Block Grant-Disaster Recovery Program, provided funds to the Department to assist affected New Jersey residents. The RSP and RREM programs were both developed by the Department accordingly. These federal funds are only available to applicants that can prove eligibility in accordance with the program terms, as set forth in the Policy and Procedures Manuals for each program. Both programs require an applicant to demonstrate that the property at issue was his or her primary residence at the time of the storm.

Under both programs, the preferred form of verification is a New Jersey driver’s license or a New Jersey non-driver’s license identification card listing the damaged property as the address. Specific alternative documentation (including voter records) may be offered by an applicant if the residence cannot be confirmed by the preferred documentation. Finally, “other documentation” may be considered on a case-by-case basis. However, neither program makes any reference to the concept of “domicile.” The programs are premised on the presentation of documentary evidence, and do not allow an applicant’s subjective intent to be considered as proof of primary residence.

Here, the ALJ found that Respondent had not proved that the damaged property in Brigantine was his primary residence at the time of the storm. Indeed, the most important, objective documentary evidence (his driver's license) and one of the preferred alternative secondary forms of such evidence for both programs (voter registration) point instead to his residence at that time in Atlantic City. While Respondent did produce other secondary documents that gave his address as Brigantine, it is reasonable to conclude that they simply do not outweigh the primary and secondary documents described above.

Respondent elected to move to Atlantic City in an attempt to secure an advantage in obtaining employment there, in which he was successful. He changed his license and voting address at that time. And, he continued to work in Atlantic City until March 2013, approximately five months after the storm. As noted he did not change his license or voting record until 2014. Respondent argues in his exceptions that he obtained no actual advantage from his move, because the City ultimately opened up the hiring to all Atlantic County residents. Respondent Exceptions, page 7. However, that is not relevant to the issue before me, which is solely the identification of Respondent's primary residence.

Accordingly, Respondent is ineligible for the RSP and RREM programs, and is obligated to refund any program monies already received.

Date: _____

3/26/18



Lt. Governor Sheila Y. Oliver
Commissioner