



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

JENNIFER VELEZ
Commissioner

VALERIE HARR
Director

**STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES**

J.R.,	:	
	:	
PETITIONER,	:	ADMINISTRATIVE ACTION
	:	
V.	:	FINAL AGENCY DECISION
	:	
DIVISION OF MEDICAL ASSISTANCE	:	OAL DKT. NO. HMA 17331-2013
	:	
AND HEALTH SERVICES &	:	and HMA 2125-2014
	:	
ATLANTIC COUNTY BOARD OF	:	(CONSOLIDATED)
	:	
SOCIAL SERVICES,	:	
	:	
RESPONDENTS.	:	

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence and the contents of the OAL case file. Respondent filed exceptions in this matter.¹ Procedurally, the time period for the Agency Head to render a Final Agency Decision is August 11, 2014, in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial

¹ A document purporting to be exceptions was filed by Roshni Desai, Esq. representing Royal Suites Healthcare and Rehabilitation. That nursing home is not a party to the matter and, despite its claim to be an intervener, there are no motion papers in the record. See N.J.A.C. 1:1-2.1 and 1:1-16.1 As such the document is improper and was disregarded.

Decision within 45 days of receipt. The Initial Decision was received on June 26, 2014.

This matter concerns the sale of commercial property owned by Petitioner and his wife. A prior application filed in January 2013 was denied in June 2013 due to excess resources largely based on commercial property that had been assessed at \$312,069. That denial was appealed and docketed at HMA 17331-2013. A second application was filed in January 2014 and by that time the building had been sold for \$37,000 in November 2013. Atlantic County imposed a transfer penalty of thirty-five months and ten days as the tax assessed value far exceeded the sale price. That determination was also appealed and docketed as HMA 2125-2014.

The Initial Decision determined that Atlantic County was correct in assessing the penalty. Petitioner's claim that the municipal tax assessment was too high and did not reflect the market value of the property was not supported by competent evidence. N.J.A.C. 1:1-15.5(b), the residuum rule, requires "some legally competent evidence" to exist "to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness." No such evidence was presented in this matter that would overcome the tax assessment.

Petitioner's statements that the commercial property was in such disrepair that the assessed value was inflated required an appraisal of the property. Yet an appraisal was not produced at the hearing. Senior Planning Services, which served as Petitioner's representative during both applications and the fair hearing, was aware that Atlantic County was using the tax assessed value for the property after the prior denial in June 2013. (R-1- at 18-21). There

does not appear to be any attempt to challenge the tax assessed value with a valid appraisal.

Additionally, the testimony that the building was in such disrepair due to collapsed floors is not corroborated in the comparable market analysis by a realtor and submitted by Petitioner. (P-16). It must be noted that this analysis, which attempts to support the \$37,000 sale price, is not sufficient to overcome the tax assessment as it is not an appraisal of the fair market value. Indeed the document contains the warning that it is not an appraisal and “[t]his information is deemed reliable but not guaranteed.” Even so, the analysis fails to mention the conditions of the property as alleged by Petitioner. Rather the lower value is attributed to “lack of curb appeal” and location. There is no mention of the alleged structural problems.

Thus, as explained above, I hereby ADOPT the Initial Decision upholding the transfer penalty.

THEREFORE, it is on this 8th day of AUGUST 2014

ORDERED:

That the Initial Decision in this matter is hereby ADOPTED



Valerie Harr, Director
Division of Medical Assistance
and Health Services