

STATE OF MICHIGAN
IN THE SUPREME COURT

MACK C. STIRLING,

Petitioner-Appellant,

v

COUNTY OF LEELANAU,

Respondent-Appellee

Supreme Court No. 162961

Court of Appeals No. 353117

Tax Tribunal Docket No. 19-003870-TT

**APPENDIX TO APPELLEE COUNTY OF LEELANAU'S SUPPLEMENTAL BRIEF IN
OPPOSITION TO MACK STIRLING'S APPLICATION FOR LEAVE TO APPEAL**

CLARK HILL PLC

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Dated: May 13, 2022

**APPENDIX TO APPELLEE COUNTY OF LEELANAU'S SUPPLEMENTAL BRIEF IN
OPPOSITION TO MACK STIRLING'S APPLICATION FOR LEAVE TO APPEAL**

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MICHIGAN TAX TRIBUNAL
REGISTER OF ACTIONS

Mack C. Stirling v County of Leelanau

Docket No. 19-003870-TT

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Michigan Office of Administrative Hearings and Rules

Tax Docket Lookup Details

Docket Number:	19-003870-TT
Status:	Disposed
Petitioner:	Mack C Stirling
Respondent:	County Of Leelanau
Case Type:	SC Property
Division:	Small Claims Division
County:	Leelanau
Full Title:	Mack C Stirling, Petitioner v County Of Leelanau, Respondent
Judge:	Welton, Samantha M

Parcels
Parcel
45-004-615-015-00

- Clicking "Document" will download the document.
- Mousing over "Document" will display the name of the document.

Action Information

Line #	Subject	Filer	Line Ref	Enter Date/Post Mark	Fee	Related Item
33	Appealed to Supreme Court	PET		05/06/2021		Document
32	Decision Rev/Rem - Higher Court			03/25/2021		Document
31	Record Sent - COA			06/23/2020		
30	Certification Letter COA			06/23/2020		Document
29	Claim of Appeal was filed	PET		06/08/2020	\$100.00	Document
28	Letter Received	RESP	27	06/08/2020		Document
27	No Action Taken - Letter Sent to COA			06/08/2020		Document
26	Record requested- COA			06/05/2020		Document
25	Proof of Service			02/24/2020		Document

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24	Denied	RESP	22	02/24/2020		Document
23	Order Denying Motion		22	02/24/2020		Document
22	Motion for Reconsideration was received.	RESP	19	02/13/2020	\$25.00	Document
21	Appearance	RESP		02/13/2020		Document
20	Proof of Service			01/23/2020		Document
19	Final Opinion and Judgment			01/23/2020		Document
18	Granted	PET	13	01/23/2020		Document
17	Order granting Motion.		13	01/23/2020		Document
16	Answer to Motion	RESP	13	01/07/2020		Document
15	Telephone Number for Hearing Recd	PET		12/23/2019		Document
14	Proof of Service of Misc Documents was received.	PET		12/23/2019		Document
13	Motion for Summary Disposition was received.	PET		12/23/2019	\$50.00	Document
12	Proof of Service of Misc Documents was received.			11/25/2019		Document
11	Brief			11/14/2019		Document
10	Telephone Number for Hearing Recd			11/05/2019		Document
9	Notice of Hearing			10/22/2019		Document
8	A hearing has been scheduled			10/22/2019		
7	Attachments to the Answer were filed	RESP		10/18/2019		Document
5	Answer was received			10/18/2019		Document
4	Petition has been verified	PET	1	10/14/2019		Document
3	Notice of Docket Number SC			10/14/2019		Document
2	Attachments to the Petition were filed	PET		10/14/2019		Document
1	A petition was received.	PET		10/14/2019	\$25.00	Document

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 [LARA Home \(https://www.michigan.gov/lara\)](https://www.michigan.gov/lara) |
 [State Web Sites \(https://www.michigan.gov/som/0,1607,7-192---A,00.html\)](https://www.michigan.gov/som/0,1607,7-192---A,00.html) |
 [Policies \(https://www.michigan.gov/som/0,4669,7-192--281460--,00.html\)](https://www.michigan.gov/som/0,4669,7-192--281460--,00.html)

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RESPONDENT'S BRIEF IN SUPPORT
(MTT, Docket No. 19-003870)

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County of Leelanau

JOHN A. GALLAGHER III
Leelanau County Treasurer

Mack C Stirling,
Petitioner,

v

County of Leelanau,
Respondent.

MICHIGAN TAX TRIBUNAL
SMALL CLAIMS DIVISION

MOAHR Docket No. 19-003870

RESPONDENTS BRIEF IN SUPPORT

May it please the Court;

FACTS

On 09/12/19 a Principal Residence Exemption (PRE) Denial Notice was sent from the Leelanau County Treasurer's Office to **Mack and Dixie M. Stirling** at 10575 S. Monaco Way, Traverse City, MI 49684 regarding the 100% PRE on that home.(exhibit A) The parcel number is 45-004-615-015-00, classified 401, school district 28010 in Leelanau County, MI. Petitioners have placed this parcel into a Ladybird Life Estate by a Quit Claim deed on the property. They recorded the deed with the Leelanau County Register of Deeds on August 16, 2017. (exhibit B) Petitioners own another property in Leelanau County receiving a 100% PRE, parcel 011-034-029-00 in Suttons Bay township. That parcel has a listed owner of the Dixie M. Stirling Trust, the 2018 taxes were paid directly by petitioner. The parcel has a Warrantee Deed recorded 11/24/008, and a Memorandum of Land Contract recorded on 02/17/09 and given to Miguel Calderon Gomez and Abigail Garcia Martinez, husband and wife, who completed the PRE affidavit for the Suttons Bay property as contested by the Suttons Bay assessor, Christy Brow. The PRE affidavit for the subject property is in exhibit C, which is dated 02/22/94.

As is common practice, a Request for Michigan Principal Residence Information was sent to the Disclosure Officer, Michigan Department of Treasury Office of Privacy and Security Disclosure Unit, their redacted response is attached as exhibit D. Petitioners filed their taxes as married filing joint for the audited years in question.

8527 E. Government Center Dr., Suite 104 • Suttons Bay, MI 49682
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APPELLEE'S APPENDIX 005

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County of Leelanau

JOHN A. GALLAGHER III
Leelanau County Treasurer

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FACTS, cont.

Continuing our research, we found two additional parcels owned by Dixie M. Stirling (or her LLC, Monaco Bay LLC Trust) in the state of Utah, both Davis County and also Utah County. The parcels were owned by petitioner during the audited years, and both have the Utah exemption for residential property during the audited years. We contacted the Utah taxing authorities to verify ownership and that the parcels did indeed benefit from the exemptions, the Utah authorities did confirm, and both directed us to their webpages to print out the information. (exhibit E) The petitioner has benefitted at the 609 N Seven Peaks Blvd, Provo UT address from the Utah residential exemption for the years audited; 2016, 2017, 2018 and 2019. The petitioner has also benefitted at the 3067 S 100 W, Bountiful, UT address from the Utah exemption for the years 2016 and 2017. The Bountiful property was sold in 2018 to petitioner's authorized representative in this action, Karla Stirling.

The Utah residential property exemption may be found at: Utah Code, Title 59, Revenue and Taxation, Chapter 2 Property Tax Act, Part 1 General Provisions; Section 103 Rate of assessment of property – Residential Property. (Effective 01/01/2015). Exhibit F includes copies of the Utah code, definitions, procedures to obtain an exemption for residential property and the forms to fill out to claim a Utah exemption.

LAW

MCL 211.7cc(2) provides, in pertinent part:

“ . . . an owner of property may claim 1 exemption under this section by filing an affidavit . . . ”

MCL 211.7cc(3) also provides:

(3) Except as otherwise provided in subsection (5), a married couple who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 exemption under this section. For taxes levied after December 31, 2002, **a person is not entitled to an exemption under this section in any calendar year in which any of the following conditions occur:**

(a) That person **has claimed a substantially similar exemption**, deduction, or credit, regardless of amount, on property in another state. Upon request by the department of treasury, the assessor of the local tax collecting unit, the county treasurer or his or her designee, or the county equalization director or his or her designee, a person who claims an exemption under this section shall, within 30 days, file an affidavit

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County of Leelanau

JOHN A. GALLAGHER III
Leelanau County Treasurer

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on a form prescribed by the department of treasury stating that the person has not claimed a substantially similar exemption, deduction, or credit on property in another state. **A claim for a substantially similar exemption, deduction, or credit in another state occurs at the time of the filing or granting of a substantially similar exemption, deduction, or credit in another state.** (Emphasis added) If the assessor of the local tax collecting unit, the department of treasury, or the county denies an existing claim for exemption under this section, **an owner of the property subject to that denial cannot rescind a substantially similar exemption, deduction, or credit claimed in another state in order to qualify for the exemption under this section for any of the years denied.** If a person claims an exemption under this section and a substantially similar exemption, deduction, or credit in another state, that person is subject to a penalty of \$500.00. The penalty shall be distributed in the same manner as interest is distributed under subsection (25).

(b) Subject to subdivision (a), that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns.

(c) That person has filed a nonresident Michigan income tax return, except active duty military personnel stationed in this state with his or her principal residence in this state.

(d) That person has filed an income tax return in a state other than this state as a resident, except active duty military personnel stationed in this state with his or her principal residence in this state.

(e) That person has previously rescinded an exemption under this section for the same property for which an exemption is now claimed and there has not been a transfer of ownership of that property after the previous exemption was rescinded, if either of the following conditions is satisfied:

(i) That person has claimed an exemption under this section for any other property for that tax year.

(ii) That person has rescinded an exemption under this section on other property, which exemption remains in effect for that tax year, and there has not been a transfer of ownership of that property.

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County of Leelanau

JOHN A. GALLAGHER III
Leelanau County Treasurer

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MCL 211.7cc(5) provides, in pertinent part:

An owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$200.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963.

“Tax-exemption statutes are strictly construed in favor of the taxing unit.” *DeKonig v Department of Treasury*, 211 Mich App 359, 361-262; 536 NW2d321 (1995).

“Under Michigan law, a person has the burden to prove his/her eligibility for a tax exemption.” *Stege v Department of Treasury*, 252 Mich App 183, 189; 651 NW2d 164 (2002)

Finally, “[T]he exemption for a “principal residence” is an established class of exemption and, as a result, Petitioner is required to establish the property’s entitlement to that exemption by a preponderance of the evidence” See *ProMed Healthcare v Kalamazoo*, 249 Mich App 490, 494-495; 644 NW2d 47 (2002).

ANALYSIS

Petitioner made an occupancy argument. However, this denial does not rest on occupancy of the Leelanau parcel at issue, so our respondent’s answer will not address occupancy. The disqualifying factor applicable to this case is: MCL 211.7cc(3)(b) “That person has claimed a substantially similar exemption, deduction or credit on property in another state . . .” Even if owned and occupied, an owner is still not eligible for a PRE if *any* of the disqualifying factors apply.

The persuasive case in Michigan for discussion of substantially similar exemptions is *Levenfeld v County of Berrien*, Mich App No. 300358 (2012) (Unpublished). *Levenfeld* concerns an Illinois exemption and concludes that it is not the monetary savings from the exemptions that must be similar, but the underlying concept of the exemption itself as intended by the Legislature.

Levenfeld finds that the Legislature was concerned with the *type* of exemption, as in a “homestead” exemption, when mandating a comparison of statutory schemes for purposes of §§7cc(3)(b). In this case, the Utah Code 59-2-102 Definitions defines at (36)(a): “residential property, for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence”. At 59-2-103(5)(a), the Utah Code states: “a residential exemption described in

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APPELLEE'S APPENDIX 008



County of Leelanau

JOHN A. GALLAGHER III
Leelanau County Treasurer

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subsection (2) is limited to one primary residence per household”; but goes on in subsection (5)(b) to allow “an owner of multiple primary residences located within the state is allowed a residential exemption” . . . for “the primary residence of the owner *and* each residential property that is the primary residence of a tenant.” *emphasis added*.

Thus, the Utah exemption is broader than the Michigan exemption, allowing a Utah owner to also have an exemption on other properties they own in Utah for tenants, *in addition to* their own principal residence. Despite that broadening, the Utah exemption and definition language are comparable to the language and definitions in MCL 211.7cc and MCL 211.7dd, which govern our PRE’s, thereby making the exemptions substantially similar in type, and disqualifying petitioner from the Michigan PRE. Merely broadening the available exemptions for owners of principal residences does not distinguish the Utah exemption to the point of changing its *type*. There are forms filled out by the owner to claim it. It results in a reduction of property taxes paid. It is fundamentally a reduction in property tax for an owner due to the fact that property is a principal residence, or a “homestead exemption”.

CONCLUSION

Petitioners owned and paid taxes on four properties that we know of during the audit timeframe, 2016-2019. Each of the four properties has benefitted from a tax exemption during that timeframe. One Utah parcel was sold, one Michigan parcel was sold by Land Contract. However, it is uncontroverted that petitioners benefitted from at least two exemptions during that four year time frame; one for the parcel at issue, 45-004-615-015-00, 10575 S Monaco Way, Traverse City MI 49684; and at least one for each of those four years in Utah - at either 609 N Seven Peaks Blvd Apt 20, Provo UT 84606 or 3067 S 100 W, Bountiful UT, 84010. We contend that the two states exemptions are of the same type, substantially similar “homestead exemptions”, thus disqualifying petitioner from the Michigan PRE under MCL 211.7cc(3)(b). Therefore, we ask this Court to find in our favor and against the petitioner, upholding Leelanau County’s PRE denial for 10575 S Monaco Way, Traverse City MI 49684 for the tax years 2016, 2017, 2018 and 2019.

Date: 10/18/19

Signed: John A. Gallagher III
John A. Gallagher III, Leelanau County Treasurer

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Phone: 231/256-9838 • Fax: 231/256-7850 • Email: jgallagher@co.leelanau.mi.us

NOTICE OF DENIAL

COPY

Notice of Denial of Principal Residence Exemption

Issued under authority of Public Act 206 of 1893.

With this notice, you are notified that the Principal Residence Exemption on the property identified below has been denied. If you have questions about the denial, you may contact your County Treasurer or Equalization Director, or follow the appeal procedures specified below. For more information regarding the Principal Residence Exemption (PRE), please review the PRE guidelines at www.michigan.gov/pre.

Type or print in blue or black ink.

PART 1: PROPERTY INFORMATION Type or print legibly. Use a separate form for each property number.		
1. Property Tax Identification Number 45-004-615-015-00	2. Name of Local Unit (Check Township or City) <input checked="" type="checkbox"/> Township Elmwood <input type="checkbox"/> City	3. County Leelanau
4. Street Address of Property (Provide a Complete Address) 10575 S Monaco Way, Traverse City, MI 49684		
5. Name of Owner (First, Middle, Last) Mack C Stirling	6. Owner's Last Four Digits of Social Security Number XXX-XX-████	7. Owner's Daytime Telephone Number (231) 941-1297
8. Name of Co-Owner (First, Middle, Last) Dixie M Stirling	9. Co-Owner's Last Four Digits of Social Security Number XXX-XX-████	10. Co-Owner's Daytime Telephone Number (231) 941-1297
11. Mailing address if different than property address (street or RR#, city, state, ZIP Code)		
12. Your exemption was denied/adjusted for the following reason: <input type="checkbox"/> a. The owner is not a Michigan resident. <input type="checkbox"/> b. The property claimed is not the owner's principal residence. <input type="checkbox"/> c. The person claiming the exemption is not the owner. <input checked="" type="checkbox"/> d. The person claiming the exemption, claimed or was granted, a substantially similar exemption in another state. <input checked="" type="checkbox"/> e. Other. <u>violation of MCL 211.7cc(2), (3) and (3)(a)</u>		
13. Claim Denied for Calendar Year(s): (see instructions) 2016, 2017, 2018, 2019		14. Percentage Adjusted to: 0 %
PART 2: CERTIFICATION		
15. Name of the County Treasurer or Equalization Director (Print or Type) John A. Gallagher III		
16. Signature of County Treasurer or Equalization Director <i>John A. Gallagher III</i>		<input checked="" type="checkbox"/> County Treasurer <input type="checkbox"/> Equalization Director
18. Address and Telephone Number of County Treasurer or Equalization Director 8527 E. Government Center Drive, Suite 104, Suttons Bay, MI 49682		17. Date 9/12/19
18. Address and Telephone Number of County Treasurer or Equalization Director 231-256-9838		
HOMEOWNER'S RIGHT TO APPEAL		
If you disagree with this denial, you may appeal to the Residential/Small Claims Division of the Michigan Tax Tribunal within 35 days of the denial. An appeal with the Michigan Tax Tribunal can be initiated by the timely filing of a petition. The petition must be a Michigan Tax Tribunal form or a form approved by the Michigan Tax Tribunal. Michigan Tax Tribunal forms are available at www.michigan.gov/taxtrib . You can print the Petition for Denial of Exemption for Principal Residence/Qualified Agricultural and mail the completed form to the Michigan Tax Tribunal at P.O. Box 30232, Lansing, Michigan 48909 or complete the form online and submit electronically, if provided for by the Michigan Tax Tribunal.		

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QUIT CLAIM DEED

RCV'D LEELANAU COUNTY
2017 AUG 11 11:15 AM

RCV'D LEELANAU COUNTY
2017 AUG 16 11:16 AM

B
Leelanau County STATE OF MICHIGAN
Dorothy M. Miller Register of Deeds



RECORDED
August 16, 2017 11:54 AM
Liber 1303 Page 762-763
2P FEE: \$30.00



DMM Liber 1303 Page 762 #2017004758

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LADYBIRD QUIT CLAIM DEED

Grantor(s), **MACK C. STIRLING and DIXIE M. STIRLING**, husband and wife, whose address is 10575 S. Monaco Way, Traverse City, Michigan 49684, quit claims to themselves, Grantees, **MACK C. STIRLING and DIXIE M. STIRLING**, husband and wife, whose address is 10575 S. Monaco Way, Traverse City, Michigan 49684, for their lifetime, coupled with an unrestricted power to convey the property during their lifetime, pursuant to Land Title Standard 9.3. This power to convey creates a general inter vivos power of appointment, which includes the power to sell, gift, mortgage, and lease (or otherwise dispose of the property) and to retain the proceeds from the conveyance. If Mack C. Stirling and Dixie M. Stirling have not previously conveyed the property prior to their death(s), the property is conveyed to the Dixie M. Stirling Trust dated June 16, 1994, of 10575 S. Monaco Way, Traverse City, Michigan 49684, the entire interest in the following described premises situated in the Township of Elmwood, County of Leelanau, State of Michigan, and legally described as:

Lot 15, LaRiviera West, according to the plat thereof as recorded in Liber 8 of Plats, Page 70, AND

Part of Lot 5, "LaRiviera West", Elmwood Township, Leelanau County, Michigan, more fully described as:

Commencing at the common corner of Lots 14, 13, 6 and Lot 5; thence along the West line of Lot 5 North 11°01'09" East 155.00 feet (recorded as North 11°14'28" East 155.04 feet); thence along the North line of Lot 5 South 82°29'22" East 88.60 feet to the Point of Beginning; thence continuing along the North line of Lot 5 South 82°29'22" East 176.21 feet to the right-of-way of San Remo Boulevard; thence along said right-of-way 73.00 feet on the arc of a 534.00 foot radius curve to the right, the chord of which bears South 11°06'38" West 72.94 feet; thence North 83°44'58" West 178.25 feet; thence North 12°24'24" East 77.00 feet to the Point of Beginning, containing 13,297 square feet of land, more of less.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anyway appertaining thereto.

For the consideration of less than \$1.00 and subject to all easements, reservations, rights-of-way, and building and use restrictions of record, if any.

This conveyance is exempt from the Michigan real estate transfer tax under MCL 207.526(a) and MCL 207.505(a).

Dated: 8/8/17

Mack C. Stirling
Mack C. Stirling

Dated: 8/8/17

Dixie M. Stirling
Dixie M. Stirling

STATE OF MICHIGAN)
)ss
GRAND TRAVERSE COUNTY)

On this 8th day of August, 2017, before me personally appeared *Mack C. Stirling* and *Dixie M. Stirling*, to me known to be the persons described herein and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

[Signature]
Notary Public: William C. Bowron
Grand Traverse County, State of Michigan
My commission expires: 5/6/2020

Send Subsequent Tax Bills To: GRANTOR

Drafted by and when recorded return to:

William C. Bowron (P24906)
WILLIAM C. BOWRON, P.C.
921 W. Eleventh, Street, Suite 1E
Traverse City, MI 49684
(231) 929-0765

AFFIDAVIT FOR HOMESTEAD EXEMPTION

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AFFIDAVIT FOR HOMESTEAD EXEMPTION FROM SOME SCHOOL PROPERTY TAXES

This affidavit allows you to claim an exemption of your homestead from a portion of your school property taxes. For your homestead to be eligible, you must own and occupy it as your legal principal residence. You may claim an exemption for only one homestead and for eligible agricultural property. You must complete all sections of this form that apply to you and sign it. If you do not, your exemption may be delayed. File this form by March 1, 1994 with the township or city where your property is located.

Section 1

If there are more than 2 legal owners, attach a separate list giving the name and Social Security number of each

1.

STIRLING MACK C & DIXIE M 10575 S MONACO WAY TRAVERSE CITY MI 49684		
<table style="width: 100%; border: none;"> <tr> <td style="border: 1px solid black; border-radius: 50%; padding: 2px 10px;">ELMWOOD TOWNSHIP</td> <td style="padding: 2px 10px;">LEELANAU COUNTY</td> </tr> </table>	ELMWOOD TOWNSHIP	LEELANAU COUNTY
ELMWOOD TOWNSHIP	LEELANAU COUNTY	

Check one: Township City

2. Own
 3. [Redacted]

Street address of property if different than 1

4. This is your property tax identification number.
 004-615-015-00



If you live in a one-family home, classed residential, and own no agricultural land skip sections 2, 3 & 4.

Section 2: Agricultural Property. If your homestead is located on land classified by the assessor as agricultural or is adjacent to property you own that is classified as agricultural, place an X in the box to the right and complete the next four items.

- a. Is your principal residence located on the parcel identified in item 4? Yes No
- b. If no, is the parcel identified in item 4 unoccupied, classified as agricultural, and not rented to another person? Yes No
- c. Is the parcel identified in item 4 adjacent or contiguous to your homestead? Yes No
- d. Did your 1993 gross receipts for your entire agricultural/horticultural operation exceed your household income (as defined for income tax purposes)? Yes No

Section 3: Multi-unit and Multi-Purpose Buildings. If you own and live in a unit in a multiple-unit dwelling or in a multi-purpose building give the percentage of the entire building that your unit (your principal residence) occupies. This information is necessary for your township or city to adjust your property taxes properly.

Section 4: Cooperative housing corporations.

Number of leased units?	Total number of units?
-------------------------	------------------------

Certification: This affidavit is invalid unless it is signed.
I certify, under the penalty of perjury, that I own (or co-own) the property claimed on this affidavit, that it is my principal residence (or eligible agricultural property), that I am filing an affidavit for only one dwelling, and that all information is true to the best of my knowledge.

Owner's Signature <i>Mack Stirling</i>	Date 2/22/94	Co-owner's Signature <i>Dixie M. Stirling</i>	Date 2/22/94
---	-----------------	--	-----------------

Chris Krellwitz, Assessor
Elmwood Township Hall
10090 E. Lincoln Road
Traverse City, Mi. 49684

REQUEST FOR MICHIGAN PRINCIPAL
RESIDENCE INFORMATION

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RECEIVED

JUL 12 2019

OFFICE OF PRIVACY AND SECURITY
MICHIGAN DEPARTMENT OF TREASURY

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Request for Michigan Principal Residence Information

Issued under authority of Public Act 122 of 1941, as amended.

PART 1: REQUESTING AGENCY INFORMATION			
Name of Government Unit Requesting Information Leelanau County Treasurer's Office	Print Name of Person Requesting Information Theresa A. Rose	Telephone Number (231) 256-8192	
Address (Number and Street) 8527 E Government Ctr Dr Ste 104	City Suttons Bay	State MI	ZIP Code 49682
PART 2: INDIVIDUAL TAXPAYER			
Taxpayer Last Name Stirling	First Name Dixie	MI M	Social Security Number [REDACTED]
Secondary Taxpayer Last Name Stirling	First Name Mack	MI C	Social Security Number [REDACTED]
Address (Street) 10575 S Monaco Way	City Traverse City	State MI	ZIP Code 49684
Information Requested: <input checked="" type="checkbox"/> Address Verification <input checked="" type="checkbox"/> Residency Status <input checked="" type="checkbox"/> Filing Status			
Specify Years Requested: 2016 2017 2018		The exchange agreement between our agencies does not permit the disclosure of tax returns.	

TAXPAYER CERTIFICATION. I declare that I am authorized to request and receive the above information under the exchange agreement between the Michigan Department of Treasury and the above named governmental unit.

I understand that any Michigan Department of Treasury tax return information made available to me will not be divulged or made known in any manner to any person except as may be necessary in the performance of my official duties. Access to Treasury information is allowed on a need-to-know basis to perform my official duties

Michigan Penalties: MCL 205.28(1)(f) provides that you may not disclose any Michigan tax return information. Violators of §28(1)(f) are guilty of a felony and subject to fines of \$5,000 or imprisonment for five years, or both per the Michigan Revenue Act, MCL 205.28(2). State employees will be discharged from state service upon conviction

Any person who violates any other provision of the Revenue Act, MCL 205.1, et seq., or any statute administered under the Revenue Act, will be guilty of a misdemeanor and fined \$1,000 or imprisoned for up to one year, or both, MCL 205.27(4).

This form and any attached return information must be returned to your department liaison in charge of tracking, receiving and destroying Michigan tax return information.

Signature of Person Requesting Information <i>Theresa A. Rose</i>	Date 7-9-19	Signature of Authorized Official <i>John A. Gallagher</i>	Date 7/9/19
Print Name of Person Requesting Information Theresa A. Rose	Print Name of Authorized Official John A. Gallagher III		
Telephone Number of Person Requesting Information (231) 256-8192	Telephone Number of Authorized Official (231) 256-9838		

RECEIVED

PART 3: TO BE COMPLETED BY TREASURY DISCLOSURE UNIT	
<input checked="" type="checkbox"/> Address Verification	(2016-2018) ABOVE ADDRESS
JUL 26 2019	
JOHN A GALLAGHER III LEELANAU COUNTY TREASURER	
<input checked="" type="checkbox"/> Residency Status	16-18 <input checked="" type="checkbox"/> Resident <input type="checkbox"/> Non-resident <input type="checkbox"/> Part-year resident
<input checked="" type="checkbox"/> Filing Status	<input type="checkbox"/> Single <input type="checkbox"/> Married, Filing Single <input checked="" type="checkbox"/> Married, Filing Joint 16-18
<input type="checkbox"/> Other, explain	
Disclosure Unit <i>AD</i>	Date 7-19-19
Allow 60 days to process your request.	

Send this form to: Disclosure Officer; Michigan Department of Treasury, Office of Privacy and Security, Disclosure Unit, 430 W. Allegan Street, Lansing, MI 48922.

E

Property Address - 609 N SEVEN PEAKS BLVD APT 20, PROVO UT 84606-6645
Owner Name - MONACO BAY LLC
County - UTAH
Seller Name - DIXIE STIRLING TRUST
Seller Name 2 - STIRLING , DIXIE
Owner Address - 3067 S 100 W, BOUNTIFUL UT 84010-6505
Seller Address - 10575 S MONACO WAY, TRAVERSE CITY MI 49684-6817
Sale Amount -
Mortgage Amount -

Sale Date - 04/10/2019
Recording Date - 04/23/2019
Parcel Number - 41-294-0020
Document Type - QUIT CLAIM DEED
Land Usage -
Data Source - B
Brief Description -

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UTAH TAX NOTICES

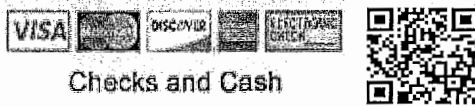
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Utah County Treasurer
 100 East Center, Suite 1200
 Provo, Utah 84606-3159
 801-851-8255

2016 UTAH COUNTY TAX NOTICE
 DUPLICATE TAX NOTICE

* See Reverse Side For Important Information *

RECEIVED by MSC 5/13/2022 1:48:21 PM

Tax District: 110 Property Class: RSP Acreage: 0.02		Serial Number: 41:294:0020	
Property Address: 609 N SEVEN PEAKS BLVD Unit#20 - PROVO		PIN: 0808154	
Recorded Owner as of January 1, 2016 STIRLING, DIXIE		2016 Taxes: \$1,368.27	
Property Description (not for legal documents): LOT 20, BLDG. C, HIGHLAND PARK TOWNHOMES PUD PHASE II SUBDV. AREA 0.021 AC.		Adjustments: \$0.00	
		Fees: \$0.00	
		Total Payments: \$1,368.27	
		2016 Amount Due: \$0.00	
Prior Year Delinquent Tax Information:		Prior Years Due: 0.00	
		DUE: NOV. 30, 2016	
Fees Detail:			
Adjustment Detail:		Checks and Cash	
		Web Pay At: www.utahcounty.gov Fees may apply.	
		Make Check Payable To: UTAH COUNTY TREASURER	
		Sign up for e-Billing at: www.utahcounty.gov/taxnotice	
		Mortgage Company that requested your tax info:	

Value of Property			* Effective Tax Rate	Distribution of General Taxes			
Type	Taxable Value	Market Value		Taxing Unit	%	Tax Rate	Amount
Primary Residential	118,250	215,000	0.00433563	Provo School District	68.13%	0.007883	\$932.16
			0.00123144	Provo City	19.35%	0.002239	\$264.76
			0.00045870	Utah County	7.21%	0.000834	\$98.62
			0.00022000	Central Utah Water Dist	3.46%	0.000400	\$47.30
			0.00011828	Assessing & Collecting	1.86%	0.000215	\$25.43
Totals	118,250	215,000	0.00636405			0.011571	\$1,368.27

* Effective Tax Rate is computed by dividing tax amount by total market value.

Created: 07/08/2019 09:56:48

This portion must accompany payment.

2016 UTAH COUNTY TAX NOTICE
 UTAH COUNTY TREASURER

Pay Online at www.utahcounty.gov



TAXES WERE DELINQUENT AT 5:00 PM, NOV. 30, 2016

Serial Number: 41:294:0020	
PIN: 0808154	
2016 Taxes:	\$1,368.27
Adjustments:	\$0.00
Fees:	\$0.00
Total Payments:	\$1,368.27
2016 Amount Due	\$0.00
Prior Years Due	0.00
DUE: NOV. 30, 2016	

Owner of Record (as of this printing):

Check here and see reverse side for address correction

Make check payable to: UTAH COUNTY TREASURER

MONACO BAY LLC
 ATTN: KARLA STIRLING
 3067 S 100 W
 BOUNTIFUL, UT 84010

UTAH COUNTY TREASURER
 100 EAST CENTER, SUITE 1200
 PROVO, UT 84606-3159


412940020 2016 0808154 0000000002

Utah County Treasurer
 100 East Center, Suite 1200
 Provo, Utah 84606-3159
 801-851-8255

2017 UTAH COUNTY TAX NOTICE
 DUPLICATE TAX NOTICE

* See Reverse Side For Important Information *

RECEIVED by MSC 5/13/2022 1:48:21 PM

Tax District: 110 Property Class: RSP Acreage: 0.02			Serial Number: 41:294:0020				
Property Address: 609 N SEVEN PEAKS BLVD Unit#20 - PROVO			PIN: 0813055				
Recorded Owner as of January 1, 2017 STIRLING, DIXIE			2017 Taxes: \$1,428.37				
Property Description (not for legal documents): LOT 20, BLDG. C, HIGHLAND PARK TOWNHOMES PUD PHASE II SUBDV. AREA 0.021 AC.			Adjustments: \$0.00				
			Fees: \$0.00				
			Total Payments: \$1,428.37				
			2017 Amount Due: \$0.00				
			Prior Years Due: 0.00				
			DUE: NOV. 30, 2017				
Prior Year Delinquent Tax Information:							
Fees Detail:			Checks and Cash Web Pay At: www.utahcounty.gov Fees may apply. Make Check Payable To: UTAH COUNTY TREASURER Sign up for e-Billing at: www.utahcounty.gov/taxnotice Mortgage Company that requested your tax info:				
Adjustment Detail:							
Value of Property			* Effective Tax Rate	Distribution of General Taxes			
Type	Taxable Value	Market Value		Taxing Unit	%	Tax Rate	Amount
Primary Residential	132,440	240,800	0.00398422	Provo School District	67.17%	0.007244	\$959.40
			0.00114896	Provo City	19.37%	0.002089	\$276.67
			0.00042845	Utah County	7.22%	0.000779	\$103.17
			0.00022002	Central Utah Water Dist	3.71%	0.000400	\$52.98
			0.00010449	Assessing & Collecting	1.76%	0.000190	\$25.16
			0.00004563	State Charter School-Provo	0.77%	0.000083	\$10.99
Totals	132,440	240,800	0.00593177			0.010785	\$1,428.37

* Effective Tax Rate is computed by dividing tax amount by total market value.

Created: 07/08/2019 10:12:40

This portion must accompany payment.

2017 UTAH COUNTY TAX NOTICE
 UTAH COUNTY TREASURER

Pay Online at www.utahcounty.gov



TAXES WERE DELINQUENT AT 5:00 PM, NOV. 30, 2017

Serial Number: 41:294:0020	
PIN: 0813055	
2017 Taxes:	\$1,428.37
Adjustments:	\$0.00
Fees:	\$0.00
Total Payments:	\$1,428.37
2017 Amount Due	\$0.00
Prior Years Due	0.00
DUE: NOV. 30, 2017	
Make check payable to: UTAH COUNTY TREASURER	

Owner of Record (as of this printing):

Check here and see reverse side for address correction

MONACO BAY LLC
 ATTN: KARLA STIRLING
 3067 S 100 W
 BOUNTIFUL, UT 84010

UTAH COUNTY TREASURER
 100 EAST CENTER, SUITE 1200
 PROVO, UT 84606-3159

412940020 2017 0813055 0000000000

APPELLEE'S APPENDIX 022

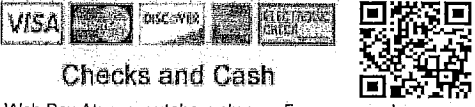
Utah County Treasurer
 100 East Center, Suite 1200
 Provo, Utah 84606-3159
 801-851-8255

2018 UTAH COUNTY TAX NOTICE

DUPLICATE TAX NOTICE

* See Reverse Side For Important Information *

RECEIVED by MSC 5/13/2022 1:48:21 PM

Tax District: 110 Property Class: RSP Acreage: 0.02		Serial Number: 41:294:0020	
Property Address: 609 N SEVEN PEAKS BLVD Unit#20 - PROVO		PIN: 0823211	
Recorded Owner as of January 1, 2018 STIRLING, DIXIE		2018 Taxes: \$1,540.83	
Property Description (not for legal documents): LOT 20, BLDG. C, HIGHLAND PARK TOWNHOMES PUD PHASE II SUBDV. AREA 0.021 AC.		Adjustments: \$0.00	
		Fees: \$0.00	
		Total Payments: \$1,540.83	
		2018 Amount Due: \$0.00	
Prior Year Delinquent Tax Information:		Prior Years Due: 0.00	
		DUE: NOV 30, 2018	
			
		Checks and Cash	
		Web Pay At: www.utahcounty.gov Fees may apply.	
		Make Check Payable To: UTAH COUNTY TREASURER	
		Sign up for e-Billing at: www.utahcounty.gov/taxnotice	
Fees Detail:		Mortgage Company that requested your tax info:	
Adjustment Detail:			

Value of Property			* Effective Tax Rate	Distribution of General Taxes			
Type	Taxable Value	Market Value		Taxing Unit	%	Tax Rate	Amount
Primary Residential	143,000	260,000	0.00411785	Provo School District	69.48%	0.007487	\$1,070.64
			0.00103838	Provo City	17.52%	0.001888	\$269.98
			0.00040262	Utah County	6.79%	0.000732	\$104.68
			0.00022000	Central Utah Water Dist	3.71%	0.000400	\$57.20
			0.00009846	Assessing & Collecting	1.66%	0.000179	\$25.60
			0.00004896	State Charter School-Provo	0.83%	0.000089	\$12.73
Totals	143,000	260,000	0.00592627			0.010775	\$1,540.83

* Effective Tax Rate is computed by dividing tax amount by total market value.

Created: 07/08/2019 10:13:04

This portion must accompany payment.

2018 UTAH COUNTY TAX NOTICE
 UTAH COUNTY TREASURER

Pay Online at www.utahcounty.gov



TAXES WERE DELINQUENT AT 5:00 PM, NOV. 30, 2018

Owner of Record (as of this printing):

Check here and see reverse side for address correction

Serial Number: 41:294:0020	
PIN: 0823211	
2018 Taxes:	\$1,540.83
Adjustments:	\$0.00
Fees:	\$0.00
Total Payments:	\$1,540.83
2018 Amount Due	\$0.00
Prior Years Due	0.00
DUE: NOV 30, 2018	

Make check payable to: UTAH COUNTY TREASURER

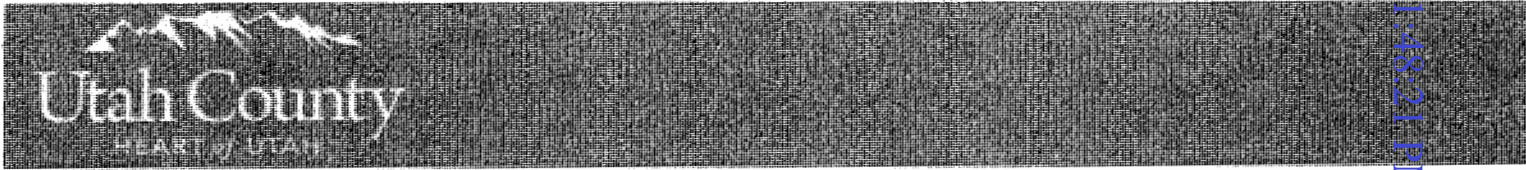
MONACO BAY LLC
 ATTN: KARLA STIRLING
 3067 S 100 W
 BOUNTIFUL, UT 84010

UTAH COUNTY TREASURER
 100 EAST CENTER, SUITE 1200
 PROVO, UT 84606-3159

412940020 2018 0823211 0000000008

APPELLEE'S APPENDIX 023

3/2022 1:48:21 PM



REAL PROPERTY VALUES

Serial Number: 41:294:0020 Tax Year: 2016 Tax District: 110
Owner: STIRLING, DIXIE
Property Type: RSP-RSP - RES SINGLE PUD
Values Date: 5/3/2016

** Real Estate	Taxable	Market
Residential	\$19,800	\$36,000
Agricultural	\$0	\$0
Commercial	\$0	\$0
Totals	\$19,800	\$36,000
** Improvements		
Residential	\$98,450	\$179,000
Agricultural	\$0	\$0
Commercial	\$0	\$0
Totals	\$98,450	\$179,000
** Greenbelt as of		
Real Estate	\$0	
Home Site	\$0	\$0 *
Totals	0	
Total Real Property	\$118,250	\$215,000
Attached Personal Property	\$0	
Total Valuation	\$118,250	

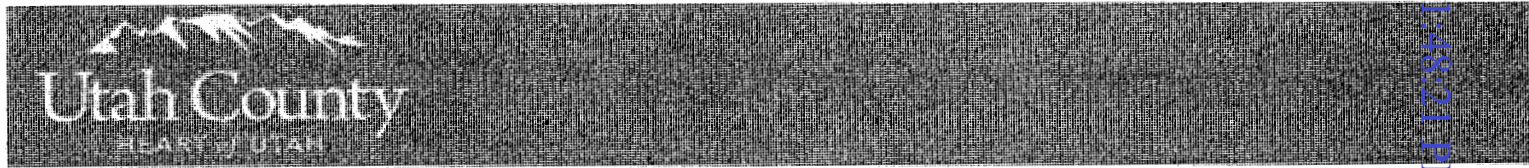
* Note: This value is not included in the total.

Main Menu

- Comments or Concerns on Value/Appraisal - Assessor's Office
- Documents/Owner/Parcel information - Recorder's Office
- Address Change for Tax Notice

This page was created on 7/8/2019 10:32:57 AM

3/2022 1:48:21 PM



REAL PROPERTY VALUES

Serial Number: 41:294:0020 Tax Year: 2017 Tax District: 110
Owner: STIRLING, DIXIE
Property Type: RSP-RSP - RES SINGLE PUD
Values Date: 5/4/2017

** Real Estate	Taxable	Market
Residential	\$19,800	\$36,000
Agricultural	\$0	\$0
Commercial	\$0	\$0
Totals	\$19,800	\$36,000
** Improvements		
Residential	\$112,640	\$204,800
Agricultural	\$0	\$0
Commercial	\$0	\$0
Totals	\$112,640	\$204,800
** Greenbelt as of		
Real Estate	\$0	
Home Site	\$0	\$0 *
Totals	0	
Total Real Property	\$132,440	\$240,800
Attached Personal Property	\$0	
Total Valuation	\$132,440	

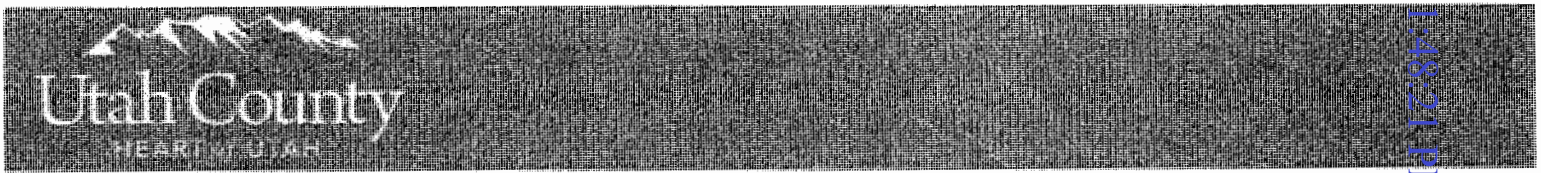
* Note: This value is not included in the total.

Main Menu

Comments or Concerns on Value/Appraisal - Assessor's Office
Documents/Owner/Parcel information - Recorder's Office
Address Change for Tax Notice

This page was created on 7/8/2019 10:33:23 AM

3/20/2022 1:48:21 PM



REAL PROPERTY VALUES

Serial Number: 41:294:0020 Tax Year: 2018 Tax District: 110
Owner: STIRLING, DIXIE
Property Type: RSP-RSP - RES SINGLE PUD
Values Date: 5/4/2018

** Real Estate	Taxable	Market
Residential	\$19,800	\$36,000
Agricultural	\$0	\$0
Commercial	\$0	\$0
Totals	\$19,800	\$36,000
** Improvements		
Residential	\$123,200	\$224,000
Agricultural	\$0	\$0
Commercial	\$0	\$0
Totals	\$123,200	\$224,000
** Greenbelt as of		
Real Estate	\$0	
Home Site	\$0	\$0 *
Totals	0	
Total Real Property	\$143,000	\$260,000
Attached Personal Property	\$0	
Total Valuation	\$143,000	

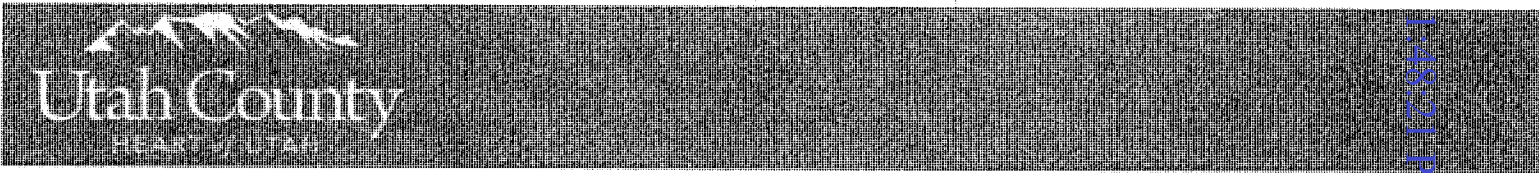
* Note: This value is not included in the total.

Main Menu

- [Comments or Concerns on Value/Appraisal - Assessor's Office](#)
- [Documents/Owner/Parcel information - Recorder's Office](#)
- [Address Change for Tax Notice](#)

This page was created on 7/8/2019 10:30:57 AM

3/2022 1:41:21 PM



REAL PROPERTY VALUES

Serial Number: 41:294:0020 Tax Year: 2019 Tax District: 110
Owner: STIRLING, DIXIE
Property Type: RSP-RSP - RES SINGLE PUD
Values Date: 6/3/2019

** Real Estate	Taxable	Market
Residential	\$19,800	\$36,000
Agricultural	\$0	\$0
Commercial	\$0	\$0
Totals	\$19,800	\$36,000
** Improvements		
Residential	\$134,200	\$244,000
Agricultural	\$0	\$0
Commercial	\$0	\$0
Totals	\$134,200	\$244,000
** Greenbelt as of		
Real Estate	\$0	
Home Site	\$0	\$0 *
Totals	0	
Total Real Property	\$154,000	\$280,000
Attached Personal Property	\$0	
Total Valuation	\$154,000	

* Note: This value is not included in the total.

Main Menu

- Comments or Concerns on Value/Appraisal - Assessor's Office
- Documents/Owner/Parcel information - Recorder's Office
- Address Change for Tax Notice

This page was created on 7/8/2019 10:33:48 AM

MARK ALTOM

On-line tax payer. See www.daviscountyutah.gov

DAVIS COUNTY TREASURER

P.O. Box 618 - 61 South Main Street, Suite 105

Farmington UT 84025

Phone (801) 451-3243

2016 TAX NOTICE

If you have a mortgage company

And if your mortgage company is responsible to pay your property taxes, that arrangement is between you and the mortgage company. You can verify payment on the Davis County website:

www.daviscountyutah.gov/treasurer

If the payment does not show on the website you need to contact the mortgage company to see if payment has been sent. It usually takes until the end of November to process the mortgage co. payments.

MONACO Bay LLC TRUST

STERLING, DIXIE M--TRUSTEE
10575 SOUTH MONACO WAY
TRAVERSE CITY MI 49684

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2016 PROPERTY TAX NOTICE * THE MARKET VALUE IS THAT ASSESSED BY THE COUNTY ASSESSOR * 2016 PROPERTY TAX NOTICE

Table with columns: MARKET VALUE, TAXABLE VALUE, TAXING DISTRICT, LAND SERIAL NUMBER, PROPERTY OWNER. Values: 224,300, 123,365, 5, 01-028-0002, STERLING, DIXIE M--TRUSTEE

Table with columns: TAXING ENTITIES, TAX RATE, AMOUNT. Lists various entities like DAVIS SCHOOL DIST, DAVIS COUNTY, BOUNTIFUL CITY, etc., with their respective tax rates and amounts.

Property address: 3067 S 100 WEST BOUNTIFUL
Acres: 0.41
Property legal description: BEG 25 FT E FR NW COR LOT 23, BLK 1, VALVERDA PLAT A, E 106 FT M/L TO NE COR LOT 23; S 166.3 FT; W 106 FT; N 166.3 FT M/L TO BEG. CONT. 0.405 ACRES.
This may not be a complete legal description.

Summary table: Taxes 1,543.42 - Payments 1,543.42 = Balance due .00

Return bottom portion with payment

Please pay this amount Due by November 30, 2016 .00

This stub must accompany payment

Delinquent after November 30, 2016

01-028-0002
STERLING, DIXIE M--TRUSTEE
10575 SOUTH MONACO WAY
TRAVERSE CITY MI 49684



2016

Table with columns: Total due and payable by November 30, 2016 (.00), Make check payable to: Davis County Treasurer

MARK ALTOM

On-line tax payment See www.daviscountyutah.gov

DAVIS COUNTY TREASURER

P.O. Box 618 - 61 South Main Street, Suite 105

Farmington UT 84025

Phone (801) 451-3243

2017 TAX NOTICE

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www.daviscountyutah.gov/treasurer

If the payment does not show on the website you need to contact the mortgage company to see if payment has been sent. It usually takes until the end of November to process the mortgage co. payments.

STERLING, DIXIE M--TRUSTEE
10575 SOUTH MONACO WAY
TRAVERSE CITY MI 49684

RECEIVED by MSC 5/13/2022 1:48:21 PM

2017 PROPERTY TAX NOTICE * THE MARKET VALUE IS THAT ASSESSED BY THE COUNTY ASSESSOR * 2017 PROPERTY TAX NOTICE

Table with columns: MARKET VALUE (257,000), TAXABLE VALUE (141,350), TAXING DISTRICT (5), LAND SERIAL NUMBER (01-028-0002), PROPERTY OWNER (STERLING, DIXIE M--TRUSTEE)

Table with columns: TAXING ENTITIES, TAX RATE, AMOUNT. Lists various taxes like DAVIS SCHOOL DIST, DAVIS COUNTY, BOUNTIFUL CITY, etc., with a total tax charge of 1,752.60.

Property address: 3067 S 100 WEST BOUNTIFUL
Acres: 0.41
Property legal description: BEG 25 FT E FR NW COR LOT 23, BLK 1, VALVERDA PLAT A, E 106 FT M/L TO NE COR LOT 23; S 166.3 FT; W 106 FT; N 166.3 FT M/L TO BEG. CONT. 0.405 ACRES.
This may not be a complete legal description.

Summary table: Taxes 1,898.71 - Payments 1,898.71 = Balance due .00

Return bottom portion with payment Please pay this amount Due by November 30, 2017 .00

This stub must accompany payment

01-028-0002

STERLING, DIXIE M--TRUSTEE
10575 SOUTH MONACO WAY
TRAVERSE CITY MI 49684

Delinquent after November 30, 2017



2017

Table with columns: Total due and payable by November 30, 2017 (.00), Make check payable to: Davis County Treasurer

3/20/2022 1:48:21 PM

PARCEL TAX INFORMATION



Davis County Tax Information - Please Read

This website is not an official record or tax statement. The information on this page may not be sufficient for use on any legal documents.

Do not use this page unless you understand and agree to Terms of Use (below).

You may print this page, as long as you include this notice, and the Terms of Use with your print.

TAX INFORMATION

Property Information

Year:

Parcel

Serial Number: 010280002

Tax District: 05

3/20/2022 1:48:21 PM

Legal Description: BEG 25 FT E FR NW COR LOT 23, BLK 1, VALVERDA PLAT A, E 106 FT M/L TO NE COR LOT 23, S 166.3 FT; W 106 FT; N 166.3 FT M/L TO BEG. CONT. 0.405 ACRES.

SITUS Address: 3067 S 100 WEST
BOUNTIFUL, 84010

Building/Land Values

Acres: 0.41

Residence Year Built: 1951

Residence Square Feet: 1194

Tax Information

Delinquency Payoff Amount (for specific future Payoff Date): *No delinquencies were found for this serial number at this time.*

DOES NOT INCLUDE CURRENT YEAR TAXES THAT ARE NOT DELINQUENT.

2016 Tax Statement Recipient: STERLING, DIXIE M--TRUSTEE
10575 SOUTH MONACO WAY
TRAVERSE CITY, MI 49684

2016 Total Market Value: \$224,300.00

Recent Tax History

Important Clarifications

1. If the amounts for prior years show \$0.00 paid this may be an error. Please contact the Davis County Treasurer at (801) 451-3243 to verify unpaid amounts.
2. The amounts shown paid are taxes only, unless the taxes were paid late. If the taxes were paid late the amount includes taxes and penalty, but does not include interest, if interest was paid.
3. The statutory due date for property taxes in Utah is November 30. Taxes are paid with one single annual installment.
4. As a service, values from the Assessor roll may be listed prior to the distribution of Tax Notices. These values may be subject to future correction.
5. The taxes for the current year show \$0.00 until the tax rates are proposed for the current year. At the time the taxes show an amount the taxes are proposed until the tax rates are finalized and approved. The tax rates should be finalized and approved sometime in September of the current year. The current year taxes may be subject to change through appeals or corrections.

Year	Gen Taxes	Adj.	Paid	Date Paid	Due
2016	\$1,543.42	\$0.00	\$1,543.42	11/18/2016	\$0.00

3/2022 1:48:21 PM

2015	\$1,472.15	\$0.00	\$1,472.15	11/19/2015	\$0.00
2014	\$1,406.33	\$0.00	\$1,406.33	11/24/2014	\$0.00
2013	\$1,573.13	\$0.00	\$1,573.13	11/12/2013	\$0.00
2012	\$1,577.26	\$0.00	\$1,577.26	11/08/2012	\$0.00
2011	\$1,567.20	\$0.00	\$1,567.20	11/08/2011	\$0.00
2010	\$1,478.61	\$0.00	\$1,478.61	11/08/2010	\$0.00
2009	\$1,365.38	\$0.00	\$1,365.38	11/24/2009	\$0.00
2008	\$1,364.84	\$0.00	\$1,364.84	11/24/2008	\$0.00
2007	\$1,460.59	(\$256.63)	\$1,203.96	11/21/2007	\$0.00
2006	\$946.61	\$0.00	\$946.61	10/31/2006	\$0.00

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The mission of the Office of County Recorder of Davis County is to provide the citizens of Davis County, Utah, protection, preservation, and presentation of the official records of Davis County administered by this office in accordance with statutory requirements, in the most efficient, professional, and cost effective manner.

📍 (Room 106) 61 South Main Farmington, Utah 84025
📞 (801) 451-3225 (tel:+8014513225) 📠 (801) 451-3141

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PARCEL TAX INFORMATION



Davis County Tax Information - Please Read

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TAX INFORMATION

Property Information

Year:	2017
Parcel	
Serial Number:	010280002
Tax District:	05

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Legal Description: BEG 25 FT E FR NW COR LOT 23, BLK 1, VALVERDA PLAT A, E 106 FT M/L TO NE COR LOT 23, S 166.3 FT; W 106 FT; N 166.3 FT M/L TO BEG. CONT. 0.405 ACRES.

SITUS Address: 3067 S 100 WEST
BOUNTIFUL, 84010

Building/Land Values

Acres: 0.41
Residence Year Built: 1951
Residence Square Feet: 1194

Tax Information

Delinquency Payoff Amount (for specific future Payoff Date): *No delinquencies were found for this serial number at this time.*

DOES NOT INCLUDE CURRENT YEAR TAXES THAT ARE NOT DELINQUENT.

2017 Tax Statement Recipient: STERLING, DIXIE M--TRUSTEE
10575 SOUTH MONACO WAY
TRAVERSE CITY, MI 49684

2017 Total Market Value: \$257,000.00

Recent Tax History

Important Clarifications

1. If the amounts for prior years show \$0.00 paid this may be an error. Please contact the Davis County Treasurer at (801) 451-3243 to verify unpaid amounts.
2. The amounts shown paid are taxes only, unless the taxes were paid late. If the taxes were paid late the amount includes taxes and penalty, but does not include interest, if interest was paid.
3. The statutory due date for property taxes in Utah is November 30. Taxes are paid with one single annual installment.
4. As a service, values from the Assessor roll may be listed prior to the distribution of Tax Notices. These values may be subject to future correction.
5. The taxes for the current year show \$0.00 until the tax rates are proposed for the current year. At the time the taxes show an amount the taxes are proposed until the tax rates are finalized and approved. The tax rates should be finalized and approved sometime in September of the current year. The current year taxes may be subject to change through appeals or corrections.

Year	Gen Taxes	Adj.	Paid	Date Paid	Due
2017	\$1,898.71	\$0.00	\$1,898.71	11/06/2017	\$0.00

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2016	\$1,543.42	\$0.00	\$1,543.42	11/18/2016	\$0.00
2015	\$1,472.15	\$0.00	\$1,472.15	11/19/2015	\$0.00
2014	\$1,406.33	\$0.00	\$1,406.33	11/24/2014	\$0.00
2013	\$1,573.13	\$0.00	\$1,573.13	11/12/2013	\$0.00
2012	\$1,577.26	\$0.00	\$1,577.26	11/08/2012	\$0.00
2011	\$1,567.20	\$0.00	\$1,567.20	11/08/2011	\$0.00
2010	\$1,478.61	\$0.00	\$1,478.61	11/08/2010	\$0.00
2009	\$1,365.38	\$0.00	\$1,365.38	11/24/2009	\$0.00
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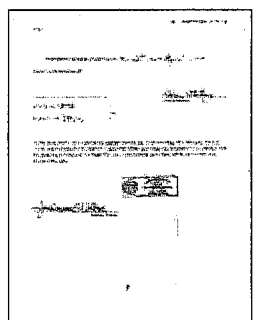
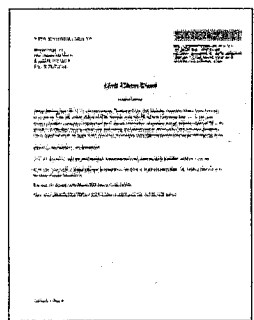


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WHEN RECORDED, MAIL TO:

Monaco Bay, LLC
3067 South 100 West
Bountiful, UT 84010
Attn: Karla Stirling



SH# 339752019 PG 1 of 2
JEFFERY SMITH
UTAH COUNTY RECORDER
2022 Mar 23 9:52 am REC 22.00 BY JP
RECORDED FOR ST# 186: 0740

Quit Claim Deed

Utah County

Dixie Stirling (of 10573 S. Monaco Way, Traverse City, MI 49684), Trustee of the Dixie Stirling Trust dated June 18, 1994, (GRANTOR), hereby QUILTS CLAIM to Monaco Bay, LLC (a Utah limited liability company located at 3067 South 100 West, Bountiful, Utah 84010), GRANTEE, for good and valuable consideration the following described parcel of land in Utah County, State of Utah, together with all right, title, interest, privileges, and appurtenances thereunto belonging, to-wit:

SERIAL NUMBER: 412940020

LOT 20, BLDG C, HIGHLAND PARK TOWNHOMES PHD PHASE II SUBDIV. AREA 0021 AC.

(LOT 20, contained in Highland Park Townhomes, Phase II, a PUD recorded Nov. 18, 1994 in the office of the Utah County Recorder.)

P. A. 609 N. Seven Peaks Blvd. #20, Provo, Utah 84606

THE ABOVE DESCRIPTION CONTAINS: 0.021006 ACRE, MORE OR LESS.

MARK ALTOM

On-line tax payment see www.daviscountyutah.gov

DAVIS COUNTY TREASURER

P.O. Box 618 - 61 South Main Street, Suite 105

Farmington UT 84025

Phone (801) 451-3243

2018 TAX NOTICE

If you have a mortgage company

And if your mortgage company is responsible to pay your property taxes, that arrangement is between you and the mortgage company. You can verify payment on the Davis County website:

www.daviscountyutah.gov/treasurer

If the payment does not show on the website you need to contact the mortgage company to see if payment has been sent. It usually takes until the end of November to process the mortgage co. payments.

ARTEAGA, DAVID AND STIRLING, KARLA
3067 SOUTH 100 WEST
BOUNTIFUL UT 84010

RECEIVED by MSC 5/13/2022 1:48:21 PM

2018 PROPERTY TAX NOTICE * THE MARKET VALUE IS THAT ASSESSED BY THE COUNTY ASSESSOR * 2018 PROPERTY TAX NOTICE

Table with 6 columns: MARKET VALUE, TAXABLE VALUE, TAXING DISTRICT, LAND SERIAL NUMBER, PROPERTY OWNER. Values: 261,000, 143,550, 5, 01-028-0002, ARTEAGA, DAVID AND STIRLING

Table with 3 columns: TAXING ENTITIES, TAX RATE, AMOUNT. Lists various taxes like DAVIS SCHOOL DIST, DAVIS COUNTY, BOUNTIFUL CITY, etc. Total TAX CHARGE is 0.012306 for 1,766.53.

Property address: 3067 S 100 WEST BOUNTIFUL
Acres: 0.41
Property legal description: BEG 25 FT E FR NW COR LOT 23, BLK 1, VALVERDA PLAT A, E 106 FT M/L TO NE COR LOT 23; S 166.3 FT; W 106 FT; N 166.3 FT M/L TO BEG. CONT. 0.405 ACRES.

Summary table: Taxes 1,912.64 - Payments 1,912.64 = Balance due .00

Return bottom portion with payment Please pay this amount Due by November 30, 2018 .00

This stub must accompany payment

Delinquent after November 30, 2018

01-028-0002

ARTEAGA, DAVID AND STIRLING, KARLA
3067 SOUTH 100 WEST
BOUNTIFUL UT 84010



2018

Table with 2 columns: Total due and payable by November 30, 2018 (.00), Make check payable to: Davis County Treasurer

Effective 1/1/2015**59-2-103 Rate of assessment of property -- Residential property.**

- (1) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.
- (2) Subject to Subsections (3) through (5) and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.
- (3) Part-year residential property located within the state is allowed the residential exemption described in Subsection (2) if the part-year residential property is used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption.
- (4) No more than one acre of land per residential unit may qualify for the residential exemption described in Subsection (2).
- (5)
 - (a) Except as provided in Subsection (5)(b)(ii), a residential exemption described in Subsection (2) is limited to one primary residence per household.
 - (b) An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection (2) for:
 - (i) subject to Subsection (5)(a), the primary residence of the owner; and
 - (ii) each residential property that is the primary residence of a tenant.

Amended by Chapter 65, 2014 General Session

Effective 5/8/2018**59-2-102 Definitions.**

As used in this chapter and title:

- (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.
- (2) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.
- (3) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.
- (4) "Aircraft" means the same as that term is defined in Section 72-10-102.
- (5)
 - (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:
 - (i) operates:
 - (A) on an interstate route; and
 - (B) on a scheduled basis; and
 - (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.
 - (b) "Airline" does not include an:
 - (i) air charter service; or
 - (ii) air contract service.
- (6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.
- (7) "Base parcel" means a parcel of property that was legally:
 - (a) subdivided into two or more lots, parcels, or other divisions of land; or
 - (b)
 - (i) combined with one or more other parcels of property; and
 - (ii) subdivided into two or more lots, parcels, or other divisions of land.
- (8)
 - (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:
 - (i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and
 - (ii) the product of:
 - (A) eligible new growth, as defined in Section 59-2-924; and
 - (B) the multicounty assessing and collecting levy certified by the commission for the previous year.
 - (b) For purposes of this Subsection (8), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:
 - (i) assessed by a county assessor in accordance with Part 3, County Assessment; and
 - (ii) semiconductor manufacturing equipment.
 - (c) For purposes of calculating the certified revenue levy described in this Subsection (8), the commission shall use:

- (i) the taxable value of real property assessed by a county assessor contained on the assessment roll;
 - (ii) the taxable value of real and personal property assessed by the commission; and
 - (iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.
- (9) "County-assessed commercial vehicle" means:
- (a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;
 - (b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and
 - (c) vehicles that are:
 - (i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;
 - (ii) used or licensed as taxicabs or limousines;
 - (iii) used as rental passenger cars, travel trailers, or motor homes;
 - (iv) used or licensed in this state for use as ambulances or hearses;
 - (v) especially designed and used for garbage and rubbish collection; or
 - (vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.
- (10)
- (a) Except as provided in Subsection (10)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:
 - (i) a county; and
 - (ii) a school district.
 - (b) "Designated tax area" includes a tax area created by the overlapping boundaries of the taxing entities described in Subsection (10)(a) and:
 - (i) a city or town if the boundaries of the school district under Subsection (10)(a) and the boundaries of the city or town are identical; or
 - (ii) a special service district if the boundaries of the school district under Subsection (10)(a) are located entirely within the special service district.
- (11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:
- (a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and
 - (b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:
 - (i) \$5,000; or
 - (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.
- (12)
- (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:
 - (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;
 - (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

- (iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.
- (b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.
- (13) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.
- (14)
 - (a) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.
 - (b) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.
- (15) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.
- (16) "Geothermal resource" means:
 - (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and
 - (b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.
- (17)
 - (a) "Goodwill" means:
 - (i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or
 - (ii) the ability of a business to:
 - (A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (17)(b); or
 - (B) obtain an economic or competitive advantage resulting from a factor described in Subsection (17)(b).
 - (b) The following factors apply to Subsection (17)(a)(ii):
 - (i) superior management skills;
 - (ii) reputation;
 - (iii) customer relationships;
 - (iv) patronage; or
 - (v) a factor similar to Subsections (17)(b)(i) through (iv).
 - (c) "Goodwill" does not include:
 - (i) the intangible property described in Subsection (21)(a) or (b);
 - (ii) locational attributes of real property, including:
 - (A) zoning;
 - (B) location;
 - (C) view;

- (D) a geographic feature;
 - (E) an easement;
 - (F) a covenant;
 - (G) proximity to raw materials;
 - (H) the condition of surrounding property; or
 - (I) proximity to markets;
 - (iii) value attributable to the identification of an improvement to real property, including:
 - (A) reputation of the designer, builder, or architect of the improvement;
 - (B) a name given to, or associated with, the improvement; or
 - (C) the historic significance of an improvement; or
 - (iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.
- (18) "Governing body" means:
- (a) for a county, city, or town, the legislative body of the county, city, or town;
 - (b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;
 - (c) for a school district, the local board of education; or
 - (d) for a special service district under Title 17D, Chapter 1, Special Service District Act:
 - (i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or
 - (ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.
- (19)
- (a) For purposes of Section 59-2-103:
 - (i) "household" means the association of individuals who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and
 - (ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."
- (20)
- (a) Except as provided in Subsection (20)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:
 - (i)
 - (A) attachment to land is essential to the operation or use of the item; and
 - (B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or
 - (ii) removal of the item would:
 - (A) cause substantial damage to the item; or
 - (B) require substantial alteration or repair of a structure to which the item is attached.
 - (b) "Improvement" includes:
 - (i) an accessory to an item described in Subsection (20)(a) if the accessory is:
 - (A) essential to the operation of the item described in Subsection (20)(a); and
 - (B) installed solely to serve the operation of the item described in Subsection (20)(a); and

- (ii) an item described in Subsection (20)(a) that is temporarily detached from the land for repairs and remains located on the land.
- (c) "Improvement" does not include:
 - (i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;
 - (ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;
 - (iii)
 - (A) manufacturing equipment and machinery; or
 - (B) essential accessories to manufacturing equipment and machinery;
 - (iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or
 - (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.
- (21) "Intangible property" means:
 - (a) property that is capable of private ownership separate from tangible property, including:
 - (i) money;
 - (ii) credits;
 - (iii) bonds;
 - (iv) stocks;
 - (v) representative property;
 - (vi) franchises;
 - (vii) licenses;
 - (viii) trade names;
 - (ix) copyrights; and
 - (x) patents;
 - (b) a low-income housing tax credit;
 - (c) goodwill; or
 - (d) a renewable energy tax credit or incentive, including:
 - (i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;
 - (ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;
 - (iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
 - (iv) a tax credit under Subsection 59-7-614(5).
- (22) "Livestock" means:
 - (a) a domestic animal;
 - (b) a fish;
 - (c) a fur-bearing animal;
 - (d) a honeybee; or
 - (e) poultry.
- (23) "Low-income housing tax credit" means:
 - (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or
 - (b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.
- (24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- (25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

- (26) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.
- (27)
- (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:
- (i) is capable of flight or is attached to an aircraft that is capable of flight; or
 - (ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:
 - (A) during multiple flights;
 - (B) during a takeoff, flight, or landing; and
 - (C) as a service provided by an air charter service, air contract service, or airline.
- (b)
- (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.
 - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."
- (28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.
- (29) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.
- (30) "Personal property" includes:
- (a) every class of property as defined in Subsection (31) that is the subject of ownership and is not real estate or an improvement;
 - (b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;
 - (c) bridges and ferries;
 - (d) livestock; and
 - (e) outdoor advertising structures as defined in Section 72-7-502.
- (31)
- (a) "Property" means property that is subject to assessment and taxation according to its value.
 - (b) "Property" does not include intangible property as defined in this section.
- (32) "Public utility" means:
- (a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and
 - (b) the operating property of any entity or person defined under Section 54-2-1 except water corporations.
- (33)
- (a) Subject to Subsection (33)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:
- (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;
 - (ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and
 - (iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (33) and Subsection (36).
- (34) "Real estate" or "real property" includes:
- (a) the possession of, claim to, ownership of, or right to the possession of land;
 - (b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and
 - (c) improvements.
- (35)
- (a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.
 - (b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.
- (36)
- (a) Subject to Subsection (36)(b), "residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.
 - (b) Subject to Subsection (36)(c), "residential property":
 - (i) except as provided in Subsection (36)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:
 - (A) used exclusively within a dwelling unit that is the primary residence of a tenant; and
 - (B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and
 - (ii) does not include property used for transient residential use.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (33) and this Subsection (36).
- (37) "Split estate mineral rights owner" means a person that:
- (a) has a legal right to extract a mineral from property;
 - (b) does not hold more than a 25% interest in:
 - (i) the land surface rights of the property where the wellhead is located; or
 - (ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;
 - (c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and
 - (d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.
- (38)
- (a) "State-assessed commercial vehicle" means:
 - (i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or
 - (ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.
 - (b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection (9)(c) as county-assessed commercial vehicles.

- (39) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.
- (40) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.
- (41) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.
- (42) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.
- (43)
 - (a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.
 - (b) "Tax roll" includes tax books, tax lists, and other similar materials.

Amended by Chapter 415, 2018 General Session
Amended by Chapter 456, 2018 General Session

Effective 5/14/2019**59-2-103.5 Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption -- Declaration for calendar year 2019.**

- (1) Subject to Subsection (8), for residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before a residential exemption under Section 59-2-103 may be applied to the value of the residential property if:
 - (a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential exemption applied to the value of the residential property;
 - (b) an ownership interest in the residential property changes; or
 - (c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.
- (2)
 - (a) The application described in Subsection (1) shall:
 - (i) be on a form the commission prescribes by rule and makes available to the counties;
 - (ii) be signed by all of the owners of the residential property;
 - (iii) certify that the residential property is residential property; and
 - (iv) contain other information as the commission requires by rule.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the contents of the form described in Subsection (2)
 - (a).
- (3)
 - (a) Regardless of whether a county legislative body adopts an ordinance described in Subsection (1), before a residential exemption may be applied to the value of part-year residential property, an owner of the property shall:
 - (i) file the application described in Subsection (2)(a) with the county board of equalization; and
 - (ii) include as part of the application described in Subsection (2)(a) a statement that certifies:
 - (A) the date the part-year residential property became residential property;
 - (B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and
 - (C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.
 - (b) An owner may not obtain a residential exemption for part-year residential property unless the owner files an application under this Subsection (3) on or before November 30 of the calendar year for which the owner seeks to obtain the residential exemption.
 - (c) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee of not to exceed \$50.
- (4) Except as provided in Subsection (5), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, the property owner shall:

- (a) file a written statement with the county board of equalization of the county in which the property is located:
 - (i) on a form provided by the county board of equalization; and
 - (ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and
- (b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence.
- (5) A property owner is not required to file a written statement or make the declaration described in Subsection (4) if the property owner:
 - (a) changes primary residences;
 - (b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and
 - (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.
- (6) Subsections (2) through (5) do not apply to qualifying exempt primary residential rental personal property.
- (7)
 - (a) Subject to Subsection (8), for the first calendar year in which a property owner qualifies to receive a residential exemption under Section 59-2-103, a county assessor may require the property owner to file a signed statement described in Section 59-2-306.
 - (b) Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the property owner to certify, under penalty of perjury, that the property owner qualifies for the exemption under Subsection 59-2-1115(2).
- (8)
 - (a) Subject to the requirements of this Subsection (8) and except as provided in Subsection (8)(c), on or before May 1, 2020, a county assessor shall:
 - (i) notify each owner of residential property that the owner is required to submit a written declaration described in Subsection (8)(b) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(a); and
 - (ii) provide each owner with a form described in Subsection (8)(e) to make the written declaration described in Subsection (8)(b).
 - (b) Each owner of residential property that receives a notice described in Subsection (8)(a) shall file a written declaration with the county assessor under penalty of perjury:
 - (i) certifying whether the property is residential property or part-year residential property;
 - (ii) certifying whether during any portion of the current calendar year, the property receives a residential exemption under Section 59-2-103; and
 - (iii) certifying whether the property owner owns other property in the state that receives a residential exemption under Section 59-2-103, and if so, listing:
 - (A) the parcel number of the property;
 - (B) the county in which the property is located; and

(C) whether the property is the primary residence of a tenant.

(c) A county assessor is not required to provide a notice to an owner of residential property under Subsection (8)(a) if the situs address of the residential property is the same as any one of the following:

(i) the mailing address of the residential property owner or the tenant of the residential property;

(ii) the address listed on the:

(A) residential property owner's driver license; or

(B) tenant of the residential property's driver license; or

(iii) the address listed on the:

(A) residential property owner's voter registration; or

(B) tenant of the residential property's voter registration.

(d) If an ownership interest in residential property changes, the new owner of the residential property, at the time title to the property is transferred to the new owner, shall make a written declaration under penalty of perjury:

(i) certifying whether the property is residential property or part-year residential property;

(ii) certifying whether the property receives a residential exemption under Section 59-2-103; and

(iii) certifying whether the property owner owns other property in the state that receives a residential exemption under Section 59-2-103, and if so, listing:

(A) the parcel number of the property;

(B) the county in which the property is located; and

(C) whether the property is the primary residence of a tenant.

(e) The declaration required by Subsection (8)(b) or (d) shall:

(i) be on a form the commission prescribes and makes available to the counties;

(ii) be signed by all of the owners of the property; and

(iii) include the following statement:

"If a property owner or a property owner's spouse claims a residential exemption under Utah Code Ann. §59-2-103 for property in this state that is the primary residence of the property owner or the property owner's spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner's spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner's spouse."

(f) The written declaration made under Subsection (8)(d) shall be remitted to the county assessor of the county where the property described in Subsection (8)(d) is located within five business days of the title being transferred to the new owner.

(g)

(i) If, after receiving a written declaration filed under Subsection (8)(b) or (d), the county determines that the property has been incorrectly qualified or disqualified to receive a residential exemption, the county shall:

(A) redetermine the property's qualification to receive a residential exemption; and

(B) notify the claimant of the redetermination and its reason for the redetermination.

(ii) The redetermination provided in Subsection (8)(g)(i)(A) shall be final unless appealed within 30 days after the notice required by Subsection (8)(g)(i)(B).

(h)

(i) If a residential property owner fails to file a written declaration required by Subsection (8)(b) or (d), the county assessor shall mail to the owner of the residential property a notice that:

- (A) the property owner failed to file a written declaration as required by Subsection (8)(b) or (d); and
- (B) the property owner will no longer qualify to receive the residential exemption authorized under Section 59-2-103 for the property that is the subject of the written declaration if the property owner does not file the written declaration required by Subsection (8)(b) or (d) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(h)(i).
- (ii) If a property owner fails to file a written declaration required by Subsection (8)(b) or (d) after receiving the notice described in Subsection (8)(h)(i), the property owner no longer qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar year for the property that is the subject of the written declaration.
- (iii) A property owner that is disqualified to receive the residential exemption under Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether the owner is eligible to receive the residential exemption.
- (i) The requirements of this Subsection (8) do not apply to a county assessor in a county that has, for the five calendar years prior to 2019, had in place and enforced an ordinance described in Subsection (1).

Amended by Chapter 323, 2019 General Session

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- [Home](#)
- [Utah Code](#)
- [Title 59](#)
- [Chapter 2](#)
- [Part 1](#)
- Section 103

Title 59 Chapter 2 Part 1 Section 103

Index	Utah Code
Title 59	Revenue and Taxation
Chapter 2	Property Tax Act
Part 1	General Provisions
Section 103	Rate of assessment of property -- Residential property. <i>(Effective 1/1/2015)</i>

Effective 1/1/2015

59-2-103. Rate of assessment of property -- Residential property.

(1)	All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.								
(2)	Subject to Subsections (3) through (5) and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.								
(3)	Part-year residential property located within the state is allowed the residential exemption described in Subsection (2) if the part-year residential property is used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption.								
(4)	No more than one acre of land per residential unit may qualify for the residential exemption described in Subsection (2).								
(5)	<table border="1" style="width: 100%;"> <tr> <td style="width: 5%; text-align: center;">(a)</td> <td>Except as provided in Subsection (5)(b)(ii), a residential exemption described in Subsection (2) is limited to one primary residence per household.</td> </tr> <tr> <td style="text-align: center;">(b)</td> <td>An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection (2) for: <table border="1" style="width: 100%; margin-top: 5px;"> <tr> <td style="width: 5%; text-align: center;">(i)</td> <td>subject to Subsection (5)(a), the primary residence of the owner; and</td> </tr> <tr> <td style="text-align: center;">(ii)</td> <td>each residential property that is the primary residence of a tenant.</td> </tr> </table> </td> </tr> </table>	(a)	Except as provided in Subsection (5)(b)(ii), a residential exemption described in Subsection (2) is limited to one primary residence per household.	(b)	An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection (2) for: <table border="1" style="width: 100%; margin-top: 5px;"> <tr> <td style="width: 5%; text-align: center;">(i)</td> <td>subject to Subsection (5)(a), the primary residence of the owner; and</td> </tr> <tr> <td style="text-align: center;">(ii)</td> <td>each residential property that is the primary residence of a tenant.</td> </tr> </table>	(i)	subject to Subsection (5)(a), the primary residence of the owner; and	(ii)	each residential property that is the primary residence of a tenant.
(a)	Except as provided in Subsection (5)(b)(ii), a residential exemption described in Subsection (2) is limited to one primary residence per household.								
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(i)	subject to Subsection (5)(a), the primary residence of the owner; and								
(ii)	each residential property that is the primary residence of a tenant.								

Amended by Chapter 65, 2014 General Session

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**Application for
Residential Property Exemption**
(UC 59-2-103 and 59-2-105.5)

PT-23 12/22/14

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Property Owner Information

Property owner(s) name	Home phone	Work phone
Property owner address		
City	State	Zip

Property Information

Property Parcel Serial Number for subject property	Acreage of parcel
Location or address of subject property	

Use of Property

Describe the current use of the subject property and state if you have personal knowledge of such use

Evidence of Domicile of Owner(s) of Subject Property (check all that apply and add requested information)

- Yes No Owner(s) currently resides on the subject property. If yes, date of occupancy: _____
- Yes No Owner(s) spouse and children reside on the subject property
- Yes No Owner(s) or spouse owns other residential property. If yes, give address and describe use of such property

- Yes No Owner(s) and spouse are currently registered to vote in the voting district in which the subject property is located
If no, state the district where you are registered to vote: _____
- Yes No Owner(s) claims a residential property exemption on another property. If yes, state the name of owner and address
of each such property _____
- Yes No **TENANT-OCCUPIED FULL-TIME:** Tenants do not have another permanent full-time resident in any state.
A rental contract and proof of tenant's residency must accompany this application.

Tenant's names and telephone numbers _____

Please provide a copy of two of the documents showing the occupant's name and address of the subject property

Drivers License (required) Voter registration Utility bill Other: _____

Yes No **This property is a full-time residence**

Please give the date range that the property was used as a primary residence during the current year: ___/___/___ to ___/___/___

Signatures

I certify that the subject property is used as residential property, that the occupants have no other residence, and that the above information is true, correct, and complete. Any misrepresentation on the application may result in criminal fraud charges.

Signature of property owner(s)	Date
X	
X	

Residential Property Declaration

[UCA §59-2-103.5(8)]

This form must be submitted to the County Assessor's office where your new residential property is located within FIVE business days of transfer of title. Failure to do so will result in withdrawal of the primary residential exemption from your residential property.

PT-19A 09/16/19

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Residential Property Owner Information

Property owner(s) name(s):	Home phone:	Work phone:
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Mailing address:

City:	County:	State:	Zip:
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Residential Property Information

Parcel or serial number:

Physical address:

City:	County:	State:	Zip:
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Certification

Yes No Is this property used as a residential property or part-year residential property? ("Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.)

If yes, what are the dates of occupancy by the owner(s) or a tenant? _____ to _____
mm/dd/yyyy mm/dd/yyyy or present

Yes No Does this property receive the primary residential exemption? (a part-year residential property occupied for 183 or more consecutive calendar days in a calendar year by the owner(s) or a tenant is eligible for the exemption)

Yes No Do you own any other property in the state that receives the primary residential exemption? If you answered yes, please complete page two. Please make as many copies of page two as necessary to submit the required information for each other property you own receiving the primary residential exemption.

If a property owner or a property owner's spouse claims a residential exemption under Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the property owner or the property owner's spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner's spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner's spouse.

Signature(s) (This form must be signed by all owners of the property)

Under penalties of perjury, I declare to the best of my knowledge and belief, this declaration and accompanying pages are true, correct and complete.

First owner name First owner signature Date (mm/dd/yyyy)

Second owner name Second owner signature Date (mm/dd/yyyy)

APPELLEE'S APPENDIX 055

Additional Residential Property Information *(please make as many copies as necessary before entering information)*

Parcel or serial number:	Is this property the primary residence of a tenant?: <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------	--

Physical address:

City:	County:	State:	Zip:
-------	---------	--------	------

Parcel or serial number:	Is this property the primary residence of a tenant?: <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------	--

Physical address:

City:	County:	State:	Zip:
-------	---------	--------	------

Parcel or serial number:	Is this property the primary residence of a tenant?: <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------	--

Physical address:

City:	County:	State:	Zip:
-------	---------	--------	------

Parcel or serial number:	Is this property the primary residence of a tenant?: <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------	--

Physical address:

City:	County:	State:	Zip:
-------	---------	--------	------

Parcel or serial number:	Is this property the primary residence of a tenant?: <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------	--

Physical address:

City:	County:	State:	Zip:
-------	---------	--------	------

Parcel or serial number:	Is this property the primary residence of a tenant?: <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------	--

Physical address:

City:	County:	State:	Zip:
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RESPONDENT'S ANSWER TO PETITIONER'S
MOTION FOR SUMMARY DISPOSITION

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Mack C Stirling,
Petitioner,

MICHIGAN TAX TRIBUNAL
SMALL CLAIMS DIVISION

v

MOAHR Docket No. 19-003870

County of Leelanau,
Respondent.

RESPONDENT'S ANSWER TO PETITIONER'S
MOTION FOR SUMMARY DISPOSITION

May it please the Court;

INTRODUCTION

Respondent now answers Petitioner's Motion for Summary Disposition brought under Michigan Court Rule 2.166(C)(10). Leelanau County incorporates all previous arguments, exhibits and evidence submitted to this Court for Docket No. 19-003870, scheduled for telephone hearing February 3 at 2:30pm EST. Leelanau County hereby states the facts listed below, all previously brought by Leelanau County, are agreed upon by the parties based upon petitioner's Motion for Summary Disposition filed under Michigan Court Rule 2.166(C)(10), and that we will stipulate to the facts as outlined below. Leelanau County also stipulates to all material facts put forth by petitioner(s) in their Motion for Summary Disposition.

However, the underlying issue of law remains for this Court to determine: *Is the Utah exemption claimed by the petitioner(s) substantially similar to the Michigan PRE MCL 211.7cc?* Leelanau County asserts that the Utah and Michigan laws are substantially similar and that petitioner's legal argument must fail; therefore, we ask this honorable Court to find against the petitioner(s) in the underlying action and uphold our denial of the Principal Residence Exemption for the years 2016, 2017, 2018 and 2019 for petitioner(s) Mack and Dixie M. Stirling, 10575 S. Monaco Way, Traverse City, MI based upon their violation of MCL 211.7cc(2), (3), (3)(a).

Leelanau County will now outline the facts we stipulate to for petitioner's Motion for Summary Disposition, bring our underlying argument concerning the substantial similarity between the Utah and Michigan primary residence laws, rental property in the two states, and Legislative intent.



FACTS STIPULATED BY RESPONDENT LEELANAU COUNTY

Leelanau County now states that there is no dispute concerning the following facts as written below:

- On 09/12/19 a Principal Residence Exemption (PRE) Denial Notice for the years 2016, 2017, 2018 and 2019 was sent from the Leelanau County Treasurer's Office to Mack and Dixie M. Stirling at 10575 S. Monaco Way, Traverse City, MI 49684 regarding the 100% PRE under MCL 211.7cc for that home, denial based upon MCL 211.7cc(2), (3), (3)(a).
- The parcel number is 45-004-615-015-00, classified 401, school district 28010 in Leelanau County, MI.
- The PRE affidavit for the subject property was signed by both petitioner(s) Mack and Dixie Stirling, dated 02/22/94.
- Petitioner(s) have placed the subject parcel 45-004-615-015-00 into a Ladybird Life Estate by a Quit Claim deed recorded on August 16, 2017.
- Petitioner(s) filed their Michigan taxes as married filing joint for the audited years in question.
- During the years audited, 2016, 2017, 2018 and 2019, at least one if not two Utah parcels were also owned by Dixie M. Stirling (or her LLC, Monaco Bay LLC Trust) in Davis County and Utah County.
- Both properties had the Utah residential property exemption: Utah Code, Title 59, Revenue and Taxation, Chapter 2 Property Tax Act, Part 1 General Provisions; Section 103 Rate of assessment of property – Residential Property (Effective 01/01/2015) when petitioner(s) owned them during the audited years.
- The petitioner(s) benefitted for the 609 N Seven Peaks Blvd, Provo UT address from the Utah residential exemption for the years audited; 2016, 2017, 2018 and 2019.
- The petitioner(s) benefitted for the 3067 S 100 W, Bountiful, UT address from the Utah exemption only for the years 2016 and 2017 because the Bountiful property was sold in 2018 to petitioner's authorized representative in this action, Karla Stirling.
- Petitioner(s) own another Michigan property in Leelanau County receiving a 100% PRE, parcel 45-011-034-029-00 in Suttons Bay township. That parcel has a listed owner of the Dixie M. Stirling Trust, the 2018 Leelanau County taxes were paid directly by petitioner Dixie Stirling. The parcel has a Warrantee Deed recorded 11/24/008, and a Memorandum of Land Contract



recorded on 02/17/09 which was given to Miguel Calderon Gomez and Abigail Garcia Martinez, husband and wife, who completed the PRE affidavit for the Suttons Bay property at that time, as stated by the Suttons Bay assessor, Christy Brow.

STANDARD OF REVIEW

“Tax-exemption statutes are strictly construed in favor of the taxing unit.” *DeKoning v Department of Treasury*, 211 Mich App 359, 361-262; 536 NW2d 321 (1995).

“[It] is a well-settled principle that, when a specific privilege or exemption is claimed under a statute . . . it is to be construed strictly against the property owner and in favor of the public. This principle applies with peculiar force to a claim of exemption from taxation. Exemptions are never presumed; the burden is on a claimant to establish clearly his right to exception . . . In other words . . . taxation is the rule, and exemption the exception. . . .” [Omissions in original.] *Stege v Department of Treasury*, 252 Mich App 13, 189; 651 NW2d 164 (2002).

“[T]he exemption for a “principal residence” is an established class of exemption and, as a result, Petitioner is required to establish the property’s entitlement to that exemption by a preponderance of the evidence” See *ProMed Healthcare v Kalamazoo*, 249 Mich App 490, 494-495; 644 NW2d 47 (2002).

"Because tax exemptions are disfavored, the burden of proving entitlement to an exemption rests on . . . the party asserting the right to the exemption." *Elias Bros Restaurants, Inc v Treasury Dep't*, 452 Mich 144, 150; 549 NW2d 837 (1996).

LAW

Michigan Court Rule 2.166 Summary Disposition states in pertinent part:

Grounds (C)(10): Except as to the amount of damages, *there is no genuine issue as to any genuine issue of material fact, and the moving party is entitled to judgment or partial judgment as a matter of law.*

Affidavits; Hearing. (G)(1)(a)(ii) any response to the motion (including brief and any affidavits) must be filed and served at least 7 days before the hearing.

(G)(4) A motion under subrule (C)(10) must specifically identify the issues as to which moving party believes there is no genuine issue as to any genuine issue of material fact. When a motion under subrule (C)(10) is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his or her pleading, but must, by affidavits or as otherwise provided in this rule,



County of Leelanau

JOHN A. GALLAGHER III
Leelanau County Treasurer

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set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, judgment, if appropriate, shall be entered against him or her. (emphasis added)

Michigan Tax Tribunal Rules: R 792.10225 Motions, in pertinent part:

(4) Written opposition to motions, **other than motions for which a motion for immediate consideration has been filed** or motions for reconsideration, shall be filed within 21 days after service of the motion, unless otherwise provided by the tribunal. (emphasis added)

MCL 211.7cc (2) provides, in pertinent part:

“... an owner of property may claim 1 exemption under this section by filing an affidavit . . .”

MCL 211.7cc (3) also provides, in pertinent part:

(3) Except as otherwise provided in subsection (5), a married couple who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 exemption under this section. For taxes levied after December 31, 2002, **a person is not entitled to an exemption under this section in any calendar year in which any of the following conditions occur:**

(a) That person **has claimed a substantially similar exemption**, deduction, or credit, regardless of amount, on property in another state. Upon request by the department of treasury, the assessor of the local tax collecting unit, the county treasurer or his or her designee, or the county equalization director or his or her designee, a person who claims an exemption under this section shall, within 30 days, file an affidavit on a form prescribed by the department of treasury stating that the person has not claimed a substantially similar exemption, deduction, or credit on property in another state. **A claim for a substantially similar exemption, deduction, or credit in another state occurs at the time of the filing or granting of a substantially similar exemption, deduction, or credit in another state.** (emphasis added) . . . If a person claims an exemption under this section and a substantially similar exemption, deduction, or credit in another state, that person is subject to a penalty of \$500.00. The penalty shall be distributed in the same manner as interest is distributed under subsection (25).

(b) Subject to subdivision (a), that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns.

“When interpreting a statute, the primary rule of construction is to discern and give effect to the Legislature's intent, the most reliable indicator of which is the clear and unambiguous language of the statute.” *Jespersion v Auto Club Ins. Ass'n*, 499 Mich. 29, 34, 878 N.W.2d 799 (2016). “We enforce such language as written, giving effect to every word, phrase, and clause.” *Id.*

“If a tax exemption does exist, it cannot be enlarged by construction inconsistent with the express terms used by the Legislature.” *Stege v Dep't of Treasury*, 252 Mich App 183, 189; 651 NW2d 164 (2002).

Klooster v City of Charlevoix, 488 Mich 289, 295; 795 NW2d 578 (2011)“The primary goal of statutory interpretation is to give effect to the Legislature's intent, focusing first on the statute's plain language.” *Id.* at 296. “The words used by the Legislature in crafting a statute provide us with the most reliable evidence of the Legislature's intent. *Id.*

ANALYSIS

I. Substantially Similar

Leelanau County states that the Utah primary residence exemption 59-2-103 is substantially similar to Michigan's MCL 211.7cc because the underlying intent of the laws are the same. Provide a monetary savings in taxes paid by homeowners for a home's occupancy by a primary resident. The persuasive case in Michigan for discussion of MCL 211.7cc (3)(a) (substantially similar exemptions) is *Levenfeld v County of Berrien*, Mich App No. 300358 (2012) (Unpublished). Leelanau County will now demonstrate how the two laws are substantially similar.

Levenfeld found an Illinois exemption was substantially similar to Michigan's MCL 211.7cc despite the two law's wording not being identical.

[Levenfeld's] argument that the Illinois exemption is not "substantially similar" based on comparative monetary benefit also fails. The Hearing Referee correctly found that the dollar benefit need not be substantially similar. The Illinois exemption is based in statute and is titled General Homestead Exemption. The requirements include *either ownership or lease* with tax liability for residential property and occupancy. There are further limitations for married couples claiming multiple homesteads. *The limitations in MCL 211.7cc (3) cannot be read to mean that (i) the exact requirements or language of the laws*



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must be nearly identical. The underlying concept, an exemption from a portion of property taxation based on establishment of a principal residence, is substantially similar. *Id.* (emphasis added)

In this case, the Utah law petitioner(s) benefitted from is Utah's version of MCL 211.7cc, Utah Tax Code 59-2-103. Utah residential properties serving as a person's primary residence receive an exemption of 45% off the fair market value. As a result, the taxable value is only 55% of fair market value. Tax rates are applied to the taxable value to determine the property tax due. The owner needs to apply with the county assessor to receive the exemption, and must rescind the exemption if they no longer qualify. *The exemption applies regardless of whether the primary resident is an owner or a tenant.* The residential exemption is limited to one primary residence per household. If a household occupies more than one residence during a given year, the assessor determines which one qualifies as the primary residence under Administrative Rule R884-24P-52.

We ask this Court to please refer to attached exhibit H for that Rule, as well as pertinent portions of Utah code 59-2-103; 59-2-10.5(procedures to obtain); 59-2-102(definitions) and 59-2-1-3.5(8)(residential property declaration/application). As owner of the Utah properties, it is uncontroverted that petitioner(s) benefitted from Utah's primary residence tax exemption law.

Leelanau county asserts that the violation of MCL 211.7cc arose because petitioner(s) benefitted from both Michigan and Utah exemptions for the tax years at issue, and that they are substantially similar. A compare and contrast of the two laws will reveal the numerous ways they are similar:

- The Utah exemption reduces the taxable values by 45%; which is broader than the up to 18-millage point reduction in MI. Both laws provide an exemption from a portion of property taxes.
- the Utah exemption applies regardless of whether the resident is an owner or a [long-term] tenant, which is broader than strictly owner-occupied for MCL 211.7cc. (see rental discussion below)
- Both laws required the home be used as a primary or principal residence
- Both laws allow the owner himself to have one primary or principal residence.
- the Utah exemption does not apply to "transient" tenant occupied property, MCL 211.7cc does not apply to 100% tenant occupied properties. (see rental discussion below)
- both laws apply to owner-occupied property.
- both laws reduce the owner's property tax rate.
- both laws must be applied for and/or granted.



- both laws require the owner to rescind the exemption if they no longer qualify, and
- both laws may be denied by the taxing authority.

Leelanau County states that the Utah primary residence exemption 59-2-103 is substantially similar to Michigan’s MCL 211.7cc.

II. Rental Property

a) Short-term v Long-term

Both state’s tax law schemes have a distinction between long-term tenant use and short-term tenant use, but the two apply their laws differently. As this Court is aware, full rental use of real property in Michigan is considered commercial in nature, as the owner benefits monetarily by collecting rent. Under *Eager v Peasley*, 322 Mich. App 174, 911 NW2d 470 (2017), followed by *Reaume v Township of Spring Lake*, Mich. App No. 341654, (2019), Michigan courts are extending that commercial finding to short-term rental use as it effects PRE status. Partial short-term rental use by owners with Principal Residence Exemptions is an area of unsettled law in Michigan, current thought seems to be shifting from applying the number of days rented toward the validity of a PRE, to applying the percentage of square footage rented. Thus, a person who rents out 100% of their home to short-term renters for any amount of time would be using 100% of their home for commercial use, shifting the focus of PRE applicability. Townships in Michigan have sporadically written vastly differing ordinances covering short-term rental use, but current state legislation does not address the situation adequately for uniform application of MCL 211.7cc.

The state of Utah chills the effect of short-term rental use - their primary resident exemption does not apply and additional taxes are levied. They classify occupancy by short-term renters as “transient” tenants, labeling the homes as “tourist homes” similar to hotels, and charging sales and use taxes. Utah short-term classification is similar to the classification by Michigan as commercial use. See exhibit I for a current Utah publication discussing tax information for “lodging providers”.

Alternately, to encourage the benefits of long-term tenants, Utah broadens their primary resident exemption to owners of homes occupied by a long-term tenant. *The exemption applies regardless of whether the primary resident is an owner or a tenant.* Utah apparently encourages the stability that “primary” residential use provides to neighborhoods, thus rewards “primary” use with Utah code 59-2-103. It is well documented that homes occupied by long-term residents benefit neighborhoods immeasurably, versus short-term, “transient” occupants.

b) Renaissance Zones

The petitioner's analogy of MCL 211.7ff to the Bountiful and Provo Utah rental properties is a misapplication of law. Leelanau County states that MCL 211.7ff irrelevant to this case because Renaissance Zones, a designation from the Michigan Renaissance Zone Act 376 of 1996, currently apply to eleven regions in Michigan, none of which apply to this action or are located in Leelanau County. It is a program designed to provide an incentive to spur new jobs and investment in blighted areas of Michigan, and does not broadly apply to provide tax exemptions to rental property in Michigan as petitioner implies in their Motion for Summary Disposition brief.

III. Legislative Intent

The petitioner's conclusion that the Michigan Legislature never intended to disallow exemptions for other properties under MCL 211.7cc is a misapplication of law based upon petitioner's assumption that MCL 211.7cc and Utah code 59-2-103 are dissimilar; and a misapplication of MCL 211.7ff as discussed above. The plain, clear and unambiguous language of MCL 211.7cc is easily interpreted by case law, and *Levenfeld* is persuasive to this action. Michigan legislature intends for a person in Michigan to benefit from one tax exemption for homes owned and occupied as principal or primary residences, including homes owned out of state. Limited work arounds for that intention do exist, up to and including the filing of separate tax returns for married couples, which is plainly stated within the statute itself.

MCL 211.7cc (3)(b) Subject to subdivision (a), that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, **unless that person and his or her spouse file separate income tax returns.** (emphasis added)

Petitioner(s) benefit from one such work around, with their Memorandum of Land Contract on parcel 45-011-034-029-00 in Suttons Bay township that petitioner continues to pay taxes on, but the persons occupying the property have claimed the PRE. No property transfer affidavit is on file for that parcel. So, the argument that Leelanau County needs to provide statute, case law or other authority arguing against petitioner's ability to benefit from other exemptions for this case could be considered mute.



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As clearly outlined: *Klooster v City of Charlevoix*, 488 Mich 289, 295; 795 NW2d 578 (2011) "The primary goal of statutory interpretation is to give effect to the Legislature's intent, focusing first on the statute's plain language." *Id* at 296. "The words used by the Legislature in crafting a statute provide us with the most reliable evidence of the Legislature's intent. *Id*.

And: **MCL 211.7cc (2)**

"... an owner of property may claim 1 exemption under this section by filing an affidavit ..."

CONCLUSION

The facts listed within this Respondent's Answer to Petitioner's Motion for Summary Disposition, which was filed under Michigan Court Rule 2.166(C)(10), are agreed upon by the parties and Leelanau County does now stipulate to facts as outlined within this Answer, and incorporates all facts presented to this Court by Respondent's previous submissions to MOAHR Docket No. 19-003870. Leelanau County also stipulates to all material facts put forth by petitioner(s) in their Motion for Summary Disposition.

However, for the underlying legal issue, Leelanau County asserts that the Utah and Michigan laws are substantially similar and that petitioner's legal argument must fail; therefore, we ask this honorable Court to find against the petitioner(s) in the underlying action and uphold our denial of the Principal Residence Exemption for the tax years 2016, 2017, 2018 and 2019 for petitioner(s) Mack and Dixie M. Stirling, 10575 S. Monaco Way, Traverse City, MI based upon their violation of MCL 211.7cc(2), (3), (3)(a) for 2016, 2017, 2018 and 2019.

Date: 1/7/20

Signed: John A. Gallagher III
John A. Gallagher III, Leelanau County Treasurer

#

R884. Tax Commission, Property Tax.**R884-24P. Property Tax.****R884-24P-52. Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102, 59-2-103, and 59-2-103.5.**

- (1) "Household" is as defined in Section 59-2-102.
- (2) "Primary residence" means the location where domicile has been established.
- (3) Except as provided in Subsections (4) and (6)(c) and (f), the residential exemption provided under Section 59-2-103 is limited to one primary residence per household.
- (4) An owner of multiple properties may receive the residential exemption on all properties for which the property is the primary residence of the tenant.
- (5) Factors or objective evidence determinative of domicile include:
 - (a) whether or not the individual voted in the place he claims to be domiciled;
 - (b) the length of any continuous residency in the location claimed as domicile;
 - (c) the nature and quality of the living accommodations that an individual has in the location claimed as domicile as opposed to any other location;
 - (d) the presence of family members in a given location;
 - (e) the place of residency of the individual's spouse or the state of any divorce of the individual and his spouse;
 - (f) the physical location of the individual's place of business or sources of income;
 - (g) the use of local bank facilities or foreign bank institutions;
 - (h) the location of registration of vehicles, boats, and RVs;
 - (i) membership in clubs, churches, and other social organizations;
 - (j) the addresses used by the individual on such things as:
 - (i) telephone listings;
 - (ii) mail;
 - (iii) state and federal tax returns;
 - (iv) listings in official government publications or other correspondence;
 - (v) driver's license;
 - (vi) voter registration; and
 - (vii) tax rolls;
 - (k) location of public schools attended by the individual or the individual's dependents;
 - (l) the nature and payment of taxes in other states;
 - (m) declarations of the individual:
 - (i) communicated to third parties;
 - (ii) contained in deeds;
 - (iii) contained in insurance policies;
 - (iv) contained in wills;
 - (v) contained in letters;
 - (vi) contained in registers;
 - (vii) contained in mortgages; and
 - (viii) contained in leases.
 - (n) the exercise of civil or political rights in a given location;
 - (o) any failure to obtain permits and licenses normally required of a resident;
 - (p) the purchase of a burial plot in a particular location;
 - (q) the acquisition of a new residence in a different location.
- (6) Administration of the Residential Exemption.

(a) Except as provided in Subsections (6)(b), (d), and (e), the first one acre of land per residential unit shall receive the residential exemption.

(b) If a parcel has high density multiple residential units, such as an apartment complex or a mobile home park, the amount of land, up to the first one acre per residential unit, eligible to receive the residential exemption shall be determined by the use of the land. Land actively used for residential purposes qualifies for the exemption.

(c) If the county assessor determines that a property under construction will qualify as a primary residence upon completion, the property shall qualify for the residential exemption while under construction.

(d) A property assessed under the Farmland Assessment Act shall receive the residential exemption only for the homesite.

(e) A property with multiple uses, such as residential and commercial, shall receive the residential exemption only for the percentage of the property that is used as a primary residence.

(f) If the county assessor determines that an unoccupied property will qualify as a primary residence when it is occupied, the property shall qualify for the residential exemption while unoccupied.

(g)(i) An application for the residential exemption required by an ordinance enacted under Section 59-2-103.5 shall contain the following information for the specific property for which the exemption is requested:

(A) the owner of record of the property;

(B) the property parcel number;

(C) the location of the property;

(D) the basis of the owner's knowledge of the use of the property;

(E) a description of the use of the property;

(F) evidence of the domicile of the inhabitants of the property; and

(G) the signature of all owners of the property certifying that the property is residential property.

(ii) The application under Subsection (6)(g)(i) shall be:

(A) on a form provided by the county; or

(B) in a writing that contains all of the information listed in Subsection (6)(g)(i).

KEY: taxation, personal property, property tax, appraisals

Effective: December 8, 2009

Effective 1/1/2015

59-2-103 Rate of assessment of property -- Residential property.

- (1) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.
- (2) Subject to Subsections (3) through (5) and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.
- (3) Part-year residential property located within the state is allowed the residential exemption described in Subsection (2) if the part-year residential property is used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption.
- (4) No more than one acre of land per residential unit may qualify for the residential exemption described in Subsection (2).
- (5)
 - (a) Except as provided in Subsection (5)(b)(ii), a residential exemption described in Subsection (2) is limited to one primary residence per household.
 - (b) An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection (2) for:
 - (i) subject to Subsection (5)(a), the primary residence of the owner; and
 - (ii) each residential property that is the primary residence of a tenant.

Amended by Chapter 65, 2014 General Session

Effective 5/14/2019**59-2-103.5 Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption -- Declaration for calendar year 2019.**

- (1) Subject to Subsection (8), for residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before a residential exemption under Section 59-2-103 may be applied to the value of the residential property if:
- (a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential exemption applied to the value of the residential property;
 - (b) an ownership interest in the residential property changes; or
 - (c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.
- (2)
- (a) The application described in Subsection (1) shall:
 - (i) be on a form the commission prescribes by rule and makes available to the counties;
 - (ii) be signed by all of the owners of the residential property;
 - (iii) certify that the residential property is residential property; and
 - (iv) contain other information as the commission requires by rule.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the contents of the form described in Subsection (2)
 - (a).
- (3)
- (a) Regardless of whether a county legislative body adopts an ordinance described in Subsection (1), before a residential exemption may be applied to the value of part-year residential property, an owner of the property shall:
 - (i) file the application described in Subsection (2)(a) with the county board of equalization; and
 - (ii) include as part of the application described in Subsection (2)(a) a statement that certifies:
 - (A) the date the part-year residential property became residential property;
 - (B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and
 - (C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.
 - (b) An owner may not obtain a residential exemption for part-year residential property unless the owner files an application under this Subsection (3) on or before November 30 of the calendar year for which the owner seeks to obtain the residential exemption.
 - (c) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee of not to exceed \$50.
- (4) Except as provided in Subsection (5), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, the property owner shall:

- (a) file a written statement with the county board of equalization of the county in which the property is located:
 - (i) on a form provided by the county board of equalization; and
 - (ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and
 - (b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence.
- (5) A property owner is not required to file a written statement or make the declaration described in Subsection (4) if the property owner:
- (a) changes primary residences;
 - (b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and
 - (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.
- (6) Subsections (2) through (5) do not apply to qualifying exempt primary residential rental personal property.
- (7)
- (a) Subject to Subsection (8), for the first calendar year in which a property owner qualifies to receive a residential exemption under Section 59-2-103, a county assessor may require the property owner to file a signed statement described in Section 59-2-306.
 - (b) Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the property owner to certify, under penalty of perjury, that the property owner qualifies for the exemption under Subsection 59-2-1115(2).
- (8)
- (a) Subject to the requirements of this Subsection (8) and except as provided in Subsection (8)(c), on or before May 1, 2020, a county assessor shall:
 - (i) notify each owner of residential property that the owner is required to submit a written declaration described in Subsection (8)(b) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(a); and
 - (ii) provide each owner with a form described in Subsection (8)(e) to make the written declaration described in Subsection (8)(b).
 - (b) Each owner of residential property that receives a notice described in Subsection (8)(a) shall file a written declaration with the county assessor under penalty of perjury:
 - (i) certifying whether the property is residential property or part-year residential property;
 - (ii) certifying whether during any portion of the current calendar year, the property receives a residential exemption under Section 59-2-103; and
 - (iii) certifying whether the property owner owns other property in the state that receives a residential exemption under Section 59-2-103, and if so, listing:
 - (A) the parcel number of the property;
 - (B) the county in which the property is located; and

- (C) whether the property is the primary residence of a tenant.
- (c) A county assessor is not required to provide a notice to an owner of residential property under Subsection (8)(a) if the situs address of the residential property is the same as any one of the following:
- (i) the mailing address of the residential property owner or the tenant of the residential property;
 - (ii) the address listed on the:
 - (A) residential property owner's driver license; or
 - (B) tenant of the residential property's driver license; or
 - (iii) the address listed on the:
 - (A) residential property owner's voter registration; or
 - (B) tenant of the residential property's voter registration.
- (d) If an ownership interest in residential property changes, the new owner of the residential property, at the time title to the property is transferred to the new owner, shall make a written declaration under penalty of perjury:
- (i) certifying whether the property is residential property or part-year residential property;
 - (ii) certifying whether the property receives a residential exemption under Section 59-2-103; and
 - (iii) certifying whether the property owner owns other property in the state that receives a residential exemption under Section 59-2-103, and if so, listing:
 - (A) the parcel number of the property;
 - (B) the county in which the property is located; and
 - (C) whether the property is the primary residence of a tenant.
- (e) The declaration required by Subsection (8)(b) or (d) shall:
- (i) be on a form the commission prescribes and makes available to the counties;
 - (ii) be signed by all of the owners of the property; and
 - (iii) include the following statement:

"If a property owner or a property owner's spouse claims a residential exemption under Utah Code Ann. §59-2-103 for property in this state that is the primary residence of the property owner or the property owner's spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner's spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner's spouse."
- (f) The written declaration made under Subsection (8)(d) shall be remitted to the county assessor of the county where the property described in Subsection (8)(d) is located within five business days of the title being transferred to the new owner.
- (g)
- (i) If, after receiving a written declaration filed under Subsection (8)(b) or (d), the county determines that the property has been incorrectly qualified or disqualified to receive a residential exemption, the county shall:
 - (A) redetermine the property's qualification to receive a residential exemption; and
 - (B) notify the claimant of the redetermination and its reason for the redetermination.
 - (ii) The redetermination provided in Subsection (8)(g)(i)(A) shall be final unless appealed within 30 days after the notice required by Subsection (8)(g)(i)(B).
- (h)
- (i) If a residential property owner fails to file a written declaration required by Subsection (8)(b) or (d), the county assessor shall mail to the owner of the residential property a notice that:

- (A) the property owner failed to file a written declaration as required by Subsection (8)(b) or (d); and
- (B) the property owner will no longer qualify to receive the residential exemption authorized under Section 59-2-103 for the property that is the subject of the written declaration if the property owner does not file the written declaration required by Subsection (8)(b) or (d) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(h)(i).
- (ii) If a property owner fails to file a written declaration required by Subsection (8)(b) or (d) after receiving the notice described in Subsection (8)(h)(i), the property owner no longer qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar year for the property that is the subject of the written declaration.
- (iii) A property owner that is disqualified to receive the residential exemption under Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether the owner is eligible to receive the residential exemption.
- (i) The requirements of this Subsection (8) do not apply to a county assessor in a county that has, for the five calendar years prior to 2019, had in place and enforced an ordinance described in Subsection (1).

Amended by Chapter 323, 2019 General Session

Effective 5/8/2018**59-2-102 Definitions.**

As used in this chapter and title:

- (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.
- (2) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.
- (3) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.
- (4) "Aircraft" means the same as that term is defined in Section 72-10-102.
- (5)
 - (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:
 - (i) operates:
 - (A) on an interstate route; and
 - (B) on a scheduled basis; and
 - (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.
 - (b) "Airline" does not include an:
 - (i) air charter service; or
 - (ii) air contract service.
- (6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.
- (7) "Base parcel" means a parcel of property that was legally:
 - (a) subdivided into two or more lots, parcels, or other divisions of land; or
 - (b)
 - (i) combined with one or more other parcels of property; and
 - (ii) subdivided into two or more lots, parcels, or other divisions of land.
- (8)
 - (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:
 - (i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and
 - (ii) the product of:
 - (A) eligible new growth, as defined in Section 59-2-924; and
 - (B) the multicounty assessing and collecting levy certified by the commission for the previous year.
 - (b) For purposes of this Subsection (8), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:
 - (i) assessed by a county assessor in accordance with Part 3, County Assessment; and
 - (ii) semiconductor manufacturing equipment.
 - (c) For purposes of calculating the certified revenue levy described in this Subsection (8), the commission shall use:

- (i) the taxable value of real property assessed by a county assessor contained on the assessment roll;
 - (ii) the taxable value of real and personal property assessed by the commission; and
 - (iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.
- (9) "County-assessed commercial vehicle" means:
- (a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;
 - (b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and
 - (c) vehicles that are:
 - (i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;
 - (ii) used or licensed as taxicabs or limousines;
 - (iii) used as rental passenger cars, travel trailers, or motor homes;
 - (iv) used or licensed in this state for use as ambulances or hearses;
 - (v) especially designed and used for garbage and rubbish collection; or
 - (vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.
- (10)
- (a) Except as provided in Subsection (10)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:
 - (i) a county; and
 - (ii) a school district.
 - (b) "Designated tax area" includes a tax area created by the overlapping boundaries of the taxing entities described in Subsection (10)(a) and:
 - (i) a city or town if the boundaries of the school district under Subsection (10)(a) and the boundaries of the city or town are identical; or
 - (ii) a special service district if the boundaries of the school district under Subsection (10)(a) are located entirely within the special service district.
- (11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:
- (a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and
 - (b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:
 - (i) \$5,000; or
 - (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.
- (12)
- (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:
 - (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;
 - (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

- (iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.
- (b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.
- (13) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.
- (14)
 - (a) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.
 - (b) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.
- (15) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.
- (16) "Geothermal resource" means:
 - (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and
 - (b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.
- (17)
 - (a) "Goodwill" means:
 - (i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or
 - (ii) the ability of a business to:
 - (A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (17)(b); or
 - (B) obtain an economic or competitive advantage resulting from a factor described in Subsection (17)(b).
 - (b) The following factors apply to Subsection (17)(a)(ii):
 - (i) superior management skills;
 - (ii) reputation;
 - (iii) customer relationships;
 - (iv) patronage; or
 - (v) a factor similar to Subsections (17)(b)(i) through (iv).
 - (c) "Goodwill" does not include:
 - (i) the intangible property described in Subsection (21)(a) or (b);
 - (ii) locational attributes of real property, including:
 - (A) zoning;
 - (B) location;
 - (C) view;

- (D) a geographic feature;
 - (E) an easement;
 - (F) a covenant;
 - (G) proximity to raw materials;
 - (H) the condition of surrounding property; or
 - (I) proximity to markets;
 - (iii) value attributable to the identification of an improvement to real property, including:
 - (A) reputation of the designer, builder, or architect of the improvement;
 - (B) a name given to, or associated with, the improvement; or
 - (C) the historic significance of an improvement; or
 - (iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.
- (18) "Governing body" means:
- (a) for a county, city, or town, the legislative body of the county, city, or town;
 - (b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;
 - (c) for a school district, the local board of education; or
 - (d) for a special service district under Title 17D, Chapter 1, Special Service District Act:
 - (i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or
 - (ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.
- (19)
- (a) For purposes of Section 59-2-103:
 - (i) "household" means the association of individuals who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and
 - (ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."
- (20)
- (a) Except as provided in Subsection (20)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:
 - (i)
 - (A) attachment to land is essential to the operation or use of the item; and
 - (B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or
 - (ii) removal of the item would:
 - (A) cause substantial damage to the item; or
 - (B) require substantial alteration or repair of a structure to which the item is attached.
 - (b) "Improvement" includes:
 - (i) an accessory to an item described in Subsection (20)(a) if the accessory is:
 - (A) essential to the operation of the item described in Subsection (20)(a); and
 - (B) installed solely to serve the operation of the item described in Subsection (20)(a); and

- (ii) an item described in Subsection (20)(a) that is temporarily detached from the land for repairs and remains located on the land.
- (c) "Improvement" does not include:
 - (i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;
 - (ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;
 - (iii)
 - (A) manufacturing equipment and machinery; or
 - (B) essential accessories to manufacturing equipment and machinery;
 - (iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or
 - (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.
- (21) "Intangible property" means:
 - (a) property that is capable of private ownership separate from tangible property, including:
 - (i) money;
 - (ii) credits;
 - (iii) bonds;
 - (iv) stocks;
 - (v) representative property;
 - (vi) franchises;
 - (vii) licenses;
 - (viii) trade names;
 - (ix) copyrights; and
 - (x) patents;
 - (b) a low-income housing tax credit;
 - (c) goodwill; or
 - (d) a renewable energy tax credit or incentive, including:
 - (i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;
 - (ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;
 - (iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
 - (iv) a tax credit under Subsection 59-7-614(5).
- (22) "Livestock" means:
 - (a) a domestic animal;
 - (b) a fish;
 - (c) a fur-bearing animal;
 - (d) a honeybee; or
 - (e) poultry.
- (23) "Low-income housing tax credit" means:
 - (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or
 - (b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.
- (24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- (25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

- (26) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.
- (27)
- (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:
- (i) is capable of flight or is attached to an aircraft that is capable of flight; or
 - (ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:
 - (A) during multiple flights;
 - (B) during a takeoff, flight, or landing; and
 - (C) as a service provided by an air charter service, air contract service, or airline.
- (b)
- (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.
 - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."
- (28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.
- (29) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.
- (30) "Personal property" includes:
- (a) every class of property as defined in Subsection (31) that is the subject of ownership and is not real estate or an improvement;
 - (b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;
 - (c) bridges and ferries;
 - (d) livestock; and
 - (e) outdoor advertising structures as defined in Section 72-7-502.
- (31)
- (a) "Property" means property that is subject to assessment and taxation according to its value.
 - (b) "Property" does not include intangible property as defined in this section.
- (32) "Public utility" means:
- (a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and
 - (b) the operating property of any entity or person defined under Section 54-2-1 except water corporations.
- (33)
- (a) Subject to Subsection (33)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:
- (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;
 - (ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and
 - (iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (33) and Subsection (36).
- (34) "Real estate" or "real property" includes:
- (a) the possession of, claim to, ownership of, or right to the possession of land;
 - (b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and
 - (c) improvements.
- (35)
- (a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.
 - (b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.
- (36)
- (a) Subject to Subsection (36)(b), "residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.
 - (b) Subject to Subsection (36)(c), "residential property":
 - (i) except as provided in Subsection (36)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:
 - (A) used exclusively within a dwelling unit that is the primary residence of a tenant; and
 - (B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and
 - (ii) does not include property used for transient residential use.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (33) and this Subsection (36).
- (37) "Split estate mineral rights owner" means a person that:
- (a) has a legal right to extract a mineral from property;
 - (b) does not hold more than a 25% interest in:
 - (i) the land surface rights of the property where the wellhead is located; or
 - (ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;
 - (c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and
 - (d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.
- (38)
- (a) "State-assessed commercial vehicle" means:
 - (i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or
 - (ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.
 - (b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection (9)(c) as county-assessed commercial vehicles.

- (39) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.
- (40) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.
- (41) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.
- (42) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.
- (43)
 - (a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.
 - (b) "Tax roll" includes tax books, tax lists, and other similar materials.

Amended by Chapter 415, 2018 General Session

Amended by Chapter 456, 2018 General Session

Residential Property Declaration

[UCA §59-2-103.5(8)]

This form must be returned to the County Assessor's office within 30 days of mailing. Failure to do so will result in withdrawal of the primary residential exemption from your residential property.

PT-19B 06/13/19

Residential Property Owner Information

Property owner(s) name(s):	Home phone:	Work phone:
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Mailing address:

City:	County:	State:	Zip:
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Residential Property Information

Parcel or serial number:

Physical address:

City:	County:	State:	Zip:
-------	---------	--------	------

Certification

Yes No Is this property used as a residential property or part-year residential property?

If **yes**, what are the dates of occupancy by the owner(s) or a tenant? _____ to _____
mm/dd/yyyy mm/dd/yyyy or present

Yes No Did this property, during any portion of the current calendar year, receive the primary residential exemption?

Yes No Do you own any other property in the state that receives the primary residential exemption? *If you answered yes, please complete page two. Please make as many copies of page two as necessary to submit the required information for each other property you own receiving the primary residential exemption.*

If a property owner or a property owner's spouse claims a residential exemption under Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the property owner or the property owner's spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner's spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner's spouse.

Signature(s) *(This form must be signed by all owners of the property)*

Under penalties of perjury, I declare to the best of my knowledge and belief, this declaration and accompanying pages are true, correct and complete.

First owner name	First owner signature	Date (mm/dd/yyyy)
------------------	-----------------------	-------------------

Second owner name	Second owner signature	Date (mm/dd/yyyy)
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Additional Residential Property Information *(please make as many copies as necessary before entering information)*

Parcel or serial number:	Is this property the primary residence of a tenant?: <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------	--

Physical address:

City:	County:	State:	Zip:
-------	---------	--------	------

Parcel or serial number:	Is this property the primary residence of a tenant?: <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------	--

Physical address:

City:	County:	State:	Zip:
-------	---------	--------	------

Parcel or serial number:	Is this property the primary residence of a tenant?: <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------	--

Physical address:

City:	County:	State:	Zip:
-------	---------	--------	------

Parcel or serial number:	Is this property the primary residence of a tenant?: <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------	--

Physical address:

City:	County:	State:	Zip:
-------	---------	--------	------

Parcel or serial number:	Is this property the primary residence of a tenant?: <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------	--

Physical address:

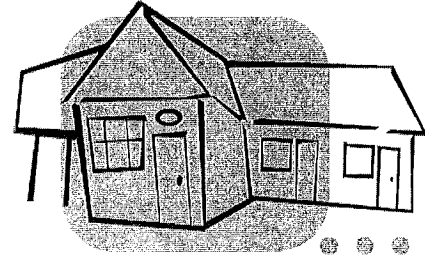
City:	County:	State:	Zip:
-------	---------	--------	------

Parcel or serial number:	Is this property the primary residence of a tenant?: <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------	--

Physical address:

City:	County:	State:	Zip:
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Sales Tax Information for Lodging Providers



Utah State Tax Commission

210 North 1950 West
Salt Lake City, Utah 84134
801-297-2200
1-800-662-4335
tax.utah.gov

If you need an accommodation under the Americans with Disabilities Act, email taxada.utah.gov, or call 801-297-3811, or TDD 801-297-2020. Please allow three working days for a response.

Introduction

This publication provides sales tax information for lodging providers. See publication 25 for general sales and use tax information.

Tax Commission publications are reference tools. They are not all-inclusive and should not be used as legal references.

Tax laws may change due to legislative action. Changes to law will supersede information in this publication.

Transient Room Tax

Amounts paid for temporary lodging are subject to both sales tax and transient room tax. Report sales tax on TC-62M or TC-62S, and report transient room tax on TC-62T.

Temporary lodging is the use of accommodations in a hotel, motel, inn, tourist home, trailer court or campground (or similar accommodation) for less than 30 consecutive days.

Rooms and suites not used for lodging, such as convention halls or meeting rooms, are not subject to sales tax or transient room tax.

Lodging stays of 30 consecutive days or longer are exempt from sales tax and transient room tax.

Who Imposes the Transient Room Tax

The transient room tax rate for a location may be a combination of the five following rates:

1. Utah imposes a statewide tax on temporary lodging of 0.32 percent.
2. Counties may impose a county-wide tax on temporary lodging of up to 4.25 percent.
3. Cities and towns may impose tax on temporary lodging of up to 1 percent.

4. Cities and towns that meet certain requirements may impose an additional transient room tax of up to 0.5 percent on temporary lodging.
5. Salt Lake County imposes an extra tourism tax on temporary lodging of 0.5 percent.

Find current tax rates online at tax.utah.gov/sales/rates.

Operations of Lodging Providers

Consumable Items

Temporary lodging providers may purchase consumable items exempt from sales tax if the items are:

1. used by their guests; and
2. included in the full sales price for the accommodation (not stated separately on the invoice).

Examples of consumable items include: meals, snacks, beverages, brushes, combs, hair care products, cosmetics, makeup, nail polish remover, lotion, shower caps, soap, toilet paper, toothbrushes, toothpaste, mouthwash, saline solution, razors, shaving cream, newspapers, magazines, notepads, pens, pencils, sewing kits, shoe shine kits, and similar items.

Consumable items **do NOT include**:

1. tangible personal property that is cleaned for reuse (e.g., towels and linens), or
2. products transferred electronically.

Taxable Sales and Services

Sales or rentals of tangible personal property, such as gift shop sales, are subject to sales tax.

The following table shows common fees lodging providers charge guests. Although most of the fees are subject to sales and use tax, not all are subject to transient room taxes.

Fees	Sales & Use Tax	Transient Room Tax
Additional room service	Taxable	Taxable
Admission to exercise facilities	Taxable	Not Taxable
Attrition	Taxable (see A. below)	Taxable (see A. below)
Cancellation (less than room amount)	Not Taxable (see A. below)	Not Taxable (see A. below)
Childcare charges	Not Taxable	Not Taxable
Cleaning fees	Taxable	Taxable
Complimentary meals or beverages	Not Taxable	Not Taxable
Concierge fee	Not Taxable	Not Taxable
Copy charges	Taxable	Not Taxable
Damage fees	Taxable	Taxable
Dry Cleaning	Taxable	Not Taxable
Energy surcharges	Taxable	Taxable
Equipment rental	Taxable	Not Taxable
Fax receiving	Taxable	Not Taxable
Fax sending	Not Taxable	Not Taxable
Front desk labor fee	Taxable	Taxable
Groceries and related service fees (mini bar item charges)	Taxable	Not Taxable
Ground transportation/transfers	Not Taxable	Not Taxable
Guest and owner miscellaneous request items	Taxable	Taxable
Hot tub fees	Taxable	Taxable
Interstate telephone charges	Not Taxable	Not Taxable
Late payment fee	Not Taxable	Not Taxable
Laundry/dry cleaning service	Taxable	Not Taxable
Lockout/lost key fee	Not Taxable	Not Taxable
Meeting rooms	Not Taxable	Not Taxable
No show (full room amount)	Taxable (see A. below)	Taxable (see A. below)
Parking fees	Not Taxable	Not Taxable
Pet fees	Taxable	Taxable
Prepaid calling cards	Taxable	Not Taxable
Reservation change fee	Taxable	Taxable
Reservation fee	Taxable	Taxable
Resort fee	Taxable	Taxable
Rollaway bed and cribs	Taxable	Taxable
Room charges/rentals 30 consecutive days and longer	Not Taxable	Not Taxable
Room charges/rentals less than 30 consecutive days	Taxable	Taxable
Safe and safety deposit box rentals	See B. below	Not Taxable
Shipping charges (FedEx, etc.)	Not Taxable	Not Taxable
Sundry items sold	Taxable	Not Taxable

Fees	Sales & Use Tax	Transient Room Tax
Telephone charges markup	Taxable (see C. below)	Not Taxable
Tickets to ski or gain admission to events	Taxable (see D. below)	Not Taxable
Tips for staff (mandatory)	Taxable	Taxable
Tips for staff (voluntary tips not listed on invoice)	Not Taxable	Not Taxable
Vending machine sales	Taxable	Not Taxable
Video/movie/pay-per-view (assisted by lodging staff) charges	Taxable	Not Taxable
Video/movie/pay-per-view (accessed by guests without any assistance from lodging staff) charges	Not Taxable	Not Taxable

- A. When guests do not occupy a room and are charged an amount less than the room rate, the charge is not subject to sales or transient room taxes. When guests are charged the full room rate (whether they occupy it or not), the charge is subject to sales and transient room taxes. A deposit not directly related to the room charge is not subject to sales or transient room taxes.
- B. Safe and safety deposit box charges are subject to sales tax if the boxes are tangible personal property. The rental is not subject to sales tax if the boxes are real property. See Pub 42 for definitions.
- C. Telephone service providers collect the tax for local and instate long distance calls. However, any markup of these calls by lodging providers is subject to sales tax. Long distance interstate calls are not subject to sales tax.
- D. Sales tax is usually collected by the third-party provider (resort, theater, etc.).

Exempt Sales and Services

Charges to Owner from Manager

Charges to property owners by property managers are not subject to sales tax or transient room tax. These charges include: interstate telephone charges, housekeeping, shipping charges (FedEx, etc.), administrative labor, DSL installation, late payment fees, hot tub fees, smoking and pet fees (cost of damages pass through), commission fees, credit card fees and check-in fees for non-paying guests.

Government

Federal Government Agencies

Sales to federal governmental agencies are exempt from sales tax and transient room tax if the buyer provides the seller proof of exemption that includes one of the following:

- an exemption certificate (form TC-721G)
- a purchase order
- an invoice or check issued by a government agency

U.S. Dept. of the Interior

U.S. Department of the Interior (DOI) bureaus are treated differently than other federal agencies. DOI bureaus that centrally bill travel expenses include: Bureau of Indian Affairs, Bureau of Reclamation, U.S. Geological Survey, Minerals Management Service, Office of Special Trust, Office of Surface Mining, Office of the Secretary and National Business Center.

The travel expenses of DOI bureau employees are exempt from sales tax if the employee provides the seller with a valid exemption certificate (form TC-721G) or uses a DOI

JPMorgan-Chase MasterCard with beginning numbers of 5568 26. The DOI credit card is embossed with the employee's name, the words *U.S. Department of the Interior*, and the DOI tax-exempt ID number. If the employee uses a DOI credit card, the lodging provider must keep a copy of the credit card.

Foreign Diplomats

Lodging related sales to foreign diplomats are exempt from sales tax and transient room tax, at the point of sale, if the buyer has a diplomatic tax exemption card issued by the United States or American Institute in Taiwan, and provides the seller with a valid exemption certificate (form TC-721G) and copy of tax exemption card.

Utah Government Agencies

Lodging-related sales to Utah government agencies are taxable at the point of sale. Qualifying agencies must request a refund of the tax from the Tax Commission. Employee purchases that are reimbursed by the government agency do not qualify for refund. Refund claims may not be made more frequently than monthly.

Religious and Charitable Institutions

Qualifying religious and charitable institutions must have an exemption number issued by the Tax Commission. Tax is paid at the time of purchase on all amounts under \$1,000, unless the institution has an exemption certificate and written contract on file with the lodging provider. If the sale is \$1,000 or more, the institution may use an exemption certificate to pay for lodging without paying tax. Otherwise, all sales are taxable and the institution must request a refund of the tax from the Tax Commission.

Monthly Rentals

Charges for stays of 30 consecutive days or longer are exempt from sales and use tax and all sales-related taxes.

Trades or Bartering

A trade involving lodging does not create an exempt trade because lodging is not tangible personal property. Complimentary rooms are not taxable because there is no charge.

Admissions Charges

Admissions and user fees for any amusement, entertainment, recreation, exhibition, cultural or athletic activity are subject to Utah sales tax.

Taxable activities include, but are not limited to, admissions and user fees for: theaters, movies, operas, museums, planetariums, shows, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing and wrestling matches, closed-circuit television broadcasts, billiard or pool parlors, bowling lanes, golf and miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, and horseback rides.

Exceptions

Admissions and user fees include season passes, but do not include annual membership dues paid to a private organization whose members, directly or indirectly, establish the level of the membership dues.

Fees beyond annual membership dues, such as a country club's fees for use of its golf course or pool, are considered admission and user fees and are taxable. See Tax Commission Rule R865-19S-33.

Amounts paid for the following activities are not admissions or user fees:

- Public or private lessons
- Sign-ups for participation in amateur athletics if the activity is sponsored by state government or a nonprofit organization whose primary purpose is the sponsoring and promoting of amateur athletics
- Sign-ups for participation in school activities. This does not include attendance as a spectator at school activities.

Fees for the above activities are subject to tax unless they are listed separately on an invoice. For example, if fees for a golf lesson are included with fees for use of the golf course, the entire amount is subject to sales tax.

Resort Packages

If a third party reserves rooms for its clients, sales tax and transient room tax are due on the rental. If rooms are discounted for the third party but not for the clients (as is often done for large groups), tax is calculated on the discounted price.

If a third party (such as a hotel) arranges for ski lift passes, the ski resort must pay sales tax on the sales of the lift passes. The third party is considered the ski resort's agent. Transient room tax does not apply to lift passes.

Other situations in which a third party arranges for guests to obtain taxable goods, services or admissions are treated the same way. The third party is considered the final consumer, not the third party's clients.

Tours

The following guidelines apply to off-road tours, outfitters and providers of similar activities:

- If the tour begins in Utah, sales tax is due on the entire amount of the transaction.
- If the tour begins outside Utah, the transaction is not subject to sales tax.

Sales tax publications provide general guidance only. They do not contain all sales or use tax laws or rules. If you need additional information, call 801-297-7705 or 1-800-662-4335, ext. 7705 (outside the Salt Lake area), or email taxmaster@utah.gov.

PETITIONER'S MOTION FOR SUMMARY
DISPOSITION

RECEIVED by MSC 5/13/2022 1:48:21 PM

Karla Stirling
3067 S. 100 W.
Bountiful, UT 84010
Tel. (646) 427-8864

Representative for Petitioners, Mack C. Stirling
and Dixie M. Stirling

MICHIGAN TAX TRIBUNAL
SMALL CLAIMS DIVISION

Mack C. Stirling and Dixie M. Stirling,
Petitioners,

MOAHR Docket No. 19-003870

v.

County of Leelanau,
Respondent.

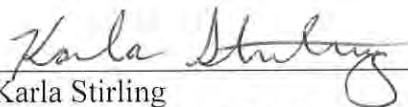
PETITIONERS' NOTICE OF MOTION AND
MOTION FOR SUMMARY DISPOSITION;
MEMORANDUM OF POINTS AND
AUTHORITIES; AFFIDAVITS OF MACK
C. STIRLING AND DIXIE M. STIRLING

TO ALL PARTIES HEREIN AND TO THEIR REPRESENTATIVES OF RECORD:

PLEASE TAKE NOTICE that Petitioners, MACK C. STIRLING AND DIXIE M. STIRLING, by and through their representative, hereby move this Tribunal for an order of summary disposition in favor of Petitioners, reversing their PRE denial and reinstating their PRE, together with any fees, interest, and other remedies or damages allowed by law. This motion will be made on the grounds that there is no genuine issue as to material fact, and that the moving Petitioners are entitled to disposition as a matter of law pursuant to MCR 2.116(C)(10).

Petitioners' motion is based on this Notice of Motion and Motion; the accompanying Memorandum of Points and Authorities, its Statements of Facts and Law; Affidavits of Mack C. Stirling and Dixie M. Stirling, and with exhibits served and filed herewith; the pleadings, records, and other papers on file in this action; and upon any further evidence and/or oral argument presented at or before the time of the hearing.

Dated: December 23, 2019

By: 
Karla Stirling
Representative for Petitioners,
Mack C. Stirling and Dixie M. Stirling

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
PETITIONERS' MOTION FOR SUMMARY DISPOSITION**

I.
INTRODUCTION

On September 12, 2019, Petitioners Mack and Dixie Stirling were denied their PRE for 2016-2019. According to the notice of denial, Respondent, Leelanau County Treasurer, denied the PRE under MCL 211.7cc(2), (3), and (3a) because Petitioners claimed or were granted “a substantially similar exemption in another state.” (See “Notice of Denial of Principal Residence Exemption” on file herein.) The present motion for summary disposition is based on the premise that the exemptions that Petitioners received in Utah were for properly declared and taxed tenant-occupied rental properties (not an owner-occupied principal residence). Both Michigan and Utah law allow for owners to take one PRE and additional exemptions for qualifying property types, such as for tenant-occupied residential rental property. Utah’s shorthand reference of “primary residential” for qualified tenant-occupied rental properties here has nothing to do with being an owner-occupied principal residence or a PRE pursuant to MCL 211.7cc. Thus, Petitioners did not claim, and were not granted, a “substantially similar” exemption in another state for exemptions for their tenant-occupied rental properties; and Petitioners respectfully request that the Tribunal grant summary disposition in their favor.

II.
STATEMENT OF FACTS

Residency at Subject Property

Petitioners have been permanent residents of Michigan since 1979 and have resided exclusively at the subject property (10575 S. Monaco Way, Traverse City, Michigan), since purchasing it in 1990. (Statement #1 of Mack C. Stirling’s Affidavit and Statement #1 of Dixie M. Stirling’s Affidavit.)¹ Since 1979, and at all times relevant herein, Petitioners have held Michigan driver’s licenses and been registered to vote in Michigan.² (Statement #2 of Mack C.

¹ Affidavits of Mack C. Stirling and Dixie M. Stirling are attached hereto as Exhibit “A”

² Since 1979, and for all years relevant herein, Petitioners have filed joint income tax returns as Michigan residents. Petitioners would be happy to provide the Tribunal with copies of relevant returns provided they could do so in a manner as to preserve confidentiality of their financial records.

Stirling's Affidavit and Statement #2 of Dixie M. Stirling's Affidavit.) For over 25 years, and at all times relevant, Petitioner Dixie M. Stirling has held an active nursing license in Michigan. (Statement #3 of Dixie M. Stirling's Affidavit.) For over 30 years, and at all times relevant herein, Petitioner Mack C. Stirling has held an active medical license in Michigan. Further, he founded the cardiac surgery program at Munson Medical Center in Traverse City in 1990, where he practiced cardiothoracic surgery full time until his retirement in 2017. (Statement #4 of Mack C. Stirling's Affidavit.) In addition to working and raising a family in Traverse City, Petitioners have been very active in their local Traverse City church congregation. They have held volunteer positions in their church for many years, including the years at issue, which require their regular attendance at weekly meetings and mid-week activities at their local Traverse City congregation. (Statement #4 of Mack C. Stirling's Affidavit and Statement #3 of Dixie M. Stirling's Affidavit.)

Respondent does not dispute that Petitioners have claimed to be, and have actually been, residents of the subject property for the years at issue.

Rental Properties in Utah

Petitioner, Dixie M. Stirling, has owned two rental properties in Utah during the years at issue, located at 609 N. Seven Peaks, Blvd. #20, Provo, Utah ("the Provo property") and at 3067 S. 100 W., Bountiful, Utah ("the Bountiful property") (collectively, "the Utah rental properties").

Petitioners have never resided at, nor claimed to have resided at, these rental properties. (Statement #5 of Mack C. Stirling's Affidavit and Statement #4 of Dixie M. Stirling's Affidavit.)

The Provo Property – As a college town, Provo City, Utah, strictly manages rental properties within its city and requires rental licenses, city inspections, etc., for its rental properties. Petitioners have complied with Provo City requirement and have opened the Provo property for city inspection and held rental licenses for all relevant years. (Provo City Rental Dwelling License Approval Letter, License Renewals for the years at issue, and related correspondence are attached as Exhibit "B" – The Provo Property.) Petitioner, Dixie M. Stirling, still owns and rents out the Provo property.

The Bountiful Property – The City of Bountiful, Utah, does not have the strict rental property management that Provo City does, and did not require Petitioners to obtain rental licenses for the Bountiful property. However, the renters who rented the property during

the years at issue (Karla Stirling and David Arteaga) have sworn affidavits attesting that they rented and resided at the Bountiful Property since 2013, including the years at issue, until they purchased the property in 2018. (Affidavits of Karla Stirling and David Arteaga are attached as Exhibit "C" – The Bountiful Property.)

Since purchasing the Utah rental properties, and **at all times relevant herein, Petitioners have declared to the State of Utah that the Utah properties are tenant-occupied residential rental properties; and they have paid the corresponding property taxes for tenant-occupied residential rental properties pursuant to Utah law and as calculated by the relevant Utah taxing authorities.** (Statement #6 of Mack C. Stirling's Affidavit and Statement #5 of Dixie M. Stirling's Affidavit.) **Respondent does not dispute that the Utah rental properties were at all times relevant tenant-occupied residential rental properties, or that they were declared and taxed as such pursuant to Utah law for the years at issue.**

III. STATEMENT OF LAW

Michigan Court Rule ("MCR") 2.116(C)(10) provides for summary disposition where there is no genuine issue as to any material fact. MCR 2.116(G)(4) further requires that the party seeking summary disposition must specify the issues for which it claims there is no genuine factual dispute. In considering such a motion, the trial court must also consider the affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties (MCR 2.116(G)(5)); and it does so in the light most favorable to the nonmoving party. (*Maiden v. Rozwood*, 461 Mich. 109, 120; 597 N.W.2d 817 (1999); *Quinto v. Cross & Peters Co.*, 451 Mich. 358, 362; 547 N.W. 2d 314 (1996).)

In presenting a motion for summary disposition, the initial burden of factually supporting the motion through affidavits, depositions, admissions or other documentary evidence rests with the moving party. (*Neubacher v. Globe Furniture Rentals*, 205 Mich. App. 418, 420; 522 N.W.2d 335 (1994); *SSC Associates Ltd Partnership v. General Retirement System*, 192 Mich. App. 360, 364; 480 N.W.2d 275 (1991).) The burden then shifts to the opposing party to establish that a genuine issue of fact does indeed exist. (*Neubacher* supra at 420.) However, "when a motion under [MCR 211.6](C)(10) is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his or her pleading, but must, by affidavits or as

otherwise provided in this rule, set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, judgment, if appropriate, shall be entered against him or her.” (MCR 2.116(G)(4).)

In addition, when it comes to construing statutory language of tax laws, the laws should not be extended in scope by implication or forced construction; and when there is doubt, tax laws are to be construed against the government:

When construing statutory language, the Court’s goal is to discern the Legislature’s intent, the best indicator of which is the language used. See, e.g. *Andrie Inc v Dep’t of Treasury*, 496 Mich 161; 853 NW2d 310 (2014). Further, language should be understood in its grammatical context and “effect should be given to every phrase, clause, and word in the statute.” *Sun Valley Foods Co v Ward*, 460 Mich 230, 237; 596 NW2d 119 (1999). However, “[t]ax laws generally will not be extended in scope by implication or forced construction, and when there is doubt, tax laws are to be construed against the government.” *LaBelle Mgt, Inc v Dep’t of Treasury*, 315 Mich App 23, 29; 888 NW2d 260 (2016).

(*Hardenbergh v. Dept. of Treasury*, State of Mich. Ct. of Appeals, No. 337039 Tax Tribunal LC No. 14-000990-TT (March 27, 2018).)

Finally, under MCR 2.116 (I)(1), “If the pleadings show that a party is entitled to judgment as a matter of law, or if the affidavits or other proofs show that there is no genuine issue of material fact, the court shall render judgment without delay.”

IV. **ARGUMENT**

A. Petitioners’ PRE was Wrongfully Denied when Respondent Failed to Distinguish Between Different Subsections of Utah Law (for Owner-Occupied (PRE) vs. for Tenant-Occupied Residential Rental Property) and Rescinded Petitioners’ PRE Based on Petitioners’ Exemptions for Tenant-Occupied Residential Rental Property

To understand how Petitioner’s PRE was denied for having residential rental properties in Utah, it is important to understand the structure and nomenclature of Utah’s property tax law for residential properties versus the corresponding laws under Michigan’s property tax code. There are subtle, but key, distinctions that require a careful substantive review, as certain section titles may sound confusingly similar even when the underlying law is different between the two states.

1. Michigan Law Allows Owners to Take One PRE (for the Owner's Principal Residence) Under MCL 211.7cc and Also Additional Exemptions for Other Qualifying Properties (Such as for Qualified Tenant-Occupied Residential Rental Properties Under MCL 211.7ff)

Michigan's "Principal Residence Exemption," is governed by MCL 211.7cc and MCL 211.7dd, and concerns only owner-occupied principal residences, not other (tenant-occupied) residential properties. MCL 211.7dd(c) specifically defines principle residence as "the 1 place where an owner of the property has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established" (i.e. the primary residence of the owner) (emphasis added).

Various other real property exemptions are provided for under other MCL subsections (i.e. Sections 211.7p, 211.7ff, 211.8, 211.8c, 211.27, and 211.34c.). Specifically, (like Utah) Michigan offers exemptions for qualified residential tenant-occupied rental property (see MCL 211.7ff – "Real and personal property located in renaissance zone"). It should be noted that **claiming or being granted the other real property exemptions available under Michigan's property tax law, including exemptions for qualified residential rental (tenant-occupied) property under MCL 211.7ff, do not disqualify an owner from also claiming a PRE under MCL 211.7cc for his/her principal residence** (see additional analysis of this below). In short, **Michigan law allows an owner to claim a principal residence exemption and additional exemptions for other real property, including qualified tenant-occupied residential rental properties, as in the case here (i.e. exemptions for an owner's principal residence and tenant-occupied residential rental properties are not "substantially similar" to be disqualifying under MCL 211.7cc).** Thus, Petitioners did not violate MCL 211.7cc for claiming or being granted one PRE on their Michigan home and other exemptions for qualified tenant-occupied residential rental properties in Utah.

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2. Like Michigan, Utah Law Allows for One PRE Exemption for the “Primary Residence of the Owner” (UT Code Ann. § 59-2-103(5)(b)(i)) and Additional Exemptions for Tenant-Occupied Residential Rental Properties Under UT Code Ann. § 59-2-103(5)(b)(ii): Utah References Both Types of Exemptions as “Primary Residential” for Assessment Rate Purposes

Like Michigan, Utah allows one exemption for an owner's primary residence as well as additional exemptions for qualified tenant-occupied residential rental property. Utah also uses separate code subsections and administrative rules (set forth below) to define the separate property types and requirements for exemptions for an owner-occupied primary residence versus qualified tenant-occupied residential rental property. However, and perhaps somewhat confusingly for a Michigan reader, Utah references residential exemptions for both owner-occupied and tenant-occupied residential rental properties as “primary residential” for assessment rate purposes (as opposed to commercial, industrial, agricultural, or secondary/transient residential). (UT Code Ann. § 59-2-103 *et seq.* – “Rate of assessment of property – Residential property”). Thus, to know whether a “primary residential” reference on Utah tax forms refers to an exemption for an owner-occupied property or to a tenant-occupied residential rental property requires a more in-depth investigation and analysis than a facile reliance on Utah's “primary residential” assessment rate reference.

Utah's exemption for an owner-occupied primary residence is governed by Utah Code section 59-2-103, subsections (5)(a) and (5)(b)(i), which provide that an owner may claim one exemption for the residential property that is “*the primary residence of the owner.*” (UT Code Ann. § 59-2-103(5)(a) and (b)(i) (emphasis added); see also UT Admin. Code R884-24P-52(3).) This is the Utah subsection that is analogous to Michigan's PRE found in MCL 211.7cc, where holders may claim one exemption for the owner's primary residence. Utah granted Petitioners multiple exemptions in Utah, which is *prima facie* evidence that they were not for the “primary residence of the owner” since (like Michigan) Utah only allows one exemption for the “primary residence of the owner.” Instead, Petitioners' exemptions were for properly declared and taxed tenant-occupied residential rental properties (referred to under Utah law as the “primary residence of a tenant,” as discussed below.) **Petitioners did not claim, and were not granted, an exemption under this subsection for “primary residence of the owner.”** Thus, they did not claim, and

were not granted, an exemption “substantially similar” to Michigan’s principal residence exemption.

Separately, under Utah Code section 59-2-103, subsection (5)(b)(ii), an owner may claim multiple exemptions for qualifying residential rental properties that are the “*primary residence of a tenant*.” (UT Code Ann. § 59-2-103(5)(b)(ii) (emphasis added)). A caveat is added under section 59-2-102(36)(b)(ii) to exclude property used for secondary or transient residential use (such as vacation homes). (UT Code Ann. § 59-2-102(36)(b)(ii); see also UT Admin. Code R884-24P-52(4).) Importantly here, because exemptions under subsection (5)(b)(ii) are for a primary (not secondary or transient) residence of a tenant, they are designated as “primary residential” (“residential” as opposed to commercial, industrial, or agricultural) under Utah law. Holders of this exemption may be individuals or certain organizations like nursing homes, apartment buildings, and housing authorities. (“Property Tax Exemptions Standards of Practice” Section II.I, Utah State Tax Commission Property Tax Division, Rev. May 15, 2019). Further, holders of the qualified tenant-occupied residential rental property exemption in Utah may claim this exemption under subsection (5)(b)(ii) for multiple qualifying residential rental properties, as Petitioners did here. **Thus, the exemption under subsection (5)(b)(ii) for a “primary residence of a tenant” is substantially dissimilar to Michigan’s Primary Residence Exemption under MCL 211.7cc, notwithstanding its assessment rate reference as “primary residential.”** In fact, this subsection, under which Petitioners were granted exemptions, is far more analogous to Michigan’s exemptions for qualifying residential rental properties found in MCL 211.7ff. **Since Petitioners were granted exemptions under subsection (5)(b)(ii) for tenant-occupied residential rental property (“primary residence of a tenant”), they did not claim, and were not granted, an exemption “substantially similar” to Michigan’s principal residence exemption.**

In light of the foregoing, mere reliance on Utah’s shorthand reference to “primary residential” for the assessment rate is a woefully inadequate legal analysis to determine potential violations of MCL 211.7cc. Petitioners did not claim, and were not granted, a PRE or exemption for “primary residence of the owner” for the Utah rental properties. Instead, the exemptions were for properly declared and taxed tenant-occupied residential rental properties (“primary residence of a tenant”). Because the exemptions for Petitioners’ Utah rental properties are substantially dissimilar to Michigan’s PRE (and are allowed under both Michigan and Utah law in addition to exemptions for a PRE or “primary residence of the owner”), Respondent’s denial of Petitioners’

PRE based on the rental property exemptions in Utah was improper. Therefore, Petitioners respectfully request that the Tribunal reinstate their PRE.

B. “Substantially Similar” Refers to a Similar Type (i.e. Underlying Concept) of Exemption, Not Similar Monetary Benefit or Similar Assessment Rate

Respondent has repeatedly referenced the “primary residential” assessment rate reference in Utah law and on Utah tax forms without distinguishing the different underlying exemption types available in Utah for an owner’s primary residence versus for tenant-occupied rental property. This is misguided. In Utah, qualified tenant-occupied residential rental property qualifies for the same exemption assessment rate as an owner’s principal residence. Utah then references all qualifying primary (as opposed to secondary or transient) residential (as opposed to commercial, industrial, or agricultural) exemptions, including for owner occupied and tenant-occupied rental properties, on tax forms as “primary residential” for assessment rate purposes (see Utah Code Ann. 59-2-103 – “Rate of assessment of property -- Residential property,” examined above). Therefore, reliance on the Utah assessment rate shorthand of “primary residential” does not inform the reader of the type of underlying exemption.

Further, Respondent has not provided any statute or case law that would extend MCL 211.7cc to exemptions for properly declared and taxed tenant-occupied residential rental property. Instead, Respondent repeatedly references a single case—*Levenfeld v. County of Berrien* (Mich. App. No. 300358 (2012) (unpublished, attached as “Exhibit D”)), which is not on point since there is no similarity between the facts of that case and the case here. (*Levenfeld* dealt with a married couple living separately, where one spouse claimed a PRE in Michigan and the other claimed a PRE in Illinois. *Levenfeld* had nothing to do with exemptions for tenant-occupied rental property, as are at issue here.) However, with respect to an analysis of whether the respective credits are “substantially similar,” *Levenfeld* clarified that “substantially similar” does not mean similar monetary benefit (or assessment rate):

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We tend to agree, therefore, with the MTT that the Legislature did not equate substantial similarity with comparative monetary benefit, as such an approach would result in varying conclusions dependent on the particular value of the homes being examined, even where the same state is being compared against Michigan. The question is whether the statutes are substantially similar, not whether application of the statutes results in tax savings that are substantially similar.

Levenfeld v. County of Berrien, Mich. App. No. 300358 (2012) (unpublished).

Instead, *Levenfeld* held that “the Legislature was concerned with the "type" of exemption, as in a "homestead" exemption, when mandating a comparison of statutory schemes for purposes of §§ 7cc(3)(b).” (*Id.*) (emphasis added). As Respondent rightly noted in its Attachments to the Answer, “*Levenfeld*...concludes that it is not the monetary savings from the exemptions that must be similar, but the underlying concept of the exemption itself as intended by the Legislature.” (“Respondent’s Brief in Support,” filed herein on October 18, 2019 (emphasis added)).³

As outlined above, the exemptions that Petitioners received were for properly declared and taxed tenant-occupied rental property, not a PRE or “primary residence of the owner.” **Since the underlying concept for Petitioners’ exemptions was for tenant-occupied rental property, it is vastly different from, and not “substantially similar” to, the concept underlying Michigan’s PRE under MCL 211.7cc, which is for an owner’s primary residence. In short, Petitioners’ exemption was of a *substantially different type* than that contemplated by MCL 211.7cc.** Therefore, Petitioners did not claim, and were not granted, a type of exemption that is “substantially similar” to the Michigan PRE. Respondent thus wrongfully applied MCL 211.7cc and *Levenfeld v. County of Berrien* when Respondent denied Petitioners’ PRE; and Petitioners respectfully request that the Tribunal reinstate their PRE.

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³ Respondent did not number the pages of its Brief in Support of its Answer, but the quoted text is found in the second paragraph of Respondent’s “Analysis” section of the brief, which appears to be on the 4th page of the brief.

C. Michigan Law Does Not Bar a PRE for Owner's Obtaining Exemptions for Other Property Types, Such as for Qualified Tenant-Occupied Residential Rental Property; thus, Respondent's Denial of Petitioners' PRE Due to Tenant-Occupied Residential Rental Property Exemptions Improperly Extends both MCL 211.7 and the Michigan Legislature's Intent

As Respondent correctly observed in its Attachments to the Answer, "*Levenfeld...concludes that it is not the monetary savings from the exemptions that must be similar, but the underlying concept of the exemption itself as intended by the Legislature.*" (*supra*). As outlined above, the statutes outlining Michigan's PRE (MCL 211.7cc and MCL 211.7dd), are completely silent as to tenant occupied rental property. One would observe from the plain language of the statutes that the Michigan Legislature never meant to disallow or otherwise contemplate exemptions for tenant-occupied rental property in the PRE law.

In addition, one may gather the Legislature's intent by observing that claiming other property tax exemptions in Michigan does not disqualify an owner from separately claiming the PRE for their principal residence. For example, in addition to the PRE, The General Property Tax Act provides for dozens of real estate exemptions under MCL 211.7 *et seq.* Similarly, besides the PRE, the Michigan Department of Treasury outlines a number of property tax exemptions available in addition to the PRE on its website, such as Renaissance Zone Exemption, Industrial Facilities Exemption (IFE), Obsolete Property Rehabilitation Act (OPRA) exemption, Commercial Rehabilitation Act exemption, Neighborhood Enterprise Zone Act (NEZ) exemption, Commercial Facilities Exemption, Charitable Nonprofit Housing Exemption, and more. (https://www.michigan.gov/taxes/0,4676,7-238-43535_53197---,00.html, accessed December 19, 2019.)

Because MCL 211.7cc does not include rental property, and because Michigan law allows owners to claim a PRE in addition to other available exemptions (such as for qualified tenant-occupied residential rental property under MCL 211.7ff), to deny a PRE for an owner having received an exemption for tenant-occupied residential rental property would require such a forced construction as to be disallowed by law:

When construing statutory language, the Court’s goal is to discern the Legislature’s intent, the best indicator of which is the language used. See, e.g. *Andrie Inc v Dep’t of Treasury*, 496 Mich 161; 853 NW2d 310 (2014). Further, language should be understood in its grammatical context and “effect should be given to every phrase, clause, and word in the statute.” *Sun Valley Foods Co v Ward*, 460 Mich 230, 237; 596 NW2d 119 (1999). However, “[t]ax laws generally will not be extended in scope by implication or forced construction, and when there is doubt, tax laws are to be construed against the government.” *LaBelle Mgt, Inc v Dep’t of Treasury*, 315 Mich App 23, 29; 888 NW2d 260 (2016).

(*Hardenbergh v. Dept. of Treasury*, State of Mich. Ct. of Appeals, No. 337039 Tax Tribunal LC No. 14-000990-TT (March 27, 2018).)

In conclusion, **there is no indication that the Michigan Legislature ever intended to disallow exemptions for other properties (such as for exemptions for tenant-occupied residential rental properties) under MCL 211.7cc. To the contrary, exemptions in addition to the PRE (such as for tenant-occupied residential rental properties under MCL 211.7ff) are specifically provided for by Michigan law.** Correspondingly, Respondent wrongfully extended MCL 211.7cc and the Legislature’s intent when Respondent denied Petitioners’ PRE on the basis of Petitioners having claimed or been granted exemptions for tenant-occupied residential rental properties. Therefore, Respondent’s denial of Petitioners’ PRE was improper, and Petitioners respectfully request that the Tribunal reinstate their PRE.

V.
CONCLUSION

Petitioners are Michigan residents, and at all times relevant to this case have maintained their principal residence and homestead at the subject property. Petitioners have never resided at, nor claimed to have resided at, the Utah rental properties. At all times relevant herein, Petitioners have declared to the State of Utah that the Utah properties are tenant-occupied residential rental properties; and they have paid the corresponding property taxes for tenant-occupied residential rental properties pursuant to Utah law and as calculated by the relevant Utah taxing authorities. Utah’s shorthand assessment rate reference of “primary residential” for Petitioners’ qualified tenant-occupied residential rental property in this case has nothing to do with being an owner-occupied principal residence or homestead; therefore, it is not “substantially similar” to Michigan’s PRE under MCL 211.7cc. Further, Respondent has not provided any statute, case law, or other authority to indicate that the Michigan Legislature intended to disallow exemptions for tenant-

occupied rental property under MCL 211.7cc. In fact, Michigan Law allows owners to claim a PRE in addition to other real property exemptions (such as for qualified tenant-occupied residential rental property under MCL 211.7ff), as in the case here. Thus, to deny Petitioners' PRE based on exemptions for their tenant-occupied residential rental properties was a wrongful construction of MCL 211.7cc by Respondent; and Respondent's denial of Petitioners' PRE was unlawful.

Wherefore, in light of the foregoing, Petitioners respectfully request the Tribunal for an order of summary disposition in favor of Petitioners, reversing the PRE denial and reinstating Petitioners' PRE, together with any fees, interest, and other remedies or damages allowed by law.

Dated: December 23, 2019

By: Karla Stirling
Karla Stirling
Representative for Petitioners,
Mack C. Stirling and Dixie M. Stirling

Exhibit “A”

Affidavits of Petitioners

Mack C. Stirling and

Dixie M. Stirling

AFFIDAVIT OF MACK C. STIRLING

State of Michigan

County of Grand Traverse

On this 20th day of December, 2019, personally Mack C. Stirling, being duly sworn, on his oath, deposes and says:

1. I have been a permanent resident of Michigan since 1979 and have resided exclusively at the subject property (10575 S. Monaco Way, Traverse City, Michigan), since purchasing it in 1990.
2. Since 1979, and at all times relevant herein, I have held a Michigan driver's license and been registered to vote in Michigan.
3. For over 30 years, and at all times relevant herein, I have held an active medical license in Michigan. Further, I founded the cardiac surgery program at Munson Medical Center in Traverse City in 1990, where I practiced cardiothoracic surgery full time until my retirement in 2017.
4. In addition to working and raising a family in Traverse City, I have been very active in my local Traverse City church congregation. I have held volunteer positions in my church for many years, including the years at issue, which require my regular attendance at weekly meetings and mid-week activities at my local Traverse City congregation.
5. My wife, Dixie M. Stirling, has owned two rental properties in Utah during the years at issue, located at 609 N. Seven Peaks Blvd. #20, Provo, Utah and 3067 South 100 West, Bountiful, Utah (the "Utah rental properties"). **I have never resided at, nor claimed to have resided at, these rental properties.**
6. Since my wife purchased the Utah rental properties, and **at all times relevant herein, my wife and I have declared to the State of Utah that the Utah properties are tenant occupied rental properties; and we have paid the corresponding property taxes for tenant occupied rental properties pursuant to Utah law and as calculated by the relevant Utah taxing authorities.**

[CONTINUED ON PAGE 2]

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Signature of affiant: Mack C. Stirling
 Printed name of affiant: Mack C. Stirling
 Address of affiant: 10575 S. Monaco Way
Traverse City, MI 49684

Subscribed and sworn to before me, this 20 day of December, 2019.

John Blank
 [signature of Notary]
John Blank
 [printed name of Notary]

JOHN BLANK
 NOTARY PUBLIC - MICHIGAN
 GRAND TRAVERSE COUNTY
 MY COMMISSION EXPIRES 02/11/2024
 ACTING IN GRAND TRAVERSE COUNTY

NOTARY PUBLIC

My commission expires: Feb 11, 2024.

Grand

AFFIDAVIT OF DIXIE M. STIRLING

State of Michigan

County of Grand Traverse

On this 20th day of December, 2019, personally Dixie M. Stirling, being duly sworn, on her oath, deposes and says:

1. I have been a permanent resident of Michigan since 1979 and have resided exclusively at the subject property (10575 S. Monaco Way, Traverse City, Michigan), since purchasing it in 1990.
2. Since 1979, and at all times relevant herein, I have held a Michigan driver's license and been registered to vote in Michigan. And for over 25 years, and at all times relevant herein, I have held an active nursing license in Michigan.
3. In addition to working and raising a family in Traverse City, I have been very active in my local Traverse City church congregation. I have held volunteer positions in my church for many years, including the years at issue, which require my regular attendance at weekly meetings and mid-week activities at my local Traverse City congregation.
4. I have owned two rental properties in Utah during the years at issue, located at 609 N. Seven Peaks Blvd. #20, Provo, Utah and 3067 South 100 West, Bountiful, Utah (the "Utah rental properties"). **I have never resided at, nor claimed to have resided at, these rental properties.**
5. Since purchasing the Utah rental properties, and **at all times relevant herein, my husband, Mack C. Stirling, and I have declared to the State of Utah that the Utah properties are tenant occupied rental properties; and we have paid the corresponding property taxes for tenant occupied rental properties pursuant to Utah law and as calculated by the relevant Utah taxing authorities.**

[CONTINUED ON PAGE 2]

x1

Signature of affiant: Dixie M. Stirling
 Printed name of affiant: Dixie M. Stirling
 Address of affiant: 10575 S. Monaco Way
Traverse City, MI 49684

Subscribed and sworn to before me, this 20 day of December, 2019.

John Blank
[signature of Notary]

JOHN BLANK
NOTARY PUBLIC - MICHIGAN
GRAND TRAVERSE COUNTY
MY COMMISSION EXPIRES 02/11/2024
ACTING BY GRAND TRAVERSE COUNTY

John Blank
[printed name of Notary]

NOTARY PUBLIC

My commission expires: Feb 11, 20 24

signed

Exhibit “B”

— The Provo Property —

**Copies of Provo City Rental Dwelling License
Approval Letter;
License Renewals for Years at Issue; and
Related Correspondence**

RENTAL DWELLING LICENSE APPLICATION RESPONSE
APPROVAL LETTER

The City of
Provo, Utah



Lewis K. Billings
Mayor

February 15, 2006

Dixie Stirling
10575 S. Monaco Way
Traverse City, MI 49684

RE: License #95966

Dear Ms. Stirling:

Thank you for your application for a Rental Dwelling Business License. The property below may be approved for a license, subject to the following restrictions:

<u>Address</u>	<u>Year Built</u>	<u>Zone</u>	<u>Serial Number</u>
609 North Seven Peaks #20	1994	R2PD	41:294:0020

1. The property is approved as a One Family Dwelling - Condominium.
2. The occupancy of the dwelling is restricted to a maximum of one (1) family or three (3) singles.
3. The property currently has two (2) legal parking spaces. The number of vehicles operated from the residence needs to be restricted to the number of off-street parking spaces on the premises assigned to each unit.

Although your property will not be inspected for minimum health and safety standards at this time, please ensure that your property meets the standards listed on the enclosed document, Section 6.26.100.

Rental dwelling licenses must be renewed annually, each July, and you will be mailed a reminder notice prior to your renewal date each year. Again, thank you for your cooperation in submitting a completed application.

Sincerely,

COMMUNITY DEVELOPMENT DEPARTMENT

Carrie Walls
Planning Technician
(801) 852-6441
cwalls@provo.utah.gov

Office of
Community Development

www.provo.org/comdev

351 West Center Street

P.O. Box 1849

Provo, Utah 84603

(801) 852-6400

FAX: (801) 852-6417



Provo City Utilities
351 West Center
P.O. Box 1849
Provo, Utah 84603-1849

RECEIVED by MSC 5/13/2022 1:48:21 PM

July 21, 2016

RE: Billing

Dear Customer,

We are writing to inform you about a billing error we encountered this year for Rental Dwelling Renewals. Your renewal fee was accidentally doubled. We apologize for any inconvenience this has caused, and have returned your check to you.

We have enclosed a prepaid envelope for your convenience and kindly request that you write a check for the correct amount (half the amount of your original check) and mail it in to our office, please write the license number on your check.

If you have any questions or concerns regarding this error, please feel free to reach out to us at (801) 852-6000, or by dialing 311 if you are within Provo boundaries.

Sincerely,

Business License Department

*\$20 pd. # 15215
~~15188~~
condo rental license*



CUSTOMER SERVICE DEPARTMENT
TEL 801 852 6000
351 W Center St
PROVO, UT 84601

Rental Dwelling License Renewal Notice

LICENSE # RH95966
PAYMENT DUE BY: 1/31/2018
PERIOD: 07/31/2017 – 01/31/2019

Stirling, Dixie
10575 S. Monaco Way
Traverse City,MI 49684

Amount Due: \$30.00
Amount Paid: _____

Payment Options

Telephone: (801) 852-6000
Mail: Provo City Licensing Division,
Office: 351 W Center Street, Provo Utah 84601

If you have any changes to your mailing address, property manager, registered agent information or Insurance/Policy company information, please email at Licensing@provo.utah.gov. Also include your Rental Dwelling License Number.

The following is a list of properties covered by this license. If the list is incomplete, please call (801) 852-6000. **Mark only the boxes of properties you no longer own.**

10575 S MONACO WAY

609 N SEVEN PEAKS BLVD, STE 20

STATUS CHANGE:

If you no longer own any of the properties listed above, you must provide notification identifying those properties. If notification is not received, you will continue to be invoiced. Please submit notification by one of the following methods:

1. eMail to Licensing@provo.utah.gov
2. Mark the box by each property you no longer own, rent loan, or lease. Sign and date.

I, _____, certify that the dwelling(s) located at the address(es) indicated above is/are owner occupied, no longer being rented, loaned, leased or have been sold. _____

If the Rental Dwelling license fees remain unpaid or notification of closure of the license is not received, you may be subject to further penalties and/or collection actions including actions by a third party agency and/or reporting of delinquency to a credit reporting agency. It is a Class B misdemeanor to rent, loan or lease a residential property without a current valid rental dwelling license.



351 W Center St. Provo, UT 84601



RECEIVED by MSC 5/13/2022 1:48:21 PM

Rental Dwelling License Renewal Notice

August 20, 2019

PR40822C
4000000844 844/1



STIRLING, DIXIE
10575 S. MONACO WAY
TRAVERSE CITY MI 49684-6817

LICENSE # RH95966
PAYMENT DUE BY: 1/31/2019
PERIOD: [tagC2RHCalculateRenPeriod]

Amount Due: \$0.00
Amount Paid: _____

Payment Options

Telephone: (801) 852-6000
Mail: Provo City Licensing Division,
Office: 351 W Center Street, Provo Utah 84601

If you have any changes to your mailing address, property manager, registered agent information or Insurance/Policy company information, please email at Licensing@provo.utah.gov. Also include your Rental Dwelling License Number.

The following is a list of properties covered by this license. If the list is incomplete, please call (801) 852-6000.

Mark only the boxes of properties you no longer own.

10575 S MONACO WAY

609 N SEVEN PEAKS BLVD, STE 20

STATUS CHANGE:

If you no longer own any of the properties listed above, you must provide notification identifying those properties. If notification is not received, you will continue to be invoiced. Please submit notification by one of the following methods:

1. eMail to Licensing@provo.utah.gov
2. Mark the box by each property you no longer own, rent loan, or lease. Sign and date.

I, _____, certify that the dwelling(s) located at the address(es) indicated above is/are owner occupied, no longer being rented, loaned, leased or have been sold. _____

If the Rental Dwelling license fees remain unpaid or notification of closure of the license is not received, you may be subject to further penalties and/or collection actions including actions by a third party agency and/or reporting of delinquency to a credit reporting agency. It is a Class B misdemeanor to rent, loan or lease a residential property without a current valid rental dwelling license.

CUSTOMER SERVICE DEPARTMENT
351 W Center St
Provo, UT 84601
TEL 801 852 6000



Rental Dwelling License Renewal Notice

August 26, 2019

Stirling, Dixie
10575 S. Monaco Way
Traverse City, MI 49684

LICENSE # RH95966
PAYMENT DUE BY: 1/31/2019
PERIOD: 09/30/2019 - 09/30/2020

Amount Due: \$0.00
Amount Paid: _____

Payment Options

Telephone: (801) 852-6000
Mail: Provo City Licensing Division,
Office: 351 W Center Street, Provo Utah 84601

If you have any changes to your mailing address, property manager, registered agent information or Insurance/Policy company information, please email at Licensing@provo.utah.gov. Also include your Rental Dwelling License Number.

The following is a list of properties covered by this license. If the list is incomplete, please call (801) 852-6000.
Mark only the boxes of properties you no longer own.

10575 S MONACO WAY

609 N SEVEN PEAKS BLVD, STE 20

STATUS CHANGE:

If you no longer own any of the properties listed above, you must provide notification identifying those properties. If notification is not received, you will continue to be invoiced. Please submit notification by one of the following methods:

1. eMail to Licensing@provo.utah.gov
2. Mark the box by each property you no longer own, rent loan, or lease. Sign and date.

I, _____, certify that the dwelling(s) located at the address(es) indicated above is/are owner occupied, no longer being rented, loaned, leased or have been sold. _____

If the Rental Dwelling license fees remain unpaid or notification of closure of the license is not received, you may be subject to further penalties and/or collection actions including actions by a third party agency and/or reporting of delinquency to a credit reporting agency. It is a Class B misdemeanor to rent, loan or lease a residential property without a current valid rental dwelling license.

Exhibit “C”

— The Bountiful Property —

Affidavits of Renters/Buyers

David Arteaga and Karla Stirling

AFFIDAVIT OF DAVID ARTEAGA

State of Utah

County of SALT LAKE

On this 23 day of December, 2019, personally David Arteaga, being duly sworn, on his oath, deposes and says:

Karla Stirling and I, together with our children, have resided at 3067 S. 100 W., Bountiful, UT 84010 ("the Bountiful property") since first moving there in 2013. Karla Stirling and I rented the Bountiful property from the time that we moved in in 2013 until June of 2018, when we purchased the Bountiful property.

Signature of affiant: [Handwritten Signature]

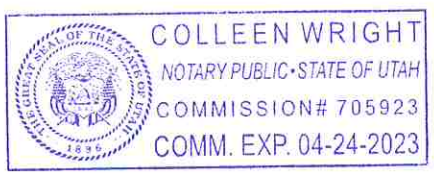
Printed name of affiant: DAVID ARTEAGA

Address of affiant: 3067 S. 100 W
BOUNTIFUL, UT 84010

Subscribed and sworn to before me, this 23 day of December, 2019.

[Handwritten Signature]
[signature of Notary]

Colleen Wright
[printed name of Notary]



NOTARY PUBLIC

My commission expires: 04/24, 20 23.

AFFIDAVIT OF KARLA STIRLING

State of Utah

County of SALT LAKE

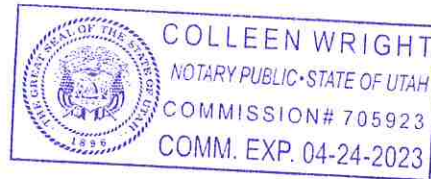
On this 23 day of December, 2019, personally Karla Stirling, being duly sworn, on her oath, deposes and says:

David Arteaga and I, together with our children, have resided at 3067 S. 100 W., Bountiful, UT 84010 ("the Bountiful property") since first moving there in 2013. David Arteaga and I rented the Bountiful property from the time that we moved in in 2013 until June of 2018, when we purchased the Bountiful property.

Signature of affiant: Karla Stirling
Printed name of affiant: Karla Stirling
Address of affiant: 3067 S. 100 W.
Bountiful, UT 84010

Subscribed and sworn to before me, this 23 day of December, 2019.

[Signature]
[signature of Notary]
Colleen Wright
[printed name of Notary]



NOTARY PUBLIC

My commission expires: 04/24, 2023.

Exhibit “D”

**Copy of *Levenfeld v. County of Berrien, Mich.*
App. No. 300358 (2012) (unpublished)**

No. 300358
STATE OF MICHIGAN COURT OF APPEALS

Levenfeld v. Cnty. of Berrien

Decided Jan 12, 2012

No. 300358 Tax Tribunal LC No. 00-357642

01-12-2012

MARCIA LEVENFELD, Petitioner-Appellant, v. COUNTY OF BERRIEN, Respondent-Appellee.

PER CURIAM

Before: MURPHY, C.J., and FITZGERALD and METER, JJ. .

Petitioner Marcia Levenfeld appeals as of right the decision of the Michigan Tax Tribunal (MTT) to deny Levenfeld a principal residence exemption ("PRE").¹ We affirm.

¹ The PRE is also known as the homestead exemption and is governed by MCL 211.7cc and MCL 211.7dd, which are provisions contained in the General Property Tax Act (GPTA), MCL 211.1 *et seq.* *Eldenbrady v City of Albion*, _ Mich App _; _ NW2d _ (2011), slip op at 3.

As reflected in a warranty deed executed in March 2005, Levenfeld, a married woman,² solely acquired the fee simple interest in property located on Main Drive in the Village of Grand Beach, Michigan, situated in New Buffalo Township and Berrien County. The property was conveyed to Levenfeld by G & G Real Estate Development Corporation, an Illinois corporation. Levenfeld executed a homeowner's PRE affidavit, which indicated that there was no co-owner of the property, that the property was Levenfeld's principal residence, that she had not claimed any other PRE, and that she and her spouse did not claim an exemption in another state. Levenfeld was granted a PRE on the property for the tax years 2005, 2006, and 2007. Levenfeld paid her property taxes for those years absent any delinquency, benefiting from the PRE. In August 2008, the Berrien County Treasurer sent a letter to Levenfeld, which indicated that the treasurer's office was reviewing homestead properties for tax years 2005 through 2008 to make sure they were in compliance with PRE requirements. The letter further provided that, "[b]ased on information received," the treasurer was reversing the PRE on

² Levenfeld's property for the 2006 *2 and 2007 tax years. Accompanying the letter was a Michigan Department of Treasury form declaring notice of a PRE denial and stating simply that Levenfeld's PRE was being denied/adjusted because "[t]he property claimed is not the owner's principal residence." In September 2008, the county treasurer sent Levenfeld an invoice showing, given the PRE denial, that \$11,254 was owed in property taxes for 2006 and that \$10,300 was owed in property taxes for 2007. The \$11,254 due for 2006 included a non-homestead tax of \$8,742, plus interest and fees. The \$10,300 due for 2007 included a non-homestead tax of \$9,066, plus interest and fees. In November 2008, Levenfeld paid these tax bills in full.

² Levenfeld's husband is Scott Levenfeld, who owns a house in Illinois that is titled solely in his name.

In September 2008, Levenfeld, through counsel, filed a petition with the Small Claims Division of the MTT, challenging the PRE rejection. Through discussions with the county treasurer's office, Levenfeld discovered that her PRE had been revoked because she failed to file a state individual income tax return. Addressing that matter, Levenfeld's MTT petition expressed:

Ms. Levenfeld's Michigan Homestead Exemption was reversed based on the fact that she does not file a Michigan Income Tax return which, because of her income level, Ms. Levenfeld is not required to file. The attached documentation (MI Driver's License, MI Voters Registration, Vehicle Certificate of Title and Vehicle Registration) evidences Ms. Levenfeld's entitlement for a Michigan homestead exemption.

For the tax years in question, Levenfeld's Michigan operator's license, voter registration card, and vehicle certificate of title and registration listed her address as being located on Main Drive in Grand Beach, Michigan - the property previously covered by the PRE.

Respondent Berrien County filed an answer to Levenfeld's petition, wherein the county asserted, "Marcia and Scott Levenfeld are filing a joint tax return[,] [and] Scott is claiming homestead in Illinois and Marcia is claiming homestead in Michigan."³

³ The answer and attached documentation indicated that the taxable value of the property in 2006 was \$485,719 and was \$503,690 in 2007. The state equalized value (SEV) for those years was \$568,100 and 642,400, respectively. The answer and documents also reflected that the property was zoned single family residential and was sold to Levenfeld for \$1,150,000.

In a supporting memorandum filed by Levenfeld in the Small Claims Division of the MTT, she argued that the property was her principal residence, which she considered to be her home, that she did not file a Michigan tax return for the years 2005 through 2007 because she had no income, and that she filed a Michigan return for 2008 after finally landing a job in 2008.

Before setting forth the rulings issued in the MTT, and to give some context to those rulings, we initially note that the statutory provision at issue in this case is MCL 211.7cc, which provides in relevant part: *3

(1) A principal residence is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, if an owner of that principal residence claims an exemption as provided in this section. . . .

(2) Except as otherwise provided in subsection (5), an owner of property may claim 1 exemption under this section by filing an affidavit on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall state that the property is owned and occupied as a principal residence by that owner of the property on the date that the affidavit is signed. The affidavit shall be on a form prescribed by the department of treasury. . . . The affidavit shall require the owner claiming the exemption to indicate if that owner or that owner's spouse has claimed another exemption on property in this state that is not rescinded or a substantially similar exemption, deduction, or credit on property in another state that is not rescinded. . . .

(3) Except as otherwise provided in subsection (5), a husband and wife who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 exemption under this section. For taxes levied after December 31, 2002, a person is not entitled to an exemption under this section if any of the following conditions occur:

(a) That person has claimed a substantially similar exemption, deduction, or credit on property in another state that is not rescinded.

(b) Subject to subdivision (a), that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns.

(c) That person has filed a nonresident Michigan income tax return, except active duty military personnel stationed in this state with his or her principal residence in this state.

(d) That person has filed an income tax return in a state other than this state as a resident . . .

[Emphasis added.]⁴

⁴ This is the current version of the statute through 2010 PA 17. Except for some minor changes, irrelevant for our purposes, made in 2008 PA 96 (adding subsection 5 exception to introduction of subsections 2 and 3), the language is the same as that which controlled in tax years 2006 and 2007.

Operating in conjunction with the State Office of Administrative Hearings and Rules, a hearing referee for the Small Claims Division of the MTT conducted a hearing on Levenfeld's ⁴ petition in January 2010. The referee took testimony and admitted various documents into evidence.⁵ In March 2010, the referee filed a proposed opinion and judgment. In his findings of fact, the referee found, by a preponderance of the evidence, that the property was located on Main Drive in Grand Beach, that the property was residential, that Levenfeld owned the property, that she occupied the property on or before May 1, 2005, and that Levenfeld filed the PRE affidavit in 2005. The referee further found that Levenfeld "and her husband have a prenuptial agreement to maintain separate properties[.]" that neither Levenfeld nor her husband "has an ownership interest in the other's real estate[.]" and that Levenfeld "does not have an Illinois homestead exemption." In its conclusions of law, the referee ruled:

⁵ The record on appeal does not contain a transcript of the hearing, and Levenfeld indicates that there is no recording or transcript of the hearing.

1. [Levenfeld] has proven, by a preponderance of the evidence, that the subject property is qualified to receive an exemption under MCL 211.7cc for the tax years at issue.

2. The following authority and reasoned opinion supports this burden of proof determination:

[Levenfeld] has fulfilled the requirement under MCL 211.7cc to be entitled to a Michigan PRE. She resides at, votes from, files Michigan income taxes when required, registers vehicles and maintains a Michigan driver's license using the subject property's address. [Levenfeld] does not file a Federal income tax form as married filing separately however Michigan statute does not make that a requirement.

[Levenfeld] has no interest in her husband's Illinois property and therefore does not have an Illinois homestead. The Michigan residence is the one property claiming an exemption by [Levenfeld].

Although the hearing referee found that Levenfeld was entitled to a PRE, he did reject that part of Levenfeld's argument which contended that the Illinois exemption enjoyed by Scott Levenfeld was not substantially similar to Michigan's PRE. The referee ruled:

[Levenfeld's] Attorney questioned the similarity requirement of the PRE statutes claiming that the Illinois and Michigan exemptions are not substantially similar as required by Michigan's statute because one results in a tax savings of \$290 [Illinois] and the other of over \$9,000 [Michigan]. Nothing in the statute requires a similar payment, property taxes are not uniform across the country. The requirement refers to an exemption to a person's home and the requirements to obtain the exemption.

5 In June 2010, the MTT, noting that neither party had filed exceptions to the referee's proposed opinion and judgment, nonetheless issued its final opinion and judgment that rejected *5 the referee's conclusions and instead found that Levenfeld was not entitled to the PRE. In examining MCL 211.7c(1) and (2), the MTT did find that there was no evidence indicating that Levenfeld did not live on the property, that the evidence established that she treated the property as a principal residence, and that Levenfeld "claimed the PRE by filing the appropriate affidavit." The MTT then focused on MCL 211.7cc(3)(b), which does not allow a PRE for a property owner if "that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns." The MTT found that Levenfeld and her husband filed joint federal and Illinois income tax returns for the tax years at issue here, 2006 and 2007, during which timeframe Scott Levenfeld owned residential property in Illinois and claimed a homestead exemption on the property under Illinois law. The MTT thus concluded that §§ 7cc(3)(b) applied, depriving Levenfeld of any right to a PRE. With respect to §§ 7cc(3)(b), the MTT further ruled:

[Levenfeld's] argument that the Illinois exemption is not "substantially similar" based on comparative monetary benefit also fails. The Hearing Referee correctly found that the dollar benefit need not be substantially similar. The Illinois exemption is based in statute and is titled General Homestead Exemption. The requirements include either ownership or lease with tax liability for residential property and occupancy. There are further limitations for married couples claiming multiple homesteads. The limitations in MCL 211.7cc(3) cannot be read to mean that (i) the exact requirements or language of the laws must be nearly identical. The underlying concept, an exemption from a portion of property taxation based on establishment of a principal residence, is substantially similar.

The MTT noted that the alleged prenuptial agreement, to the extent that it might support granting Levenfeld a PRE, could not control over clear state law relative to PRE eligibility. The MTT also cited MCL 211.7cc(3)(d), which does not allow a PRE for a property owner if "that person has filed an income tax return in a state other

than this state as a resident[.]" The MTT indicated, however, that it was unclear whether the Illinois income tax filings declared Levenfeld to be a resident of Michigan or Illinois, as the tax documents were never provided. It is not clear from the final opinion and judgment whether the MTT actually relied on §§ 7cc(3)(d) as further support for its ruling, given the residence matter. However, in denying Levenfeld's motion for rehearing, the MTT stated:

[Levenfeld's] spouse owned property in another state and claimed and received an exemption similar to the exemption at issue in this case. During that time period, [Levenfeld] filed a joint income tax return with [her] spouse in another state *as residents of that state*. The [MTT] need not consider [Levenfeld's] Constitutional [due process] arguments as MCL 211.7cc(3)(b) and MCL 211.7cc(3)(d) are clearly and directly on point. Based on the facts of this case, [Levenfeld] does not qualify for the requested exemption. [Emphasis added.]

6 *6

Accordingly, the MTT's ruling below was that Levenfeld was not entitled to a PRE in accordance with §§ 7cc(3)(b) and (d). Levenfeld appeals as of right pursuant to MCL 205.753, challenging the MTT's findings on (b) and (d) of §§ 7cc(3). We note that if either (b) or (d) applies, no PRE is permitted. MCL 211.7cc(3) ("a person is not entitled to an exemption under this section if *any* of the following conditions occur") (emphasis added).

In the absence of fraud, our review of a decision issued by the MTT is limited to determining whether it erred in applying the law or adopted a wrong principle, and the MTT's factual findings are conclusive if, on the whole record, they are supported by competent, material, and substantial evidence. *Klooster v City of Charlevoix*, 488 Mich 289, 295; 795 NW2d 578 (2011); *Mich Bell Telephone Co v Dep't of Treasury*, 445 Mich 470, 476; 518 NW2d 808 (1994); *Eldenbrady v City of Albion*, ___ Mich App ___ NW2d ___ (2011), slip op at 2. "Because tax exemptions are disfavored, the burden of proving entitlement to an exemption rests on . . . the party asserting the right to the exemption." *Elias Bros Restaurants, Inc v Treasury Dep't*, 452 Mich 144, 150; 549 NW2d 837 (1996).

An issue of statutory construction is a question of law that is reviewed de novo. *Klooster*, 488 Mich at 295-296. "The primary goal of statutory interpretation is to give effect to the Legislature's intent, focusing first on the statute's plain language." *Id.* at 296. The words used by the Legislature in crafting a statute provide us with the most reliable evidence of the Legislature's intent. *Id.* "When construing a statute, a court must read it as a whole." *Id.* This Court generally defers to the MTT's construction of a statute that it is charged with enforcing and administering. *Twentieth Century Fox Home Entertainment, Inc v Dep't of Treasury*, 270 Mich App 539, 541; 716 NW2d 598 (2006). The interpretation of a statute by an agency charged with executing the statute is entitled to the most respectful consideration and should not be overruled or rejected absent cogent reasons. *Superior Hotels, LLC v Mackinaw Twp*, 282 Mich App 621, 629; 765 NW2d 31 (2009). That said, ultimately, an agency's construction of a statute is not binding on the courts and cannot conflict with the Legislature's intent as expressed in clear statutory language. *In re Rovas Complaint Against SBC Mich*, 482 Mich 90, 103; 754 NW2d 259 (2008). Whether the Legislature intended to grant a tax exemption must never be implied from language that will admit of a reasonable contrary construction. *Eldenbrady*, ___ Mich App ___, slip op at 2. If a tax exemption does exist, it cannot be enlarged by construction inconsistent with the express terms used by the Legislature. *Steg v Dep't of Treasury*, 252 Mich App 183, 189; 651 NW2d 164 (2002).

As indicated above, "[a] principal residence is exempt from the tax levied by a local school district for school operating purposes to the extent provided under . . . MCL 380.1211, if an owner of that principal residence claims an exemption as provided in this section. . . ." MCL 211.7cc(1). An "owner" includes "[a] person who owns property." MCL 211.7dd(a)(i). A "principal residence" is defined as "the 1 place where an owner of the property has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established." MCL 211.7dd(c). MCL 380.1211(1), which is referred to in §§ 7cc(1), provides in part:

Except as otherwise provided in this section and section 1211c, the board of a school district shall levy not more than 18 mills for school operating purposes or the number of mills levied in 1993 for school operating purposes, whichever is

7 *7 less. A *principal residence*, qualified agricultural property, qualified forest property, supportive housing property, and industrial personal property are exempt from the mills levied under this subsection except for the number of mills by which that exemption is reduced under this subsection. [Emphasis added.]

Accordingly, a PRE results in exempting a residence from a tax levied by a school district for school operating purposes up to 18 mills.⁶

⁶ Each mill represents \$1 of tax assessment per \$1,000 of a property's assessed value. Black's Law Dictionary (7th ed). Using the Michigan Department of Treasury's property tax calculator, if we input a taxable value of \$500,000 relative to property located in the Village of Grand Beach, Township of New Buffalo, and County of Berrien, the estimated property tax for 2010 absent a PRE is \$21,930, and the estimated tax with a PRE is \$12,840, reflecting a difference of just over \$9,000, which is consistent with the dollar amount bandied about by Levenfeld and addressed by the referee and MTT. Simply doing the math, 18 mills on a property with a taxable value of \$500,000 would result in an exemption equaling \$9,000 ($\$500,000 \times 18 \div \$1,000 = \$9,000$). Furthermore, documents in the record reflect that, absent consideration of interest and administrative fees, Levenfeld owed and paid an additional \$8,742 for 2006 property taxes and \$9,066 for 2007 property taxes after the PRE was revoked.

On appeal, Levenfeld initially spends time arguing that the hearing referee was correct in finding that Levenfeld was entitled to a PRE. We, however, need to focus our attention on the MTT's final opinion and judgment. Levenfeld does proceed to challenge the MTT's ruling that she was not qualified for a PRE on the basis of MCL 211.7cc(3)(d), which, as indicated above, does not allow a PRE for a property owner if "that person has filed an income tax return in a state other than this state *as a resident*[" (Emphasis added.) Levenfeld argues that the MTT itself acknowledged that there were no Illinois tax return documents in evidence, making it unclear whether Levenfeld filed as an Illinois resident, yet, in the rehearing opinion, the MTT concluded, absent any support, that Levenfeld and her husband had filed tax returns as Illinois residents. We agree with Levenfeld that the MTT erred in applying §§ 7cc(3)(d). There is no evidence, let alone competent, material, and substantial evidence, that Levenfeld, filing Illinois tax returns jointly with her husband, did so as a listed Illinois resident. All of the evidence indicates that Levenfeld was a resident of Michigan in 2006 and 2007. Moreover, the MTT even stated in its final opinion and judgment that the documentation and testimony indicated that Levenfeld "did treat the subject property [in Michigan] as a
8 principal residence."⁷ *8

⁷ We note that in *Stege*, 252 Mich App at 195, this Court held that "the plain language of the Michigan homestead exemption does not prohibit both a Michigan property tax homestead exemption for a Michigan home and a simultaneous Illinois homestead income tax credit for a separate Illinois home." However, *Stege* has no bearing on our

case because the tax years at issue in *Stege*, as well as the date the opinion was issued, were all before the Legislature amended MCL 211.7cc under 2003 PA 105, adding the husband and wife exceptions found in §§ 7cc(3)(a)-(e), which encompass the exceptions at issue here.

Levenfeld maintains that the MTT also erred in applying MCL 211.7cc(3)(b), which, as indicated above, does not allow a PRE for a property owner if "that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns." There appears to be no dispute that Levenfeld and her husband did not file separate income tax returns for tax years 2006 and 2007; they filed joint Illinois and federal income tax returns. There is also no dispute that Levenfeld's husband owns property in a state other than Michigan, i.e., Illinois. Levenfeld argues, however, that the Illinois exemption is *not substantially similar* to Michigan's PRE. The MTT, as well as the hearing referee, found that the exemptions in the two states were substantially similar despite the large discrepancy between the resulting tax savings.⁸

⁸ Given that Levenfeld and her husband did not file separate income tax returns for tax years 2006 and 2007, and considering the hearing referee's finding that the exemptions were substantially similar, the referee's conclusion that Levenfeld was entitled to a PRE defies logic, as §§ 7cc(3)(b) would clearly apply. This may explain why the MTT conducted its own analysis and rendered a contrary opinion despite the fact that the county did not file an exception to the referee's proposed judgment.

Levenfeld argues that Scott Levenfeld's Illinois homestead exemption resulted in a property tax savings of only \$290 per year with respect to his separately titled home in Illinois, whereas giving Levenfeld a PRE on her Michigan house would entitle her to a tax savings of roughly \$9,000 per year. There is no transcript of the referee hearing and there are no tax documents in the record showing the dollar numbers attributed to Levenfeld's husband relative to his tax savings. However, the hearing referee and the MTT ostensibly accepted those figures as accurate, and the county makes no argument to the contrary. The county simply argues, in a single sentence and absent citation to authority, that "[t]he Illinois exemption is based on the same statutory construction that the Michigan exemption is based on, that is, a taxpayer need not pay school tax on a personal residence which they own and occupy." Levenfeld contends that the Illinois exemption applied automatically to Mr. Levenfeld's property, nominally reducing his tax burden, unlike in Michigan where a property owner has to affirmatively elect a PRE, resulting in a substantial monetary gain. Levenfeld argues that the MTT's interpretation of §§ 7cc(3)(b) effectively reads out the language "substantially similar," which language reflects an intention to have a quantitative analysis performed.

We discussed above the parameters of Michigan's PRE and how it operates to save money on property taxes. In Illinois, the general homestead exemption is found in 35 Ill Comp Stat 200/15-175, which provides in part:

Except as provided in Sections 15-176 and 15-177, homestead property is entitled to an annual homestead exemption limited, except as described here with relation to cooperatives, to a reduction in the equalized assessed value of homestead property equal to the increase in equalized assessed value for the

⁹ *9 current assessment year above the equalized assessed value of the property for 1977, up to the maximum reduction set forth below. . . .

[Except] as provided in Sections 15-176 and 15-177, for taxable years 2004 through 2007, the maximum reduction shall be \$5,000[.] . . . [⁹]

9 We note that the statute proceeds to address variations on the exemption formula based on certain criteria, but we cannot delve into the variations as the record provides no details whatsoever regarding Scott Levenfeld's residence.

Accordingly, the Illinois homestead exemption operates differently than Michigan's PRE, where it reduces a property's equalized assessed value, limited to \$5,000 for the tax years at issue here, which value is then subjected to the applicable tax rate or millage, resulting in a tax savings that typically would be fairly minimal; \$290 for Mr. Levenfeld. Our PRE, on the other hand, does not operate to reduce a property's taxable value or SEV; rather, it more directly reduces the tax liability on a home by lowering the mills. We note that the dramatic difference in tax savings here when comparing application of Michigan's PRE to the Illinois homestead exemption results because of the fairly high taxable value of Levenfeld's house in Michigan. If, instead of a taxable value hovering around \$500,000, Levenfeld's property had a taxable value of \$50,000, her estimated tax without a PRE, using the Michigan Department of Treasury's property tax calculator, would be \$2,193, and the estimated tax with a PRE would be \$1,284, reflecting a tax savings of only \$909. Similarly, any tax savings enjoyed by a resident under the Illinois statute would generally vary depending on a home's equalized assessed value. We tend to agree, therefore, with the MTT that the Legislature did not equate substantial similarity with comparative monetary benefit, as such an approach would result in varying conclusions dependent on the particular value of the homes being examined, even where the same state is being compared against Michigan. The question is whether the statutes are substantially similar, not whether application of the statutes results in tax savings that are substantially similar. It would defy logic to find, for example, that Michigan's PRE is substantially similar to Illinois' exemption in one case, given a miniscule difference in tax savings, but yet find in a second case that Michigan's PRE is not substantially similar to the Illinois exemption, given an enormous difference in tax savings.

Additionally, we find that the different underlying methodologies used in calculating the tax benefit, i.e., reduction in equalized assessed value versus a direct reduction in mills and thus tax liability, does not mean that the exemptions are not substantially similar. This is evident from the language in MCL 211.7cc(3)(b), where the Legislature speaks of an "exemption, *deduction, or credit*" that is substantially similar to a Michigan PRE, which reflects that different methodologies may indeed be employed, yet a substantial similarity could still exist. (Emphasis added.)

We tend to agree with the MTT that the Legislature was concerned with the "type" of exemption, as in a "homestead" exemption, when mandating a comparison of statutory schemes for purposes of §§ 7cc(3)(b). 35 Ill Comp Stat 200/15-175 defines "homestead property" as including, in part, "residential property that is
10 occupied by its owner or owners as his or their *10 principal dwelling place[.]" This language is comparable to the language and definitions in MCL 211.7cc and MCL 211.7dd, which govern our PREs, thereby making the exemptions substantially similar.

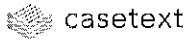
Giving "respectful consideration" to the MTT's interpretation, contemplating the language of MCL 211.7cc(3)(b), considering Levenfeld's burden to establish entitlement to an exemption, and given that the language at issue is somewhat "doubtful and obscure," there do not exist "cogent reasons" for overruling the MTT's construction of MCL §§ 7cc(3)(b). *In re Rovas*, 482 Mich at 103.

Affirmed. Having fully prevailed on appeal, we award taxable costs to the county pursuant to MCR 7.219.

William B. Murphy

E. Thomas Fitzgerald

Patrick M. Meter



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ORDER GRANTING PETITIONER'S MOTION
FOR SUMMARY DISPOSITION
FINAL OPINION AND JUDGMENT

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GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Mack C Stirling,
Petitioner,

MICHIGAN TAX TRIBUNAL
SMALL CLAIMS DIVISION

v

MOAHR Docket No. 19-003870

Leelanau County,
Respondent.

Presiding Judge
Steven M. Bieda

ORDER GRANTING PETITIONER'S MOTION FOR SUMMARY DISPOSITION

FINAL OPINION AND JUDGMENT

On December 23, 2019, Petitioner filed a motion requesting that the Tribunal enter summary judgment in their favor in the above-captioned case. More specifically, Petitioner contends that Petitioner's spouse owns two rental properties in Utah. The property taxes are paid based on the properties being tenant-occupied. Michigan allows one Principal Residence Exemption only for owner-occupied properties. Although Utah has a similar exemption, the one received by Petitioner's spouse is not substantially similar to the Michigan PRE. Substantially similar refers to the type of exemption, not the benefit, as explained in *Levenfeld v Berrien Co.*¹

On January 7, 2020, Respondent filed a response to the Motion. In the response, Respondent states, in pertinent part, the Utah exemption is substantially similar to the Michigan exemption because the intent of the laws is the same, a reduction in taxes based on occupancy by a primary resident. In *Levenfeld*, the two exemptions at issue were similar despite not being worded identically. Petitioner has benefitted from Utah's law that provides an exemption for a person's primary residence. The Michigan Legislature intended that a taxpayer only benefit from one property tax exemption for a primary residence. Petitioner also benefits from a PRE on another property in Michigan that they are selling on land contract.

The Tribunal has reviewed the Motion, response, and the evidence submitted and finds that granting Petitioner's Motion for Summary Disposition is warranted at this time. There is no specific Tribunal rule governing motions for summary disposition. Therefore, the Tribunal is bound to follow the Michigan Rules of Court in rendering a decision on such motions.² In this case, Petitioner moves for summary disposition under MCR 2.116(C)(10). Summary disposition under MCR 2.116(C)(10) tests the factual support

¹ *Levenfeld v Berrien Co*, unpublished per curiam opinion of the Court of Appeals, issued January 12, 2012 (Docket No. 300358).

² See TTR 215.

for a claim and must identify those issues regarding which the moving party asserts there is no genuine issue of material fact. Under subsection (C)(10), a motion for summary disposition will be granted “when the affidavits or other documentary evidence, viewed in the light most favorable to the nonmoving party, show that there is no genuine issue as to any material fact and the moving party is therefore entitled to judgment as a matter of law.”³ The Michigan Supreme Court has established that a court must consider affidavits, pleadings, depositions, admissions, and documentary evidence filed by the parties in the light most favorable to the non-moving party.⁴ The moving party bears the initial burden of supporting its position by presenting its documentary evidence for the court to consider.⁵ The burden then shifts to the opposing party to establish that a genuine issue of disputed fact exists.⁶ Where the burden of proof at trial on a dispositive issue rests on a non-moving party, the non-moving party may not rely on mere allegations or denials in pleadings but must go beyond the pleadings to set forth specific facts showing that a genuine issue of material fact exists.⁷ If the opposing party fails to present documentary evidence establishing the existence of a material factual dispute, the motion is properly granted.⁸

The parties dispute the applicability of a disqualifying factor for a PRE under MCL 211.7cc(3)(b), which provides that a person may not receive a PRE in any calendar year under certain conditions:

[T]hat person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns.

There is no dispute that Petitioner’s spouse, Dixie Stirling, owns properties in Utah and receives a tax exemption on those properties. The Tribunal must therefore determine whether that exemption is “substantially similar.” Utah law states that “[a]ll tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.”⁹ Residential property, however, is allowed a 45% reduction in value.¹⁰ “Residential property” is defined as “any property used for residential purposes as a primary residence.”¹¹ An exemption for residential property “is limited to one primary residence per household.”¹² Importantly, “[a]n owner of multiple primary residences located within the state is allowed a residential exemption. . .” for the primary

³ *Lowrey v LMPS & LMPJ, Inc*, 500 Mich. 1, 5; 890 NW2d 344 (2016) (citation omitted).

⁴ See *Quinto v Cross and Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996) (citing MCR 2.116(G)(5)).

⁵ See *Neubacher v Globe Furniture Rentals, Inc*, 205 Mich App 418, 420; 522 NW2d 335 (1994).

⁶ *Id.*

⁷ See *McCart v J Walter Thompson USA, Inc*, 437 Mich 109, 115; 469 NW2d 284 (1991).

⁸ See *McCormic v Auto Club Ins Ass’n*, 202 Mich App 233, 237; 507 NW2d 741 (1993).

⁹ Utah Code Ann § 59-2-103(1).

¹⁰ Utah Code Ann § 59-2-103(2).

¹¹ Utah Code Ann § 59-2-102(36)(a).

¹² Utah Code Ann § 59-2-103(5)(a).

residence of the owner and “each residential property that is the primary residence of a tenant.”¹³ Thus, an owner of property in Utah may receive the exemption if the property is used as the primary residence of the tenant.¹⁴

Here, it is undisputed that Petitioner’s spouse receives the Utah exemption for “the primary residence of a tenant.”¹⁵ In contrast, the PRE exemption in Michigan is for a property “owned and occupied as a principal residence by that owner of the property. . . .”¹⁶ The Court in *Levenfeld* agreed with the Tribunal’s reading of MCL 211.7cc(3)(b) that “that the Legislature was concerned with the ‘type’ of exemption, as in a ‘homestead’ exemption, when mandating a comparison of statutory schemes. . . .”¹⁷ The exemption in Utah applies as long as it is a primary residence and there is no requirement that the same person both own *and* occupy the property. Thus, the Tribunal concludes that the Utah exemption received by Petitioner’s spouse is not substantially similar to the Michigan PRE because it is not for property occupied by the *owner*, i.e., a homestead.¹⁸ Though Michigan law allows for a person that does not hold a property in fee simple to obtain a PRE, this is accomplished by defining those persons as “owners.”¹⁹ Accordingly, there being no material facts in dispute, summary disposition is warranted in Petitioner’s favor. Therefore,

IT IS ORDERED that Petitioner’s Motion for Summary Disposition is GRANTED.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property’s principal residence exemption for the tax years at issue as provided in this Final Opinion and Judgment within 20 days of entry of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by the Final Opinion and Judgment within 28 days of the entry of the Final Opinion and Judgment. If a refund is warranted, it shall be without interest, as provided by MCL 211.7cc. It shall, however, include a proportionate share of any property tax administration fees paid and penalty and interest paid on delinquent taxes. The refund

¹³ Utah Code Ann § 59-2-103(5)(b)(i) and (ii).

¹⁴ See *Dennis v Summit Co*, 933 P2d 387, 389 (Utah, 1997).

¹⁵ Utah Code Ann § 59-2-103(5)(b)(i) and (ii).

¹⁶ MCL 211.7cc(2).

¹⁷ *Levenfeld*, unpub op at 9 (emphasis added).

¹⁸ The Tribunal also notes that it has addressed Utah’s primary residence exemption in previous cases, both of which acknowledged that, had the owner of the property received the “secondary” residential exemption, they would not have been disqualified from receiving a PRE in Michigan. See *Whiting v Grand Traverse Co*, Docket No. 16-005482 (March 1, 2018) and *Boyd v Grand Traverse Co*, Docket No 17-004340 (March 20, 2018).

¹⁹ See MCL 211.7dd(a). To the extent that Respondent states that Petitioner owns another property in Michigan that receives a PRE, Respondent also states that the persons occupying that property have claimed the PRE, not Petitioner. Those persons would qualify as “owners” under MCL 211.7dd(a)(i).

shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded.

This Final Opinion and Judgment resolves the last pending claim and closes this case.

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A Motion for reconsideration must be filed with the required filing fee within 21 days from the date of entry of the final decision.²⁰ Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is \$50.00 in the Entire Tribunal and \$25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee.²¹ A copy of the motion must be served on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion.²² Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.²³ A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave."²⁴ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.²⁵ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.²⁶

By _____



Entered: January 23, 2020
wmm

²⁰ See TTR 261 and 257.

²¹ See TTR 217 and 267.

²² See TTR 261 and 225.

²³ See TTR 261 and 257.

²⁴ See MCL 205.753 and MCR 7.204.

²⁵ See TTR 213.

²⁶ See TTR 217 and 267.

ORDER DENYING MOTION FOR
RECONSIDERATION

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GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Mack C Stirling,
Petitioner,

MICHIGAN TAX TRIBUNAL
SMALL CLAIMS DIVISION

v

MOHR Docket No. 19-003870

Leelanau County,
Respondent.

Presiding Judge
Marcus L Abood

ORDER DENYING RESPONDENT’S MOTION FOR RECONSIDERATION

On February 13, 2020, Respondent filed a motion requesting that the Tribunal reconsider the Final Opinion and Judgment entered in the above-captioned case on January 23, 2020. In the motion, Respondent states that Tribunal granted the subject property a principal residence exemption despite his wife having a substantially similar exemption in Utah. In doing so, the Tribunal confused the difference in scope for a difference in the type of exemption.

The Tribunal has considered the motion and the case file and finds that Respondent has failed to demonstrate a palpable error relative to the Final Opinion and Judgment that misled the Tribunal and the parties and that would have resulted in a different disposition if the error was corrected.¹ The Tribunal correctly analyzed the exemptions at issue and concluded that the Utah exemption received by Petitioner’s spouse is not substantially similar to the Michigan principal residence exemption because it is not for property occupied by the owner of the property. The Michigan Court of Appeals has held that “the Legislature was concerned with the ‘type’ of exemption, as in a ‘homestead’ exemption,” and in finding that the Illinois exemption is substantially similar to the Michigan exemption, noted that both are defined, in relevant part, as property occupied by an owner has a homestead.² A statutory scheme that grants exemptions to nonowners is not substantially similar to the Michigan PRE because such individuals are not eligible under Michigan law. Therefore,

IT IS ORDERED that Respondent’s Motion for Reconsideration is DENIED.

This Order resolves all pending claims in this matter and closes this case.


¹ See MCR 2.119.

² *Levenfeld v Cty Of Berrien*, unpublished per curiam opinion of the Court of Appeals, issued January 12, 2012 (Docket No. 300358).

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a claim of appeal with the Michigan Court of Appeals.

A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an “appeal of right.” If the claim is filed more than 21 days after the entry of the final decision, it is an “appeal by leave.”³ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.⁴ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.⁵

By 

Entered: February 24, 2020
ejg

³ See MCL 205.753 and MCR 7.204.

⁴ See TTR 213.

⁵ See TTR 217 and 267.

COURT OF APPEALS
REGISTER OF ACTIONS

Mack C. Stirling v County of Leelanau

COA No. 353117

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COA 353117
MSC 162961

MACK C STIRLING V COUNTY OF LEELANAU

Lower Court/Tribunal

TAX TRIBUNAL

Judge(s)

BIEDA STEVEN M

Docket

Case Documents

Case Information



Case Header

Case Number

COA #353117

MSC #162961

Case Status

MSC Pending on Application

COA Case Concluded; File Open

Published Case Citation(s)

336 Mich App 575

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TAXATION SECTION OF SBM

Amicus Curiae

Attorney(s)

Marge Bossenbery, Exec Coordinator

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COLLAPSE ALL EXPAND ALL

03/13/2020	1 Claim of Appeal - Civil	+
01/23/2020	2 Order Appealed From	+
03/13/2020	4 No Transcript Will Be Filed	+
03/19/2020	3 Appearance - Appellee	+
04/08/2020	5 Motion: Appear & Practice	+
04/10/2020	6 Telephone Contact	+
04/10/2020	7 Docketing Statement MCR 7.204H	+
04/14/2020	8 Correspondence Received	+
04/21/2020	10 Submitted on Administrative Motion Docket	+
04/21/2020	11 Order: Appear and Practice - Grant	+
04/21/2020	12 Email Contact	+
04/28/2020	13 Telephone Contact	+
04/29/2020	14 Telephone Contact	+
04/29/2020	15 Brief: Appellant	+

04/29/2020	16 Proof of Service - Generic	+
06/04/2020	17 Noticed	+
06/08/2020	18 Correspondence Received	+
06/10/2020	19 Correspondence Sent	+
06/10/2020	20 Telephone Contact	+
06/18/2020	21 Correspondence Received	+
06/25/2020	22 Electronic Material Received by Record Room	+
06/25/2020	23 Electronic Record Filed	+
07/09/2020	25 Stipulation: Extend Time - AE Brief	+
08/08/2020	26 Brief: Appellee	+
08/27/2020	27 Brief: Reply	+
02/15/2021	37 Email Contact	+
03/03/2021	33 Submitted on Case Call	+
03/03/2021	38 Oral Argument Audio	+
03/25/2021	39 Opinion - Authored - Published	+
05/05/2021	40 Application for Leave to SCt	+
05/06/2021	41 Supreme Court: SCt Case Caption	+
05/06/2021	42 Supreme Court: Miscellaneous Filing	+
05/06/2021	43 Other	+
05/06/2021	44 Supreme Court: Miscellaneous Filing	+

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07/27/2021	51 Supreme Court: Miscellaneous Filing	+
02/04/2022	52 Supreme Court Order: MOAA -Oral Argument on Lv Appl	+
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04/25/2022	54 Supreme Court: MOAA - AT supp'l brf	+

MICHIGAN COURT OF APPEALS OPINION
March 25, 2021

Mack C. Stirling v County of Leelanau, COA No. 353117

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STATE OF MICHIGAN
COURT OF APPEALS

MACK C. STIRLING,
Petitioner-Appellee,

v

COUNTY OF LEELANAU,
Respondent-Appellant.

FOR PUBLICATION
March 25, 2021
9:00 a.m.

No. 353117
Tax Tribunal
LC No. 19-003870-TT

Advance Sheets Version

Before: MURRAY, C.J., and M. J. KELLY and RICK, JJ.

MURRAY, C.J.

Respondent, Leelanau County, appeals as of right the final opinion and order of the Michigan Tax Tribunal (MTT) granting summary disposition under MCR 2.116(C)(10) in favor of petitioner, Mack C. Stirling. In granting petitioner’s motion, the MTT held that petitioner was entitled to utilize the Michigan principal-residence exemption (PRE) for his home in Leelanau County because the primary-residence exemption claimed by petitioner’s wife for a residence in Utah was not based upon an exemption “substantially similar” to the PRE. We conclude otherwise and thus reverse the final opinion and order of the MTT and remand for further proceedings consistent with this opinion.

I. BACKGROUND

The material facts are not in dispute. Petitioner has lived in his Leelanau County home since 1990. Petitioner’s wife owned two rental properties in Utah, but she sold one of the properties in 2018. Petitioner and his wife filed joint tax returns for the pertinent tax years of 2016 to 2019. Neither petitioner nor his wife ever resided at either Utah property; however, the Utah tenants (petitioner’s family members) used the properties as their principal residences. As a result, under Utah law, petitioner’s wife claimed tax exemptions during the relevant tax years for these properties and disclosed that fact on petitioner’s application for a PRE. Respondent denied petitioner’s application, concluding that use of the Utah exemption rendered petitioner ineligible for a PRE because the Utah exemption was “substantially similar” to the PRE.

Petitioner then filed this matter in the Small Claims Division of the MTT and subsequently sought summary disposition on the undisputed facts. The MTT granted the motion, concluding that the Utah exemption received by petitioner was not “substantially similar” to the PRE,

primarily because to be eligible for the PRE a person had to be *both* an owner and occupier of the residence, while under Utah law a person was eligible if she owned and occupied the residence, *or* owned the residence and had tenants occupying the home as a primary residence. After the MTT denied respondent's motion for reconsideration, respondent filed this claim of appeal.

II. DISCUSSION

Our judicial task is to determine whether what is required under a Utah residential-property-tax-exemption statute is “substantially similar” to that provided by the Michigan residential-property-tax-exemption statute. “Absent fraud, our review of MTT decisions is limited to determining whether the MTT erred in applying the law or adopted a wrong legal principle.” *VanderWerp v Plainfield Charter Twp*, 278 Mich App 624, 627; 752 NW2d 479 (2008). We review de novo the MTT's interpretation and application of statutes. *Id.* Although appellate courts “generally defer to the Tax Tribunal's interpretation of a statute that it is delegated to administer, that deference will not extend to cases in which the tribunal makes a legal error. Thus, agency interpretations are entitled to ‘respectful consideration’ but cannot control in the face of contradictory statutory text.” *SBC Health Midwest, Inc v Kentwood*, 500 Mich 65, 71; 894 NW2d 535 (2017) (some quotation marks and citations omitted).¹ In other words, “respectful consideration” is given to the MTT's construction of a statute, but ultimately the meaning of a statute is a legal question to which we owe no deference.² As we said just late last year:

Because these claims of error involve whether the Tax Tribunal properly interpreted and applied the statutes governing its jurisdiction, this Court's review is limited to determining whether the Tax Tribunal committed an error of law in its interpretation and application of the statutes. *Mich Props, LLC v Meridian Twp*, 491 Mich 518, 527-528; 817 NW2d 548 (2012). This Court reviews de novo whether the Tax Tribunal erred as a matter of law when interpreting and applying statutes. *Makowski v Governor*, 317 Mich App 434, 441; 894 NW2d 753 (2016). Agency interpretations of a statute are entitled to “respectful consideration, but they are not binding on courts and cannot conflict with the plain meaning of the statute.” *In re Complaint of Rovas Against SBC Mich*, 482 Mich 90, 117-118; 754 NW2d 259 (2008). [*New Covert Generating Co, LLC v Covert Twp*, 334 Mich App 24, 45; 964 NW2d 378 (2020).]

¹ We agree with respondent that because the MTT is not delegated authority to administer the Utah tax-exemption statutes, any deference warranted under *SBC Health Midwest*, 500 Mich at 71, is not applicable with respect to its view of Utah law.

² This “respectful consideration” is much like what we give to a trial court's view of a legal issue on de novo review. See, e.g., *Gillette Commercial Operations North America & Subsidiaries v Dep't of Treasury*, 312 Mich App 394, 405 n 3; 878 NW2d 891 (2015) (“Though we can give no deference to the trial court's legal rulings, unlike the deference we give to discretionary calls on evidence or findings of fact, we nevertheless give the trial court's legal rulings careful consideration.”).

“It is well established that the primary goal of statutory construction is to ascertain and give effect to the intent of the Legislature.” *VanderWerp*, 278 Mich App at 627. “The words used by the Legislature in writing a statute provide us with the most reliable evidence of the Legislature’s intent.” *Drew v Cass Co*, 299 Mich App 495, 499; 830 NW2d 832 (2013). “If the statutory language is clear and unambiguous, this Court must apply the statute as written, and no further judicial construction is necessary or permitted.” *VanderWerp*, 278 Mich App at 627. “Moreover, statutes exempting persons or property from taxation must be narrowly construed in favor of the taxing authority.” *Drew*, 299 Mich App at 499-500 (quotation marks and citation omitted).

The PRE is part of the General Property Tax Act, MCL 211.1 *et seq.*, and it allows taxpayers to exempt their domicile from the local school district’s property tax. *Schubert v Dep’t of Treasury*, 322 Mich App 439, 448; 912 NW2d 569 (2017). The PRE is governed by MCL 211.7cc, which provides in relevant part:

(1) A principal residence is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, if an owner of that principal residence claims an exemption as provided in this section. . . .

(2) . . . [A]n owner of property may claim 1 exemption under this section by filing an affidavit on or before May 1 for taxes levied before January 1, 2012 or, for taxes levied after December 31, 2011, on or before June 1 for the immediately succeeding summer tax levy and all subsequent tax levies or on or before November 1 for the immediately succeeding winter tax levy and all subsequent tax levies with the local tax collecting unit in which the property is located. For the 2020 tax year only, an owner may claim 1 exemption under this section by filing an affidavit on or before June 30, 2020 for the 2020 summer tax levy and all subsequent tax levies with the local tax collecting unit in which the property is located. *The affidavit shall state* that the property is owned and occupied as a principal residence by that owner of the property on the date that the affidavit is signed and shall state *that the owner has not claimed a substantially similar exemption, deduction, or credit on property in another state.* . . .

(3) Except as otherwise provided in subsection (5), a married couple who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 exemption under this section. For taxes levied after December 31, 2002, *a person is not entitled to an exemption under this section in any calendar year in which any of the following conditions occur:*

* * *

(b) . . . [T]hat person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit *substantially similar to the exemption provided under this section*, unless that person and his or her spouse file separate income tax returns. [Emphasis added.]

Thus, under Michigan law, a qualifying person is entitled to the PRE so long as they do not own a home in another state for which they claimed an exemption that is “substantially similar to” the PRE. See generally, *Campbell v Mich Dep’t of Treasury*, 331 Mich App 312, 320-321; 952 NW2d 568 (2020).

Utah’s residential-property exemption is governed by Utah Code 59-2-103³, which provides in relevant part:

(3) . . . [T]he fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.

* * *

(6)(a) Except as provided in Subsections (6)(b)(ii) and (iii), a residential exemption described in Subsection (3) is limited to one primary residence per household.

(b) An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection (3) for:

(i) subject to Subsection (6)(a), the primary residence of the owner;

(ii) each residential property that is the primary residence of a tenant

In *Dennis v Summit Co*, 933 P2d 387, 389 (Utah, 1997), the court indicated that the purpose of this statute was to grant an exemption for residential property being used as a primary residence, which can occur in two ways:

The crucial qualification for the exemption is the use to which the property is put, not the residency of the owner. A resident of Utah who owns residential property in Utah but does not *use* that property as a primary residence is taxed in the same manner as a nonresident who likewise owns residential property that he does not use as a primary residence. Such properties are valued at 100% of fair market value for purposes of calculating the property taxes owed. The tax exemption treats resident and nonresident taxpayers alike. Likewise, the Taxing Authorities point out that an individual, whether resident or nonresident, who owns residential property in Utah and rents it to someone who *uses* the property as a primary residence qualifies for the exemption. Both the resident owner and the nonresident

³ After the decision by the MTT, the Utah legislature amended this code provision and the statutory provisions have been renumbered, though the substantive language at issue here was not affected by the amendment. We refer to the current version of the statute in this opinion.

owner can take advantage of the exemption as long as the property is being *used* as a primary residence by someone.

What the MTT decided in its opinion and order, and what we must resolve now, is whether the Utah residential-property exemption claimed by petitioner, i.e., the exemption provided to homeowners whose home is used by tenants as a primary residence, is “substantially similar” to the PRE within the meaning of MCL 211.7cc(3)(b). As we have noted, the MTT held that it was not.⁴

In reaching its decision, the MTT concluded that “the Utah exemption received by Petitioner’s spouse is not substantially similar to the Michigan PRE because it is not for property occupied by the *owner*, i.e., a homestead”; rather, “[t]he exemption in Utah applies as long as it is a primary residence and there is no requirement that the same person both own *and* occupy the property.” It is true that there are some differences in the coverage of the primary-residence exemptions under the Michigan and Utah statutes, in that the availability of the exemption in Utah is broader than the PRE. Relevant to this case, Utah provides an exemption for a person who (1) owns a home that (2) is used as a primary residence by another. The Utah exemption also contains a provision *exactly* like the PRE, where the homeowner resides in the home as a primary residence.

Our focus in conducting the comparison is between the PRE and the exemption “claimed” by the taxpayer. MCL 211.7cc(3)(b). Here, that is the residential-property exemption contained in Utah Code 59-2-103(3), which is limited to one primary residence per household, Utah Code 59-2-103(6)(a), but which can be claimed by the property owner for residences occupied as the primary residence of the owner or as the primary residence of a tenant. Utah Code 59-2-103(6)(b)(i) and (ii).⁵ This framework for our analysis steers us to the conclusion that the Utah exemption claimed by petitioner was substantially similar to the PRE. This conclusion is based on several considerations. First, the “substantial similarity” standard is not so demanding that it requires exactness. The meaning of the common but statutorily undefined word “substantial” is “being largely but not wholly that which is specified,” while “similar” is defined as “having characteristics in common” and “alike in substance or essentials.” *Merriam-Webster’s Collegiate Dictionary* (11th ed).⁶ Taken together, we conclude that the Legislature’s requirement that the other state’s exemption claimed by the homeowner be “substantially similar” to the PRE means

⁴ This is not the first time the MTT has addressed whether Utah’s residential-property exemption is “substantially similar” to the PRE. In both *Whiting v Grand Traverse Co*, unpublished opinion of the Michigan Tax Tribunal, issued March 1, 2017 (Docket No. 16-005482), and *Boyd v Grand Traverse Co*, unpublished opinion of the Michigan Tax Tribunal, issued March 20, 2018 (Docket No. 17-004340), the MTT determined that the same Utah exemption claimed by petitioner *was* substantially similar to the PRE.

⁵ Utah Code 59-2-103(6)(b)(iii) now permits an owner to claim the exemption for unoccupied property and property under construction per Utah Code 59-2-102(34)(b)(ii), but that provision, added in 2020, is not at issue in this case.

⁶ We consult a dictionary to determine the generally understood meaning of a nontechnical word or phrase left undefined by the Legislature. *People v Lewis*, 302 Mich App 338, 342; 839 NW2d 37 (2013).

that the sister state's exemption must be largely but not wholly alike in its characteristics and substance to the PRE.

Second, applying that definition here, there is no dispute that the main characteristic of the Utah statute, like the PRE, is to grant an exemption to a person who owns a primary residence in that state. It, in fact, seems clear that the primary purpose and characteristic of both statutes is to grant property-tax relief to a person for a home that is used as a primary residence. Third, when looking at the substance of the two exemptions, the Utah exemption claimed by petitioner goes further than the PRE by granting the exemption to a homeowner when the homeowner does not occupy the home but the home is occupied by a tenant as a primary residence. Utah Code 59-2-103(6)(b)(ii). Although Michigan's PRE is more limited in that it applies only to the owner of a property who uses the property as a primary residence, MCL 211.7cc(2), the primary character and substance of both statutes is to provide an exemption for a *homeowner's* primary residence that is *occupied as a primary residence*. We hold that these overarching provisions make the Utah exemption claimed by petitioner substantially similar to the PRE.

We cannot accept petitioner's argument that the Utah exemption does not meet the statutory test because a homeowner need not reside in the residence to receive the exemption. To do so would require demanding an exactness between the two statutory exemptions that the law does not require. Indeed, to accept that argument would require ignoring the significant similarities between the two statutes (both their purposes and their primary applications) and placing too much emphasis on an additional provision available to homeowners under Utah law, and it would impose too stringent a definition on the phrase "substantial similarity."⁷

III. CONCLUSION

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Christopher M. Murray

/s/ Michael J. Kelly

/s/ Michelle M. Rick

⁷ We do not agree with the MTT that its prior decisions reflect that if the petitioners in *Whiting* and *Boyd* had utilized the Utah exemption taken by petitioners here, i.e., for a residence owned by them but occupied by others, they would have qualified for the PRE. We see no statement to that effect in either decision, and both cases involved Michigan residents who owned Utah residences that were occupied by relatives as their primary residences. Both *Whiting* and *Boyd* contain conclusions squarely in line with our reading and application of the Michigan and Utah statutes.