

TAX APPEAL BOARD OF THE STATE OF DELAWARE

ELIZABETH D. WATTS,

Petitioner,

v.

DIRECTOR OF REVENUE,

Respondent.

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) **Docket No. 987**
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Before: John H. Cordrey, Esquire, Chairman; David C. Eppes and Regina Dudzic, Members.

Petitioner is *Pro Se*.

Joseph Patrick Hurley, Jr., Esquire, Deputy Attorney General for Respondent.

DECISION AND ORDER

John H. Cordrey, Esquire, Chairman. This is the Board's decision regarding Petitioners' petition after a factual hearing.

The Board held a factual hearing and after the hearing the Board requested the parties to submit proposed factual findings. Respondent provided proposed findings of facts but Petitioner has not filed proposed findings of fact.

The Board has reviewed the petition as well as the exhibits and considered the testimony of the two witnesses. Based upon the foregoing evidence the Board finds the facts to be as follows.

Petitioner is a Delaware resident who purchased a home in 1981. At the time of the purchase the property was placed in the name of Petitioner and Katherine E. LaVelle. The funds utilized to purchase the property were entirely provided by Petitioner. Ms. LaVelle made no monetary contribution to the purchase of the real estate. At the same time a mortgage and note were signed by Petitioner and Ms. LaVelle which created a joint obligation for the financed portion of the purchasing funds. The payments made for the mortgage were paid by Petitioner

from her separate funds and she took all interest and property tax deductions on her income taxes. Ms. LaVelle lived in the home and made contributions towards food and utilities but not towards the mortgage payments or taxes.

In 1985 Ms. LaVelle moved from the home and in 1988 Petitioner and Ms. LaVelle agreed to correct the record regarding the ownership of the property. At that time Petitioner had a deed prepared to transfer the property from Petitioner and Ms. LaVelle to Petitioner as a ninety-nine percent owner and to Ms. LaVelle as a one percent owner. No consideration was paid by Petitioner for the transfer. The last paragraph of the deed recited "This deed being executed and recorded as a correctional deed to properly identify and set forth the percentages of ownership interest in the hereinabove described property held by the respective parties of the second part." The Petitioner paid no transfer tax claiming the exemption provided in 30 Del.C. §5401(1)l. Thereafter a second deed was prepared and recorded through which Ms. LaVelle conveyed her one percent ownership in the home to Petitioner. The Petitioner paid the transfer tax on the value of the one percent ownership transfer.

Respondent has contested the failure of Petitioner to pay the transfer tax on the "correctional deed" and claims that transfer tax in the amount of \$287.50 is due on the transfer of the one half interest.

The Board finds that the true owner of the property from the outset was Petitioner, despite Ms. Lavelle's name appearing on the title. The correctional deed did correct the record title ownership to that which the parties originally intended. Therefore the deed was truly a correctional deed without actual consideration. As the deed was a correctional deed without actual consideration the transfer was exempt pursuant to 30 Del.C. §5401(1)l.

Based upon the foregoing the Director's Notice of Determination is reversed.

SO ORDERED, this ____ day of December, 1996.





John H. Cordrey

Regina Dudziec



David C. Eppes
