

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 16,924
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of PATH denying his application for ANFC. The issues are whether real property owned by the petitioner is exempt as a resource and, if not, whether the Department has correctly valued this property in determining the petitioner's resources.

FINDINGS OF FACT

1. The petitioner lives with his minor son in a house he owns. About ten years ago the petitioner purchased a small (less than ¼ acre) parcel of land that is located about 500 feet down the road from the boundary of the land his house is on.

2. The petitioner states he paid \$3,000 for this parcel, and that he bought it to park his cars on because he does not have good road access to his house. The current town assessment on the property, which the petitioner has never appealed, is \$3,200.

3. The petitioner states that he also rents the property in summer for \$600 as a campsite to people from out of state. The renters pay for town water and electricity, which is available on the property.

4. The petitioner states that a real estate agent told him that the property cannot be appraised because it does not qualify for a building permit. However, the petitioner admits that he has never made any concerted attempt to sell the property. Moreover, based on its current use, it certainly appears that the property has value as a campsite.

5. The Department has determined that the property is valued at its current tax appraisal of \$3,200. Because this is in excess of the resource maximum for ANFC and the property is not otherwise exempt the Department has denied the petitioner's application for ANFC. At the hearing in this matter (held on March 1, 2001) the petitioner was advised that he could reapply for ANFC if he could obtain a qualified appraisal of the property showing that it is worth less than its appraised value or if he puts it on the market for sale.

ORDER

The Department's decision is affirmed.

REASONS

Under the regulations (WAM § 2261) the combined resources limitation for an ANFC household is \$1,000. WAM § 2260 includes the following:

Resources are defined as any assets, other than income, which an applicant ANFC assistance group has available to meet need. Such assets generally take the form of real or personal property owned by the recipients, individually or jointly with other persons.

The total equity value of all resources, except items specifically excluded, shall be evaluated to establish their combined value for comparison with the resource limitation noted below. . .

The only real property exempted from inclusion as a resource is land and attached buildings that are "owned, used, and occupied as a home". WAM § 2262. In this case it cannot be concluded that the petitioner's use of an unadjoining parcel of land as a parking place for vehicles renders it "used. . .as a home" within the meaning of the above exclusion. Moreover, as noted above, the petitioner also uses the parcel in question as a rental campsite.¹

Under § 2262, real property that the owner is making a good faith effort to sell can also be exempt for up to six months. As noted above, however, the petitioner has not

¹ The Food Stamp regulations, unlike their ANFC counterparts, allow an exemption for real property not adjoining the home that is used for income

credibly demonstrated a good faith attempt to sell the parcel in question. He also has not produced any credible evidence that the parcel is worth less than its appraised value of \$3,200. For these reasons the Department's decision is affirmed.

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producing purposes. The Department allowed this exemption in granting the petitioner's application for Food Stamps.