

STATE OF MICHIGAN
COURT OF APPEALS

JEANNIE WROZEK,

Petitioner-Appellee,

v

CITY OF JACKSON,

Respondent-Appellant.

UNPUBLISHED

July 25, 1997

No. 195070

Tax Tribunal

LC No. 00169128

Before: Jansen, P.J., and Wahls and P.R. Joslyn*, JJ.

MEMORANDUM.

The City of Jackson appeals by right a Tax Tribunal determination, reversing the Board of Review and granting plaintiff a partial exemption from real property taxes pursuant to MCL 211.7u; MSA 7.7(4r).

This case arose under the cited statute prior to amendment of the statute by 1993 PA 313, effective March 15, 1994, inasmuch as the tax years 1992 and 1993 are involved. The Tax Tribunal found that the Board of Review abused its discretion, the proper review standard, *Nicholson v Board of Review*, 191 Mich App 237; 477 NW2d 492 (1991), because the Board of Review appeared to speculate that relatives might be able to make up the shortfall in plaintiff's income so that she would be able to pay her property taxes in full. Had the Board of Review so ruled, there would be validity to the Tribunal's decision.

Here, however, the record reveals that the property in question was owned as a joint tenancy by four persons, petitioner Jeannnie Wrozek, Walter J. and Lucille B. Wrozek, husband and wife, and Elaine M. Nelson, a married woman. The only income information provided to the Board of Review concerned Jeannie Wrozek, and not the other three owners of the property, who appear to be adult children of the elderly petitioner and a daughter-in-law, all three of whom appear to be living independently elsewhere. Under these circumstances, confining the issue of poverty to an examination only of one joint tenant's income would have been unjustified by the statute, which referred to the "property of persons" in the plural. Since the burden of proving an exemption would have been on the

* Circuit judge, sitting on the Court of Appeals by assignment.

petitioner, *Edison v Michigan Dept of Revenue*, 362 Mich 158; 106 NW2d 802 (1961), and a claim for exemption must be established by a very high standard of proof, as much as proof beyond a reasonable doubt, *Michigan United Conservation Clubs v Lansing Township*, 129 Mich App 1; 342 NW2d 290 (1983), the Board of Review did not abuse its discretion in concluding that petitioner had failed to carry her burden of proving sufficient poverty to warrant an exemption from taxation, where petitioner was one of only four owners of the property.

Inasmuch as, in proceedings before the Tribunal, it was revealed that petitioner had died while the appeal was pending, and the other joint tenants did not desire to pursue the appeal and had sold the property, having otherwise paid the taxes in full, further proceedings before the Tax Tribunal are unwarranted.

Reversed; decision of the Board of Review reinstated. We do not retain jurisdiction.

/s/ Kathleen Jansen

/s/ Myron H. Wahls

/s/ Patrick R. Joslyn