



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

TO: County Boards of Assessment  
County Directors of Veterans' Affairs

FROM: Dennis Guise  
Chief Counsel  
Department of Military and Veterans Affairs

DATE: June 3, 2009

MEMO

SUBJECT: Disabled Veterans' Real Estate Tax Exemption Program  
Land Area to which Need for Exemption Applies

The State Veterans' Commission has approved uniform and equitable standards to implement the Commonwealth Court's decision in the case of Vanderhoef v. Susquehanna County Board of Assessment, 960 A. 2d. 212 (Pa.Cmwlth, 2008). In that case, the Commonwealth Court ruled that a local board of assessment exceeded its authority when it granted a real estate tax exemption to a qualified disabled veteran for only **one acre** of the **2.15 acre** property where his principal dwelling was located.

The Court ruled that the taxing authority had no discretion to exempt less than the entire property or to determine the number of acres to be exempt. The Court stated that "[r]ather, it is the duty of the [State Veterans'] Commission, not the taxing authority, to determine the financial need for the exemption." From the Court's perspective, the area of land to be exempted is related to the "individualized need" of the applicant, which is a decision for the State Veterans' Commission. The Commission is an advisory commission within the Department of Military and Veterans Affairs, the powers and duties of which are set forth in 51 Pa.C.S. Chapter 17.

The following guidance applies in cases where the land area subject to the real estate tax exemption for qualified disabled veterans raises an issue as to the need for the exemption: Pursuant to its authority to fix uniform and equitable standards for determining need for the Disabled Veterans' Real Estate Tax Exemption under Article 8, Section 2(c) of the Pennsylvania Constitution and 51 Pa.C.S. Chapter 89, the State Veterans' Commission provides the following guidance on the land area to be exempt from taxation consistent with the Commonwealth Court's decision in Vanderhoef v. Susquehanna County Board of Assessment, 960 A. 2d 212 (Pa.Cmwlth 2008):

1. **General Rule.** Except as otherwise provided in these guidelines, an applicant for the disabled veterans' real estate tax exemption program who meets all other eligibility criteria for the exemption, including financial need, will be considered as having a need for the exemption to be applied to the **entire parcel or lot** on which the principal dwelling of the applicant is situated.

2. **Exceptions to General Rule.** The general rule described in paragraph 1 shall not apply in the following circumstances:

a. To any portion of the parcel or lot in excess of five (5) acres in area, provided that an applicant shall be given the opportunity to provide information that he or she has an individualized need for the real estate tax exemption for greater than five acres. In determining the five-acre area for which an applicant has need for the exemption, the Commission shall consider the area most contiguous to the principal dwelling taking into account the natural and manmade features on or bordering the parcel or lot including roads, waterways, steep slopes and other regular and ordinary boundaries.

b. To any portion of the parcel or lot being rented to another person or entity for residential, business or other purposes.

c. To any portion of the parcel or lot being occupied or used for purposes unrelated to the principal dwelling of the applicant.

Issues related to the land area of parcels to be exempt under the Disabled Veterans' Real Estate Tax Exemption Program arise infrequently. The State Veterans' Commission believes the guidance set forth above can assist in resolving these issues in the vast majority of cases in a uniform and equitable manner. Of course, if a particular case requires the Commission to inquire further to make an individualized determination of need, it will do so.

Please share this memorandum with your solicitor and other appropriate officials. Please feel free to contact me if you have any questions or need more information.