

STATE OF WEST VIRGINIA
RANDOLPH COUNTY COMMISSION SS:

At a special session of the Randolph County Commission in and for the aforesaid County and State, at the James Cain Court House Annex, on the 8th day of December, 2015 at 10:00 A.M.

Present: Michael Taylor, President of the Randolph County Commission and Chris See and Joyce Johns, Commissioners thereof.

Meeting called to order by Commissioner Taylor.

Commissioner Taylor said the purpose of today's meeting is to consider a petition from Harold and Patricia Ware concerning their homestead exemption.

Commissioner Taylor said the matter at hand is to consider the petition from the Ware's regarding the homestead exemption being removed from a piece of property that they own in the Mill Creek area.

Present at the meeting was Harold Ware, Patricia Ware and their son Harold Ware, Jr., also present was Assessor, Phyllis Yokum and Appraiser, Phil Isner and Randolph County Prosecuting Attorney, Michael Parker.

Commissioner Taylor said during the past year the homestead exemption on this property has been removed. He said there have been correspondences back and forth between the Ware's and Assessor Yokum. The matter before the Commission today is to make a determination to whether the property should or should not have the homestead exemption on it. He said he is going to ask Mr. and Mrs. Ware to present a brief scenario of what brings them here today and then allow the Assessor and her staff to respond.

Harold Ware, Jr. was sworn in by the County Clerk. Mr. Ware said they initially purchased the property when they were both healthy back around the year 2000. He said sometime later, after fixing the house up, they became disabled. He said his father has been disabled since 2003. They attempted to sell the house several times but have been unsuccessful. So they have a house basically that they are not using for commercial purposes, they cannot sell but they also don't have the ability to travel up and down the steps because everything is upstairs as far as bedrooms and what not.. He said they had the homestead exemption on it up until recently. He said it was removed but they didn't have anything notifying them of that, that he can find anywhere. He said the homestead exemption got removed but there is process that is supposed to happen but once you are over 65 according to the State, and you are disabled, that is not supposed to come off unless there is some kind of significant change that occurred.

Assessor, Phyllis Yokum was sworn in by the County Clerk. She said she gave the Commission a packet of papers regarding this issue. She said the Ware's did apply for the homestead exemption for Map 3 Parcel 0009 on 0.39 acres of property with a house on it. She said they applied for regular homestead exemption, not a disability exemption. She said they do not have any information to do a disability on their homestead. She said it is a regular homestead exemption based on their age when they signed the card. She said WV Code and State regulations require her as the Assessor to perform checks on the homestead and disability exemptions in order to confirm that the recipient continues to qualify for the exemptions. She said this is actually supposed to be done on an annual basis. She said as her appraisers and data collectors do field reviews that is one of the things that they check is that the person who is receiving the exemption is occupying the home. She said another thing they do to confirm this is to send a homestead inquiry letter to all recipients of homestead exemption. These are mailed in the districts that we are doing the physical three year review on. She said she also provided copies to the Commission of the time sequence for Mr. and Mrs. Ware. She said her office made several attempts to contact the Ware's both by mail and by physical review but her office got no response. Her decision to remove the homestead exemption was based on information that she gathered at the time, and a phone call from Mrs. Ware, and by physical reviews that they did. She said she believes the property in question is not their permanent primary residence, therefore not eligible for the exemption. Assessor Yokum went through the timeline of when each letter was sent and each attempt was made to contact them. (see attached copies) She said with the information she was given she does not believe that they live in the house and they are living in a mobile home adjoining the property on land that belongs to Patricia Ware's sister. She said WV Code 11-6B-5B states that in the event that the Assessor shall have information sufficient to form a reasonable belief that a claimant after having been originally granted an exemption is not eligible for the exemption he or she shall be denied the exemption on the next assessment date and shall promptly but no later than the first of January serve the claimant with written notice. She said simply owning the property and being disabled does not allow a taxpayer the homestead exemption. She said she sent a letter explaining to them that they could sign up for the exemption on the mobile home that they are living in because that is their primary permanent residence.

Harold Ware, Jr. said WV Code 11-6B-2 said that it has a section in there that talks about people with disabilities not being able to reside in their residences. He said he has went through the mail and cannot find anything other than the last certified letter that was received. He said there was no door hanger ever received and no one from the Assessor's office has physically talked with anyone in the field. He said there are two issues here and those are the problem with the homestead exemption and also the Assessor's office has the wrong information on the year of the trailer.

Commissioner Taylor said the issue that the Commission is going to deal with today is dealing with the house. He asked Mr. Ware if they currently reside in the house? Mr. Ware said no because of the stairs.

Michael Parker asked if they disagree with the fact that they do not primarily reside in the house? Mr. Ware said no they do not reside in the house because of the stair situation.

Mr. Ware said he was told by the State Tax Department that they could not apply for the homestead exemption on the trailer that they live in because it is not setting on their land.

Assessor Yokum said that is not true. They can sign up for homestead exemption on a trailer that is assessed as personal property if that is their permanent primary residence. She said they have hundreds of them signed up now.

Commissioner Taylor said the issue before us today is regarding Tax Map 3 Parcel 9 which is 0.39 acre and which has the house on it. That is the property in question today. He said he knows there have been verbal communication and written communication from the Assessor's Office to the Ware's. He said they have been provided copies of all the letters and photos of the property. The other issues can be discussed with Assessor Yokum and her staff.

Patricia Ware asked if they could get homestead exemption on a mobile home when you don't own the property? Commissioner Taylor said that is not the issue today and they need to work that out with the Assessor after the hearing is concluded.

Commissioner See moved to deny the petition from Harold and Patricia Ware concerning the homestead exemption on Map 3 Parcel 9 0.39 acres in Mill Creek due to the fact that this is not their permanent residence as required by law.

All yes – Motion passed unanimously

Michael Parker said he wants to let both sides know that they have a right per WV Code 11-6-B6 to file an appeal with the Circuit Court in the same manner as provided by Chapter 25.

Assessor Yokum said every year people can sign up for the homestead and disability exemption between July 1 and December 1st according to WV Code. That deadline has passed and without the permission of the Commission she cannot do it.

Commissioner Taylor said since the hearing was set before December 1st she should go ahead and allow them to sign up.

Assessor Yokum said she also wants to note that she left the property in tax class 2 because it was stated at one point that Mr. Ware goes down there and stays at the house occasionally.

Mr. Ware said he has told them for the last ten years that the mobile home is not a 1976. Commissioner Taylor said when they go down there they will take care of it.

Commissioner Johns moved to adjourn the meeting.
All yes – Motion passed unanimously

Attest: _____