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REPORT
111–409

IN THE MATTER OF REPRESENTATIVE FORTNEY "PETE" STARK

REPORT

OF THE

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

JANUARY 29, 2010.—Referred to the House Calendar and ordered to be printed

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, January 29, 2010.

Hon. LORRAINE C. MILLER,
Clerk, House of Representatives,
Washington, DC.

DEAR MS. MILLER: Pursuant to clauses 3(a)(2) and 3(b) of rule XI of the Rules of the House of Representatives, we herewith transmit the attached Report, "In the Matter of Representative Fortney 'Pete' Stark."

Sincerely,

ZOE LOFGREN,
Chair.
JO BONNER,
Ranking Republican Member.

EXECUTIVE SUMMARY

The Office of Congressional Ethics (OCE) has alleged that Representative Fortney "Pete" Stark violated Maryland criminal tax law and ethics rules of the House of Representatives by intentionally filing a false application for a Maryland property tax credit.

The evidence clearly establishes that Representative Stark did not receive a tax credit as a result of filing an application for the credit. The evidence also establishes that he did not file a false application for the Maryland property tax credit.

Representative Stark did not seek out the Maryland property tax credit. The State of Maryland required every homeowner in Maryland to fill out a form to determine their eligibility for the tax credit.

Therefore, Representative Stark did not violate House ethics rules. Nor did he run afoul of Maryland's criminal or tax laws.

Since 1977, the State of Maryland has had a property tax credit, called the Homestead Tax Credit (Credit), which limits tax assessment increases on one's home to 10 percent or less per year. Previously, the Credit could be automatically triggered without a homeowner applying for the Credit whenever property values rose substantially. According to Maryland's Department of Assessments and Taxation, the Credit was unique in that it was the only tax credit in Maryland's history for which a taxpayer did not have to apply, and most people did not even know they were receiving the Credit. As a result, the Credit was provided on a widespread basis to homeowners, whether they knew it or not.

In 2007, Maryland enacted a new law *requiring* all homeowners to submit a one-time application to verify their eligibility or continued eligibility for the Credit. The applications required by the law were mailed to Maryland homeowners in stages. One-third of homeowners received the application in January 2008; one-third of homeowners received the application in January 2009; and the remaining one-third of homeowners received the application in January 2010.

Representative Stark owns a home in Anne Arundel County, Maryland. It is the only home that he owns. He rents living accommodations in his congressional district.

Representative Stark did not receive the Credit for his Maryland home between the time he purchased it in May 1987 and July 1, 2006, because his property taxes did not increase more than 10 percent in one year at any time during that period. However, between July 1, 2006, and June 30, 2009 (*i.e.,* Maryland tax bill years 2007–2009), his property taxes did increase more than 10 percent each year. As a result, the Credit was automatically triggered and applied to Representative Stark's tax bill for those tax years by

Maryland tax officials, even though he had taken no affirmative action to seek the Credit.

Following passage of the 2007 law, Representative Stark received the Homestead Tax Credit application from Maryland's Department of Assessments and Taxation in January 2009. In compliance with Maryland's legal requirement, he submitted the required application electronically in February 2009.

With respect to one question regarding voter registration, Representative Stark's response, as initially recorded electronically by Maryland, indicated that he was registered to vote at his Maryland property address. This mistaken response was soon corrected in March 2009.

Maryland did not grant a Homestead Tax Credit to Representative Stark as a result of his application. His tax bill, which was issued in July 2009, reflected that Representative Stark received no tax credits whatsoever.

These facts were available to OCE, and in many instances, were known to OCE or in its possession.

The Committee on Standards of Official Conduct (Standards Committee) concludes that OCE conducted an inadequate review, the result of which was to subject Representative Stark to unfounded criminal allegations.

Maryland issues its tax bills on a fiscal basis, which runs from July 1 to the following June 30. OCE failed to acknowledge this key point. As a consequence, OCE erroneously found that Representative Stark received $3,769.79 in tax credits as a result of his Homestead Tax Credit application. OCE relied on an irrelevant document, which was from and issued in the tax year *before* Maryland mailed Representative Stark the required Homestead Tax Credit application.

A search of the Internet or retrieval of Representative Stark's publicly available tax bill issued on July 1, 2009, would have made clear that Representative Stark received no tax credit as a result of submitting the required application and that Maryland did not classify his property as a principal residence. The first page of the first document OCE appended to its Findings noted that Maryland had classified Representative Stark's home as not being a principal residence. OCE's own summary of its staff's interview with Maryland tax officials indicated that Maryland had removed any Homestead Tax Credit previously associated with Representative Stark's Maryland residence (and automatically provided by Maryland tax officials) by May 1, 2009. OCE's own summary of its staff's interview with Representative Stark noted that Representative Stark told OCE's staff that he did not receive a tax credit after he filed the newly required application form.

It is apparent from OCE's work that they treated Representative Stark inconsistently with the way they treated four other Members of Congress with similar situations whose cases were properly dismissed.

First, OCE ignored a conclusion that it had reached in four similar matters. Maryland's application form, OCE had previously opined, is vague, unclear and subject to misinterpretation. OCE had concluded previously that the form, as worded, put Members of Congress at risk of making mistakes when filling out the form.

Second, OCE omitted favorable information from Representative Stark's report that it included in the four other similar cases without explanation. OCE omitted from a witness interview summary, appended to its Findings in Representative Stark's case, a paragraph that it had included in witness interview summaries of the same interview in every other similar case it reviewed. That paragraph would have been favorable to Representative Stark.

The Standards Committee notes that OCE reported that Representative Stark was belligerent and rude to OCE Staff and videotaped his interview. It is the Standards Committee's understanding that OCE routinely does not use a court reporter with witnesses.

The Standards Committee finds that Representative Stark provided overall truthful answers and, at the worst, made a mistake when answering one question that had no bearing on the approval of the application. That mistake was corrected *before* Maryland adjudicated Representative Stark's application.

In sum, Representative Stark's responses on his application, taken as a whole, did not establish his eligibility for the Homestead Tax Credit or evince an intent to lie or evade payment of Maryland property taxes. Maryland did not, in fact, grant any tax credits, including the Homestead Tax Credit, to Representative Stark as a result of his application.

Accordingly, the Standards Committee finds that no further action in this matter is warranted. The matter is dismissed and the Standards Committee considers it closed.

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111TH CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPORT 111–409

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

IN THE MATTER OF REPRESENTATIVE FORTNEY "PETE" STARK

JANUARY 29, 2010

Ms. LOFGREN, from the Committee on Standards of Official Conduct, submitted the following

R E P O R T

I. BACKGROUND

A. PROCEDURAL HISTORY

Sometime between the end of May and early June 2009, the Office of Congressional Ethics (OCE) began preliminary reviews into allegations regarding the conduct of Representative Fortney "Pete" Stark and four other Members of Congress.[1] OCE reviews alleged that these Members may have improperly received a property tax credit on homes owned in Maryland in violation of state law.[2]

[1] OCE's records are conflicting regarding the exact date that OCE authorized *and* initiated its preliminary review regarding Representative Stark. In a letter to the Standards Committee on June 2, 2009, OCE stated that the Board had initiated a preliminary review without specifying when OCE's Board authorized it. See COS. 0001 (Letter from David E. Skaggs (Chair of OCE's Board) and Porter J. Goss (Co-Chair of OCE's Board), to Chair Zoe Lofgren and Ranking Republican Member Jo Bonner of the Committee on Standards of Official Conduct, June 2, 2009). However, in another letter from OCE to Rep. Stark on June 5, 2009, OCE stated that that OCE's Board authorized a preliminary review on May 29, 2009, and that it would initiate such review on June 5, 2009. See COS. 0002–0003 (Letter regarding request for information from Leo Wise (Staff Director and Chief Counsel to OCE) to Rep. Pete Stark, June 5, 2009). And, finally, OCE's Report and Findings in this matter (OCE's Review No. 09–9030) states that OCE's Board authorized and initiated a preliminary review on June 5, 2009. *See* OCE Findings ¶ 6. The documents designated with "COS." numbers constitute the documents collected by the Standards Committee in the course of its investigation. Pertinent portions of the documents collected by the Standards Committee can be found at Appendix A. The Standards Committee notes that certain personal information, such as home addresses and other private information, has been redacted from the documents collected by the Standards Committee. The Standards Committee has redacted this information based on privacy considerations and because the information is irrelevant to any question at issue in this Report. OCE's Report (Report) and Findings of Fact and Citations to Law (Findings) in this matter can be found at Appendix B.

[2] Three of the Members represented a state other than Maryland and one represented a district in Maryland.

On June 26, 2009, four members of OCE's Board voted to terminate all of the reviews except for the one regarding Representative Stark. Representative Stark's situation was not materially distinguishable from the terminated matters, yet in contrast to the other matters, OCE's Board, on June 26, 2009, voted to initiate a second-phase review with respect to the matter involving Representative Stark.[3]

On August 5, 2009, OCE's Board voted to extend the second-phase review concerning Representative Stark for an additional 14 days.[4] It also forwarded to the Committee on Standards of Official Conduct (Standards Committee) the reports and findings for the terminated matters. OCE's cover letter to those terminated matters highlighted that its reviews uncovered several facts about the manner in which Maryland administers the Homestead Tax Credit that, in its judgment, "place Members of Congress who own homes in Maryland at risk of being accused of improperly receiving the credit at no fault of their own."[5] No apparent explanation has been offered by OCE as to why this fact did not protect Representative Stark.

By OCE's count, the second-phase review ended on August 28, 2009.[6] OCE's Board adopted findings and voted to refer only the matter involving Representative Stark to the Standards Committee for further review on October 23, 2009.[7] Three weeks later, OCE transmitted to the Standards Committee a report and findings (OCE Report and Findings) on November 12, 2009, which contained OCE's findings adopted earlier and recommended further review of allegations involving Representative Stark.[8]

In mid-November 2009, the Standards Committee sent OCE's Report and Findings to Representative Stark to provide him with an opportunity to respond to OCE's allegations. Representative Stark's counsel submitted a response on December 1, 2009, which Representative Stark formally adopted by oath or affirmation.[9]

On December 24, 2009, the Chair and Ranking Republican Member of the Standards Committee issued a statement announcing they had jointly decided to extend the Committee's consideration of OCE's transmittal for a 45-day period.[10]

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[3] OCE Findings ¶ 7.

[4] *Id.* at ¶ 8.

[5] *See* COS. 0004 (Letter from David E. Skaggs (Chair of OCE Board) and Porter J. Goss (Co-Chair of OCE Board), to Chair Zoe Lofgren and Ranking Republican Member Jo Bonner of the Standards Committee, *et al.* August 5, 2009).

[6] OCE Findings ¶ 9. Given the conflicting dates as to when the preliminary review began, *see supra n.1*, this Committee expresses no opinion on whether OCE's determination that its second-phase review ended on August 28, 2009, is accurate because it has no bearing on the Committee's ultimate conclusion in this matter.

[7] *Id.* at ¶ 10.

[8] "Upon the completion" of a second-phase review, OCE is "authorized and directed" to transmit a written report to this Committee. *See* H. Res. 895, Section 1, clause (c)(2)(C). In contravention of this directive, that did not occur here until more than two months after the second-phase review ended, which OCE determined was on August 28, 2009. Despite the Standards Committee's continuing concerns with OCE's adherence to its authorizing resolution, the Committee has nonetheless concluded, as it did recently in another matter with similar flaws, that "on balance, the public interest [is] served by publication of OCE's Report and Findings in this case, and thus the Standards Committee [has] declined to withhold publication of OCE's Report and Findings." *See* House Comm. on Standards of Official Conduct, *In the Matter of Representative Sam Graves,* H.R. Rep. No. 111–320, at 23 (2009).

[9] Representative Stark's response to the allegations in OCE's Report and Findings can be found at Appendix C.

[10] House Rule XI, clause 3(b)(8)(A), and Standards Committee Rules 17A(b)(1) and 17A(c)(1).

B. SUMMARY OF OCE'S ALLEGATIONS

OCE's Report and Findings asserted that Representative Stark may have violated Maryland state law and the Code of Ethics for Government Service by intentionally misrepresenting information on an application to establish his eligibility for a property tax credit, the Homestead Tax Credit (Credit), for a house that he owns in Maryland.[11] Maryland provides the Credit to homeowners who can establish that the home is their "principal residence." "Principal residence" is defined as the location where a homeowner is registered to vote, among other criteria.[12] OCE asserted that Representative Stark misrepresented that he was registered to vote in Maryland on his application for the Credit, even though he is registered to vote in California.[13] By doing so, OCE claimed that Representative Stark received $3,769.79 in Homestead Tax Credits in 2009.[14]

C. SUMMARY OF REPRESENTATIVE STARK'S RESPONSE TO OCE'S ALLEGATIONS

In his response to OCE's Report and Findings, Representative Stark asserted that he violated no laws or applicable standards of conduct. Rather, he contended that OCE's allegations were fundamentally flawed. Representative Stark raised four main arguments to OCE's allegations.

First, Representative Stark claimed that he did not indicate on his electronically-filed application that he was registered to vote in Maryland to establish eligibility for the Credit.[15] Representative Stark responded to OCE's allegation of "intentional misrepresentation" as "nonsensical," given that other responses on his application showed that he did not fully meet the requirements to receive the Credit.[16] Further, Representative Stark asserted that Maryland may have made an electronic data-entry error in compiling his online response, or that he may have mistakenly indicated his voter registration in his application.[17] Because either of these scenarios is a more plausible explanation of the mistake, OCE's conclusion that Representative Stark committed an intentional misrepresentation was in error, according to him.[18]

Second, Representative Stark asserted that OCE's allegations were factually flawed because he did not, in fact, receive a Homestead Tax Credit as a result of his application.[19] Rather, Maryland ultimately determined he was not eligible.[20]

Third, despite Maryland's denial of his application, Representative Stark maintained that he nonetheless may be eligible for the Credit because his Maryland home is the only home that he owns.[21]

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[11] *See* OCE Report and Findings ¶¶ 1–3, 15, 17.
[12] OCE Findings ¶ 1.
[13] *Id.* at ¶¶ 2–3, 15.
[14] *Id.* at ¶¶ 1–3, 15, 20.
[15] Rep. Stark Resp. to OCE Report and Findings at 2.
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.* at 3.
[20] *Id.*
[21] *Id.* Representative Stark rents living accommodations in his congressional district. *See id.* at 3, n.3.

Fourth, Representative Stark raised procedural arguments that OCE violated its obligation to complete its review in a timely manner and refer this matter to the Standards Committee within 89 days as is required by OCE's authorizing resolution.[22] As such, OCE transmitted its Report and Findings after the matter terminated, rendering it legally invalid.[23]

II. JURISDICTION OF THE STANDARDS COMMITTEE

House Rule XI, clause 3(a)(2) vests jurisdiction over the matters addressed in this Report with the Standards Committee. The Standards Committee may investigate any alleged violation by a Member, officer, or employee of the House of Representatives of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee.[24] Sole and exclusive authority over the interpretation and enforcement of the Code of Official Conduct lies with the Standards Committee.[25]

The Standards Committee conducted its investigation in this matter pursuant to Standards Committee Rule 18(a), which authorizes the Standards Committee to consider any information in its possession indicating that a Member, officer, or employee may have committed a violation of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of the duties or the discharge of the responsibilities of such individual. Standards Committee Rule 18(a) authorizes the Chair and Ranking Minority Member to jointly gather additional information concerning such an alleged violation by a Member, officer, or employee.

The instant Report is authorized under House Rule XI, clause 3(a)(2), which obligates the Standards Committee to report to the House its findings of fact and recommendations, if any, for the final disposition of any investigation and action as the Standards Committee may consider appropriate under the circumstances; and House Rule XI, clause 3(b)(8)(A), which authorizes the Standards Committee to report on matters forwarded to the Standards Committee by OCE.

III. FACTUAL FINDINGS

The Standards Committee reviewed the matter discussed in OCE's Report and Findings without prejudice or presumptions as to the merits of the allegations.[26] As such, the Standards Committee's findings and conclusions with regard to Representative Stark were informed by, but made independent of, OCE's Report and Findings.

A. BACKGROUND INFORMATION ON REPRESENTATIVE STARK

Since January 1973, Representative Stark has represented the 13th Congressional District of California. As would be expected

[22] *Id.* at 3–4.
[23] *Id.*
[24] House Rule XI, clauses 3(a)(2) and 3(b).
[25] House Rule X, clause 1(q), Standards Committee Rule 17A(a).
[26] Standards Committee Rule 17A(a).

with this position, Representative Stark is registered to vote in California.[27] He pays California resident taxes.[28] He has a California driver's license.[29] With respect to living arrangements, Representative Stark rents accommodations in his district, and has owned a home in Harwood, Anne Arundel County, Maryland, since May 1987.[30] Representative Stark does not occupy or own any other residential properties.[31]

B. THE MARYLAND HOMESTEAD TAX CREDIT

Since 1977, Maryland's Homestead Tax Credit Program has existed to help homeowners pay large state and county tax assessment increases on properties that qualify as their "principal residences."[32] The Credit limits taxable assessment increases each year to 10 percent or less.[33] A "principal residence" is defined as the "one dwelling where the homeowner regularly resides and is the location designated by the owner for the legal purposes of voting, obtaining a driver's license, and filing income tax returns."[34]

In October 2007, the Maryland General Assembly passed a new law requiring all homeowners to submit a one-time application to verify whether a homeowner should receive or continue to receive the Credit.[35] Through experience administering the program over the years, the Maryland Department of Assessments and Taxation (MDAT) learned that many homeowners who did not meet the requirements for the Credit were nonetheless receiving it, whether they knew it or not, particularly with respect to rented or vacation properties.[36] Indeed, in explaining the basis for the new law, MDAT's Director noted that the Credit was "unique" because "it is the only tax credit in the history of the state that you did not have to apply for * * * so most people didn't even know they were getting the credit."[37] Thus, the purpose of the new law was to ensure that homeowners were properly receiving these tax credits and to prevent substantial losses in tax revenue.[38] The new law directed

[27] OCE Findings ¶ 30.
[28] *Id.* at ¶ 32.
[29] *Id.* at ¶ 31.
[30] *See* Rep. Stark Resp. to OCE Report and Findings at 3, n.3; OCE Findings ¶ 19; and Maryland Department of Assessments and Taxation, real property data regarding Rep. Stark's home, at Bates No. 09–9030_0002, which is appended to OCE's Findings.
[31] *See* Rep. Stark Resp. to OCE Report and Findings at 3, n.3. The Standards Committee further understands that Representative Stark uses a home owned by his in-laws as his mailing address in order to ensure that he receives mail when he is not in his congressional district.
[32] Interview of Mr. Robert E. Young, Deputy Director, Maryland Department of Assessments and Taxation, by Standards Committee Staff, January 6, 2010 (hereinafter "Int. of Robert Young by Standards Committee Staff"). The Maryland homestead property tax credit provisions, as amended, are codified in the Md. Code Ann., Tax-Prop. § 9–105 (West 2009), and implementing regulations issued by the Maryland Department of Assessments and Taxation (MD Assess. & Tax.), which are set forth in Title 18, Subtitle 7, Chapter 3 of the Code of Maryland Regulations (Md. Code of Regs. (2009)).
[33] *See* COS. 0005 (providing overview of the Maryland Homestead Tax Credit, June 2009, from the Maryland Department of Assessments and Taxation's Web site).
[34] Md. Code of Regs., Md. Assess. & Tax. 18.07.03.01(B)(3).
[35] 2007 Maryland Laws Ch. 564 (S.B. 522) and Ch. 565 (H.B. 436), codified in Md. Code Ann., Tax-Prop. § 9–105(d)(6), (l) and (m).
[36] Prior to 2007, for example, homeowners obtained the Credit during settlement on new homes if the homeowner indicated that the actual property address would be the location for receiving property tax bills. In such cases, MDAT presumed that the property would be an owner-occupied "principal residence" to qualify for the Credit. See Int. of Robert Young by Standards Committee Staff.
[37] Janel Davis, Homeowners Now Must Apply for the State Property Tax Credit, Gazette.net, Jan. 9, 2008, available at *http://www.gazette.net/stories/010908/montnew84501_32357.shtml* (last visited Jan. 27, 2010). (Gazette.Net is an online Maryland Community Newspaper.)
[38] Int. of Robert Young by Standards Committee Staff.

MDAT to establish an application process to verify that homeowners qualify for the Credit on their one "principal residence."[39]

Robert E. Young is the Deputy Director of MDAT.[40] Since 1978, Mr. Young has been an employee of MDAT and has overseen the Homestead Tax Credit Program.[41]

When interviewed by the Standards Committee, Mr. Young explained that MDAT informed all homeowners of the affirmative obligation to apply for the Credit by mailing applications to all Maryland homeowners with updated assessment notices over a three year period.[42] Beginning on January 1, 2008, MDAT mailed the first set of applications to one-third of Maryland homeowners. On January 1, 2009, and January 1, 2010, respectively, MDAT mailed applications to the remaining two-thirds of Maryland homeowners.[43] MDAT's cover letter to these mailings informed homeowners that they could submit a completed application through the mail or electronically on MDAT's Web site.[44]

To evaluate eligibility to receive the Credit, the application requires that a homeowner answer "yes" or "no" to five questions that closely parallel the definition of "principal residence."[45] Those questions ask, in relevant part: (1) Will the real property address identified on the application be used as the single, principal residence of the homeowner for more than six months of the calendar year, including July 1; (2) is the real property address identified on the application the address where the homeowner expects to file his or her next federal and Maryland income tax returns; (3) is the real property identified on the application the address from which the homeowner has received a driver's license; (4) is the real property identified on the application the address at which the homeowner is registered to vote; and (5) is any portion of the principal residence rented?[46] A homeowner will automatically receive the Credit without further inquiry if he or she answers "yes" to all of the first four questions.[47]

C. REPRESENTATIVE STARK'S APPLICATION FOR THE HOMESTEAD TAX CREDIT

On or about January 1, 2009, MDAT mailed to Representative Stark's Maryland address an application for the Credit, along with his assessment notice.[48] MDAT's electronic business records docu-

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[39] This directive requirement is codified in Md. Code Ann., Tax-Prop. § 9–105(d)(6).

[40] Int. of Robert Young by Standards Committee Staff.

[41] *Id.*

[42] Int. of Robert Young by Standards Committee Staff; OCE Findings ¶ 24.

[43] Int. of Robert Young by Standards Committee Staff.

[44] *Id.;* COS. 0006 (MDAT's Web site welcome page to submit application for the Credit online, which notes that the new law requires all homeowners to submit the one-time application).

[45] *See* COS. 0007–0008 (blank copy of application for the Credit from MDAT's Web site).

[46] COS. 0008.

[47] Int. of Robert Young by Standards Committee Staff. Mr. Young further explained to the Standards Committee Staff that when someone does not answer "yes" to all of the first four questions, then MDAT gets an "exceptions report" for further review of the application. *Id.* Mr. Young added that a "no" response to Question 4 pertaining to voter registration "has the least probative value" in MDAT's review because there are many acceptable explanations why someone may not be registered to vote at the particular address. *Id.* OCE's recitation of MDAT's review process, as set forth in its interview memorandum, stated that MDAT automatically grants applications if someone provides a "yes" response to Questions 1 and 2 regardless of other answers due to resource constraints. *See* Bates Nos. 09–9030__0007–0008, ¶¶ 7 and 10, which are appended to OCE's Findings. OCE's recitation of MDAT's review process from notes taken during the interview is inconsistent with Mr. Young's explanation to the Standards Committee Staff in his transcribed interview.

[48] Int. of Robert Young by Standards Committee Staff. It is the Standards Committee's understanding that Representative Stark did not receive the Credit for his Harwood home between

ment that Representative Stark submitted a completed application for the Credit through MDAT's on-line submission process on February 6, 2009.[49] A print-out of Representative Stark's electronically-filed application from MDAT's electronic business records indicated that he answered "yes" to Question 1 (principal residence for more than six months during the year), Question 2 (location for filing income tax returns), and Question 4 (voter registration).[50] He answered "no" to Question 3 (driver's license) and Question 5 (residence rented).[51]

With respect to Question 2, Representative Stark filed his California resident and Maryland non-resident income tax returns for 2008 from his Maryland address.[52] He did the same for his Federal income tax return for 2008.[53]

With respect to Question 4, MDAT's electronic business records apparently show that Representative Stark contacted MDAT in mid-March 2009, and requested that his answer be changed to a "no" response.[54] The MDAT employee who received this call and made this entry purportedly told her supervisor.[55] The supervisor, in turn, informed Mr. Young, who is her boss.[56] Mr. Young did not speak with Representative Stark about this purported request.[57] Nor did he have any further discussion with any MDAT employee about this purported telephone call.[58]

D. MDAT'S ACTION ON REPRESENTATIVE STARK'S APPLICATION

MDAT did not find Representative Stark eligible for the Credit.[59] MDAT likely found his application ineligible for the Credit by the

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the time he purchased it in May 1987 and July 1, 2006, because his property taxes did not increase more than 10% in one year at any time during that period. However, between July 1, 2006, and June 30, 2009 (*i.e.,* tax bill years 2007–2009), his property taxes did increase more than 10% each year. As a result, the Credit was automatically triggered and applied to Representative Stark's tax bill for those tax years by Maryland tax officials, even though he had taken no affirmative action to seek the Credit. *See also* OCE Findings ¶20 (stating that Representative Stark did not receive the Credit before 2006).

[49] Int. of Robert Young by Standards Committee Staff; COS. 0009 (printed from MDAT electronic records regarding Rep. Stark on January 4, 2010).

[50] Int. of Robert Young by Standards Committee Staff; COS. 0010 (printed from MDAT electronic records regarding Rep. Stark on January 4, 2010).

[51] Id.

[52] OCE Findings ¶32; Bates Nos. 09–9030—0024 and 09–9030—0026, which are appended to OCE's Findings.

[53] Int. of Robert Young by Standards Committee Staff.

[54] *See* COS. 0011 (printed from MDAT electronic records regarding Rep. Stark on January 4, 2010); OCE Findings ¶28. Mr. Young told the Standards Committee Staff that the notations in this document about contacting him and not answering questions are solely meant to remind MDAT employees that tax informative is sensitive personal data and that only certain officials are authorized to respond to questions regarding such information. Int. of Robert Young by Standards Committee Staff.

[55] Int. of Robert Young by Standards Committee.

[56] *Id.* Mr. Young stated further that he did not know whether that information was accurate, but that is what he was told happened. *Id.* This is a classic "double hearsay" issue with respect to veracity of the conversations alone (and not including the underlying electronic entry of the phone call). Additionally, Representative Stark does not acknowledge such contact with MDAT in his response to the OCE Report or in his interview with OCE. *See* Rep. Stark Resp. to OCE Report and Findings at 2, n.1; OCE Findings ¶35. Representative Stark's initial answer to this question and whether he later called MDAT regarding his response to this question are unclear. However, it is unnecessary for the Standards Committee to untangle these issues because whether Representative Stark did indeed make such a phone call or not is immaterial in light of the totality of factual findings and conclusions reached by the Committee in this matter. There would be nothing discreditable, in any event, in Representative Stark making an effort to correct an error.

[57] Int. of Robert Young by Standards Committee Staff.

[58] *Id.* Given the volume of issues that Mr. Young is responsible for addressing, he added that this purported phone call was not something that he would have taken any special interest in unless it later became an issue. *Id.*

[59] Int. of Robert Young by Standards Committee Staff.

end of March 2009,[60] although OCE's Staff was told by MDAT that it removed the Credit associated with Representative Stark's Maryland residence on May 1, 2009.[61] In any event, MDAT unquestionably disapproved of his eligibility before June 2009, when MDAT provided counties with electronic updates to ensure that tax bills contained current assessment and tax credit information.[62] In Anne Arundel County, Maryland, tax bills were issued on July 1, 2009.[63]

Representative Stark's property tax bill, which was issued on July 1, 2009, did not contain a Credit.[64] Indeed, it contained no tax credit whatsoever.[65] The notation of "NOT A PRINCIPAL RESIDENCE" on Representative Stark's tax bill highlighted that he did not receive any homestead tax benefit for the period July 1, 2009, through June 30, 2010.[66] Representative Stark, therefore, "never received a homestead tax credit for the application which he submitted on-line."[67]

Furthermore, if Representative Stark had not responded to Maryland's requirement to submit an application, he would have continued to receive the Credit until December 2012.[68]

E. OCE'S INTERACTION WITH REPRESENTATIVE STARK

In June 2009, OCE requested information from Representative Stark regarding his application for the Credit.[69] Representative Stark could not locate a copy of his electronically-filed application.[70] In lieu of an exact copy, Representative Stark, in mid-June 2009, provided OCE with the application filled out by hand, which represented his best recollection of how he filled out the on-line form.[71]

On July 29, 2009, Representative Stark voluntarily agreed to an interview with OCE's Staff.[72] The interview did not go smoothly. OCE's Staff claimed that Representative Stark was "belligerent" and "frequently insulted them."[73] They also indicated that Rep-

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[60] *Id.* Mr. Young was unsure of the exact date because it is not a required input in MDAT's records. *Id.*

[61] See Bates No. 09–9030—0009, ¶ 12, which is appended to OCE's Findings.

[62] Int. of Robert Young by Standards Committee Staff.

[63] *Id.* In Maryland, property tax bills are issued on a fiscal year basis, which runs from July 1 through June 30 of the following calendar year. Int. of Robert Young by Standards Committee Staff; *see also* COS. 0012–0015 (MDAT's "A Homeowner's Guide To Property Taxes and Assessments," last revised July 27, 2009, noting in Section I that tax bills are issued in July/August of each year in Maryland, and rendered for the upcoming fiscal year, which is effective as of July 1); and COS. 0016 ("Property Tax Information," Anne Arundel County, Maryland, noting that taxes are due on July 1, and may be paid without interest on or before September 30 of the tax year).

[64] COS. 0017 (Rep. Stark's property tax bill from July 1, 2009, issued by Anne Arundel County, Maryland).

[65] Id.

[66] Int. of Robert Young by Standards Committee Staff; COS. 0017.

[67] Int. of Robert Young by Standards Committee Staff.

[68] See Bates No. 09–9030—0008, ¶ 6, which is appended to OCE's Findings.

[69] *See* OCE Findings ¶ 25.

[70] *Id.*

[71] *See* OCE Findings ¶ 25; Bates Nos. 09–9030_0014–0015, which are appended to OCE's Findings (containing a copy of Representative Stark's hand-written recollection of his application provided to OCE).

[72] OCE's Findings erroneously stated that OCE Staff interviewed Rep. Stark on May 29, 2009, see OCE Findings ¶ 34. OCE Staff's interview memorandum of Rep. Stark contains the correct date of the interview on July 29, 2009. *See* Bates Nos. 09–9030_0028–0029, which are appended to OCE's Findings.

[73] *See* Bates No. 09–9030_0029, ¶ 8, which is appended to OCE's Findings.

resentative Stark was videotaping the interview and demanded a copy of the tape.[74]

During the interview with OCE's Staff, Representative Stark was shown a copy of a print-out of his electronically-filed application, which OCE obtained from MDAT.[75] Representative Stark could not explain why his response in the on-line version pertaining to voter registration differed from his recollection of his response, but acknowledged that these responses differed, according to OCE's interview memorandum.[76] Representative Stark did not concede during the OCE interview that he contacted MDAT to change his response to the voter registration question.[77]

During the interview with OCE's Staff, Representative Stark stated that he did not receive a Credit after filing the application on-line.[78]

IV. DISCUSSION

A. OVERVIEW

The Standards Committee finds that Representative Stark did not intentionally misrepresent information on his application, or attempt to evade the payment of Maryland property taxes by misrepresenting such information, in violation of Maryland law. Based upon the facts gathered during the Standards Committee's independent investigation as fully discussed below, the Standards Committee found that Representative Stark did not receive a Maryland Homestead Tax Credit as a result of the application that he was required to file. His responses, taken as a whole, did not establish his eligibility for the Credit or evince an intent to lie or evade payment of Maryland property taxes, and MDAT did not, in fact, grant him any tax credit, including the Homestead Tax Credit.

As a result, the Standards Committee finds that Representative Fortney "Pete" Stark did not violate any laws or other applicable standards of conduct in connection with his application for a Maryland Homestead Tax Credit, and that no further action is warranted in this matter.

The Standards Committee further finds that OCE's determination that there is a "substantial reason to believe" the allegations that Representative Stark, by his conduct relating to his Credit application, may have violated Maryland law, House Rules, or other applicable standards of conduct was in error and not supported by the "information then known to the Board."[79] Accordingly, the Standards Committee finds that no further action against Representative Stark is warranted and that the matter should be dismissed.

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[74] *See* OCE Findings ¶ 36; Bates No. 09–9030__0029, ¶ 8; Bates No. 09–9030__0031–0033, which are appended to OCE's Findings. While Representative Stark appears to have acknowledged receipt of OCE's request, he did not substantively respond to it. *See* Bates No. 09–9030__0035, which is appended to OCE's Findings.

[75] *See* OCE Findings ¶ 35; Bates No. 09–9030__0029, ¶ 7, which is appended to OCE's Findings.

[76] *See id.*

[77] *See* OCE Findings ¶ 35; Bates No. 09–9030__0029, ¶ 5, which is appended to OCE's Findings.

[78] *See* OCE Findings ¶ 34; Bates No. 09–9030__0028, ¶ 3, which is appended to OCE's Findings.

[79] OCE Rule 9A.

B. SPECIFIC LEGAL PROVISIONS OR STANDARDS OF CONDUCT

OCE's Report and Findings stated that Representative Stark may have violated the following legal provisions or standards of conduct.

1. Willfully Providing False Information or Answer (Section 14–1004 of Maryland Code)

Section 14–1004(a) of the Maryland Code provides:

> A person who willfully or with intent to evade payment of a tax under this article or to prevent the collection of a tax under this article provides false information or a false answer to a tax interrogation under this article is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 18 months or both.[80]

(a) Elements and Standard of Proof to Establish a Violation

To prove a criminal violation of Section 14–1004(a) of the Maryland Code in connection with an application for a Homestead Tax Credit, it must be shown, beyond a reasonable doubt, that an accused: "willfully" or with intent to evade payment of or prevent the collection of a tax provided false information or answers on his or her Credit application. Under Maryland criminal law, the term "willful" is accorded the meaning provided by federal courts interpreting this term in federal criminal tax provisions.[81] Therefore, "willfulness" may be established through proof of a "voluntary, intentional violation of a known legal duty, not the result of accident or mistake or other innocent cause."[82]

(b) Applicable Elements and Standards of Proof to Establish Alleged Criminal Violations in Standards Committee Proceedings

Liability for a violation of Section 14–1004(a) of the Maryland Code requires proof, beyond a reasonable doubt, that the accused acted with the requisite intent to commit the act and knowledge that the act is a violation of the law. However, it has been long established that this Committee need not adhere strictly to general criminal law standards that require proof of the requisite intent to establish a violation to appropriately execute its responsibilities in the non-criminal disciplinary context.[83] Rather, the Code of Official Conduct and Code of Ethics for Government Service make clear that "Members of Congress are expected to adhere to standards of conduct far more demanding than the bare minimum standards established by our criminal laws."[84]

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[80] Md. Code Ann., Tax-Prop. § 14–1004(a) (West 2009).

[81] *See Johnson v. State,* 451 A.2d 330, 332 (Md. 1982).

[82] *Id; see also Cheek v. United States,* 498 U.S. 192, 201 (1991) (declaring that Supreme Court precedent conclusively establishes that the standard to meet the statutory "willfulness" requirement in criminal tax offenses is the "voluntary, intentional violation of a known legal duty") (citing *United States v. Pomponio,* 429 U.S. 10, 23 (1976); *United States v. Bishop,* 412 U.S. 346, 360 (1973)).

[83] *See* House Comm. on Standards of Official Conduct, *Manual of Offenses and Procedures Korean Influence Investigation*, pursuant to H.R. Res. 252, 95th Cong., at 35 (1977).

[84] *Id.*

2. Evasion of Laws (Paragraph 2 of Code of Ethics for Government Service)

Paragraph 2 of Code of Ethics for Government Service provides:

> Any person in Government Service should: * * *
>
> Paragraph 2: Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.[85]

(a) Elements and Standard of Proof to Establish a Violation

A Member who violates a state criminal statute or seeks to evade the requirements of a state's tax law may be found to have violated standards of conduct applicable to Members of Congress under Paragraph 2 of the Code of Ethics for Government Service.[86]

As fully shown below, Representative Stark's conduct did not violate Maryland law under traditional criminal standards or under the more lenient standards applicable to the Standards Committee's review of alleged criminal misconduct. Nor does the evidence suggest that Representative Stark intended or attempted to evade payment of Maryland property taxes by providing false information.

C. THE RECORD UNEQUIVOCALLY SHOWS THAT REPRESENTATIVE STARK DID NOT BREAK ANY LAWS OR ENGAGE IN ANY IMPROPER CONDUCT

1. The Record Shows That the Homestead Credit Application Was Unclear

From its reviews of other Members who had been given the Credit, OCE determined that the Credit application was unclear. In its review of this matter, OCE also noted that the wording of Question 2 is vague because it allows a homeowner to answer "yes" if he or she files a non-resident tax return from the Maryland property address, as Representative Stark did, despite MDAT's intent that this question only apply to a *Maryland* resident tax return.[87] Moreover, in its reviews of other Members, OCE's Staff expressed that the application was confusing in more direct terms.[88]

OCE's observations regarding the ambiguity on the application were omitted from the interview memorandum of MDAT officials only in Representative Stark's matter, despite the fact that the interview was of the same witnesses, and occurred *on the same*

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[85] Code of Ethics for Government Service, Paragraph 2.

[86] *See, e.g., See* House Comm. on Standards of Official Conduct, *In the Matter of Representative James A. Traficant, Jr.,* H.R. Rep. No. 107–594, at 4–12, 105–114 (2002).

[87] OCE Findings ¶ 32.

[88] Specifically, its interview memoranda of the MDAT officials used in its findings for other Members stated that:

> The Homestead Tax Credit Application asks whether the applicant's "real property address" is "the location where the homeowner(s) will file the federal and Maryland income tax return," "the location from which the homeowner(s) have received a driver's license," and "the location from which the homeowner(s) are registered to vote, if registered." The OCE staff pointed out that these questions do not specify that the applicant must file a *Maryland* resident tax return, receive a *Maryland* driver's license, and be registered to vote in *Maryland*. [Emphasis in original]. Representative 1 stated that despite the application's ambiguity, it was [MDAT's] intent to grant the Homestead Tax Credit only to principal residences of property owners who were registered to vote in Maryland, possessed Maryland driver's licenses, and filed Maryland resident income tax returns. Representative 1 stated that [MDAT] will consider changing the language of the application to clarify this ambiguity. *See, e.g.,* COS. 0018–0019, ¶ 2.

date and time.[89] OCE's Report and Findings offered no statement identifying or explaining the omission of this paragraph in this matter, but the paragraph was included in all other interview memoranda of the MDAT officials in the matters that OCE terminated.

It is a fundamental axiom of our jurisprudence that the due process clause requires that "all are entitled to be informed as to what the State commands or forbids."[90] Laws must "give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning."[91]

The determination that the underlying requirement at issue (i.e., the Homestead Tax Credit application) is vague would make it difficult to draw the conclusion that a "willful" violation subject to criminal sanctions had been committed. Under such circumstances, the requisite intent to commit the act with knowledge that it is a violation cannot be present.[92]

Moreover, OCE's conclusion that there is a substantial reason to believe that a "willful" violation was committed is at odds with its overall conclusion reached in its reviews of other Members. From those reviews, it reached the overall judgment that the manner in which Maryland administers the Homestead Tax Credit places "Members of Congress who own homes in Maryland at risk of being accused of improperly receiving the credit at no fault of their own."[93] Such a characterization is the antithesis of the standard required to demonstrate a "willful" violation under Maryland laws."[94]

2. The Record Shows That Representative Stark Provided Truthful Answers

The record demonstrates that Representative Stark provided overall truthful answers and, at most, made an inadvertent mistake regarding his voter registration response, which was soon corrected. His answers, when viewed in total and in context, evince no intent to lie or evade payment of a tax. Correcting an error is not misconduct.

First, the facts show that Representative Stark truthfully answered Question 1 on his application regarding his Maryland home being his primary home. Representative Stark owns only one home, which is in Maryland, and rents accommodations in his congressional district.[95] Under these circumstances, the record plainly shows that Representative Stark's Maryland home could be viewed

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[89] *Compare* Bates Nos. 09–9030__0028–0029, ¶ 2, appended to OCE's Findings (OCE Staff's interview memorandum of MDAT officials pertaining to Representative Stark) *with* COS. 0018–0030, ¶ 2, (OCE Staff's interview memoranda of MDAT officials pertaining to other Members). Except for Representative Stark, OCE's interview memoranda pertaining to other Members contained identical text in Paragraphs 1 through Paragraph 11, and then noted fact-specific issues for each Member. *Compare* Bates Nos. 09–9030__0028–0029, appended to OCE's Findings *with* COS. 0018–0030.

[90] *Lanzetta v. New Jersey,* 306 U.S. 451, 453 (1939).

[91] *Grayned v. City of Rockford,* 408 U.S. 104, 108 (1972).

[92] If the application is vague or unclear, then one cannot have "fair warning" to willfully run afoul of what is prohibited. *See City of Rockford,* 408 U.S. at 108; *see also Satellite Broadcasting Co. v. FCC,* 824 F.2d 1, 3 (D.C. Cir. 1987) (holding that traditional concepts of due process and fair warning apply to administrative applications required by agencies).

[93] *See* COS. 0004.

[94] *See Johnson,* 451 A.2d at 332 ("willfulness" is the voluntary, intentional violation of a known legal duty, not the result of accident or mistake or other innocent cause).

[95] *See* Rep. Stark Resp. to OCE Report and Findings at 3, n.3; OCE Findings ¶ 19.

as his single principal residence as this term is commonly understood.

Second, the facts demonstrate that Representative Stark truthfully answered Question 2 on his application, as that question is worded, regarding the filing of income tax returns from his Maryland property address. Representative Stark filed his Federal income tax returns for 2008, and his California resident and Maryland non-resident income tax returns for 2008 from his Maryland address.[96]

Third, the facts further show that Representative Stark truthfully answered Question 3 on his application relating to his California driver's license.[97]

At its core, OCE's conclusion rests solely upon the claim that Representative Stark "falsely" certified his response to Question 4 on the application to receive the Credit.[98] This claim is not borne out by the facts. First, Representative Stark did not recall initially providing an affirmative response in his on-line application to this question, but acknowledged that such a response would be a mistake.[99] Second, Representative Stark's on-line response to this question was changed to a "no" response before MDAT formally found his application ineligible for the Credit.[100] Nonetheless, OCE appears to infer an intent to lie or evade tax payments from the fact that MDAT changed Representative Stark's response to this question two days after an article was published in the *New York Times* on March 14, 2009, regarding Representative Eliot Engel, who allegedly received the Credit.[101] Even if true, there are no facts to show that this action was not the product of a mistake being discovered. Moreover, OCE did not draw similar inferences regarding other Members, after learning during its other reviews that some Members contacted MDAT contemporaneously with the publication of the article in the *New York Times* to allegedly remove the Credit associated with their homes. Yet in this matter, which merely involved a change to one response before any official determination was made, OCE did draw such an inference. Third, if both Maryland voting status and a Maryland driver's license were absolute legal requirements for the tax credit, as OCE described in its Findings, it would be nonsensical for Representative Stark to claim one but not the other if his true intent was to purposefully provide false answers to evade tax payments.[102] Any reading of the above facts leads to the conclusion that, at most, Representative Stark made a mistake when answering this question, which has the "least probative value" in MDAT review.[103] This mistake or inadvertent error was soon corrected after he sub-

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[96] *See* Int. of Robert Young by Standards Committee Staff; OCE Findings ¶ 32; Bates Nos. 09–9030__0024 and 09–9030__0026, which are appended to OCE's Findings.

[97] OCE Findings ¶ 33.

[98] *See* OCE Findings ¶¶ 1–3. 27–30.

[99] *See* OCE Findings ¶ 35; Bates Nos. 09–9030__0029, ¶ 7, appended to OCE Findings.

[100] *See* COS. 0011 (printed from MDAT electronic records regarding Rep. Stark on January 4, 2010). While Representative Stark does not acknowledge he contacted MDAT, his response in MDAT's electronic records was nonetheless changed to the correct response.

[101] *See* OCE Findings ¶ 29; Bates Nos. 09–9030__0021–0022, appended to OCE Findings.

[102] *See* Rep. Stark Resp. to OCE Report and Findings at 2.

[103] *See* Int. of Robert Young by Standards Committee Staff (stating that Question 4 pertaining to voter registration "has the least probative value" in MDAT's review because there are many acceptable explanations why someone may not be registered to vote at the particular address).

mitted his on-line application and well before MDAT officially made its determination on his application.[104]

Mere mistakes or negligence fall far short of the requirement to prove a "willful" violation.[105] Representative Stark's answers overall also demonstrate that he did not violate the more demanding standards of conduct applied in Standards Committee proceedings. However, the record further shows that the totality of Representative Stark's responses were truthful and, when viewed properly in context, show no intent to lie or evade tax payments.

On this basis alone, OCE's allegations are not sustained. However, as discussed below, the record shows that OCE erroneously concluded that Representative Stark received tax benefits as a result of his Credit application. He did not.

3. The Record Shows That Representative Stark Did Not Receive a Tax Credit Based on His Application

The Standards Committee's independent investigation conclusively established that Representative Stark received no tax benefits as a result of his electronically-filed application for the Credit in February 2009. MDAT did not grant Representative Stark's application and his "application never resulted in his actually receiving a homestead tax credit for any tax year after its submission."[106] MDAT unquestionably disapproved of his eligibility before June 2009, when MDAT provided counties with electronic updates to ensure that tax bills contained current assessment and tax credit information.[107] Indeed, Representative Stark's property tax bill, issued on July 1, 2009, evidences that he received no Credit or tax benefit of any kind as a result of his application.[108] OCE's allegations are thus unfounded. Moreover, the record shows that OCE had evidence in its possession to prove this fact.

OCE was in error when it asserted that, "in calendar year 2009, the year directly affected by his answers on the 2008 application, Representative Stark received $3,769.79 in state and county tax [homestead] credits," based on a document printed on May 5, 2009."[109]

The May 5 document that OCE relied upon for this assertion is for *bill year 2009,* not *calendar year 2009*.[110] Maryland issues its tax bills on a fiscal basis, which runs in Maryland from July 1 to the following June 30.[111] Therefore, bill year 2009 in the document relied upon by OCE corresponded to fiscal year 2009, which began on July 1, 2008. In other words, the bill was issued to Representative Stark on July 1, 2008, before MDAT even mailed an application to Representative Stark for the Credit on January 1, 2009.[112] As noted earlier, the Credit was automatically triggered and applied to Representative Stark's tax bill in *bill years 2007–2009* by Maryland tax officials because his assessments increased by more

[104] Int. of Robert Young by Standards Committee Staff.

[105] *See Johnson,* 451 A.2d at 332 ("willfulness" is the voluntary, intentional violation of a known legal duty, not the result of accident or mistake or other innocent cause).

[106] Int. of Robert Young by Standards Committee Staff.

[107] *Id.*

[108] COS. 0017.

[109] OCE Findings ¶ 20; Bates No. 09–9030__0005, which is appended to OCE's Findings. *See also* OCE Findings ¶ 1.

[110] *See* Bates No. 09–9030__0005, which is appended to OCE's Findings.

[111] Int. of Robert Young by Standards Committee Staff; *see also* COS. 0012–0015.

[112] *See* COS. 0031 (Rep. Stark's tax bill issued for fiscal year 2009, which runs from July 1, 2008–June 30, 2009, containing homestead tax credits of $3,769.79).

than 10% per year, even though he had taken no affirmative action to seek the Credit during that time.[113]

Additionally, OCE's allegations are inconsistent with the available evidence. First, MDAT had removed any Credit associated with Representative Stark's Maryland residence by May 1, 2009, as documented in OCE's interview memorandum.[114] OCE omitted this fact from the body of its Findings.[115] Second, the *very first page* of the exhibit that OCE relied upon for its erroneous conclusion shows that MDAT had highlighted that Representative Stark's Harwood, Maryland, home was *not* his "principal residence" as of May 6, 2009.[116] This means that Representative Stark would not and did not receive any Credit in July 2009. Last, Representative Stark reiterated to OCE that MDAT found he was not eligible for the Credit approximately one month after MDAT told OCE the same thing.[117] These consistent statements from MDAT and Representative Stark regarding the disposition of Representative Stark's application should have made clear that, as MDAT told the Standards Committee, Representative Stark's "application never resulted in his actually receiving a homestead tax credit for any tax year after its submission."[118]

V. CONCLUSIONS

In view of the Standards Committee's findings of fact in Section III, and conclusions reached applying those findings in Section IV, the Committee finds that no further action is warranted. The matter is dismissed and the Standards Committee considers it closed.

The Chair is directed upon providing the required notice to Representative Stark and OCE, pursuant to House Rule XI, Clause 3(b)(8)(A), and Committee Rule 17A(a)(2), to file the instant Report with the House, together with Representative Stark's response and a copy of OCE's Report and Findings in this matter, both of which are made a part of this Report and appended hereto.[119] The filing of the instant Report, along with its publication on the Standards Committee's Web site, shall serve as publication of OCE's Report and Findings, pursuant to House Rule XI, Clause 3(b)(8)(A), and Committee Rule 17A(b)(3) and 17A(c)(2). No other version of OCE's Report and Findings is authorized and any publication of OCE's Report and Findings independent of the instant Report is not authorized.[120]

VI. STATEMENT UNDER RULE 13, CLAUSE 3(c) OF THE RULES OF THE HOUSE OF REPRESENTATIVES

The Standards Committee made no special oversight findings in this report. No budget statement is submitted. No funding is authorized by any measure in this report.

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[113] *See supra* n.47.

[114] *See* Bates No. 09–9030__0009, ¶ 12, which is appended to OCE's Findings.

[115] Instead, OCE included this significant fact in the last sentence that begins with the *New York Times* article discussed above. *See id*.

[116] *See* Bates No. 09–9030__0002, which is appended to OCE's Findings.

[117] *See* OCE Findings ¶ 34; Bates No. 09–9030__0028, ¶ 3, which is appended to OCE Findings.

[118] Int. of Robert Young by Standards Committee Staff.

[119] House Rule XI, clauses 3(a)(2) and 3(b).

[120] *See* House Rule XI, clause 3(b)(8)(A); Standard Committee Rule 17A; and H. Res. 895, Section 1, clause 1(f).

Appendix A

Documents Collected by the Committee on Standards of Official Conduct

Board
David Skaggs, Chair
Porter Goss, Co-Chair
Jay Eagen
William Frenzel
Abner Mikva
Joseph Duke
Karen English
Allison Hayward

Leo J. Wise, Staff Director & Chief Counsel
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(202) 225-9739
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OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

RECEIVED
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COMMITTEE ON STANDARDS

June 2, 2009

Honorable Zoe Lofgren, Chair
Committee on Standards of Official Conduct
HT-2, The Capitol
Washington, DC 20515

Honorable Jo Bonner, Ranking Member
Committee on Standards of Official Conduct
HT-2, The Capitol
Washington, DC 20515

Re: Review No. 09-9030

Dear Chair Lofgren and Ranking Member Bonner:

We are writing to provide notice that the Board of the Office of Congressional Ethics (OCE) has initiated a preliminary review into allegations concerning Representative Pete Stark, pursuant to H. Res. 895, Section 1, clause (c)(1)(A) of the 110th Congress, as amended by H. Res. 5 of the 111th Congress, and Rule 7 of the OCE's Rules for the Conduct of Investigations. Below is a statement of the nature of the review:

A home owned by Representative Pete Stark received a Maryland homestead tax credit after October 2007.

By receiving this credit Representative Stark's conduct may have violated Maryland state law and House Rule 23.

The Board reserves the authority to address any additional, related potential violations within its jurisdiction that may be discovered in the course of this Review.

Sincerely,

David E. Skaggs

Porter J. Goss

PRINTED ON RECYCLED PAPER

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

David Skaggs, Chair
Yvonne Burke
Karen English
Allison Hayward

Porter Goss, Co-Chair
Jay Eagen
William Frenzel
Abner Mikva

Leo J. Wise, Staff Director & Chief Counsel
1017 Longworth House Office Building
(202) 225-9739
(202) 226-0997 fax

June 5, 2009

Honorable Pete Stark
239 Cannon HOB
Washington, DC 20515

REQUEST FOR INFORMATION
Re: Review No. 09-9030

Dear Congressman Stark:

This Request for Information is pursuant to a Preliminary Review authorized by the Board of the Office of Congressional Ethics (OCE) on May 29, 2009.. The Review shall initiate on June 5, 2009.

In accordance with Rule 7(D) and 7(E) of the Office of Congressional Ethics' Rules for the Conduct of Investigations ("OCE Rules"), a preliminary report must be completed and delivered to the Board within 30 days of the initiation of a Review. That report will be prepared for the Board and it will evaluate the matter based on the information available at the end of that 30 days. Your timely cooperation is appreciated and will assist the Board in reaching an informed and accurate decision.

Please provide the following information:

(1) Representative Stark's application for Maryland's Homestead tax credit eligibility for tax year 2008.

(2) A copy of any application and any related documents Representative Stark received from the state of Maryland at the end of 2008 for Maryland's Homestead Tax Credit in the event she did not submit the application.

(3) Documentation showing in what state or states Representative Stark and any other individual who owns or lives at the property filed state income tax for tax year 2008.

(4) Documentation showing what state or states Representative Stark and any other individual who owns or lives at the property was registered to vote in 2008.

(5) Documentation showing what state or states Representative Stark and any other individual who owns or lives at the property was licensed to drive in 2008.

(6) Any documents submitted by Representative Stark and/or any other individual who owns or lives at the property to the Montgomery County office of the Maryland Department of Assessments and Taxation for tax year 2008.

(7) Any documents received by Representative Stark and/or any other individual who owns or lives at the property from the Montgomery County office of the Maryland Department of Assessments and Taxation for tax year 2008.

(8) OCE requests the opportunity to interview you at a mutually convenient time.

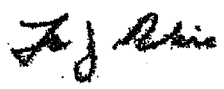
OCE may make additional information requests, as warranted by the facts and circumstances of this Review. In addition, we will review any additional information you feel is relevant that we have not requested.

If you are not providing a requested document or piece of information, then please identify the document or information withheld and why it is being withheld.

Please note that under House Resolution 895 of the 110th Congress, as amended by House Resolution 5 of the 111th Congress, and OCE Rule 7, the Board may draw a negative inference from any refusal to cooperate and may include a statement to that effect in any referral to the Committee on Standards of Official Conduct.

If you have any questions regarding this request or require any assistance in the production of the information requested, please do not hesitate to contact Omar Ashmawy, Investigative Counsel, at (202) 225-9739 or omar.ashmawy@mail.house.gov.

Very respectfully,



Leo Wise
Staff Director and Chief Counsel

Board
David Skaggs, Chair
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OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

August 5, 2009

Honorable Zoe Lofgren, Chair
Honorable Ben Chandler
Honorable G. K. Butterfield
Honorable Kathy Castor
Honorable Peter Welch
Committee on Standards of Official Conduct
HT-2, The Capitol
Washington, DC 20515

Honorable Jo Bonner, Ranking Member
Honorable Gresham Barrett
Honorable Mike Conaway
Honorable Charlie Dent
Honorable Gregg Harper
Committee on Standards of Official Conduct
HT-2, The Capitol
Washington, DC 20515

Re: Review No. 9025 (Representative Redacted)
Review No. 9035 (Representative Redacted)
Review No. 9060 (Representative Redacted)
Review No. 9073 (Representative Redacted)

Dear Chair Lofgren, Ranking Member Bonner and Members of the Committee on Standards of Official Conduct:

We write to notify you of the transmittal of reports indicating that the Board has terminated four preliminary reviews concerning Members of the 110th Congress who have received the Maryland Homestead Tax Credit in 2008 and 2009. In the course of conducting these reviews, the Board learned several facts about the way in which the State of Maryland administers its Homestead Tax Credit program that, in the Board's view, place Members of Congress who own homes in Maryland at risk of being accused of improperly receiving the credit at no fault of their own. The Board is transmitting findings to the Standards Committee that contain these facts. The entire report and supporting documentation have been delivered to the Offices of the Committee on Standards of Official Conduct where it is available for your review.

In addition, the Board also thought it prudent to share these facts with the Members who were subject to these reviews. The Board recommends that the Standards Committee consider issuing guidance more broadly to all House members who may either own real property in Maryland or purchase real property in Maryland in the future.

Sincerely yours,

David E. Skaggs

Porter J. Goss

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:: Real Property

MARYLAND HOMESTEAD TAX CREDIT

What is the Homestead Credit?

To help homeowners deal with large assessment increases on their principal residence, state law has established the Homestead Property Tax Credit. The Homestead Credit limits the increase in taxable assessments each year to a fixed percentage. Every county and municipality in Maryland is required to limit taxable assessment increases to 10% or less each year. View a listing of homestead caps for each local government.

Technically, the Homestead Credit does not limit the market value of the property as determined by the Department of Assessments and Taxation. Instead, it is actually a credit calculated on any assessment increase exceeding 10% (or the lower cap enacted by the local governments) from one year to the next. The credit is calculated based on the 10% limit for purposes of the State property tax, and 10% or less (as determined by local governments) for purposes of local taxation. In other words, the homeowner pays no property tax on the market value increase which is above the limit.

Example
Assume that your old assessment was $100,000 and that your new phased-in assessment for the 1st year is $120,000. An increase of 10% would result in an assessment of $110,000. The difference between $120,000 and $110,000 is $10,000. The tax credit would apply to the taxes due on the $10,000. If the tax rate was $1.04 per $100 of assessed value, the tax credit would be $104 ($10,000 ÷ 100 x $1.04).

New Application Requirement

To prevent improper granting of the credit on rented or multiple properties of a single owner, a new law was enacted in 2007 that requires all homeowners to submit a one-time application to establish eligibility for the credit. The application form will be included in the assessment notice mailed to one-third of the homeowners at the end of December for the next three years. It also will be mailed to new purchasers of residential property.

Conditions

The tax credit will be granted if the following conditions are met during the previous tax year:

- The property was not transferred to new ownership.
- There was no change in the zoning classification requested by the homeowner resulting in an increase value of the property.
- A substantial change did not occur in the use of the property.
- The previous assessment was not clearly erroneous.

A further condition is that the dwelling must be the owner's principal residence and the owner must have lived in it for at least six months of the year, including July 1 of the year for which the credit is applicable, unless the owner was temporarily unable to do so by reason of illness or need of special care. An owner can receive a credit only on one property—the principal residence.

Razed Dwelling and Vacated Dwelling for Making Substantial Improvements

Property owners who choose to vacate their principal residence to raze the dwelling in order to replace it with a new home on the subject property or to make substantial improvements to the property can continue to receive Homestead Tax Credit eligibility provided two conditions are met. First, the homeowner(s) must have owned and occupied the property as a principal residence for at least 3 full tax years immediately preceding the razing or the commencement of the substantial improvements. Second, the building of the replacement home or making the substantial improvements must be completed within the next succeeding tax year after the tax year in which the razing or the substantial improvements were commenced.

Appeal Rights

If you have been denied a Homestead Tax Credit and you believe that you are eligible, contact the Central Office for the Homestead Tax Credit Program at the telephone numbers listed below. A final denial of a Homestead Tax Credit by the Central Office may be appealed within 30 days to the Property Tax Assessment Appeal Board in the jurisdiction where the property is located.

Further Information

For questions about the Homestead Tax Credit, you may telephone 410-767-2185 in the Baltimore metropolitan area or at 1-866-550-8783 toll free elsewhere in Maryland or visit the Department's website at www.dat.state.md.us.

June 2008

Contact Us | Site Map | Email SDAT | Privacy Notice |
Department of Assessments & Taxation 301 W. Preston St., Baltimore, MD 21201-2395
410-767-1184 | Outside the Baltimore Metro Area 888-246-5941 | Maryland Relay 800-735-2258

Maryland Department of Assessments and Taxation

Homestead Tax Credit Division
301 West Preston Street W Baltimore, MD 21201 (2009 PHTC-1) v1.0a

WELCOME TO THE SDAT WEBSITE FOR SUBMITTING AN APPLICATION FOR HOMESTEAD TAX CREDIT ELIGIBILITY

Effective October 1, 2007, a new law enacted by the 2007 session of the Maryland General Assembly requires all homeowners to make a one-time application in order to be eligible to receive or continue receiving the Homestead Tax Credit. The Homestead Tax Credit law limits each year the amount of assessment increase on which an eligible resident homeowner actually pays County, Municipal and State property taxes. The application is required to insure that all property owners receive the credit on the one property used as their principal residence and not on properties used for other purposes, such as a rental or vacation home.

In order to submit a Homestead Tax Credit Eligibility Application through this website you must have been issued, from the Maryland State Department of Assessments and Taxation, an application form containing your Real Property Account Number and an Access Number. You will be required to enter the Account and Access Numbers as part of the submission process. The Access number can be found in the box in the upper right corner of the application form.

If you have not received an application, click here to access a PDF version of the form which can be completed and mailed to the Department of Assessments and Taxation, Homestead Tax Credit Division, 301 W Preston St. 8th Floor, Baltimore, MD 21201. If you experience problems using the online application email the Department at inquiry@dat.state.md.us

The information you enter will be on an encrypted protected system.

To begin the Application Process select the County or Baltimore City where the property is located.

NOTE: It is recommended that you use Internet Explorer to complete the homestead application.

County: ALLEGANY COUNTY

Click here to Continue.

APPLICATION FOR HOMESTEAD TAX CREDIT ELIGIBILITY

- The Homestead Tax Credit law limits the amount of assessment increase on which eligible resident homeowners actually pay county, municipal, and State property taxes each year. **This credit can have a significant impact on your real estate taxes regardless of your property's value or your income level. If the property is used as your principal residence, you are strongly encouraged to complete this application.**
- The reason why this application is required is to verify that the property owners only receive the benefit of this credit on their **one principal residence.** It also insures that other homeowners entitled to the credit but not receiving it can also start to receive this benefit.
- A married couple may only have one principal residence under the provisions of this law. A homeowner who submits an application that is inconsistent with income tax and motor vehicle records of the State shall be required to later submit additional verification in order to be considered for the credit.
- If you have a specific question concerning the application, you may telephone 410-767-2165 in the Baltimore metropolitan area or on 1-866-650-8783 toll free elsewhere in Maryland.
- This application can be filled out on your pc; if hand written please print legibly. Please use **black** or **blue** ink only.

Section I

1. **SDAT Real Property Tax Identification Number of the property for which Homestead Eligibility is requested.**

INSTRUCTIONS: You must fill-in the property identification number in order to submit this application. The identification number is composed of the two digit county code where the property is located, followed by an account number of up to 14 characters in length. This information can be obtained from an assessment notice or by searching the Department's online Real Property database. If using the online system, the account number displayed must be preceded by the appropriate two digit county code listed below. **If you do not have the identification number click here to search the Real Property database.**

Allegany - 01	Calvert - 05	Charles - 09	Harford - 13	Prince George's - 17	Talbot - 21
Anne Arundel - 02	Caroline - 06	Dorchester - 10	Howard - 14	Queen Anne's - 18	Washington - 22
Baltimore City - 03	Carroll - 07	Frederick - 11	Kent - 15	St. Mary's - 19	Wicomico - 23
Baltimore Co. - 04	Cecil - 08	Garrett - 12	Montgomery - 16	Somerset - 20	Worcester - 24

County Code (From above) _____ **Identification Number** (up to 14 digits) _____

Co. Code	Ward	Section	Block	Lot
03				

For Baltimore City Only

2. Address of the Property for which Application is being made:

_____
Street Address

_____ **MD** _____
City **Zip code**

APPLICATION FOR HOMESTEAD TAX CREDIT ELIGIBILITY

Section II

YOU MUST ANSWER ALL QUESTIONS AND INCLUDE THE SOCIAL SECURITY NUMBER OF ALL HOMEOWNER(S).
A homeowner is defined as any living person listed on the deed.

1. Is the real property shown on this letter currently used, and expected to be used in the next calendar year as the single principal residence of the homeowner(s)? ☐ Yes ☐ No
2. Is this real property address the location where the homeowner(s) expect to file their next federal and Maryland income tax return if one is filed? ☐ Yes ☐ No ☐ Not applicable (Not Filing)
3. Is this real property address the location from which the homeowner(s) have received a driver's license or requested automobile licenses or vehicle registrations, if applicable?
   ☐ Yes ☐ No ☐ Not applicable (No License or Vehicle Registration)
4. Is this real property address the location from which the homeowner(s) are registered to vote, if registered?
   ☐ Yes ☐ No ☐ Not applicable (Not Registered)
5. Is any portion of the principal residence rented? ☐ Yes ☐ No

All owners must also complete the section below. If there are, more than four (4) owners complete this application and attach a separate sheet listing the names and Social Security numbers of the additional owners before mailing.

Printed Name of Homeowner (First Name, Middle Initial, Last, Suffix) — Social Security Number

Printed Name of Spouse or 2nd Homeowner (First Name, Middle Initial, Last, Suffix) — Social Security Number

Printed Name of Homeowner (First Name, Middle Initial, Last, Suffix) — Social Security Number

Printed Name of Homeowner (First Name, Middle Initial, Last, Suffix) — Social Security Number

In submitting this application I hereby declare under the penalties of perjury, pursuant to Tax-Property Article, 1-201, Annotated Code of Maryland, that the application has been examined by me and the information contained herein, to the best of my knowledge and belief is true, correct and complete and that this property is my principal residence for the prescribed period. **I understand that the Department may independently verify the above information by contacting, including but not limited to, the Internal Revenue Service, the Maryland Comptroller's Office and the Motor Vehicle Administration.**

Homeowner's Signature — Spouse or Co-Owner's Signature — Date

Telephone Number (Daytime)

Mail completed application to: **Department of Assessments and Taxation**
Homestead Tax Credit Division
301 West Preston Street, 8th Floor
Baltimore MD 21201

PENALTIES FOR PERJURY

A person who willfully or with intent to evade payment of a tax under this Article provides false information or a false answer to a property tax interrogatory/application is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 18 months or both. Tax-Property Article, § 14-1004. For example, it is willful intent for a homeowner to indicate a property is his or her principal residence when the property is used for another purpose, such as a rental or a vacation home.

PRIVACY AND STATE DATA SECURITY NOTICE

The principal purpose for which this information is sought is to determine your eligibility for a tax credit. Failure to provide this information will result in a denial of your application. Some of the information requested would be considered a "Personal Record" as defined in State Government Article, § 10-624. Consequently, you have the statutory right to inspect your file and to file a written request to correct or amend any information you believe to be inaccurate or incomplete. Additionally, it is unlawful for any officer or employee of the state or any political subdivision to divulge any income particulars set forth in the application or any tax return filed except in accordance with a judicial or legislative order. However, this information is available to officers of the state, county or municipality in their official capacity and to taxing officials of any other state, or the federal government, as provided by statute.

01/04/2010 15:24 410-333-5873 DIRECTOR PAGE 11/12

Page: 1 Document Name: Redacted

FHC1 DEPARTMENT OF ASSESSMENTS AND TAXATION 01/04/2010
FHC1MAP HOMESTEAD TAX CREDIT
P61 CURRENT APPLICATION INQUIRY PAGE 1 OF 1
Account #: Redacted Ovr Code(s): R001 F1-HELP
Owner(s) Name: STARK JR, FORTNEY H ID Batch: 9999 ID: Redacted
STARK, DEBORAH R Occupancy Code: N

Premise Address:
Redacted

Mailing Address:
Redacted

Application Status: X
Comments: Y
Signature: Y (Y/N) Date: 02 / 06 / 2009 HARWOOD MD 20776-9576 Phone: Redacted

HOMEOWNER(s):

First Name	MI	Last Name	Suffix	Social Security Number
FORTNEY	H	STARK	JR	[redacted]
DEBORAH	R	STARK		

2-COMMENT 3-MENU 5-LETTERS 10-PREV CLEAR-RESET

Date: 1/4/2010 Time: 1:31:06 PM

01/04/2010 15:24 410-333-5873 DIRECTOR PAGE 10/12

Homestead

Page: 1 Document Name: Redacted

FHC1 DEPARTMENT OF ASSESSMENTS AND TAXATION 01/04/2010
FHC1MAP HOMESTEAD TAX CREDIT
P61 CURRENT APPLICATION INQUIRY PAGE 1 OF 1
Account #: Redacted
Owner(s) Name: STARK JR, FORTNEY H ID Batch: 9999 ID: Redacted
STARK, DEBORAH R Occupancy Code: N
Premise Address: Mailing Address:
Redacted Redacted
Application Status: X
HARWOOD MD 20776-9576

Y 1. Will the real property be used as the single, principal residence of the homeowner(s) for more than six(6) months of the calendar year, including July 1? (Y/N)
Y 2. Is this real property address the location where the homeowner(s) will file the federal and Maryland income tax return due on April 15th, if one is filed? (Y/N/NA)
N 3. Is this real property address the location from which the homeowner(s) have received a driver's license or requested automobile licenses or vehicle registrations, if applicable? (Y/N/NA)
Y 4. Is this real property address the location from which the homeowner(s) are registered to vote, if registered? (Y/N/NA)
N 5. Is any portion of the principal residence rented? (Y/N)

CLEAR-RESET 3-MENU 10-PRV 11-NXT

Date: 1/4/2010 Time: 1:31:02 PM

01/04/2010 15:24 410-333-5873 DIRECTOR PAGE 12/12

Page: 1 Document Name: Redacted

FHC1 DEPARTMENT OF ASSESSMENTS AND TAXATION 01/04/2010
FHC1MAP HOMESTEAD TAX CREDIT
P61 COMMENTS PAGE 1 OF 1
Account #: Redacted
Owner(s) Name: STARK JR, FORTNEY H ID Batch: 9999
STARK, DEBORAH R Occupancy Code: N
Premise Address: Mailing Address:
Redacted Redacted
Application Status: X
HARWOOD MD 20776-9576
ID: Redacted

Enter / review comments:

MR STARK CALLED TO CHANGE ANSWER TO QUESTION #4 FROM YES TO NO. 3/16/09.
IF ANYONE HAS QUESTIONS ABOUT THIS FILE, YOU SHOULD CONTACT ROBERT YOUNG IN ADMINISTRATION. DO NOT ANSWER QUESTIONS ABOUT THIS FILE.

PF: 2-RETURN

Date: 1/4/2010 Time: 1:31:21 PM

:: Real Property

A HOMEOWNER'S GUIDE TO PROPERTY TAXES AND ASSESSMENTS

I. THE PROPERTY TAX: WHO PAYS IT AND WHO RECEIVES IT

THE BILL

State law provides that all real property is subject to the property tax. A property owner will receive a property tax bill each year. Generally, properties that are owned and used by religious, charitable, or educational organizations or property owned by the Federal, State, or local governments are exempt from property tax.

Property tax bills are issued in July/August of each year by the 24 counties (including Baltimore City) and the 155 incorporated municipalities (cities) in Maryland. Tax bills are rendered for the upcoming fiscal year and are effective as of July 1st.

REVENUE

The property tax is primarily a local government revenue. Counties and cities depend on the property tax and a portion of the income tax to make up their budgets. The property tax makes up about 30% of the average county budget and over 35% of the average city budget. State government is primarily funded by the income tax and the sales tax. Less than 10% of the property tax goes to the State.

II. THE PROPERTY TAX BILL: ASSESSMENTS AND TAX RATES

ASSESSMENT X RATE = BILL

The amount of the tax bill is determined by two factors: (1) the assessment; (2) the property tax rate. Assessments are based on the fair market value of the property and are issued by the Department of Assessments and Taxation, an agency of State government. Property tax rates are set by each unit of government - the State, counties, and cities.

ASSESSMENTS

Properties are reassessed once every three years and property owners are notified of any change in their assessment. Assessments are certified by the Department to local governments where they are converted into property tax bills by applying the appropriate property tax rates.

TAX RATES

Property tax rates vary widely - current county and municipal tax rates. No restrictions or limitations on property taxes are imposed by the State, enabling cities and counties to set tax rates at the level required to fund governmental services. These rates can increase, decrease, or remain the same from year to year. If the proposed tax rate increases the total property tax revenues, the governing body must advertise that fact and hold a public hearing on the new tax rate. This is called the Constant Yield Tax Rate process.

The overall tax rate is a combination of State, county, and in some cases municipal tax rates. Property tax rates are expressed as a dollar amount per $100 of assessment. For example, for a property with a fair market value of $100,000 the property taxes would be calculated by dividing the assessment by 100 and multiplying the product by the property tax rate. Using an overall tax rate of $1.08 per $100 for this example ($1.00 local property tax plus $.08 state property tax), the amount of property taxes due would be calculated: $100,000 divided by 100 times $1.08 or $1,080.00.

III. THE ASSESSMENT PROCESS

FAIR MARKET VALUE

Article 15 of the Declaration of Rights of Maryland's Constitution requires that all property be assessed and taxed uniformly. State law specifically requires that all taxable property shall be assessed based on its fair market value. The courts have also interpreted this requirement to mean that assessments must be based on the fair market value of the property.

APPROACHES TO VALUE

An assessment is based on an appraisal of the fair market value of the property. An appraisal is an estimate of value. Assessors are the appraisers who estimate the value of the property for tax purposes. Assessors are trained to use standard appraisal approaches and techniques in determine the appraisal estimate. There are three accepted approaches to market value: (1) the sales approach; (2) the cost approach; (3) the income approach. While differing in the method of calculation, each approach is designed to indicate the property's fair market value.

PHASE-IN

For any increase in the full cash value of a property, State law requires that the increase in value over the old appraisal is to be "phased-in" over the next three years. For example, a new appraisal of $130,000 is compared to an old appraisal of $100,000. In this example, the new appraisal is $30,000 higher than the old appraisal. The $30,000 is "phased-in" equally over the next three years: 1st year, $110,000; 2nd year, $120,000; 3rd year, $130,000.

IV. THE RESIDENTIAL APPRAISAL (ASSESSMENT)

THE ASSESSOR

In Maryland, there are over 2 million property accounts. The Department of Assessments and Taxation must appraise each of these properties once every three years. To accomplish this task, the Department employs trained appraisers, knowledgeable in all facets of real estate. Appraisers are trained and educated in proper appraisal approaches and techniques, and must be familiar with local property characteristics which affect value.

The two appraisal approaches used by assessors to estimate fair market value for residential properties are: (1) the sales approach; and (2) the cost approach. The income approach mentioned in the preceding section is appropriate to properties which produce an income stream from rent or lease agreements.

THE SALES APPROACH

The premise of the sales approach is that the fair market value of a given property (called the subject property) may be determined by examining the sale prices of comparable properties. If similar properties sold for approximately $100,000, it could be assumed that other comparable properties would sell in the $100,000 range. The key to the sales approach is comparability and the availability of sufficient data.

COST APPROACH

The premise of the cost approach is that the fair market value of a given property equals the total of the cost to construct a similar improvement, less any depreciation for age and condition, and the price of the land. For example, if the cost to construct an 1,600 square foot rancher is $70,000, the cost

approach assumes that a prospective purchaser would not pay more than $70,000, plus the cost of the land, for a home which is already built. If the existing house were not new, it may sell for less than $70,000. In general, the older the house, the greater the loss in value due to depreciation. A house which is 10 years old will usually sell for less than a comparable house which was recently built.

Assessors in Maryland use a blend of both the sales and cost approaches to appraise residential property. The value of the land is based on the sales approach, using the sale prices of similarly located and zoned parcels. The value of the dwelling is estimated using the cost approach with adjustments made if sales of similar properties indicate that a particular style of house is actually worth more or less than its construction cost.

V. UNDERSTANDING YOUR APPRAISAL (ASSESSMENT)

ASSESSMENT NOTICE

The assessment notice issued by the Department of Assessments and Taxation informs the property owners of the relationship between the old and new market value. Of all the figures on the notice, the single most important figure is the total new fair market value. This is the new appraisal estimate of both land and buildings (improvements).

LAND VALUE

The location of the land is a major factor in determining its value. For example, land located near the water is generally more valuable than land located inland. Likewise, land located near an urban center is usually more valuable than land located miles away. Land sales are reviewed and analyzed by assessors in order to determine location factors. In the absence of sufficient land sale information, assessors estimate the value of the land using an allocation or percentage method. This method employs the valuation of the total property, using property sales of similar houses, and then separating land and improvement values based on a percentage of the total for each component.

VI. THE ASSESSMENT WORKSHEET

A property owner may obtain a copy of the worksheet for their property at any time from the local assessment office. The worksheet is the property record maintained by the assessment office. The worksheet contains information including a description of the property, as well as calculations made to reach the appraisal estimate.

LAND RATES

The worksheet indicates the manner in which the land value was calculated, specifying the size of the parcel and the rates used. Typically, the same rate is used for the minimum building lot size for similar lots. Rates may vary depending on size, location, and zoning. A lot which is larger than the minimum building lot size required by the zoning will be valued using two rates: one for the minimum area needed to build a house; the other for any land area in excess of what is needed to build. The first rate is known as the "primary" rate and produces the basic homesite value. The second rate, called the "excess land" rate or similar term, is typically lower than the "primary" rate. A review of the market indicates that excess land does not reflect as high a sale price as the land required by zoning to build a house.

IMPROVEMENTS

The worksheet includes details of the dwelling, including information on year built, condition, size, and additional items such as decks, bathrooms, fireplaces, or air conditioning. Entered on the worksheet are the basic rates per square foot or any flat charges used for each component of the building (improvement) and the depreciation applied to each. The "cost index," noted on the worksheet, is a multiplier used in cost manuals to update construction cost to a current time and location. Finally, there may be an adjustment made to the cost approach to reflect current market conditions. This adjustment is known as the "MVI" or market value index.

MARKET VALUE INDEX (MVI)

The "MVI" represents the blend between the sales and cost approaches noted previously. For example, assume that the cost approach indicates a value for a dwelling of $70,000. However, an analysis of sales in the area reveals that this particular type of home has been attractive in the real estate market in recent years and is actually selling for $77,000, plus the value of the land. An "MVI" of +10% would be used to adjust the cost to the market of $77,000. The "MVI" is expressed as a decimal ($70,000 x 1.10 = $77,000). The "MVI" is also used to reduce the cost estimate if an analysis of sales indicates that the market is less than the cost estimate. If the market analysis indicated that the dwelling was selling for approximately $63,000, an "MVI" of .90 would be needed ($70,000 x .90 = $63,000).

VII. APPEALING YOUR ASSESSMENT

APPEAL DEADLINE

Every property owner has the right to appeal the notice of assessment of his or her property within 45 days of the date of the notice. Regular reassessment notices are issued once every three years and usually mailed in late December. In addition to the regular reassessment notice, the law requires a notice be issued when the assessment on a property changes for the following reasons: a change in use or character of the property; substantial improvement to the property; or rezoning of the property.

FOCUS OF APPEAL

The reassessment notice contains an appeal form which must be completed and filed with the local assessment office within the 45 day time limit for appeal. When considering an appeal, the property owner should focus on one figure - the Total New Market Value.

FIRST STEP - SUPERVISOR'S LEVEL

The first step in the appeal process is known as the Supervisor's level of appeal and allows the property owner a time to discuss the appraised value with an assessor - either in person, in writing, or by telephone. If the property owner wishes to discuss the proposed assessment with an assessor, and indicates this on the appeal form, a date, time, and location (if applicable) for the hearing will be scheduled. To assist in an appeal, a property owner may obtain, free of charge, a copy of a brochure explaining the assessment appeal process, a copy of the worksheet for the subject property, and a copy of the sales analysis for the area in which the property is located. For a reasonable fee, the property owner may also obtain copies of the worksheets of comparable properties. These worksheets must be identified by the property owner.

The intent of the Supervisor's level appeal is the exchange of information. This is the opportunity for the property owner to discover as much as possible about the manner in which the appraisal was made. In addition, the owner should note any factors which may affect the value of the property under appeal. The issue of the appeal is the fair market value of the property. After all the information presented at the hearing has been reviewed, the property owner will be sent a "final notice." The "final notice" indicates the result of the Supervisor's level appeal.

SECOND STEP -- PROPERTY TAX ASSESSMENT APPEAL BOARD

The final notice includes a statement that the property owner has the right to appeal the assessment to the local Property Tax Assessment Appeal Board within 30 days of the date of the notice. Appeal Boards are located in each of the 24 jurisdictions. These boards are comprised of local residents of the jurisdiction who are recommended by the local government and appointed by the Governor. They are a separate and independent body from the Department. An appeal filed with the Property Tax Assessment Appeal Board (PTAAB) will result in a hearing before the Board. The property owner and an assessor will each be given an opportunity to present their arguments with regard to the fair market value of the property under appeal. The appeal is informal and the property owner is not required to be represented by an attorney. After the Board reviews the information presented at the hearing, a written notice of decision will be issued to both parties. An appeal to the Board can also be made in writing, eliminating the need for a hearing.

THIRD STEP -- MARYLAND TAX COURT

The decision of the Property Tax Assessment Appeal Board may be appealed by either party to the Maryland Tax Court. This appeal must be filed, in writing, within 30 days of the date of the decision by the PTAAB. The Maryland Tax Court (MTC) is an independent body appointed by the Governor. Although the proceedings of the MTC are more formal than a PTAAB hearing, it is still considered to be an informal, administrative hearing. No filing fee is involved and an attorney is not required. The property owner and an assessor are given the opportunity to present their arguments concerning the fair market value of the property. A decision is rendered to both parties in the appeal. This is the last administrative step in the appeal process. Any further appeal must be taken to the Circuit Court. An appeal to the Circuit Court is formal and the Court examines the record made at the Maryland Tax Court to determine if the MTC made an error as a matter of law.

VIII. PROPERTY OWNER'S BILL OF RIGHTS

Property owners have various rights available to them throughout the assessment and appeals process. The Property Owner's Bill of Rights summarizes many sections of the Tax-Property Article which deal with appeals, assessment notification, and public information. To receive a brochure which lists these rights, contact your local assessment office or access our web site at www.dat.state.md.us under Real Property.

IX. PROPERTY TAX RELIEF MEASURES

The Department of Assessments and Taxation administers a number of property tax relief programs which are specifically designed to provide needed relief to certain groups of property owners. Additional information about these programs may be obtained by calling the Department's Taxpayer Services Office at (410) 767-4433 (Baltimore area) or 1-800-944-7408 (toll free).

HOMEOWNERS' PROPERTY TAX CREDIT PROGRAM

The Homeowners' Property Tax Credit Program (Circuit Breaker) is the largest and most important program in that it provides annual property tax credits to 1 out of every 17 homeowners who qualify by reason of income. This State funded program provides over $49 million in needed relief to homeowners who meet the eligibility criteria, regardless of age.

These tax credits are not given automatically. The homeowner must reapply each year and provide information regarding the total gross household income for the previous calendar year. The filing deadline is September 1st.

The tax credit is determined according to the relationship between the homeowner's income and actual property tax that is levied against the property owner's principal residence. The tax credit does not cover the full amount of the property tax. Rather, credits are computed according to a sliding scale, with the result that the tax credit diminishes as the gross household income increases.

HOMESTEAD TAX CREDIT PROGRAM

Another tax relief program is the Homestead Tax Credit. First enacted in 1977, the program has since been amended so that homeowners may be eligible for a State tax credit if the assessment of their owner-occupied principal residence increased more than 10% over the prior year. State law requires that county and municipal governments set a Homestead Credit Percentage between 0% and 10% for purposes of local property taxation. Beginning in 2008, homeowners are required to submit a one-time tax credit application that is included in that year's Assessment Notice sent to one-third of the property owners.

PROPERTY TAX DEFERRAL

This program allows property owners, age 65 or older, to elect to defer the increase in their property tax bill. Each local government must first adopt the program. The local government then has the authority under State law to impose income restrictions and interest rate amounts. The deferred taxes become a lien on the property and must be repaid when the property is transferred. Montgomery County makes this deferral program available to homeowners of all ages who meet certain residency and income requirements.

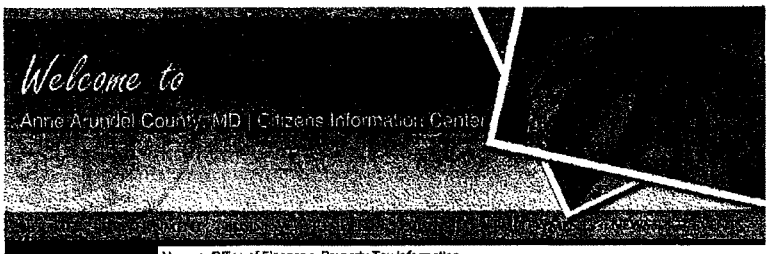
X. GLOSSARY OF TERMS

- **Appeal:** A three-level administrative process which allows a property owner the opportunity to have the fair market value reviewed by an assessor, a local board, and a State board.
- **Appraisal:** An estimate of value.
- **Assessment:** The fair market value used for determining real property taxes.
- **Circuit Breaker:** The Homeowners' Property Tax Credit Program.
- **Comparable Sales:** Properties which have sold and are similar to other properties which have not sold recently. Comparable sales are used to determine the fair market value of other, similar properties.
- **Constant Yield Tax Rate (CYTR):** The property tax rate that when applied to new assessments would result in the taxing authorities receiving the same revenue in the coming tax year that was received in the prior tax year. The Department is required to certify the CYTR each year and local governments are required to hold a public hearing if the new tax rate exceeds the CYTR.
- **Cost Approach:** One of the three generally accepted approaches to fair market value. An estimate of the cost to rebuild an improvement (less depreciation) is made and the land value is added to the estimate. The premise of the cost approach is that a purchaser would pay no more for a property than the cost to build the improvements and the purchase price of the land.
- **Cost Index:** An index which updates historical cost figures to the current time and location.
- **Cost Manual:** A table of building cost rates used to estimate current replacement cost for improvements. A cost manual would be used in the cost approach to estimate the replacement cost of all improvements.
- **Date of Finality:** January 1 of the year of a reassessment. The date of valuation and the time when an assessment becomes final, unless appealed by the specified deadline.
- **Department:** The Department of Assessments and Taxation.
- **Depreciation:** The loss of value of an improvement from any source, most commonly age or condition.
- **Full Cash Value:** Fair market value.
- **Homeowners' Property Tax Credit Program:** A property tax relief program that allows a property tax credit to households whose total gross income is below a standard set by the legislature.
- **Homestead Tax Credit Program:** A property tax relief program that provides a property tax credit for the principal residence of a property owner. Upon qualification, this credit is automatically applied to the tax bill when the assessment increases more than 10% over the prior year. Counties and municipalities have the option to set a limit lower than 10% for local tax purposes.
- **Income Approach:** One of the three generally accepted approaches to fair market value. It rests on the premise that a purchaser of a commercial property will pay no more than the property is worth as an investment and the seller will accept no less than it is worth as an investment. This approach is only used for commercial rental or leased properties.
- **Land Rate:** A dollar rate which, when multiplied by the area of a parcel of land, will produce a land value. Rates are derived from an analysis of comparable land sales.
- **Market Value Index:** The multiplier used to link the cost and sales approaches to value. It is applied to the value indicated by the cost approach to adjust for market conditions.
- **Maryland Tax Court:** The third level of appeal. The Court is an independent body appointed by the Governor. The Court reviews and decides property tax issues brought before it.
- **Phase-In Value:** The increase in assessment from one reassessment to another is spread (phased-in) over the three year period between reassessments equally.
- **Property Tax Assessment Appeal Board:** The second level of appeal. A Board consists of three members appointed by the Governor from a list supplied by the local government. The Board reviews information supplied by the property owner and an assessor and makes a determination of the assessment issue brought before it.
- **Sales Analysis:** A document which summarizes the comparable sales for a specific area or group of properties.
- **Sales Approach:** One of the three generally accepted approaches to fair market value. Sales data is reviewed and applied to properties to determine the fair market value. The premise of the sales approach is that a purchaser would pay no more for a property than the amount of money needed to purchase a comparable property.
- **Triennial Assessment Cycle:** The three year reassessment cycle. Approximately one-third of the properties are reassessed in each jurisdiction each year.
- **Uniformity:** Properties in Maryland are required to be assessed and taxed in a like manner. The courts have held that the standard for uniformity is fair market value.

- **Worksheet:** The property record card for each parcel of real estate. It contains information on ownership, legal description, land and building valuation, and sales data for that parcel.

Revised 07/27/2009 10:08:46

Contact Us | Site Map | Email SDAT | Privacy Notice |
Department of Assessments & Taxation, 301 W. Preston St., Baltimore, MD 21201-2395
410-767-1184 | Outside the Baltimore Metro Area 866-249-5041 | Maryland Relay 800-735-2258



Email Print

Property Tax Information

Annual Payment Schedule

Taxes are due on July 1 of the tax year and may be paid without interest on or before September 30 of the tax year.

Semi-annual Payment Schedule

If you are eligible, one half of the total tax bill is due on July 1 of the tax year and may be paid without interest on or before September 30 of the tax year. The remaining half of the bill and associated service charge is due on December 31 of the tax year.

Interest on unpaid taxes is payable at 1% per month or portion thereof for County taxes and 1½ % per month or portion thereof for City of Annapolis taxes.

Frequently Asked Questions

Property Taxes

1. How does the Semi Annual billing program work?
2. How do I elect to participate or not participate in the Semi Annual billing process?
3. What is the significance of the "principal residence" indication on my tax bill?
4. What are my options for paying my taxes if I do not want to pay through the internet?
5. I am unable to make full payment of my taxes at this time. May I make partial payments?
6. When are property taxes due?
7. I have questions concerning my tax bill. Who should I contact?
8. Are there any tax programs that provide tax relief based on income?
9. How is the County tax rate set?
10. Where are the tax bills mailed? Does the bill get mailed to my mortgage company?
11. What is the Homestead Credit?
12. What does the $275 waste charge represent?
13. How is my tax bill determined?
14. I have a tax sale lien on my property. Can you give me information on how to redeem this property tax lien?

Anne Arundel County, MD. 44 Calvert Street Annapolis, MD. 21401 | Telephone: (410) 222-7000 | Suggestions | Disclaimer
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01/04/2010 15:24 410-333-5873 DIRECTOR PAGE 06/12
12/23/2009 15:43 410-222-1151 OFFICE OF FINANCE PAGE 01/04

ANNE ARUNDEL COUNTY MARYLAND

Real Property Tax Levy
Annual Billing
07/01/2009 - 06/30/2010
Fiscal Year 2010

Office of Finance
Billing and Customer Service
P.O. Box 427
Annapolis, MD 21404-0427

Telephone Inquiries:

Billing	410-222-1144
Assessment	410-974-5709
County TTY	410-222-1861
Homeowner Credit (BALTO)	410-767-4433
Homeowner Credit (L.D.)	1-800-944-7403

STARK JR, FORTNEY H
STARK, DEBORAH R
Redacted
HARWOOD, MD 20776

Bill Number Redacted

Customer Number: Redacted

TAX DESCRIPTION	ASSESSMENT	TAX RATE	TAX/CHARGE
COUNTY REAL ESTATE TAX	1,633,100.00	.876=	14,305.94
SOLID WASTE SERVICE CHARGE	1.00	275.000	275.00
BAY RESTORATION FEE	1.00	30.000	30.00
STATE REAL ESTATE TAX	1,633,100.00	.112=	1,829.07
		TOTAL TAX	16,440.03

Parcel: Redacted
Property Description:
IMP86.35 ACRES
Redacted
HARWOOD
NOT A PRINCIPAL RESIDENCE

To View/Pay On-line:
www.aacounty.org

Current Year Taxable Assessment Data	
Land	1,207,820
Building	425,280
Total	1,633,100

Constant Yield Rate Information

County Rate - Constant Yield = Excess
.876 - .861 = + .015

IMPORTANT
See notes on reverse side

Post-it® Fax Note 7671
To Robert Young
Co./Dept. SDAT
Phone #
Fax # 410-333-5873
Date 12/23/09 # of pages ▶
From Wolfe-Tolliver
Co. AA CAFF
Phone # Redacted
Fax # 410-222-1151

SUB-TOTAL 16,440.03

PRIOR PAYMENTS *** 16,440.03
TOTAL DUE

SEE ENCLOSED FLYER FOR INFORMATION ON SEMI-ANNUAL PAYMENT PROGRAM

KEEP ABOVE STATEMENT FOR YOUR RECORDS
✂ Detach and return the portion below with your payment ✂

*PER $100 OF TAXABLE ASSESSMENT

ANNE ARUNDEL COUNTY MARYLAND

Real Property Tax Levy
Annual Billing

Bill Number
Redacted

Property Description:
IMPS6.35 ACRES
Redacted
HARWOOD

Account Number	Fiscal Year	Annual Payment
Redacted	2010	.00
Pay by Due Date to avoid interest. Make checks payable to Anne Arundel County.		No Later Than DEC 31, 2009

STARK JR, FORTNEY H
STARK, DEBORAH R
Redacted
HARWOOD, MD 20776

Credit card payments can only be made on-line and a convenience fee will be charged.
To View/Pay on-line: www.aacounty.org

RETURN THIS ENTIRE LOWER PORTION WITH PAYMENT

Redacted

COS.0017

OFFICE OF CONGRESSIONAL ETHICS
U.S. HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

In Re:	Representatives 1 and 2 of the Maryland State Department of Assessments and Taxation
Review No:	09-9025
Date:	June 23, 2009
Location:	Maryland State Department of Assessments and Taxation 300 W. Preston Street Baltimore, MD 21201
Time:	1314hrs – 1450 hrs (approximately)
Participants:	Leo Wise Omar Ashmawy Bryson Morgan

Summary: Representative 1 is the Associate Director of the Maryland State Department of Assessments and Taxation (MDSDAT). In this capacity, Representative 1 oversees the Maryland Homestead Tax Credit. Representative 2 is the Supervisor of the Homestead Tax Credit Application program. Representative 2 oversees the determination of eligibility for the Homestead Tax Credit.

1. Maryland created the Homestead Tax Credit program in 1977. In order to qualify for the Maryland Homestead Tax Credit, Maryland law requires the home to be used as the owner's "principal residence" – where the homeowner regularly resides as is designated for voting, obtaining a driver's license, and filing income tax returns.

2. The Homestead Tax Credit Application asks whether the applicant's "real property address" is "the location where the homeowner(s) will file the federal and Maryland income tax return," "the location from which the homeowner(s) have received a driver's license," and "the location from which the homeowner(s) are registered to vote, if registered." The OCE staff pointed out that these questions do not specify that the applicant must file a Maryland *resident* tax return, receive a *Maryland* driver's license, and be registered to vote in *Maryland*. Representative 1 stated that despite the application's ambiguity, it was MDSDAT's intent to grant the Homestead Tax Credit only to the principal residences of property owners who were registered to vote in *Maryland*, possessed *Maryland* driver's

licenses, and filed Maryland *resident* income tax returns. Representative 1 stated that MDSDAT will consider changing the language of the application to clarify this ambiguity.

3. Prior to 2007, a homeowner was automatically granted the Homestead Tax Credit if the owner was listed as a first-time homebuyer or if the address for the receipt of assessments and property taxes was the address of the taxable property, and if (1) MDSDAT had not determined that the property was a rental property, (2) MDSDAT assessors had not discovered that the property was not owner-occupied, and (3) mail was not being forwarded from the address.

4. Individuals receiving the Homestead Tax Credit who are nonetheless ineligible for the credit do not have an affirmative obligation to remove their property from the Homestead Tax Credit program. It is the obligation of the MDSDAT to discover and remove ineligible recipients from the program.

5. In order to prevent the improper granting of the Homestead Tax Credit on rented or multiple properties of a single owner, the Maryland State Department of Assessments and Taxation began mailing a one-time application to homeowners to establish eligibility for the tax credit. The application was included in the assessment notice mailed to one-third of Maryland homeowners at the end of each calendar year, for a period of three years beginning December 2007.

6. The first round of applications was sent on December 27, 2007. The second round of applications was sent on December 31, 2008.

7. Individuals who fail to return the application will continue to receive the Homestead Tax Credit until December 21, 2012.

8. While the application asks five questions which mirror the requirements for the credit (single principal residence, location for filing income taxes, driver's license, voter registration, rental status) if an applicant indicates that the property is their "single principal residence" and that they have used the address for the purposes of filing federal taxes MDSDAT automatically grants the tax credit.

9. MDSDAT does not reject a Homestead Tax Credit Application solely because the applicant does not use the address as the location from which they are registered to vote, and this fact does not flag the application for further MDSDAT scrutiny. If this fact is brought to the attention of MDSDAT in another manner, however, the credit may be revoked.

10. MDSDAT does not reject a Homestead Tax Credit application solely because the address is not the one from which the owner has received a driver's license, and this fact does not flag the application for further MDSDAT scrutiny. If this fact is brought to the attention of MDSDAT in another manner, however, the credit may be revoked.

11. Only if the person indicates that part of the property was rented would the application be approved yet "flagged" for later review by an MDSDAT employee. If, for example, an applicant indicated that the property was their "single principal residence" and their address for the purposes of filing federal taxes yet also indicated that it was not the address from which they were registered to vote or received a driver's license, the application would be automatically approved and not flagged for further MDSDAT scrutiny. MDSDAT does not engage in a more thorough initial analysis of applications due to resource constraints.

12. The Homestead Tax Credit Application was mailed to Representative [redacted] home in December 2007, but Representative [redacted] did not return the application. In the spring of 2009, Representative [redacted] contacted MDSDAT to determine whether [redacted] property received the credit, and if it was receiving the credit, request that it be removed. Representative [redacted] home will discontinue receiving the credit in Fiscal Year 2010.

We certify that this memorandum contains all pertinent matter discussed with this individual on June 23, 2009.

Leo Wise
Omar Ashmawy
Bryson Morgan
Office of Congressional Ethics

OFFICE OF CONGRESSIONAL ETHICS
U.S. HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

In Re:	Representatives 1 and 2 of the Maryland State Department of Assessments and Taxation
Review No:	09-9035
Date:	June 23, 2009
Location:	Maryland State Department of Assessments and Taxation 300 W. Preston Street Baltimore, MD 21201
Time:	1314hrs – 1450 hrs (approximately)
Participants:	Leo Wise Omar Ashmawy Bryson Morgan

Summary: Representative 1 is the Associate Director of the Maryland State Department of Assessments and Taxation (MDSDAT). In this capacity, Representative 1 oversees the Maryland Homestead Tax Credit. Representative 2 is the Supervisor of the Homestead Tax Credit Application program. Representative 2 oversees the determination of eligibility for the Homestead Tax Credit.

1. Maryland created the Homestead Tax Credit program in 1977. In order to qualify for the Maryland Homestead Tax Credit, Maryland law requires the home to be used as the owner's "principal residence" – where the homeowner regularly resides as is designated for voting, obtaining a driver's license, and filing income tax returns.

2. The Homestead Tax Credit Application asks whether the applicant's "real property address" is "the location where the homeowner(s) will file the federal and Maryland income tax return," "the location from which the homeowner(s) have received a driver's license," and "the location from which the homeowner(s) are registered to vote, if registered." The OCE staff pointed out that these questions do not specify that the applicant must file a Maryland *resident* tax return, receive a *Maryland* driver's license, and be registered to vote in *Maryland*. Representative 1 stated that despite the application's ambiguity, it was MDSDAT's intent to grant the Homestead Tax Credit only to the principal residences of property owners who were registered to vote in *Maryland*, possessed *Maryland* driver's

licenses, and filed Maryland *resident* income tax returns. Representative 1 stated that MDSDAT will consider changing the language of the application to clarify this ambiguity.

3. Prior to 2007, a homeowner was automatically granted the Homestead Tax Credit if the owner was listed as a first-time homebuyer or if the address for the receipt of assessments and property taxes was the address of the taxable property, and if (1) MDSDAT had not determined that the property was a rental property, (2) MDSDAT assessors had not discovered that the property was not owner-occupied, and (3) mail was not being forwarded from the address.

4. Individuals receiving the Homestead Tax Credit who are nonetheless ineligible for the credit do not have an affirmative obligation to remove their property from the Homestead Tax Credit program. It is the obligation of the MDSDAT to discover and remove ineligible recipients from the program.

5. In order to prevent the improper granting of the Homestead Tax Credit on rented or multiple properties of a single owner, the Maryland State Department of Assessments and Taxation began mailing a one-time application to homeowners to establish eligibility for the tax credit. The application was included in the assessment notice mailed to one-third of Maryland homeowners at the end of each calendar year, for a period of three years beginning December 2007.

6. The first round of applications was sent on December 27, 2007. The second round of applications was sent on December 31, 2008.

7. Individuals who fail to return the application will continue to receive the Homestead Tax Credit until December 21, 2012.

8. While the application asks five questions which mirror the requirements for the credit (single principal residence, location for filing income taxes, driver's license, voter registration, rental status) if an applicant indicates that the property is their "single principal residence" and that they have used the address for the purposes of filing federal taxes MDSDAT automatically grants the tax credit.

9. MDSDAT does not reject a Homestead Tax Credit Application solely because the applicant does not use the address as the location from which they are registered to vote, and this fact does not flag the application for further MDSDAT scrutiny. If this fact is brought to the attention of MDSDAT in another manner, however, the credit may be revoked.

10. MDSDAT does not reject a Homestead Tax Credit application solely because the address is not the one from which the owner has received a driver's license, and this fact does not flag the application for further MDSDAT scrutiny. If this fact is brought to the attention of MDSDAT in another manner, however, the credit may be revoked.

11. Only if the person indicates that part of the property was rented would the application be approved yet "flagged" for later review by an MDSDAT employee. If, for example, an applicant indicated that the property was their "single principal residence" and their address for the purposes of filing federal taxes yet also indicated that it was not the address from which they were registered to vote or received a driver's license, the application would be automatically approved and not flagged for further MDSDAT scrutiny. MDSDAT does not engage in a more thorough initial analysis of applications due to resource constraints.

12. According to MDSDAT records, Representative received and submitted the Homestead Tax Credit Application. Based on answers, Representative should not have received the tax credit. answered "No" to question 4 regarding whether MD home was the address from which was registered to vote. Based on this answer, Maryland should not have granted the tax credit. Despite the answer, Maryland nevertheless applied the Homestead Tax Credit to Representative property.

13. According to MDSDAT, Representative indicated on application that home in , Maryland was the address from which intended to file a Maryland income tax return. However, the return filed was a Maryland Non-Resident return. Similarly, in answer to question 3, Representative answered that had a driver's license that listed , Maryland residence as home. It was however a driver's license. Both Representatives of MDSDAT were surprised by this and stated that they may change the questions on the application in the future to clearly indicate that applicants must have a *Maryland* drivers license and file a Maryland *resident* income tax return in order to be eligible to receive the Homestead Tax Credit.

14. According to MDSDAT, because MDSDAT only compares an application for the homestead tax credit against an IRS database, and not a Maryland database, and the office's unwritten policy is that if a homestead applicant receives their mail at the address of the property and files federal taxes from that address then they receive the credit, it appears that Maryland granted Representative the tax credit despite accurately answering the questions on the Homestead Tax Credit Application in a manner that should have disqualified

We certify that this memorandum contains all pertinent matter discussed with this individual on June 23, 2009.

Leo Wise
Omar Ashmawy
Bryson Morgan
Office of Congressional Ethics

OFFICE OF CONGRESSIONAL ETHICS
U.S. HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

In Re:	Representatives 1 and 2 of the Maryland State Department of Assessments and Taxation
Review No:	09-9060
Date:	June 23, 2009
Location:	Maryland State Department of Assessments and Taxation 300 W. Preston Street Baltimore, MD 21201
Time:	1314hrs – 1450 hrs (approximately)
Participants:	Leo Wise Omar Ashmawy Bryson Morgan

Summary: Representative 1 is the Associate Director of the Maryland State Department of Assessments and Taxation (MDSDAT). In this capacity, Representative 1 oversees the Maryland Homestead Tax Credit. Representative 2 is the Supervisor of the Homestead Tax Credit Application program. Representative 2 oversees the determination of eligibility for the Homestead Tax Credit.

1. Maryland created the Homestead Tax Credit program in 1977. In order to qualify for the Maryland Homestead Tax Credit, Maryland law requires the home to be used as the owner's "principal residence" – where the homeowner regularly resides as is designated for voting, obtaining a driver's license, and filing income tax returns.

2. The Homestead Tax Credit Application asks whether the applicant's "real property address" is "the location where the homeowner(s) will file the federal and Maryland income tax return," "the location from which the homeowner(s) have received a driver's license," and "the location from which the homeowner(s) are registered to vote, if registered." The OCE staff pointed out that these questions do not specify that the applicant must file a Maryland *resident* tax return, receive a *Maryland* driver's license, and be registered to vote in *Maryland*. Representative 1 stated that despite the application's ambiguity, it was MDSDAT's intent to grant the Homestead Tax Credit only to the principal residences of property owners who were registered to vote in *Maryland*, possessed *Maryland* driver's

licenses, and filed Maryland *resident* income tax returns. Representative 1 stated that MDSDAT will consider changing the language of the application to clarify this ambiguity.

3. Prior to 2007, a homeowner was automatically granted the Homestead Tax Credit if the owner was listed as a first-time homebuyer or if the address for the receipt of assessments and property taxes was the address of the taxable property, and if (1) MDSDAT had not determined that the property was a rental property, (2) MDSDAT assessors had not discovered that the property was not owner-occupied, and (3) mail was not being forwarded from the address.

4. Individuals receiving the Homestead Tax Credit who are nonetheless ineligible for the credit do not have an affirmative obligation to remove their property from the Homestead Tax Credit program. It is the obligation of the MDSDAT to discover and remove ineligible recipients from the program.

5. In order to prevent the improper granting of the Homestead Tax Credit on rented or multiple properties of a single owner, the Maryland State Department of Assessments and Taxation began mailing a one-time application to homeowners to establish eligibility for the tax credit. The application was included in the assessment notice mailed to one-third of Maryland homeowners at the end of each calendar year, for a period of three years beginning December 2007.

6. The first round of applications was sent on December 27, 2007. The second round of applications was sent on December 31, 2008.

7. Individuals who fail to return the application will continue to receive the Homestead Tax Credit until December 21, 2012.

8. While the application asks five questions which mirror the requirements for the credit (single principal residence, location for filing income taxes, driver's license, voter registration, rental status) if an applicant indicates that the property is their "single principal residence" and that they have used the address for the purposes of filing federal taxes MDSDAT automatically grants the tax credit.

9. MDSDAT does not reject a Homestead Tax Credit Application solely because the applicant does not use the address as the location from which they are registered to vote, and this fact does not flag the application for further MDSDAT scrutiny. If this fact is brought to the attention of MDSDAT in another manner, however, the credit may be revoked.

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12. According to MDSDAT, the software MDSDAT uses to record ownership information limits the number of owners that can be associated with any given property to two. Thus, while Con[illegible] own the property in [illegible] MDSDAT records show only Representative [illegible] as owners of the [illegible] property and a [illegible] Maryland property which both receive the Homestead Tax Credit—something Maryland law does not permit. In fact, Congre[illegible] properly receives the credit on both properties as each property is owner occupied, thus meeting the requirements under the law.

We certify that this memorandum contains all pertinent matter discussed with this individual on June 23, 2009.

Leo Wise
Omar Ashmawy
Bryson Morgan
Office of Congressional Ethics

OFFICE OF CONGRESSIONAL ETHICS
U.S. HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

In Re:	Representatives 1 and 2 of the Maryland State Department of Assessments and Taxation
Review No:	09-9073
Date:	June 23, 2009
Location:	Maryland State Department of Assessments and Taxation 300 W. Preston Street Baltimore, MD 21201
Time:	1314hrs – 1450 hrs (approximately)
Participants:	Leo Wise Omar Ashmawy Bryson Morgan

Summary: Representative 1 is the Associate Director of the Maryland State Department of Assessments and Taxation (MDSDAT). In this capacity, Representative 1 oversees the Maryland Homestead Tax Credit. Representative 2 is the Supervisor of the Homestead Tax Credit Application program. Representative 2 oversees the determination of eligibility for the Homestead Tax Credit.

1. Maryland created the Homestead Tax Credit program in 1977. In order to qualify for the Maryland Homestead Tax Credit, Maryland law requires the home to be used as the owner's "principal residence" – where the homeowner regularly resides as is designated for voting, obtaining a driver's license, and filing income tax returns.

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licenses, and filed Maryland *resident* income tax returns. Representative 1 stated that MDSDAT will consider changing the language of the application to clarify this ambiguity.

3. Prior to 2007, a homeowner was automatically granted the Homestead Tax Credit if the owner was listed as a first-time homebuyer or if the address for the receipt of assessments and property taxes was the address of the taxable property, and if (1) MDSDAT had not determined that the property was a rental property, (2) MDSDAT assessors had not discovered that the property was not owner-occupied, and (3) mail was not being forwarded from the address.

4. Individuals receiving the Homestead Tax Credit who are nonetheless ineligible for the credit do not have an affirmative obligation to remove their property from the Homestead Tax Credit program. It is the obligation of the MDSDAT to discover and remove ineligible recipients from the program.

5. In order to prevent the improper granting of the Homestead Tax Credit on rented or multiple properties of a single owner, the Maryland State Department of Assessments and Taxation began mailing a one-time application to homeowners to establish eligibility for the tax credit. The application was included in the assessment notice mailed to one-third of Maryland homeowners at the end of each calendar year, for a period of three years beginning December 2007.

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12. According to MDSDAT records, Representative [redacted] never received the Homestead Tax Credit Application. Representative [redacted] is scheduled to receive the application in December 2009. Further, MDSDAT stated that Representative [redacted] received the tax credit because it was automatically applied when the Cong [redacted] purchased the property. Congr [redacted] never requested the credit or misrepresented [redacted] status as a Maryland resident in order to receive it.

We certify that this memorandum contains all pertinent matter discussed with this individual on June 23, 2009.

Leo Wise
Omar Ashmawy
Bryson Morgan
Office of Congressional Ethics

01/04/2010 15:24 410-333-5873 DIRECTOR PAGE 07/12
12/23/2009 15:43 410-222-1151 OFFICE OF FINANCE PAGE 02/04

Real Property Tax Levy
Annual Billing
07/01/2008 - 06/30/2009
Fiscal Year 2009

Office of Finance
Billing and Customer Service
P.O. Box 427
Annapolis, MD 21404-0427

Telephone Inquiries:

Billing	410-222-1144
Assessment	410-974-5709
County TTY	410-222-1861
Homeowner Credit (BALTO)	410-767-4433
Homeowner Credit (L.D.)	1-800-944-7403

STARK JR, FORTNEY H
STARK, DEBORAH R
Redacted
HARWOOD, MD 20776

Bill Number Redacted Customer Number: Redacted

TAX DESCRIPTION	ASSESSMENT	TAX RATE	TAX/CHARGE
COUNTY REAL ESTATE TAX	1,593,370.00	.888*	14,149.13
SOLID WASTE SERVICE CHARGE	1.00	275.000	275.00
BAY RESTORATION FEE	1.00	30.000	30.00
STATE REAL ESTATE TAX	1,593,370.00	.112*	1,784.57
		TOTAL TAX	15,238.70

CREDIT DESCRIPTION	ASSESSMENT	TAX RATE	AMOUNT
STATE HOMESTEAD CREDIT	-109,971.00	.112*	-123.17
COUNTY HOMESTEAD CREDIT	-410,655.00	.888*	-3,646.62
		TOTAL CREDITS	-3,769.79

SUB-TOTAL 11,468.91

PRIOR PAYMENTS **** 12,468.91
TOTAL DUE

Parcel: Redacted
Property Description:
IMPS6.35 ACRES
Redacted
HARWOOD
NOT A PRINCIPAL RESIDENCE

To View/Pay On-line:
www.aacounty.org

Current Year Taxable Assessment Data	
Land	1,207,820
Building	385,550
Total	1,593,370

Constant Yield Rate Information

County Rate - Constant Yield = Excess
.888 - .839 = + .049

IMPORTANT
See notes on reverse side

SEE ENCLOSED FLYER FOR INFORMATION ON SEMI-ANNUAL PAYMENT PROGRAM

KEEP ABOVE STATEMENT FOR YOUR RECORDS

* PER $100 OF TAXABLE ASSESSMENT

PTR1

✂ Detach and return the portion below with your payment ✂

Real Property Tax Levy
Annual Billing

Bill Number
Redacted

Property Description:
IMPS6.35 ACRES
Redacted
HARWOOD

Account Number	Fiscal Year	Annual Payment
Redacted	2009	.00
Pay by Due Date to avoid interest. Make checks payable to Anne Arundel County.		No Later Than DEC 31, 2009

Credit card payments can only be made on-line and a convenience fee will be charged.
To View/Pay on-line: www.aacounty.org

STARK JR, FORTNEY H
STARK, DEBORAH R
Redacted
HARWOOD, MD 20776

RETURN THIS ENTIRE LOWER PORTION WITH PAYMENT

Redacted 10000000000000000000

Appendix B

Report and Findings of the Office of Congressional Ethics

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 09-9030

The Board of the Office of Congressional Ethics (hereafter "the Board"), by a vote of no less than four members, on October 23, 2009, adopted the following report and ordered it to be transmitted to the Committee on Standards of Official Conduct of the United States House of Representatives.

SUBJECT: Representative Fortney Pete Stark

NATURE OF THE ALLEGED VIOLATION: Representative Fortney Pete Stark has listed a house he owns in Harwood, Maryland as his principal residence on Maryland tax forms. By doing so, Representative Stark received state and county homestead tax credits and any annual increases in his home assessments were capped at no more than 10 percent. In order to qualify for the Maryland Homestead Tax Credit, Maryland law requires the home to be used as the owner's "principal residence" – where the homeowner regularly resides and is designated for voting, obtaining a driver's license, and filing income tax returns. Representative Stark pays California resident taxes, has a California driver's license and is registered to vote in California.

Representative Stark's conduct may have violated Maryland law and the Code of Ethics for Government Service if he misrepresented information on the Application for Homestead Tax Credit Eligibility in order to prove eligibility.

RECOMMENDATION: The Board of the Office of Congressional Ethics recommends that the Committee on Standards of Official Conduct further review the above allegations.

VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: Leo Wise, Staff Director & Chief Counsel.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-9030

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-9030

On October 23, 2009, the Board of the Office of Congressional Ethics (hereafter "Board") adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination that a violation actually occurred.

I. INTRODUCTION

A. Summary of Allegations

1. There is substantial reason to believe that Representative Fortney Pete Stark may have violated House rules[1] by misrepresenting information on the Maryland Application for Homestead Tax Credit Eligibility. Specifically, sometime between December 2008 and March 2009 Representative Stark certified a house he owns in Harwood, Maryland, was his "principle residence" under Maryland law. By doing so, he qualified for the Maryland Homestead Tax Credit. As a result, Representative Stark received state and county homestead tax credits and the increases in his home assessments were capped at no more than 10 percent per year. In order to qualify for the Maryland Homestead Tax Credit, Maryland law requires the home to be used as the owner's "principal residence." Maryland law defines "principle residence" as the one dwelling where the homeowner regularly resides and is designated for voting, obtaining a driver's license, and filing income tax returns.

2. Sometime between December 2008 and March 2009, Representative Stark certified to Maryland that he is registered to vote in Maryland, while in fact he is registered to vote in California. Representative Stark later changed his certification.

3. Representative Stark told the OCE he did not certify that he voted in Maryland nor did he later change his answer.

[1] As per Rule 9 of the OFFICE OF CONGRESSIONAL ETHICS, RULES FOR THE CONDUCT OF INVESTIGATIONS 11 (2009), the Board shall refer a matter to the Standards Committee if it determines there is a substantial reason to believe the allegation.

B. Jurisdictional Statement

4. The allegations that were the subject of this review concern Representative Fortney Pete Stark, a Member of the United States House of Representatives from the 13th District of California. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (hereafter "OCE") directs that, "[n]o review shall be undertaken...by the board of any alleged violation that occurred before the date of adoption of this resolution."[2] The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

5. The Board notes that representations made by Members of Congress regarding their state residency implicates their official duties as a Member's state residency is a qualification for the office they hold.

C. Procedural History

6. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on June 5, 2009. The preliminary review commenced on that date.[3]

7. At least three members of the Board voted to initiate a second-phase review in this matter on June 26, 2009. The second phase review commenced on June 29, 2009.[4] The second-phase review was scheduled to end on August 13, 2009.

8. The Board voted to extend the 45-day second-phase review by an additional 14 days on August 5, 2009, as provided for under the Resolution. Following the extension, the second-phase review was scheduled to end on August 28, 2009.[5]

---

[2] H. Res 895, 110th Cong. §1(e) (2008) (as amended).

[3] A preliminary review is "requested" in writing by members of the Board of the OCE. The request for a preliminary review is "received" by the OCE on a date certain. According to H. Res. 895 of the 110th Congress (hereafter "the Resolution'), the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

[4] According to the Resolution, the Board must vote (as opposed to make a written authorization) on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase commences the day after the preliminary review ends.

[5] The 14-day extension expires after the 45-day second-phase review ends. The 14-day extension does not begin on the date of the Board vote.

9. The second-phase review ended on August 28, 2009.

10. The Board voted to refer the matter to the Committee on Standards of Official Conduct for further review and adopted these findings on October 23, 2009.

11. The report and findings in this matter were transmitted to the Committee on Standards of Official Conduct on November 12, 2009.

D. Summary of Investigative Activity

12. The OCE requested documentary and in some cases testimonial information from the following sources:

    (1) Maryland State Department of Assessments and Taxation Taxpayer Services Division;

    (2) Witness A, Associate Director of the Maryland State Department of Assessments and Taxation Taxpayer Services Division;[6]

    (3) Witness B, Supervisor of the Homestead Tax Credit Application Program

    (4) Anne Arundel County; and

    (5) Representative Stark.

II. THE MARYLAND HOMESTEAD TAX CREDIT PROGRAM AND REPRESENTATIVE STARK'S APPLICATION AND ELIGIBILITY

A. Applicable Law, Rules, and Standards of Conduct

13. Maryland law:

Under the Maryland Code, Tax - Property Article §14-1004, "A person who willfully or with the intent to evade payment of a tax under this article or to prevent the collection of a tax under this article provides false information or a false answer to a property tax

[6] The Resolution provides that the names of cooperating witnesses not be included in a referral to the Committee on Standards of Official Conduct. H. Res 895, 110th Cong. §1(c) (2008) (as amended). This provision applies to testimonial evidence and not to documentary evidence.

interrogatory under this article is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 18 months or both."

14. Code of Ethics for Government Service:

Under the Code of Ethics for Government Service[7]*, "all Government employees, including office holders...should uphold the Constitution, laws, and legal regulations of the United States and all governments therein and never be a party to their evasion."*

15. If Representative Stark willfully misrepresented information on Maryland's Application for Homestead Tax Credit Eligibility in order to certify his Maryland house as his principle residence under Maryland law and thereby qualify for the corresponding tax credits, then he may have violated Maryland law and paragraph 2 of the Code of Ethics for Government Service.

16. For the purposes of the Board's deliberations, the Board considered the Maryland tax code to be a "legal regulation," as described in paragraph 2 of the Code of Ethics for Government Service, and the state of Maryland to be a "government therein" the United States.

17. Based on the facts collected by the OCE, the Board concludes there is a substantial reason to believe the allegation that is the subject of this review.[8]

B. Maryland Homestead Tax Credit

18. Representative Pete Stark represents the 13th Congressional District of California.

19. Representative Stark and his wife have had an ownership interest in a home in Harwood, Maryland, since at least 2000.

20. Based on information available on the Anne Arundel County Maryland Real Estate Charges, Credits and Exemptions' website, the Starks' Harwood home has been listed as their principal residence since 2007 and Representative Stark has been receiving the Homestead Tax Credit since at least 2007.[9] From 2000 to 2007 Representative Stark received tax bills for the Harwood residence that did not show the Homestead Tax

[7] 72 Strat., Part 2, B12 (1958), H. Con. Res. 175, 85th Cong.
[8] Rule 9 of the OFFICE OF CONGRESSIONAL ETHICS, RULES FOR THE CONDUCT OF INVESTIGATIONS 11 (2009) provides that "[t]he Board shall refer a matter to the Standards Committee for further review if it determines there is a substantial reason to believe the allegation based on all the information then known to the Board."
[9] *Id.*

Credit.[10] In calendar year 2009, the year directly affected by his answers on the 2008 application, Representative Stark received $3,769.79 in state and county tax credits.[11]

21. The Maryland Homestead Tax Credit limits the increase in taxable assessments each year to 10 percent for the homeowner's "principal residence." Maryland state law defines "principal residence" as the one dwelling where the homeowner regularly resides and is the location designated by the owner for the legal purposes of voting, obtaining a driver's license, and filing income tax returns.[12] In an interview with Witness A, Associate Director of the Maryland State Department of Assessments and Taxation (SDAT), the witness indicated that an individual must vote in Maryland, possess a Maryland driver's license, and file a Maryland resident income tax return in order to be eligible for the tax credit.[13] For married couples, at least one spouse must meet all residency requirements.[14] The applicant must also have a "legal interest" in the property, which is defined as "an interest in a dwelling: as a sole owner; as a joint tenant; as a tenant in common; as a tenant by the entireties; through membership in a cooperative; under a land installment contract, or as a holder of a life estate.[15]

22. In October 2007, the Maryland General Assembly passed a law that codified the requirement to receive the Homestead Tax Credit and instructed SDAT to establish a procedure for Maryland homeowners to certify their eligibility to receive the Homestead Tax Credit.[16]

23. Prior to October 2007, the requirements for eligibility for the Homestead Tax Credit were the same.[17]

24. In order to prevent the improper granting of the Homestead Tax Credit to rented properties or multiple properties of a single owner SDAT began mailing a one-time application to homeowners to establish eligibility for the tax credit.[18] The application was included in the assessment notice mailed to one-third of Maryland homeowners at

[10] Anne Arundel County Maryland Website, Real Estate Charges, Credits and Exemptions tax records (Exhibit 1 at 09-9030_0002 – 09-9030_0005).
[11] *Id.*
[12] COMAR 18.07.03.01 (B)(3). *See also* Maryland Assessment Procedures Manual (COMAR 18.07.03.01(B)(3)) at 1.
[13] Memorandum of Interview of Witness A and Witness B (Exhibit 2 at 09-9030_0007).
[14] Maryland Assessment Procedures Manual (COMAR 18.07.03.01(B)(3)) at 1.
[15] COMAR Tax-Property, Title 9, Subtitle 1, §9-105 (a)(4).
[16] COMAR 18.07.03.01(B)(3).
[17] Memorandum of Interview of Witness A and Witness B (Exhibit 2 at 09-9030_0007).
[18] Maryland Department of Assessments and Taxation Homestead Tax Credit Application (Exhibit 3 at 09-9030_0011 – 09-9030_0012).

the end of each calendar year, for a period of three years beginning December 2008.[19]

C. Representative Stark's Homestead Tax Credit Application

25. The OCE requested a copy of the application Representative Stark submitted to Maryland from the Congressman. Representative Stark indicated that he did not have a copy of the application because he submitted it online. He then, without any prompting by the OCE, provided the OCE a hand-done version of the application he submitted online.[20] On that document he indicated:

YOU MUST ANSWER ALL QUESTIONS AND INCLUDE THE SOCIAL SECURITY NUMBER OF ALL HOMEOWNER(S).
A homeowner is defined as any living person listed on the deed.

1. Is the real property shown on this letter currently used, and expected to be used in the next calendar year as the single principal residence of the homeowner(s)? ☒ Yes ☐ No
2. Is this real property address the location where the homeowner(s) expect to file their next federal and Maryland income tax return if one is filed? ☒ Yes ☐ No ☐ Not applicable (Not Filing)
3. Is this real property address the location from which the homeowner(s) have received a driver's license or requested automobile licenses or vehicle registrations, if applicable?
   ☐ Yes ☒ No ☐ Not applicable (No License or Vehicle Registration)
4. Is this real property address the location from which the homeowner(s) are registered to vote, if registered?
   ☐ Yes ☒ No ☐ Not applicable (Not Registered)
5. Is any portion of the principal residence rented? ☐ Yes ☒ No

[19] "The Homestead Tax Credit," Maryland Department of Assessments and Taxations, www.md.dat.md.us/sdatweb/homestead.html last viewed by staff on May 26, 2009.
[20] Recreated Maryland Homestead Tax Credit application (Exhibit 4 at 09-9030_0014 – 09-9030_0015).

26. The OCE later obtained a copy of the application Representative Stark submitted on line from SDAT.[21] The information Congressman Stark originally submitted on-line (recorded by the State of Maryland) shows the following[22]:

```
FHC1                DEPARTMENT OF ASSESSMENTS AND TAXATION          06/22/2009
FHC1MAP                      HOMESTEAD TAX CREDIT
P61                     CURRENT APPLICATION INQUIRY              PAGE  1 OF  1
Account #: [redacted]
Owner(s) Name: STARK JR, FORTNEY H                 ID Batch: 9999 ID: FHCE0008
               STARK, DEBORAH R                          Occupancy Code: N
Premise Address:                        Mailing Address:
[redacted]                              [redacted]
Application Status: X
                                        HARWOOD                MD 20776-[redacted]
Y   1. Will the real property be used as the single, principal residence of
       the homeowner(s) for more than six(6) months of the calendar year,
       including July 1?  (Y/N)
Y   2. Is this real property address the location where the homeowner(s) will
       file the federal and Maryland income tax return due on April 15th, if
       one is filed? (Y/N/NA)
N   3. Is this real property address the location from which the homeowner(s)
       have received a driver's license or requested automobile licenses or
       vehicle registrations, if applicable?  (Y/N/NA)
Y   4. Is this real property address the location from which the homeowner(s)
       are registered to vote, if registered?   (Y/N/NA)
N   5. Is any portion of the principal residence rented?  (Y/N)
```

27. The Board takes note of question 4 where Congressman Stark indicated that his home in Harwood, Maryland, was the property from which he was registered to vote. When the OCE inquired further, SDAT explained that when Congressman Stark initially filed his application he did in fact answer question 4 in the affirmative.[23]

[21] The OCE sought and received Representative Stark's permission to request a copy of his Homestead Tax Credit application from Maryland.

[22] Maryland Department of Assessments and Taxation Homestead Tax Credit online application for Representative Stark (Exhibit 5 at 09-9030_0017). The date displayed on the upper right corner of the document represents the day the documented was printed in response to an OCE Request for Information.

[23] Memorandum of Interview of Witness A and Witness B (Exhibit 2 at 09-9030_0009).

28. However, on or about March 16, 2009, according to SDAT records, Congressman Stark called the SDAT office and asked that his answer to question 4 be changed from the affirmative to the negative.[24]

Owner(s) Name: STARK JR., PORTNEY H ID Batch: 9993
STARK, DEBORAH R Occupancy Code: N
Premise Address: Mailing Address:
[redacted] [redacted]
Application Status: X
HARWOOD MD 20776-[redacted]
Enter / review comments: ID: 00089532

MR STARK CALLED TO CHANGE ANSWER TO QUESTION #4 FROM YES TO NO. 3/16/09.
IF ANYONE HAS QUESTIONS ABOUT THIS FILE, YOU SHOULD CONTACT ROBERT YOUNG IN ADMINISTRATION. DO NOT ANSWER QUESTIONS ABOUT THIS FILE.

29. The Board notes that the first press report on a Member of Congress improperly receiving the Homestead Tax Credit appeared on March 14, 2009, two days before Representative Stark called to change his answer, in the *New York Times* and concerned another Member of Congress.[25]

30. Representative Stark told the OCE that both he and his wife are registered to vote in Alameda County, California.[26]

31. Congressman Stark and his wife maintain California automobile licenses. Congressman Stark accurately answered this question on the Maryland application, however, based on SDAT procedures this did not disqualify him for the credit.[27]

32. Representative Stark and his wife filed a 2008 California resident income tax return.[28] Furthermore, it appears Representative Stark and his wife also filed a Maryland Non-Resident Income Tax Return for calendar year 2008.[29] Both returns were filed from the Harwood, Maryland, address. According to Witness A, had SDAT been aware that

[24] Maryland Department of Assessments and Taxation internal electronic note attached to Representative Stark's Homestead Tax Credit file (Exhibit 6 at 09-9030_0019).
[25] "Bronx Representative Loses a Tax Break" *The New York Times,* March 14, 2009 (Exhibit 7 at 09-9030_0021 – 09-9030_0022).
[26] Memorandum of Interview Representative Stark (Exhibit 10 at 09-9030_0028)
[27] Memorandum of Interview of Witness A and Witness B (Exhibit 2 at 09-9030_0008).
[28] California Form 540-ES for Representative Stark and Mrs. Deborah Stark (Exhibit 8 at 09-9030_00024).
[29] Letter from William G. Robinson to Representative and Mrs. Stark regarding their 2008 Maryland Non-resident Income Tax Return (Exhibit 9 at 09-9030_0026).

Representative Stark filed a Maryland Non-Resident return, that fact alone would have been grounds to disallow the credit.[30] However, given the vagueness of question 2, the Board notes that, despite SDAT's intentions, the question appears to allow an applicant to answer the question in the affirmative if the applicant files either a Maryland resident or non-resident return from their Maryland address.

33. The Board notes that Representative Stark correctly answered question 3 of the application, relating to his driver's license. According to Maryland law the fact that Representative Stark possessed a California driver's license made him ineligible to receive the Homestead Tax Credit.[31] However, SDAT's internal policy is to not reject an application for the credit solely because the address is not the one from which the property owner receives a driver's license.[32] However, if this fact is brought to the attention of SDAT, then the credit may be revoked.[33]

D. Interview with Representative Stark

34. The OCE interviewed Representative Stark on May 29, 2009. Representative Stark voluntarily agreed to an interview. At the beginning of the interview Representative Stark refused to discuss what he knew about the Maryland Homestead Tax Credit program and his eligibility.[34] Eventually, he spoke in some detail about his application for the credit. Initially he indicated that he did not recall completing the application.[35] However, later during the interview he stated that he personally completed the application online. Representative Stark also said that that he was aware that the application for the tax credit had eligibility requirements. Representative Stark specifically expressed his knowledge that a person must be registered to vote in Maryland.[36] After completing the form, Representative Stark recalled that the credit was denied.[37]

35. When specifically asked, Representative Stark also stated that he did not call the Maryland State Department of Assessments and Taxation to change his answer to the tax credit application.[38] The Congressman also said he could not think of anyone who would

[30] Memorandum of Interview of Witness A and Witness B (Exhibit 2 at 09-9030_0009).
[31] COMAR 18.07.03.01 (B)(3). See also Maryland Assessment Procedures Manual (COMAR 18.07.03.01(B)(3)) at 1.
[32] Memorandum of Interview of Witness A and Witness B (Exhibit 2 at 09-9030_0008).
[33] *Id.*
[34] Memorandum of Interview Rep. Stark (Exhibit 10 at 09-9030_0028).
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] *Id.* at 09-9030_0029.

have called SDAT on his behalf.[39] He reviewed a copy of the online application he actually submitted, shown above in paragraph 20, and admitted that his answers to the voting question was incorrect. He could not explain why the answers were incorrect.[40]

36. Approximately 15 minutes into the interview it became apparent to the OCE staff that the Congressman was video recording the interview.[41] A Request for Information was submitted to Representative Stark asking for a copy of the recording on July 31, 2009.[42] Congressman Stark denied the request.[43]

III. CONCLUSION

37. For these reasons, the Board recommends that the Standards Committee further review of the above described allegations concerning Representative Stark.

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS

38. There was no information relevant to this review that the Board was unable to obtain.

[39] *Id.*
[40] *Id.*
[41] *Id.*
[42] Request for Information to Representative Stark dated July 31, 2009 (Exhibit 11 at 09-9030_0031 – 09-9030_0033).
[43] Email from Representative Stark's Chief of Staff dated September 22, 2009 (Exhibit 12 at 09-9030_0035).

EXHIBIT 1

Maryland Department of Assessments and Taxation
ANNE ARUNDEL COUNTY
Real Property Data Search (2692 vw5.1)

Go Back
View Map
New Search

Account Identifier: **District -** [redacted] **Subdivision -** [redacted] **Account Number -** [redacted]

Owner Information

Owner Name:	STARK JR, FORTNEY H STARK, DEBORAH R	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	[redacted] HARWOOD MD 20776 [redacted]	**Deed Reference:**	1) /10951/ 87 2) /11394/ 563

Location & Structure Information

Premises Address	**Legal Description**
[redacted] HARWOOD 20776	6.35 ACRES [redacted] HARWOOD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
65	20	150		WATERFRONT				3	Plat Ref:

Special Tax Areas	**Town** **Ad Valorem** **Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1962	3,634 SF	6.35 AC	

Stories	Basement	Type	Exterior
2	NO	STANDARD UNIT	BRICK

Value Information

	Base Value	Value As Of 01/01/2009	Phase-in Assessments As Of 07/01/2008	As Of 07/01/2009
Land	1,207,820	1,207,820		
Improvements:	385,550	504,740		
Total:	1,593,370	1,712,560	1,593,370	1,633,100
Preferential Land:	0	0	0	0

Transfer Information

Seller: FORTNEY JR TRUSTEE, STARK H	**Date:** 09/08/2000	**Price:** $0
Type: NOT ARMS-LENGTH	**Deed1:** /10951/ 87	**Deed2:** /11394/ 563
Seller: STARK, FORTNEY H JR	**Date:** 12/29/1992	**Price:** $0
Type: NOT ARMS-LENGTH	**Deed1:** / 5878/ 116	**Deed2:** / 6194/ 38
Seller: RICHARDSON HORACE L	**Date:** 05/28/1987	**Price:** $850,000
Type: IMPROVED ARMS-LENGTH	**Deed1:** / 4357/ 389	**Deed2:**

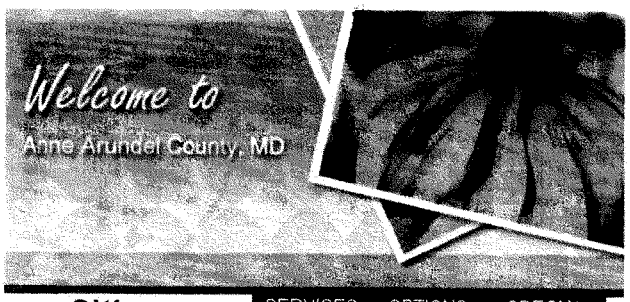
Exemption Information

Partial Exempt Assessments	**Class**	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

09-9030_0002



Citizens SERVICES OPTIONS SPECIAL

REAL ESTATE CHARGES, CREDITS AND EXEMPTIONS

Bill Year: 2007 **Bill Number:** 282975

Parcel ID: [redacted] **Location:** [redacted]

Owner: STARK JR, FORTNEY H **Customer#:** 433996

Tax Description	Assessment	Tax Rate	Tax/Charge
COUNTY REAL ESTATE TAX	1,274,123	0.918	11,696.45
BAY RESTORATION FEE	1.00	52.500	52.50
STATE REAL ESTATE TAX	1,274,123	0.112	1,427.02
COUNTY WASTE COLLECTION	1.00	275.000	160.42
	TOTAL TAX		**13,336.39**

Credit/Exemption	Assessment	Tax Rate	Amount
STATE HOMESTEAD CREDIT		0.112	-53.95
COUNTY HOMESTEAD CREDIT		0.918	-1,260.72
	TOTAL CREDITS/EXEM.		-1,314.67

	NET TAX	**12,021.72**

[Services] [Options] [Special]
Mail Questions/Comments to WebMaster
2005.01.1

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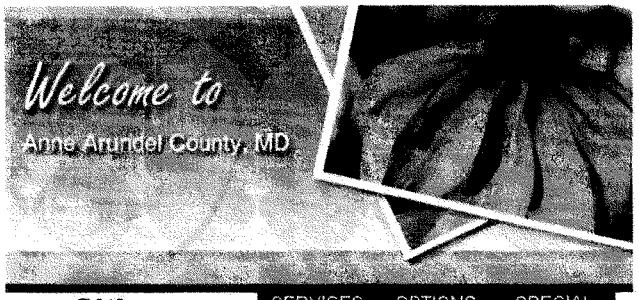

Citizens SERVICES OPTIONS SPECIAL

REAL ESTATE CHARGES, CREDITS AND EXEMPTIONS

Bill Year: 2008 **Bill Number:** 501446

Parcel ID: [redacted] **Location:** [redacted]

Owner: STARK JR, FORTNEY H **Customer#:** 433996

Tax Description	Assessment	Tax Rate	Tax/Charge
COUNTY WASTE COLLECTION	1.00	275.000	275.00
COUNTY REAL ESTATE TAX	1,433,746	0.891	12,774.68
BAY RESTORATION FEE	1.00	30.000	30.00
STATE REAL ESTATE TAX	1,433,746	0.112	1,605.80
	TOTAL TAX		**14,685.48**

Credit/Exemption	Assessment	Tax Rate	Amount
STATE HOMESTEAD CREDIT		0.112	-95.43
COUNTY HOMESTEAD CREDIT		0.891	-2,443.31
	TOTAL CREDITS/EXEM.		-2538.74
		NET TAX	**12,146.74**

[Services] [Options] [Special]
Mail Questions/Comments to WebMaster
2005.01.1

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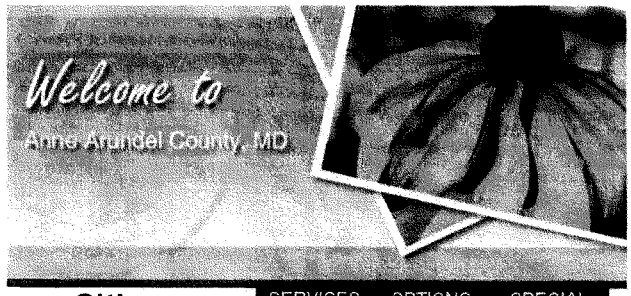

Citizens SERVICES OPTIONS SPECIAL

REAL ESTATE CHARGES, CREDITS AND EXEMPTIONS

Bill Year: 2009 **Bill Number:** 801438

Parcel ID: [redacted] **Location:** [redacted]

Owner: STARK JR, FORTNEY H **Customer#:** 433996

Tax Description	Assessment	Tax Rate	Tax/Charge
SOLID WASTE SERVICE CHARGE	1.00	275.000	275.00
COUNTY REAL ESTATE TAX	1,593,370	0.888	14,149.13
BAY RESTORATION FEE	1.00	30.000	30.00
STATE REAL ESTATE TAX	1,593,370	0.112	1,784.57
	TOTAL TAX		**16,238.70**

Credit/Exemption	Assessment	Tax Rate	Amount
STATE HOMESTEAD CREDIT		0.112	-123.17
COUNTY HOMESTEAD CREDIT		0.888	-3,646.62
	TOTAL CREDITS/EXEM.		-3769.79

	NET TAX	**12,468.91**

[Services] [Options] [Special]
Mail Questions/Comments to WebMaster
2005.01.1

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EXHIBIT 2

OFFICE OF CONGRESSIONAL ETHICS
U.S. HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

In Re:	Witness A and Witness B
Review No:	09-9030
Date:	June 23, 2009
Location:	Maryland State Department of Assessments and Taxation 300 W. Preston Street Baltimore, MD 21201
Time:	1314hrs – 1450 hrs (approximately)
Participants:	Leo Wise Omar Ashmawy Bryson Morgan

Summary: Witness A is the Associate Director of the Maryland State Department of Assessments and Taxation (MDSDAT). In this capacity, he oversees the Maryland Homestead Tax Credit. Witness B is the Supervisor of the Homestead Tax Credit Application Program. Witness B oversees the eligibility of individuals for the Homestead Tax Credit.

1. Maryland created the Homestead Tax Credit program in 1977. In order to qualify for the Maryland Homestead Tax Credit, Maryland law requires the home to be used as the owner's "principal residence" – where the homeowner regularly resides as is designated for voting, obtaining a driver's license, and filing income tax returns.

2. Prior to 2007, a homeowner was automatically granted the Homestead Tax Credit if the owner was listed as a first-time homebuyer or if the address for the receipt of assessments and property taxes was the address of the taxable property, and (1) MDSDAT had not determined that the property was a rental property, (2) MDSDAT assessors had not discovered that the property was not owner-occupied, and (3) if mail was not being forwarded from the address.

3. Individuals receiving the Homestead Tax Credit who are nonetheless ineligible for the credit do not have an affirmative obligation to remove their property from the Homestead Tax Credit program. It is the obligation of the MDSDAT to discover ineligible recipients and remove them from the program.

4. In order to prevent the improper granting of the homestead tax credit on rented or multiple properties of a single owner, the Maryland State Department of Assessments and Taxation began mailing a one-time application to homeowners to establish eligibility for the tax credit. The application was included in the assessment notice mailed to one-third of Maryland homeowners at the end of each calendar year, for a period of three years beginning December 2008.

5. The first round of applications was sent on December 27, 2007. The second round of applications was sent on December 31, 2008.

6. Individuals who failed to return the application will continue to receive the Homestead Tax Credit until December 21, 2012.

7. While the application asks five questions which mirror the requirements for the credit (single principal residence, location for filing income taxes, driver's license, voter registration, rental status) if an applicant indicates that the property is their "single principal residence" and that they have used the address for the purposes of filing federal taxes MDSDAT automatically grants the tax credit.

8. MDSDAT does not reject a Homestead Tax Credit application solely because the applicant does not use the address as the location from which they are registered to vote, and this fact does not flag the application for further MDSDAT scrutiny. If this fact is brought to the attention of MDSDAT, however, the credit may be revoked.

9. MDSDAT does not reject a Homestead Tax Credit application solely because the address is not the one from which the owner has received a driver's license, and this fact does not flag the application for further MDSDAT scrutiny. If this fact is brought to the attention of MDSDAT, however, the credit may be revoked.

10. Only if the person indicates that part of the property was rented would the application be approved yet "flagged" for later review by an MDSDAT employee. If, for example, an applicant indicated that the property was their "single principal residence" and their address for the purposes of filing federal taxes yet also indicated that it was not the address from which they were registered to vote or received a driver's license, the application would be automatically approved and not flagged for further MDSDAT scrutiny. MDSDAT does not engage in a more thorough initial analysis of applications due to resource constraints.

11. The Homestead Tax Credit Application was mailed to Representative Stark's Harwood, MD address on Dec. 31, 2008. Representative Stark returned the application, indicating that (1) the property was the "single principal residence" of the owner, (2) that the property was the location from which the homeowner would file federal and Maryland income tax returns, (3) that the address was not the location from which the owner had received a driver's license or vehicle registrations, (4) that the address was the location from which the homeowner was registered to vote, and (5) that no part of the property was rented.

12. One or two days prior to March 16, 2009, Representative Stark contacted the MDSDAT and requested that his Homestead Tax Credit Application be changed to indicate that the address was not the address from which the owner was registered to vote. MDSDAT removed the Homestead Tax Credit from Representative Stark's property on May 1, 2009.

13. MDSDAT records indicated that, at one time in the past, Representative Stark had been issued a Maryland driver's license. If MDSDAT knew that Representative Stark held a valid California driver's license at the time he submitted the application, that fact alone would have been grounds for rejection of the credit.

14. If MDSDAT knew that Representative Stark had filed a 2008 Maryland Non-Resident income tax return, that fact alone would have been grounds for rejections of the credit.

I prepared this Memorandum of Interview on June 24, 2009 after interviewing Witness A and Witness B on July 23, 2009. I certify that this memorandum contains all pertinent matter discussed with Witness A and Witness B on June 23, 2009.

Omar S. Ashmawy
Investigative Counsel

EXHIBIT 3

APPLICATION FOR HOMESTEAD TAX CREDIT ELIGIBILITY

- The Homestead Tax Credit law limits the amount of assessment increase on which eligible resident homeowners actually pay county, municipal, and State property taxes each year. **This credit can have a significant impact on your real estate taxes regardless of your property's value or your income level. If the property is used as your principal residence, you are strongly encouraged to complete this application.**
- The reason why this application is required is to verify that the property owners only receive the benefit of this credit on their **one principal residence.** It also insures that other homeowners entitled to the credit but not receiving it can also start to receive this benefit.
- A married couple may only have one principal residence under the provisions of this law. A homeowner who submits an application that is inconsistent with income tax and motor vehicle records of the State shall be required to later submit additional verification in order to be considered for the credit.
- If you have a specific question concerning the application, you may telephone 410-767-2165 in the Baltimore metropolitan area or on 1-866-650-8783 toll free elsewhere in Maryland.
- This application can be filled out on your pc; if hand written please print legibly. Please use **black** or **blue** ink only.

Section I

1. **SDAT Real Property Tax Identification Number of the property for which Homestead Eligibility is requested.**

INSTRUCTIONS: You must fill-in the property identification number in order to submit this application. The identification number is composed of the two digit county code where the property is located, followed by an account number of up to 14 characters in length. This information can be obtained from an assessment notice or by searching the Department's online Real Property database. If using the online system, the account number displayed must be preceded by the appropriate two digit county code listed below. **If you do not have the identification number click here to search the Real Property database.**

Allegany - 01	Calvert - 05	Charles - 09	Harford - 13	Prince George's - 17	Talbot - 21
Anne Arundel - 02	Caroline - 06	Dorchester - 10	Howard - 14	Queen Anne's - 18	Washington - 22
Baltimore City - 03	Carroll - 07	Frederick - 11	Kent - 15	St. Mary's - 19	Wicomico - 23
Baltimore Co. - 04	Cecil - 08	Garrett - 12	Montgomery - 16	Somerset - 20	Worcester - 24

County Code (From above) **Identification Number** (up to 14 digits)

Co. Code	Ward	Section	Block	Lot
03				

For Baltimore City Only

2. **Address of the Property for which Application is being made:**

Street Address

City **MD** **Zip code**

Section II

YOU MUST ANSWER ALL QUESTIONS AND INCLUDE THE SOCIAL SECURITY NUMBER OF ALL HOMEOWNER(S).
A homeowner is defined as any living person listed on the deed.

1. Is the real property shown on this letter currently used, and expected to be used in the next calendar year as the single principal residence of the homeowner(s)? ☐ Yes ☐ No
2. Is this real property address the location where the homeowner(s) expect to file their next federal and Maryland income tax return if one is filed? ☐ Yes ☐ No ☐ Not applicable (Not Filing)
3. Is this real property address the location from which the homeowner(s) have received a driver's license or requested automobile licenses or vehicle registrations, if applicable?
   ☐ Yes ☐ No ☐ Not applicable (No License or Vehicle Registration)
4. Is this real property address the location from which the homeowner(s) are registered to vote, if registered?
   ☐ Yes ☐ No ☐ Not applicable (Not Registered)
5. Is any portion of the principal residence rented? ☐ Yes ☐ No

All owners must also complete the section below. If there are, more than four (4) owners complete this application and attach a separate sheet listing the names and Social Security numbers of the additional owners before mailing.

Printed Name of Homeowner (First Name, Middle Initial, Last, Suffix)	Social Security Number
Printed Name of Spouse or 2nd Homeowner (First Name, Middle Initial, Last, Suffix)	Social Security Number
Printed Name of Homeowner (First Name, Middle Initial, Last, Suffix)	Social Security Number
Printed Name of Homeowner (First Name, Middle Initial, Last, Suffix)	Social Security Number

In submitting this application I hereby declare under the penalties of perjury, pursuant to Tax-Property Article, 1-201, Annotated Code of Maryland, that the application has been examined by me and the information contained herein, to the best of my knowledge and belief is true, correct and complete and that this property is my principal residence for the prescribed period. **I understand that the Department may independently verify the above information by contacting, including but not limited to, the Internal Revenue Service, the Maryland Comptroller's Office and the Motor Vehicle Administration.**

Homeowner's Signature | Spouse or Co-Owner's Signature | Date

Telephone Number (Daytime)

Mail completed application to: **Department of Assessments and Taxation**
Homestead Tax Credit Division
301 West Preston Street, 8th Floor
Baltimore MD 21201

PENALTIES FOR PERJURY

A person who willfully or with intent to evade payment of a tax under this Article provides false information or a false answer to a property tax interrogatory/application is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 18 months or both. Tax-Property Article, § 14-1004. For example, it is willful intent for a homeowner to indicate a property is his or her principal residence when the property is used for another purpose, such as a rental or a vacation home.

PRIVACY AND STATE DATA SECURITY NOTICE

e principal purpose for which this information is sought is to determine your eligibility for a tax credit. Failure to provide this information will result in a denial of your application. Some of the information requested would be considered a "Personal Record" as defined in State Government Article, § 10-624. Consequently, you have the statutory right to inspect your file and to file a written request to correct or amend any information you believe to be inaccurate or incomplete. Additionally, it is unlawful for any officer or employee of the state or any political subdivision to divulge any income particulars set forth in the application or any tax return filed except in accordance with a judicial or legislative order. However, this information is available to officers of the state, county or municipality in their official capacity and to taxing officials of any other state, or the federal government, as provided by statute.

EXHIBIT 4

APPLICATION FOR HOMESTEAD TAX CREDIT ELIGIBILITY

- The Homestead Tax Credit law limits the amount of assessment increase on which eligible resident homeowners actually pay county, municipal, and State property taxes each year. **This credit can have a significant impact on your real estate taxes regardless of your property's value or your income level. If the property is used as your principal residence, you are strongly encouraged to complete this application.**
- The reason why this application is required is to verify that the property owners only receive the benefit of this credit on their **one principal residence.** It also insures that other homeowners entitled to the credit but not receiving it can also start to receive this benefit.
- A married couple may only have one principal residence under the provisions of this law. A homeowner who submits an application that is inconsistent with income tax and motor vehicle records of the State shall be required to later submit additional verification in order to be considered for the credit.
- If you have a specific question concerning the application, you may telephone 410-767-2165 in the Baltimore metropolitan area or on 1-866-650-8783 toll free elsewhere in Maryland.
- This application can be filled out on your pc; if hand written please print legibly. Please use black or blue ink only.

Filled out as best I recall
was sent online

Section I

1. **SDAT Real Property Tax Identification Number of the property for which Homestead Eligibility is requested.**

INSTRUCTIONS: You must fill-in the property identification number in order to submit this application. The identification number is composed of the two digit county code where the property is located, followed by an account number of up to 14 characters in length. This information can be obtained from an assessment notice or by searching the Department's online Real Property database. If using the online system, the account number displayed must be preceded by the appropriate two digit county code listed below. **If you do not have the identification number click here to search the Real Property database.**

Allegany - 01	Calvert - 05	Charles - 09	Harford - 13	Prince George's - 17	Talbot - 21
Anne Arundel - 02	Caroline - 06	Dorchester - 10	Howard - 14	Queen Anne's - 18	Washington - 22
Baltimore City - 03	Carroll - 07	Frederick - 11	Kent - 15	St. Mary's - 19	Wicomico - 23
Baltimore Co. - 04	Cecil - 08	Garrett - 12	Montgomery - 16	Somerset - 20	Worcester - 24

County Code (From above) **Identification Number** (up to 14 digits)

Co. Code 03	Ward	Section	Block	Lot

For Baltimore City Only

2. **Address of the Property for which Application is being made:**

[redacted]

Street Address

Harwood MD 20776

City Zip code

APPLICATION FOR HOMESTEAD TAX CREDIT ELIGIBILITY

Section II

YOU MUST ANSWER ALL QUESTIONS AND INCLUDE THE SOCIAL SECURITY NUMBER OF ALL HOMEOWNER(S).
A homeowner is defined as any living person listed on the deed.

1. Is the real property shown on this letter currently used, and expected to be used in the next calendar year as the single principal residence of the homeowner(s)? ☒ Yes ☐ No
2. Is this real property address the location where the homeowner(s) expect to file their next federal and Maryland income tax return if one is filed? ☒ Yes ☐ No ☐ Not applicable (Not Filing)
3. Is this real property address the location from which the homeowner(s) have received a driver's license or requested automobile licenses or vehicle registrations, if applicable?
   ☐ Yes ☒ No ☐ Not applicable (No License or Vehicle Registration)
4. Is this real property address the location from which the homeowner(s) are registered to vote, if registered?
   ☐ Yes ☒ No ☐ Not applicable (Not Registered)
5. Is any portion of the principal residence rented? ☐ Yes ☒ No

All owners must also complete the section below. If there are, more than four (4) owners complete this application and attach a separate sheet listing the names and Social Security numbers of the additional owners before mailing.

Fortney H Stark — Printed Name of Homeowner (First Name, Middle Initial, Last, Suffix) — Social Security Number [redacted]

Deborah R. Stark — Printed Name of Spouse or 2nd Homeowner (First Name, Middle Initial, Last, Suffix) — Social Security Number [redacted]

Printed Name of Homeowner (First Name, Middle Initial, Last, Suffix) — Social Security Number

Printed Name of Homeowner (First Name, Middle Initial, Last, Suffix) — Social Security Number

In submitting this application I hereby declare under the penalties of perjury, pursuant to Tax-Property Article, 1-201, Annotated Code of Maryland, that the application has been examined by me and the information contained herein, to the best of my knowledge and belief is true, correct and complete and that this property is my principal residence for the prescribed period. **I understand that the Department may independently verify the above information by contacting, including but not limited to, the Internal Revenue Service, the Maryland Comptroller's Office and the Motor Vehicle Administration.**

/S/ — Homeowner's Signature — /S/ — Spouse or Co-Owner's Signature — Date

Telephone Number (Daytime)

Mail completed application to: **Department of Assessments and Taxation**
Homestead Tax Credit Division
301 West Preston Street, 8th Floor
Baltimore MD 21201

PENALTIES FOR PERJURY
A person who willfully or with intent to evade payment of a tax under this Article provides false information or a false answer to a property tax interrogatory/application is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 18 months or both. Tax-Property Article, § 14-1004. For example, it is willful intent for a homeowner to indicate a property is his or her principal residence when the property is used for another purpose, such as a rental or a vacation home.

PRIVACY AND STATE DATA SECURITY NOTICE
The principal purpose for which this information is sought is to determine your eligibility for a tax credit. Failure to provide this information will result in a denial of your application. Some of the information requested would be considered a "Personal Record" as defined in State Government Article, § 10-624. Consequently, you have the statutory right to inspect your file and to file a written request to correct or amend any information you believe to be inaccurate or incomplete. Additionally, it is unlawful for any officer or employee of the state or any political subdivision to divulge any income particulars set forth in the application or any tax return filed except in accordance with a judicial or legislative order. However, this information is available to officers of the state, county or municipality in their official capacity and to taxing officials of any other state, or the federal government, as provided by statute.

EXHIBIT 5

FHC1 DEPARTMENT OF ASSESSMENTS AND TAXATION 06/22/2009
FHC1MAP HOMESTEAD TAX CREDIT
P61 CURRENT APPLICATION INQUIRY PAGE 1 OF 1
Account #: [redacted]
Owner(s) Name: STARK JR, FORTNEY H ID Batch: 9999 ID: FHCB0008
STARK, DEBORAH R Occupancy Code: N
Premise Address: Mailing Address:
[redacted] [redacted]
Application Status: X
HARWOOD MD 20776-[redacted]

Y 1. Will the real property be used as the single, principal residence of the homeowner(s) for more than six(6) months of the calendar year, including July 1? (Y/N)

Y 2. Is this real property address the location where the homeowner(s) will file the federal and Maryland income tax return due on April 15th, if one is filed? (Y/N/NA)

N 3. Is this real property address the location from which the homeowner(s) have received a driver's license or requested automobile licenses or vehicle registrations, if applicable? (Y/N/NA)

Y 4. Is this real property address the location from which the homeowner(s) are registered to vote, if registered? (Y/N/NA)

N 5. Is any portion of the principal residence rented? (Y/N)

EXHIBIT 6

Owner(s) Name: STARK JR. FORTNEY H ID Batch: 9999
STARK, DEBORAH R Occupancy Code: N
Premise Address: Mailing Address:
[redacted] [redacted]
Application Status: X
HARWOOD MD 20776-[redacted]
Enter / review comments: ID: 00D99530

MR STARK CALLED TO CHANGE ANSWER TO QUESTION #4 FROM YES TO NO. 3/16/09.
IF ANYONE HAS QUESTIONS ABOUT THIS FILE, YOU SHOULD CONTACT ROBERT YOUNG IN ADMINISTRATION. DO NOT ANSWER QUESTIONS ABOUT THIS FILE.

EXHIBIT 7

The New York Times

PRINTER-FRIENDLY FORMAT SPONSORED BY

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March 14, 2009

Bronx Representative Loses a Tax Break

By THE ASSOCIATED PRESS

ANNAPOLIS, Md. (AP) — Maryland tax officials said that a New York representative is not entitled to a residents' tax break on the house in a Washington suburb that he has claimed as his primary residence for at least 10 years.

The representative, Eliot Engel, calls himself a lifelong resident of the Bronx, where he rents an apartment. But he and his wife list the house in Potomac, Md., as their primary home on Maryland property tax forms.

They paid nearly $500,000 for the house in 1993, and it has almost doubled in value. The Engels have received thousands of dollars in tax credits that are reserved for people who declare Maryland their home.

The state agency made the decision on the credits late last month.

Mr. Engel, whose district includes much of the northern Bronx and parts of Westchester and Rockland Counties, is not the only politician who has been found to be improperly receiving the credit. Maryland tax officials first revoked his credit in late 2005, about the time that several elected officials representing other states were informed that they would have their credits removed.

Mr. Engel and his wife contested the loss of their Maryland primary-residence status, which was reinstated, then revoked again after Maryland laws were changed recently.

Jeremy Tomasulo, an aide to the congressman, maintains that Mr. Engel's primary residence has always been in the Bronx.

But his property tax documents say otherwise, a claim that was worth nearly $7,000 in credits to Mr. Engel and his wife over the past four years because people in Maryland are eligible for state and county tax breaks on their primary residence

To receive the credit, homeowners must live in Maryland at least six months of the year, have a Maryland driver's license, be registered to vote in Maryland and file Maryland income taxes.

Mr. Engel and his wife do not qualify since they both have New York licenses and vote in New York. Mr. Tomasulo said that Mr. Engel filed his income taxes in New York, and did not respond to questions about Ms. Engel's taxes.

Aides to Mr. Engel said that he had previously responded to an inquiry by the Montgomery County Department of Finance, which said that he was eligible for an exemption.

Roberta Ward, manager of the Montgomery County office of the Maryland Department of Assessments and Taxation, said her office handled that inquiry. She said Mr. Engel's primary residence claim was revoked, but was reinstated after an appeal that included the submission of Maryland income tax records for his wife.

Since then, however, Maryland has tightened the eligibility requirements. Now, at least one spouse of a homeowning couple must meet all the residency requirements.

Mr. Tomasulo said Mr. Engel believed that the credit should be removed if he is not eligible.

"He will await their determination of his status and will make sure that he is in full compliance with their evaluation," Mr. Tomasulo said in an e-mail message.

Mr. Engel was re-elected at least five times to represent the Bronx while property tax documents indicated his primary residence was in Potomac.

New York and federal laws require that representatives be inhabitants of the state they represent when they are elected.

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EXHIBIT 8

Voucher at bottom of page. Item #3

Payment Voucher 4 - File and Pay by Jan. 15, 2009. If amount of payment is zero, do not mail this form.

When the due date falls on a weekend or holiday, the deadline to file and pay without penalty is extended to the next business day.

WHERE TO FILE: Make check or money order payable to the "Franchise Tax Board." Write the taxpayer's social security number or ITIN and "2008 Form 540-ES" on the check or money order. Detach the voucher below. Enclose, but do not staple, payment with the voucher and mail to:

FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0031

Make all checks or money orders payable in U.S. dollars and drawn against a U.S. financial institution.

PAY ONLINE: Use Web Pay and enjoy the ease of our free online payment service. Go to our Website at www.ftb.ca.gov and search for "Payment Options." Do not mail this form if you use Web Pay.

DETACH HERE — IF NO PAYMENT IS DUE, DO NOT MAIL THIS FORM — DETACH HERE

File and Pay by January 15, 2009

TAXABLE YEAR **2008** — **Estimated Tax for Individuals** — CALIFORNIA FORM **540-ES**

[redacted] STAR ** [redacted] 08 APE 0

FORTNEY H STARK JR
DEBORAH R STARK

[redacted]

HARWOOD MD 20776

20

Amount of payment

COPY TO BE RETAINED BY TAXPAYER

11-06-07 For Privacy Notice, get form FTB 1131. 022 1201086 Form 540-ES 2007

EXHIBIT 9

Item #3a

WILLIAM G. ROBINSON, ACCOUNTANCY CORPORATION
MILLS TOWER
220 BUSH STREET, SUITE 1300
SAN FRANCISCO, CALIFORNIA 94104-3402
TELEPHONE (415) 398-8141
FAX (415) 398-3426

May 1, 2009

mailed 5/11
WPCFCU ✓ [redacted]
$188.00

Mr. and Mrs. Fortney H. Stark, Jr.
[redacted]
Harwood, MD 20776

Dear Mr. and Mrs. Stark:

Enclosed find an original and copy of Form 505-Maryland Non-resident Income Tax Return (2008). This is a corrected return, as you were advised. The original and copy of the return previously sent to you should be destroyed.

The original return should be signed and dated by both of you and filed with the Comptroller of Maryland, Revenue Administration Division, Annapolis, MD 21411-0001 as soon as possible.

A check for $188.00 made payable to the Comptroller of Maryland should accompany the return. Your social security number and "2008 Form MD 505" should be written on the check.

The copy of the return should be kept in your files.

Yours very truly,

William G. Robinson

WGR/pb
Enclosures

EXHIBIT 10

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

Memorandum of Interview

In Re:	Representative Fortney Pete Stark
Review #:	09-9030
Date:	July 29, 2009
Location:	239 Cannon Building
Time:	12:00 pm – 12:45 (approximately)
Participants:	Omar Ashmawy
	Kedric L. Payne

Summary: Rep. Pete Stark represents the 13th Congressional District of California. The OCE Board initiated a preliminary review and subsequently a second-phase review into allegations a home owned by Representative Pete Stark received a Maryland homestead tax credit after October 2007. By receiving this credit Representative Stark's conduct may have violated Maryland state law and House Rule 23. We requested an interview with Rep. Pete Stark and he consented to an interview. Rep. Stark made the following statements in response to our questioning:

1. Rep. Stark was given an 18 U.S.C. § 1001 warning, but would not sign a written acknowledgement of the warning until he spoke with his attorney. However, he consented to an interview.

2. Rep. Stark initially stated during the interview that he did not know anything about the Maryland Homestead Tax Credit. Rep. Stark then stated that he did not choose to discuss what he knows about the Maryland Homestead Tax Credit. Later during the interview, he explained that he knew that the application for the Tax Credit had requirements for being eligible for the tax credit, including that a person must be registered to vote in Maryland.

3. Rep. Stark initially stated during the interview that he did not recall completing the Tax Credit application online. Later during the interview, he stated that he did in fact personally complete the on-line application for the Tax Credit. Rep. Stark recalls receiving the form at the beginning of 2009. After completing the form, he stated that he was denied the Tax Credit.

4. He stated that neither owner of he nor his wife is registered to vote in Maryland.

5. Rep. Stark stated that he did not call the Maryland State Department of Assessments and Taxation Taxpayer Services Division ("SDOT") to change his answers to the Tax Credit application on March 16, 2009. He also stated that he cannot think of anyone who would have called SDOT on his behalf.

6. During the interview, Rep. Stark reviewed his calendar on his computer and stated that he was at John Hopkins on March 16, 2009, around 2:00 pm or 3:00 pm. Rep. Stark stated that he will not provide the OCE with his calendar.

7. Rep. Stark reviewed the OCE's copy of the online Tax Credit application and the "recreated" version that he provided. He recognized that the answers in the on-line application are incorrect. He explained that he does not know why the on-line application is incorrect.

8. Throughout the interview Rep. Stark was extremely belligerent and frequently insulted the OCE staff members interviewing him. Approximately 15 minutes into the interview it also became apparent to the OCE interviewers that Rep. Stark was videotaping the exchange.

I prepared this Memorandum of Interview on July 29, 2009 after interviewing Rep. Stark today. I certify that this memorandum contains all pertinent matter discussed with Rep. Stark on July 29, 2009.

Kedric Payne
Investigative Counsel

EXHIBIT 11

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

David Skaggs, Chair
Yvonne Burke
Karan English
Allison Hayward

Porter Goss, Co-Chair
Jay Eagen
William Frenzel
Abner Mikva

Leo J. Wise, Staff Director & Chief Counsel
1017 Longworth House Office Building
(202) 225-9739
(202) 226-0997 fax

July 31, 2009

Honorable Pete Stark
239 Cannon HOB
Washington, DC 20515

THIRD REQUEST FOR INFORMATION
Re: Review No. 09-9030

Dear Congressman Stark:

This Request for Information is pursuant to a Second-Phase Review authorized by the Board of the Office of Congressional Ethics (OCE) on June 26, 2009.

Thank you for your response to our First and Second Requests for Information. We request the following additional cooperation:

(1) A copy of the video recording made during the July 29, 2009 interview between Representative Pete Stark and staff members of the OCE in Representative Stark's office.

OCE may make additional information requests, as warranted by the facts and circumstances of this Review. In addition, we will review any additional information you feel is relevant that we have not requested.

The Review commenced on June 29, 2009 and, unless extended by the Board in accordance with our rules, will terminate on August 12, 2009. Please note that at that time, under House Resolution 895 of the 110th Congress, as amended by House Resolution 5 of the 111th Congress, and OCE Rule 7, the Board may draw a negative inference from any refusal to cooperate and may include a statement to that effect in any referral to the Committee on Standards of Official Conduct.

If you have any questions regarding this request or require any assistance in the production of the information requested, please do not hesitate to contact Omar Ashmawy, Investigative Counsel, at (202) 225-9739 or omar.ashmawy@mail.house.gov.

Very respectfully,

Leo Wise
Staff Director and Chief Counsel

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REQUEST FOR INFORMATION -- ACKNOWLEDGEMENT OF RECEIPT

Please sign the following and return to the OCE by facsimile at (202) 226-0997.

I hereby acknowledge receipt of a Request for Information in Review No. 9030. By so signing, I merely acknowledge receipt of this document.

Member or Designee's Signature: _____

Member or Designee's Name: _____

Date: _____

EXHIBIT 12

Ashmawy, Omar

From: Curtis, Debbie
Sent: Tuesday, September 22, 2009 6:25 PM
To: Ashmawy, Omar
Subject: Re: OCE - Follow up

Importance: High

he acknowledged receipt and does not intend to respond further.

Debbie Curtis
Chief of Staff
Rep. Pete Stark (CA-13)
(202)225-5065

On Sep 22, 2009, at 6:16 PM, Ashmawy, Omar wrote:

Debbie,

Thank you. When can we expect a response?

Thank you,

Omar

Omar S. Ashmawy, Investigative Counsel
U.S. House of Representatives
Office of Congressional Ethics
1017 Longworth Building
Washington, DC 20515

Office: (202) 225-9739
Fax: (202) 226-0997

From: Curtis, Debbie
Sent: Tuesday, September 22, 2009 6:12 PM
To: Ashmawy, Omar
Subject: Re: OCE - Follow up
Importance: High

I just faxed back the signed acknowledgement of the letter. He thought he'd sent that back in early August.

Debbie Curtis
Chief of Staff
Rep. Pete Stark (CA-13)
(202)225-5065

Appendix C

Representative Fortney "Pete" Stark's Response to the Report and Findings of the Office of Congressional Ethics

BRAND LAW GROUP
A PROFESSIONAL CORPORATION
923 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005
TELEPHONE: (202) 662-9700
TELECOPIER: (202) 737-7565

RECEIVED
2009 DEC -1 PM 5:16
COMMITTEE ON STANDARDS

December 1, 2009

HAND DELIVERED

Representative Zoe Lofgren, Chairwoman
Representative Jo Bonner, Ranking Member
House Committee on Standards of Official Conduct
HT-2, The Capitol
Washington, DC 20515

Re: The Honorable Fortney "Pete" Stark, Referral of OCE Review No. 09-9030

Dear Chairwoman Lofgren and Ranking Member Bonner:

On behalf of our client Congressman Fortney "Pete" Stark, we submit this response to the November 12, 2009, Report and Findings from the Office of Congressional Ethics ("OCE"). The OCE's Report asserts that "Representative Stark's conduct may have violated Maryland law and the code of Ethics for Government Service if he misrepresented information on the Application for Homestead Tax Credit Eligibility in order to prove eligibility."

The facts presented in the OCE's Report and Findings do not support this conclusion. To the contrary, they establish that: 1) Rep. Stark did not intentionally misrepresent information to the State of Maryland; 2) he received no tax benefits as a result of his action; and 3) under state law he is likely currently eligible for the Homestead Tax Credit. While the OCE's conclusions are flawed, the underlying validity of the Report is also at issue. As with the matter addressed in this Committee's October 29, 2009, *Report In the Matter of Representative Sam Graves* (hereinafter, *"Graves Report"*), the OCE has again violated its regulations, this time by exceeding its maximum 89-day review period by over two months.

Given these legal and factual flaws, this Committee should conclude both that Rep. Stark violated no applicable rules or standards and that the OCE's Report and Findings referring this matter are invalid as a matter of law.

I. Rep. Stark Did Not Intentionally Misrepresent Information to the State of Maryland, Received No Tax Benefit, and Likely Would Be Eligible to Receive the Homestead Tax Credit.

The OCE's Findings presents a report from Maryland purporting to indicate that Rep. Stark erroneously listed that state as the "location from which the homeowner(s) are registered to vote." *See* OCE's Findings of Fact and Citations to Law ("Findings") at 9, ¶ 26 (displaying record reflecting Rep. Stark's tax application). The OCE apparently relies on this record to conclude that Rep. Stark improperly attempted to satisfy the Maryland requirements for eligibility for a Homestead Tax Credit. However, Rep. Stark informed the OCE that he did not indicate on his online application that he was registered to vote in Maryland. *Id.*, Ex. 10, ¶ 7.[1] Nor does Rep. Stark concede that he later contacted the state to "correct" the record of the online form. *Id.*, Ex. 10, ¶ 5.[2]

A close examination of the evidence reveals the holes in the OCE's assessment. First, the OCE's premise that Rep. Stark intentionally misrepresented his voting status in an attempt to qualify for the Homestead Tax Credit is nonsensical. If, as the OCE maintains, both voting status **and** possession of a Maryland state driver's license are absolute prerequisites for the credit, it would not have helped Rep. Stark to claim the former while acknowledging the absence of the latter; Maryland would still have rejected his application, as it ultimately did. A far more plausible explanation is that the state made a data-entry error in compiling the information (and, as the OCE notes, *id.* at 9, ¶ 26, the representation of Rep. Stark's answers is not a reproduction of the form that he completed, but merely a "record" of the answers on that form). Alternatively, Rep. Stark may have mistakenly indicated on his application that he was registered to vote in Maryland. Of course, contrary to the OCE's assertion, neither of these scenarios establishes intentional misrepresentation by Rep. Stark.

A review of the Maryland Application for Homestead Tax Credit Eligibility supports the conclusion that Rep. Stork did not intentionally misrepresent his voting status. *See id.*, Ex. 3. The application does not indicate that a homeowner's voting and driver's license status determine eligibility for the Credit. Instead, the introductory section of the form indicates that "this application is required to verify that the property owners only receive the benefit of this credit on their **one principal residence**."

---

[1] Utilizing Rep. Stark's statements from the Memorandum of Interview prepared by the OCE is problematic, given that the OCE counsel prepared this document from his handwritten notes of the interview with Rep. Stark. While we will utilize these notes for purposes of this response, Rep. Stark does not concede that they are an accurate or complete transcript of his statements during that meeting.

[2] We can offer no explanation for this discrepancy other than to speculate that media inquiries relating to this matter may have prompted a state official to review and amend the record.

Similarly, the attestation preceding the signature block simply requires the homeowner to declare that "this property is my principal residence for the prescribed period"; it omits any other qualifications for the credit. Accordingly, when he completed the application Rep. Stark would not have known that his voting or driver's license status would determine his eligibility for the tax credit. Nor would he have had any reason to believe that he would not qualify for the credit, despite holding a California driver's license and voting registration. Indeed, under any plain-language definition of the term Rep. Stark's Maryland home is his principal residence.[3]

The OCE also elides two additional, important facts. First, Rep. Stark **received no tax benefit from Maryland** as a result of the application in question, as he indicated to the OCE in his interview. *See id.* at 11, ¶ 34. The state ultimately rejected his application for the tax credit. *See id.*, Ex. 1 (Maryland Real Property Data Search). Despite this absence of any benefit to Rep. Stark, the OCE fails to indicate why referral to this Committee remains appropriate. *Cf. Graves Report* at 27-28 (absence of financial benefit to member informs Committee's analysis). Second, under Maryland law Rep. Stark may be eligible for the tax credit, despite his status as a California voter and driver's license holder. As noted above, the application does not preclude such status on its face. Nor does the language of the Maryland Bill creating the Credit Application preclude such eligibility. *See* Maryland House Bill 436 (2007 Sess.) (authorizing State Department of Assessments and Taxation to create credit application, but not specifying eligibility requirements) (Attachment A). While a discussion of the legal requirements for such eligibility is beyond the scope of this letter, it seems sufficient to note that Rep. Stark might be eligible for the Homestead Tax Credit if he chose to contest the state's decision.

In sum, the OCE's conclusion that Rep. Stark intentionally misrepresented his voting status to gain an improper benefit is not justified by the facts or law.

II. The OCE Violated Its Regulations By Issuing Its Report and Findings Outside of the Maximum 89-Day Review Period.

The OCE also ignores the explicit time periods for conducting its inquiry set forth in House Resolution 895, ultimately exceeding the review period by over two months. On June 2, 2009, the OCE wrote to Rep. Stark informing him that it had "initiated a preliminary review." (Attachment B). Three days later, it wrote another letter informing him that the Board had "authorized" a preliminary review on May 29, 2009. (Attachment C). As this Committee discussed in *Graves*, the OCE should have commenced its review on May 29, when the Board authorized action. *See Graves Report* at 40.

---

[3] Rep. Stark rents an apartment in his California district and occupies no other residential properties.

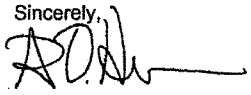
Regardless of the OCE's confusion, its inquiry should have taken no more than the 89-day maximum period permitted by House Resolution 895. As the so-called "Capuano Report" stated, "Members of the Task Force believe that the timeline requirements instituted by the new process are critical: **matters will spend at most three months under consideration by the board of the OCE before being referred to the Standards Committee for resolution.**" Special Task Force on Ethics Enforcement, *Report of the Democratic Members of the Special Task Force on Ethics Enforcement,* 110th Cong., 1st Sess., at 14 (2007) (emphasis added); *see also Graves Report* at 53 n.259. However, the OCE did not vote on this matter until October 23, 2009 and waited until November 12, 2009 to provide its Report and Findings to this Committee. Under any fair reading of the rules, OCE failed to abide by its 89-day review period and exceeded its deadline by over two months. Accordingly, the OCE's final action occurred well after its regulatory oversight terminated and this Committee should deem its Report and Findings invalid. *See Graves Report* at 52-53 ("Because the Board did not vote on or before June 9, 2009, OCE's review involving Representative Graves legally terminated on June 9, 2009.").

III. Conclusion

The OCE's decision to refer this matter to the Committee is supported by neither facts nor law. The information contained in the Report and Findings indicate that Rep. Stark did not intentionally misrepresent information to the state of Maryland; nor did he receive any improper benefit as a result of his actions. Moreover, the OCE's failure to abide by its applicable time limitations renders its Referral invalid.

Given the above, this Committee should reject the OCE's Report and Findings and dismiss this matter expeditiously.

Sincerely,



Stanley M. Brand
Andrew D. Herman

SMB/ADH:mob

BRAND LAW GROUP

Hon. Zoe Lofgren & Hon. Jo Bonner
December 1, 2009
Page 5

I have reviewed and approved all legal arguments and factual assertions presented in my response to the OCE's Report and Findings.

Pete Stark

Hon. Fortney "Pete" Stark

EXHIBIT A

HOUSE BILL 436

Q1 (7lr1836)

ENROLLED BILL

— Ways and Means / Budget and Taxation —

Introduced by **Delegates Kaiser, Aumann, Barnes, Beidle, V. Clagett, Conway, Frush, Gaines, Gilchrist, Healey, Hubbard, Lawton, Love, Mathias, Montgomery, Niemann, Pena-Melnyk, Riley, Ross, Simmons, Sophocleus, Waldstreicher, ~~and Walker~~ Walker, Bartlett, Barve, Cardin, Doory, Elmore, George, Hixson, Howard, Ivey, Jennings, N. King, Krebs, McKee, Murphy, Olszewski, Rice, Stukes, and F. Turner**

Read and Examined by Proofreaders:

_____

Proofreader.

_____

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____M.

_____

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Homestead Tax Credit – Eligibility Verification – Application**

3 FOR the purpose of requiring homeowners to file certain applications to the State
4 Department of Assessments and Taxation to qualify for the homestead property
5 tax credit; providing that the homestead property tax credit may not be granted
6 unless an application is filed as required within certain time periods under

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Underlining indicates amendments to bill.
~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.
Italics indicate opposite chamber / conference committee amendments.

certain circumstances; providing that the Department shall provide the option for an application to be submitted on the Department's website; requiring the Comptroller to cooperate with the Department in adopting a certain procedure, provide certain information to the Department, and assist the Department in a postaudit of each application; *requiring the counties to reimburse the Department for the administration of the homestead property tax credit application process;* providing for a certain reporting requirement to certain committees of the General Assembly; and generally relating to the homestead property tax credit.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–105(d)(1)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

BY adding to
Article – Tax – Property
Section 9–105(d)(6) ~~and (l)~~, *(l), and (m)*
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – Property

9–105.

(d) (1) [The] **SUBJECT TO THE PROVISIONS OF PARAGRAPH (6) OF THIS SUBSECTION, THE** Department shall authorize and the State, a county, or a municipal corporation shall grant a property tax credit under this section for a taxable year unless during the previous taxable year:

(i) the dwelling was transferred for consideration to new ownership;

(ii) the value of the dwelling was increased due to a change in the zoning classification of the dwelling initiated or requested by the homeowner or anyone having an interest in the property;

(iii) the use of the dwelling was changed substantially; or

(iv) the assessment of the dwelling was clearly erroneous due to an error in calculation or measurement of improvements on the real property.

(6) (I) TO QUALIFY FOR THE CREDIT UNDER THIS SECTION, A HOMEOWNER SHALL SUBMIT AN APPLICATION FOR THE CREDIT TO THE DEPARTMENT AS PROVIDED IN THIS PARAGRAPH.

(II) THE APPLICATION SHALL:

1. BE MADE ON THE FORM THAT THE DEPARTMENT PROVIDES;

2. PROVIDE THE INFORMATION REQUIRED BY THE FORM; AND

3. INCLUDE A STATEMENT BY THE HOMEOWNER UNDER OATH THAT THE FACTS STATED IN THE APPLICATION ARE TRUE, CORRECT, AND COMPLETE.

(III) THE DEPARTMENT MAY NOT AUTHORIZE AND THE STATE, COUNTY, AND MUNICIPAL CORPORATION MAY NOT GRANT THE PROPERTY TAX CREDIT UNDER THIS SECTION FOR A DWELLING UNLESS AN APPLICATION IS FILED WITH THE DEPARTMENT AS REQUIRED UNDER THIS PARAGRAPH:

1. ~~ON OR BEFORE SEPTEMBER 1~~ WITHIN ~~90~~ *180* DAYS FOLLOWING THE DATE THE DWELLING IS TRANSFERRED FOR CONSIDERATION TO NEW OWNERSHIP, FOR A DWELLING THAT IS TRANSFERRED FOR CONSIDERATION TO NEW OWNERSHIP AFTER DECEMBER 31, 2007; OR

2. ON OR BEFORE DECEMBER 31, 2012, FOR A DWELLING THAT WAS LAST TRANSFERRED FOR CONSIDERATION TO NEW OWNERSHIP ON OR BEFORE DECEMBER 31, 2007.

(IV) THE DEPARTMENT SHALL PROVIDE A HOMEOWNER THE OPTION TO SUBMIT THE APPLICATION REQUIRED UNDER THIS PARAGRAPH ELECTRONICALLY ON THE DEPARTMENT'S WEBSITE.

(L) THE COMPTROLLER SHALL:

(1) COOPERATE WITH THE DEPARTMENT IN ADOPTING A PROCEDURE TO AUDIT THE APPLICATION FORMS SUBMITTED UNDER THIS SECTION;

(2) NOTWITHSTANDING § 13–202 OF THE TAX – GENERAL ARTICLE, PROVIDE ADDITIONAL INFORMATION TO THE DEPARTMENT; AND

(3) ASSIST THE DEPARTMENT IN A POSTAUDIT OF EACH APPLICATION.

(M) (1) THE COUNTIES SHALL REIMBURSE THE DEPARTMENT FOR THE ADMINISTRATION OF THE APPLICATION PROCESS UNDER SUBSECTION (D)(6) OF THIS SECTION.

(2) FOR EACH FISCAL YEAR, THE REIMBURSEMENT REQUIRED UNDER THIS SUBSECTION SHALL BE PRORATED BASED ON THE RATIO OF THE NUMBER OF IMPROVED PROPERTIES THAT WOULD BE ELIGIBLE FOR THE CREDIT UNDER THIS SECTION LOCATED IN THE COUNTY COMPARED TO THE TOTAL NUMBER OF IMPROVED RESIDENTIAL PROPERTIES ELIGIBLE FOR THE CREDIT UNDER THIS SECTION STATEWIDE AS OF JULY 1 OF THAT FISCAL YEAR.

(3) THE DEPARTMENT SHALL BILL EACH COUNTY ACCORDING TO THE FORMULA UNDER PARAGRAPH (2) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Department of Assessments and Taxation, in consultation with the Comptroller of the Treasury, shall initiate two studies of the implementation of the homestead property tax credit eligibility application process as provided under this Act. The studies shall provide information on:

(1) the application required by the Department;

(2) the education and outreach methods used by the Department to notify affected taxpayers about the required application;

(3) the aggregate number of applications received from taxpayers by county and the methods by which applications have been submitted;

(4) the methods used by the Department to collect, maintain, and analyze data collected from applications;

1 (5) the application audit and postaudit process adopted by the
2 Department; and

3 (6) any other pertinent issues related to the application process.

4 The first study shall be submitted, subject to § 2–1246 of the State Government
5 Article, to the Senate Budget and Taxation Committee and the House Committee on
6 Ways and Means on or before January 1, 2009, so that the committees may review the
7 report during the 2009 legislative session. The second study shall be submitted,
8 subject to § 2–1246 of the State Government Article, to the Senate Budget and
9 Taxation Committee and the House Committee on Ways and Means on or before
10 January 1, 2010, so that the committees may review the report during the 2010
11 legislative session.

12 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
13 effect October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.

EXHIBIT B

Board
David Skaggs, Chair
Yvonne Burke
Karan English
Allison Hayward
Porter Goss, Co-Chair
Jay Eagen
William Frenzel
Abner Mikva

Leo J. Wise, Staff Director & Chief Counsel
1017 Longworth House Office Building
(202) 225-9739
(202) 226-0997 fax
email address: oce@mail.house.gov
website address: oce.house.gov

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

June 2, 2009

Honorable Pete Stark
239 Cannon HOB
Washington, DC 20515

INITIATION OF A PRELIMINARY REVIEW
Re: Review No. 09-9030

Dear Congressman Stark:

The Board of the Office of Congressional Ethics (OCE) has initiated a preliminary review into allegations concerning you pursuant to H. Res. 895, Section 1, clause (c)(1)(A) of the 110th Congress, as amended by H. Res. 5 of the 111th Congress, and Rule 7 of the OCE's Rules for the Conduct of Investigations. Below is a statement of the nature of the review:

> A home owned by Representative Pete Stark received a Maryland homestead tax credit after October 2007.
>
> By receiving this credit Representative Stark's conduct may have violated Maryland state law and House Rule 23.

The Board reserves the authority to address any additional, related potential violations within its jurisdiction that may be discovered in the course of this Review.

Respectfully yours,

Leo Wise
Staff Director and Chief Counsel

Attachment

PRINTED ON RECYCLED PAPER

EXHIBIT C

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

David Skaggs, Chair
Yvonne Burke
Karan English
Allison Hayward

Porter Goss, Co-Chair
Jay Eagen
William Frenzel
Abner Mikva

Leo J. Wise, Staff Director & Chief Counsel
1017 Longworth House Office Building
(202) 225-9739
(202) 226-0997 fax

June 5, 2009

Honorable Pete Stark
239 Cannon HOB
Washington, DC 20515

REQUEST FOR INFORMATION
Re: Review No. 09-9030

Dear Congressman Stark:

This Request for Information is pursuant to a Preliminary Review authorized by the Board of the Office of Congressional Ethics (OCE) on May 29, 2009. The Review shall initiate on June 5, 2009.

In accordance with Rule 7(D) and 7(E) of the Office of Congressional Ethics' Rules for the Conduct of Investigations ("OCE Rules"), a preliminary report must be completed and delivered to the Board within 30 days of the initiation of a Review. That report will be prepared for the Board and it will evaluate the matter based on the information available at the end of that 30 days. Your timely cooperation is appreciated and will assist the Board in reaching an informed and accurate decision.

Please provide the following information:

(1) Representative Stark's application for Maryland's Homestead tax credit eligibility for tax year 2008.

(2) A copy of any application and any related documents Representative Stark received from the state of Maryland at the end of 2008 for Maryland's Homestead Tax Credit in the event she did not submit the application.

(3) Documentation showing in what state or states Representative Stark and any other individual who owns or lives at the property filed state income tax for tax year 2008.

(4) Documentation showing what state or states Representative Stark and any other individual who owns or lives at the property was registered to vote in 2008.

(5) Documentation showing what state or states Representative Stark and any other individual who owns or lives at the property was licensed to drive in 2008.

(6) Any documents submitted by Representative Stark and/or any other individual who owns or lives at the property to the Montgomery County office of the Maryland Department of Assessments and Taxation for tax year 2008.

(7) Any documents received by Representative Stark and/or any other individual who owns or lives at the property from the Montgomery County office of the Maryland Department of Assessments and Taxation for tax year 2008.

(8) OCE requests the opportunity to interview you at a mutually convenient time.

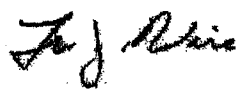
OCE may make additional information requests, as warranted by the facts and circumstances of this Review. In addition, we will review any additional information you feel is relevant that we have not requested.

If you are not providing a requested document or piece of information, then please identify the document or information withheld and why it is being withheld.

Please note that under House Resolution 895 of the 110th Congress, as amended by House Resolution 5 of the 111th Congress, and OCE Rule 7, the Board may draw a negative inference from any refusal to cooperate and may include a statement to that effect in any referral to the Committee on Standards of Official Conduct.

If you have any questions regarding this request or require any assistance in the production of the information requested, please do not hesitate to contact Omar Ashmawy, Investigative Counsel, at (202) 225-9739 or omar.ashmawy@mail.house.gov.

Very respectfully,



Leo Wise
Staff Director and Chief Counsel

○