

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF REVENUE

In the Matter of the Denial of a
Tax Clearance Certificate of:

FACT

Gary G. Yinger
1424 Baldur Park Road
Orono, Minnesota 55391
Minnesota Identification No. 383-48-9473.

FINDINGS OF

CONCLUSIONS AND
RECOMMENDATION

The above-entitled matter came on for hearing before George A. Beck, Administrative Law Judge, commencing at 11:00 a.m. on Thursday, July 19, 1990, in Courtroom No. 18, Office of Administrative Hearings,, 500 Flour Exchange Building, in the City of Minneapolis, Minnesota, pursuant to a Notice of and Order for Hearing dated June 26, 1990.

Wayne L. Sather, Attorney, Minnesota Department of Revenue, Appeals and Legal Services Division, flail Station 2220, St. Paul, Minnesota 55146-2220, appeared on behalf of the Minnesota Department of Revenue (Department). Gary G. Yinger, 1424 Baldur Park Road, Orono, Minnesota 55391, appeared on Ms own behalf.

This Report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Revenue will make the final decision after a review of the record. He may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained in this Report. Pursuant to Minn. Stat. 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact John P. James, Commissioner, Minnesota

Department of Revenue, 10 River Park Plaza, St. Paul,
Minnesota 55146, to
ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this case is whether or not the Respondent
owes in excess of
\$500 in income tax, penalties and interest justifying denial of
a tax clearance
certificate.

Based upon all of the proceedings herein, the
Administrative Law Judge
makes the following:

FINDINGS OF FACT

1. The Respondent holds real estate broker's license number 0464798 issued by the Minnesota Department of Commerce with a license renewal date of July 1, 1990. (Ex. 3).

2. On June 11, 1990, the Respondent was sent a notice of requirement for tax clearance alleging unpaid individual income tax in the amount of \$5891.96 for 1988. The notice advised the Respondent of his right to request a hearing before the Office of Administrative Hearings within 30 days. (Ex. 1).

3. By a letter dated June 13, 1990 and received by the Department on June 18, 1990, the Respondent requested a hearing. (Ex. 2).

4. On June 26, 1990, a Notice of and Order for Hearing was mailed to the Respondent. (Ex. 3).

5. On the date of the hearing the Respondent owed income tax, penalty and interest in the total amount of \$5,917.94 for 1988. (Ex. 4). This is the amount due prior to the filing of any amended tax returns.

6. At the hearing the Respondent agreed that the allegations in this matter were true and agreed that this matter could proceed as if by default provided that the Findings of Fact, Conclusions and Recommendation of the Administrative Law Judge would not be issued for ten calendar days or before July 30, 1990. Prior to that date the Respondent expects to resolve this matter.

7. In light of the agreement to proceed by default the allegations and issues set out in the Notice of and Order for Hearing are taken as true and incorporated herein by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. That the Commissioner of Revenue and the Administrative Law Judge have jurisdiction in this case under Minn. 14.50 and 270.72.

2. That the Department gave proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law or rule.

3. That the Respondent is in default in this case under Minn. Rule 1400.6000 as a result of his failure to appear at the hearing.

4. That under Minn. Rule 1400.6000, the allegations of and the issues set out in the Notice of and Order for Hearing may be taken as true or deemed proved without further evidence when a party defaults.

5. That the Respondent owes the State of Minnesota in excess of \$50() in delinquent taxes, penalties or interest.

6 That as a result of the liability set forth above, the Commissioner of Revenue is authorized to deny a tax clearance certificate to the Respondent pursuant to Minn. Stat. 270.72.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECQMMENDATION

IT IS HEREBY RECOMMENDED that the Commissioner of Revenue deny a tax clearance certificate to Gary G. Yinger.

Dated this 31st day of July, 1990.

GEORGE A. BECK
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Default.