

DEPARTMENT OF SOCIAL SERVICES

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August 9, 1983

ALL-COUNTY LETTER NO. 83-83

TO: ALL-COUNTY WELFARE DIRECTORS

SUBJECT: GALSTER v. WOODS, DISREGARD OF UNAVAILABLE PROPERTY

On April 29, 1983, you were informed in All-County Information Notice I-56-83 that the California Supreme Court had issued an order in the Galster v. Woods lawsuit. That order prohibits the denial of AFDC benefits to any person solely on the grounds that he or she owns a property right of a market value in excess of \$1,000 if that property right is not, as a practical matter, available for use or expenditure to meet current needs.

The order applies to both real and personal property and affects all eligibility determinations made on applications and redeterminations since April 6, 1983. All actions taken on or after that date should reflect its terms.

The Department of Finance has approved the issuance of this letter and the availability of funds necessary to comply with the order. Pending further notice from the Department, you are instructed to comply with the order.

To assist in application of the order, guidelines are provided for three common AFDC case situations. Where a property right is found to be unavailable under the order, the applicant or recipient is eligible to receive aid. Reasonable steps to liquidate or use the property are required to retain eligibility. If the applicant or recipient refuses to cooperate in taking such steps aid should be denied or discontinued.

Situation 1:

The caretaker parent and the eligible children leave the home; the spouse of the caretaker parent continues to reside in the home and does not intend to leave it. How is the caretaker parent's community property interest in the home treated - i.e., is his/her equity interest in the home considered available?

Answer:

Exempt the home from consideration as property through the last day of the month following the sixtieth day from the beginning date of aid or until a new home is purchased, whichever occurs first. This allows the assistance unit to remain eligible until steps can be taken to liquidate or use the home and an availability determination can be made.

The county must inform the applicant in the application process that during this exempt period he or she must initiate action which will result in the liquidation or use of the home. By the end of the exempt period, the county must determine if the home is not, as a practical matter, available for use to meet a current need. If sale of the home is prohibited by court order, no attempt to liquidate shall be required. If the home is found to be available, aid should be discontinued at the expiration of the exempt period. If the home is unavailable, the recipient must continue to take reasonable steps to liquidate or use the home. If the recipient has taken no action to make his/her property interest in the home available, the recipient will be discontinued for failure to cooperate in making the property available.

Reasonable steps to liquidate or use the home, may include, but are not limited to:

- (1) filing for and pursuing a property settlement (with or without divorce action);
- (2) attempting to sell the property interest to any buyer who will pay fair consideration for the value of the property.

Situation 2:

The caretaker parent and his/her spouse own a motor vehicle; both are registered owners and hold title to the property. The spouse leaves with the motor vehicle or denies access to it. Is the caretaker parent's community property interest in the motor vehicle considered available for AFDC purposes?

Answer:

No, if the vehicle is not already exempt under EAS 42-213.2, consider it inaccessible and, therefore, unavailable to the owner who does not have possession of the car. The applicant's property interest in a vehicle is not currently available if it is in the spouse's control, use and possession. However, the applicant can be required to take reasonable steps to make the vehicle available.

Situation 3:

An applicant/recipient owns land, other than the exempt home, with an assessed value in excess of the property limit. However, the market value of the land is below the property limit. How is the value of the property determined?

Answer:

Disregard EAS 42-215.21 and allow the applicant/recipient to use an estimated market value of the property if it is less than the assessed value. The applicant/recipient can obtain two valuations of the market value of the property from different licensed real estate brokers in the area. A formal appraisal is not required. The average of the valuations is the estimated market value of the property. This is the value that will be tested against the \$1,000 resources limit.

It is hoped that the suggested guidelines in these examples will assist you in your efforts to apply the court order. In other factual situations that may arise you should make your best determination concerning availability of property in accordance with the Supreme Court order. You may contact your AFDC Management Consultant with any questions you may have concerning the content of this letter.



LINDA S. McMAHON
Director