



Administrative Decisions Tribunal
New South Wales

First Home Benefits Decision Summaries

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Tribunal Decisions Summaries

First Home Owner Grant Scheme

Residency Criteria

2011 Decision Summary

[Ohara v Chief Commissioner of State Revenue \[2011\] NSWADT 289](#)

Date of Decision: 07 December 2011

Decision: The decision under review is affirmed

The Tribunal did not accept that the applicant ever had a genuine intention to meet the terms of the grant and the duties exemption by taking up residence in the property. The applicant had continuously leased the property since its purchase, which categorises it as an investment property. The applicant had returned to Germany after the purchase of the property for personal and career reasons, and had not returned to Australia to take up residence, nor did she have a genuine intention to do so.

The Tribunal found that the applicant had failed to inform the Chief Commissioner of her failure to meet the residence requirement. She also failed to repay the grant, and made false assertions in a statutory declaration. The Tribunal found that this case was one in which to grant discretionary relief by waiving the residency requirement would run counter to the underlying policy and purpose of the relevant legislation.

The Tribunal affirmed the decisions under review, finding that the applicant was not entitled to the First Home Owner Grant nor to the First Home Plus duty concession. The Tribunal affirmed the decisions to impose a 20% penalty in respect of the First Home Owner Grant, and to impose both the market and premium rates of interest in respect of the unpaid duty.

Catchwords:-

Failure to comply with residency requirements - Discretionary relief and principles involved - Penalty - Interest

Select this hyperlink to go to the summary:-

[Ohara v Chief Commissioner of State Revenue \[2011\] NSWADT 289](#)

First Home Plus Scheme

Residency Criteria

2011 Decision Summary

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