RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2009-01730

 INDEX CODE: 100.00

 XXXXXXX COUNSEL: NONE

 HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

His entitlement to a Home of Selection (HOS) move based on his retirement from active duty be extended one additional year.

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APPLICANT CONTENDS THAT:

He was informed by the HOS-ODC office in 2008 that his HOS extension was being approved for the final time for the reason he provided with that application which led him to believe he could not use that specific reason again to extend his HOS entitlement period. On 29 April 2009, he inquired about obtaining another extension and was informed by the HOS-ODC Operations Manager that he is entitled to only five extensions of his HOS entitlement and this was the first time he was ever told a member was entitled to only five extensions of their HOS entitlement. He is currently searching for employment in his area and other locations in the state of Virginia and the economy has made it very difficult to find employment. Additionally, the real estate market has also seen sales plummet over the last couple of years which would make it difficult to sell his house in a timely fashion without taking a substantial loss. Extending his HOS entitlement one additional year would allow him to avoid additional financial hardship should he find employment outside of his local area and have to move, and would provide him the additional time he needs to get his personal affairs in order.

In support of his appeal, the applicant provides a copy of a letter from AFPC/DPSIAF, dated 13 May 2008, extending his HOS period to 31 May 2009 and informing him this was the final extension for the reason he provided.

Applicant’s complete submission, with attachment, is at Exhibit A.

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STATEMENT OF FACTS:

On 1 June 2003, the applicant retired from the Regular Air Force in the grade of colonel at Fort McPherson GA. Since that time, he has requested and received extensions to his HOS entitlement based on continued job search and selling his home. On 13 May 2008, AFPC/DPSIAF approved an extension of his HOS entitlement to 31 May 2009, and their approval letter also advised him this was the final HOS extension for the reason he provided.

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AIR FORCE EVALUATION:

AFPC/DPSIA recommends denial of the requested relief as the applicant has received the maximum number of extensions allowed by the Joint Federal Travel Regulation (JFTR), Volume 1, and Air Force Supplement to the JFTR, Volume 1. There is no evidence of Air Force error in this case and they could find no basis in law to extend an entitlement past six years from his date of retirement.

The JFTR, Volume 1, and Air Force Supplement to the JFTR, Volume 1, state that all military personnel are entitled to one move to a HOS at government expense for one year after retirement. However, the law does provide for the possibility of extending the entitlement beyond the one-year point based on conditions beyond the control of the retiree. This is further clarified in Comptroller General Decision B-207157, 2 February 1983, which states, in part, “Per JFTR paragraph U5012-I, a written time extension that includes an explanation of circumstances justifying the extension may: 1) be authorized/approved for a specific additional time period using the Secretarial Process; 2) be authorized or approved only when circumstances prevent use within the prescribed time, and must be for the shortest time appropriate under the circumstances; 3) not be granted merely to accommodate personal preferences or conveniences (DoD/CG #99-1); and 4) not be authorized/approved if it extends travel and transportation allowances for more than six years from the date of separation or release from active duty or retirement, unless a certified on-going medical condition prevents relocation of the member for longer than six years from the separation/retirement date.”

The AFPC/DPSIA evaluation is at Exhibit B.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A complete copy of the evaluation was forwarded to the applicant on 12 June 2009, for review and comment, within 30 days. However, as of this date, no response has been received by this office.

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THE BOARD CONCLUDES THAT:

1.  The applicant has exhausted all remedies provided by existing law or regulations.

2.  The application was timely filed.

3.  Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinion and recommendation of the Air Force office of primary responsibility and adopt its rationale as the basis for our conclusion the applicant has not been the victim of an error or injustice as there is no evidence of Air Force error or basis in law to extend the applicant’s entitlement past six years from his date of retirement. Therefore, in the absence of evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.

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THE BOARD DETERMINES THAT:

The applicant be notified the evidence presented did not demonstrate the existence of material error or injustice; the application was denied without a personal appearance; and the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

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The following members of the Board considered Docket Number BC-2009-01730 in Executive Session on 23 September 2009, under the provisions of AFI 36-2603:

 Mr. Anthony P. Reardon, Panel Chair

 Mr. Mark J. Novitski, Member

 Ms. Janet I. Hassan, Member

The following documentary evidence was considered in BC-2009-01730:

 Exhibit A. DD Form 149, dated 30 Apr 09, w/atch.

 Exhibit B. Letter, AFPC/DPSIA, dated 28 May 09.

 Exhibit C. Letter, SAF/MRBR, dated 12 June 09.

 ANTHONY P. REARDON

 Panel Chair