#### BOARD OF APPEALS for MONTGOMERY COUNTY

#### 100 Maryland Avenue, Suite 217 Rockville, MD 20850 (240) 777-6600 http://www.montgomerycountymd.gov/boa/

#### CASE NO. A-6904

#### PETITION OF CHRISTINE LAO-SCOTT

#### **NOTICE OF HEARING**

Please take notice that the Board of Appeals for Montgomery County, Maryland, will hold a public hearing in the Stella B. Werner Council Office Building Second Floor Davidson Memorial Hearing Room, at 100 Maryland Avenue, Rockville, Maryland, <u>on</u> <u>Wednesday, the 5th day of February, 2025, at 9:30 a.m.</u>, or as soon thereafter as this matter can be heard, on the application filed pursuant to Section 59.7.3.2.A of the Zoning Ordinance. As a property owner applying for the variance, you must attend the public hearing or have counsel appear on your behalf. If you have an architect, contractor, or engineer, they are welcome to appear and testify at the hearing, but can only do so if you or your attorney are present.

The proposed construction, a detached accessory dwelling unit, requires a one (1.00) foot variance as it is within seven (7.00) feet of the right side lot line. The required setback is eight (8.00) feet, in accordance with Sections 59.4.4.9.B.2 and 59.3.3.3.C.2.c of the Zoning Ordinance. In addition, the proposed construction requires a variance to be located on the side of the principal building. Section 59.4.4.9.B.2.a requires that accessory structures be located behind the rear building line of the principal building.

The subject property is Lot P28, Block J2, Woodside Park Sec 6 Subdivision, located at <u>1100 Highland Drive, Silver Spring, Maryland 20910</u> in the R-90 Zone. (Tax Number Account No. 13-01430925)

Notices forwarded this <u>3<sup>rd</sup> day of January</u>, 2025, to:

#### Christine Lao-Scott Eric Saul

Corey Talcott, Associate County Attorney Elana Robison, Associate County Attorney Washington Suburban Sanitary Commission State Highway Administration County Board of Education Contiguous and confronting property owners Local Citizens Associations

#### **County Board of Appeals**

Barbara Jav

Executive Director

All parties who make submissions, after an initial filing, in Special Exception, Variance and Administrative Appeals cases, must furnish copies of the submission to all other parties in the case. For the purpose of this requirement, a party includes: (1) Counsel of record who have formally entered their appearance; (2) Any person to whom the Board of Appeals has granted Intervener status; and (3) The Applicant, Petitioner or Appellant in the case.

Submissions must be accompanied by a written statement certifying that copies have been sent to all parties. Effective September 6, 2002, failure to supply such written certification will result in refusal of the submission.

Case files are available for public review at the office of the Board of Appeals, Monday through Friday, 8:30 a.m. – 4:00 p.m.

#### BOA Form 2 (Revised 10/29/14) BOARD OF APPEALS FOR MONTGOMERY COUNTY, MARYLAND (240) 777-6600

Docket No. A-	6904
Date Filed	12-12-24
Hearing Date	2-5-25
Time	9:30 a.m.

#### PETITION FOR VARIANCE UNDER ZONING ORDINANCE

(Please Note Instructions on Reverse Side)

(PLEASE PRINT)

Name of Petitioner(s): Christine Lao-Scott

Address of Petitioner(s): 1100 Highland Drive, Silver Spring, MD 20910 City Silver Spring Zip 20910

Description of property involved: Lot P28\_Block J2\_Parcel 0000\_Subdivision 0162\_

Street and No. 1100 Highland Drive City Silver Spring Zip 20910 Zone Classification R-60

Appellant's present legal interest in above property (check one): Tax Account No.<u>01430925</u>
<u>×</u> Owner (including joint ownership) \_\_\_\_Other (describe)\_\_\_\_

If not owner, name and address of owner:

What variance is requested, and what is the pertinent section of the Zoning Ordinance? Section 59-4.4.9.B.2.c and Section 3.3.3.C.2.c - 1 foot encroachment into 8' side yard setback Section 59-4.4.9.B.2.a - Proposed ADU to be situated partially in the side yard instead of required rear yard

Check existing reason(s) why the Ordinance requirement(s) would result in practical difficulties for property owner:

\_\_\_\_\_narrowness <u>x</u>\_\_\_shallowness \_\_\_\_\_shape <u>x</u>\_\_topography \_\_\_\_other extraordinary situations or conditions peculiar to this property.

Describe this property's extraordinary situation or peculiar conditions compared to neighboring properties: This is a corner lot with the rear yard parellel to Highland avenue, leaving only 21 feet of a rear yard and unable to accommodate an ADU Also, there is a 6 foot drop off next to the driveway where the proposed ADU is planned.

How will the peculiar condition described above result in practical difficulty if the requested variance is not granted? If denied, Owner will not be able to build a detached ADU which is a by-right structure in this zone.

Date of recording of plat of present subdivision: <u>1947</u>; or, if property is un-subdivided, date on which deed recorded, or state that such deed was first recorded prior to March 6, 1928:\_\_\_\_\_

Has any previous variance application involving this property been made to the Board of Appeals? If so, give Case Number(s): No

I have read the instructions on the reverse side of this form and am filing all required accompanying information. I hereby affirm that all of the statements and information contained in or filed with this petition are true and correct

Fric Saul - Architect (uc), Saul	Christing Lao-Scott	Christine Lao-Scott
Name of Attorney/Agent (Print Name next to Signature)	Signature of Petition	ner(s) (Print Name next to Signature)
8114 Carroll Avenue, Takoma Park, MD 20912		
Address of Attorney	Address of Petition	ner
714-553-1750	202-210-1209	
Phone Number	Home Phone	Work Phone
(OVER)		

#### **JUSTIFICATION STATEMENT**

Property:	1100 Highland Drive, Silver Spring, MD 20910, Tax Map JP31, Lot P28 of Block J2, Subdivision 0162
Land Area:	18,191 square feet
Petitioner:	Christine Lao-Scott, Owner/Petitioner
Request:	Construction of an Accessory Dwelling Unit (ADU) built in the side yard of a property, and 1 foot into the right side yard setback
Zone:	R-60

#### **Factual Background**

The existing lot is a corner lot fronting Highland Drive and is allowed to have a detached ADU in the rear yard by right. The ADU has setback requirements of 60' from the front property line, 12' from the rear lot line (opposite Highland Drive), and 8' for the right side lot line. The property has an existing main house, which shall remain intact. Petitioner is proposing a detached Accessory Dwelling Unit (ADU) on the property, which is a by-right structure in this R-60 zoned lot.

#### **Reason for Appeal**

Petitioner is required to build an ADU in the rear yard, defined as behind the rear building line of the principal building. Since the rear yard is opposite Highland Drive on this lot, there is only approximately 21 feet of rear yard. With a 12-foot rear yard setback for ADUs, the proposed structure cannot fit in the remaining 9 feet of the rear yard, thus Petitioner is requesting a variance to place the ADU in the side yard.

Petitioner is also proposing an ADU that projects 1 foot into the side yard setback due to a steep 6-foot tall hill. This original lot was recorded before 1954, which would have allowed for a 7-foot side setback, but sometime after 1954, the lot was recorded again, and therefore, must now have an 8 foot side setback. The proposed ADU meets setbacks for the other 3 property lines and meets the maximum roof height regulations.

Montgomery County Zoning Department reviewed and denied the proposed ADU on December 10, 2024 - Zoning Denial Number 407850 - citing the rear yard regulation, which Petitioner is seeking a variance for:

- 1. Per section 59-4.4.9.B.2.c and Section 3.3.3.C.2.c of the Montgomery County Zoning Ordinance, the proposed ADU must be at least 8' from the right side lot line. The addition is proposed to be 7' from the rear lot line.
- 2. Per section 59-4.4.9.B.2.a of the Montgomery County Zoning Ordinance, any accessory structure must be located behind the rear building line of the principal building.

#### Applicable Portion of Zoning Code

Petitioner is seeking a variance for the ADU addition under the Montgomery County Zoning Code Sections stated above and per the Zoning Denial Number 407850.

#### **Evidence Supporting Variance**

Pursuant to Section 59-7.3.2.E of the Montgomery County Zoning Ordinance, the Board of Appeals must make affirmative findings on each of the following requirements (Only one of the E.2.a requirements need to be met) and the following evidence will support those findings.

## E.2.a.i exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property.

The site has exceptional shallowness with a rear yard of approximately 21 feet. The site also has a 6 foot steep drop on the side of the driveway that creates an impractical difficulty of building a structure over a steep hill.

#### E.2.b. The Special circumstances or conditions are not the result of actions by the Petitioner

The special circumstances or conditions were not a result of actions by the Petitioner as the house was constructed before the property was purchased with the rear yard already defined.

# **E.2.c** The requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on this property.

Petitioner is proposing a practical sized ADU that meets all other zoning regulations except for the rear yard location. It would be a practical difficulty to build an ADU on this property that fits in the rear yard.

### **E.2.d** The variance can be granted without substantial impairment to the intent and integrity of the general plan and applicable master plan.

The variance does not affect the integrity or intent of the general plan or applicable master plans. The ADU will be situated at the end of the driveway where an old garage used to be. ZTA 19-01 has also established the right to allow property owners to build ADUs on R-60 lots

### **E.2.e** The granting of the variance will not be adverse to the use and enjoyment of abutting or confronting properties

The proposed ADU will not negatively impact the use, enjoyment, character, health, safety, welfare, or security of the neighboring residents.

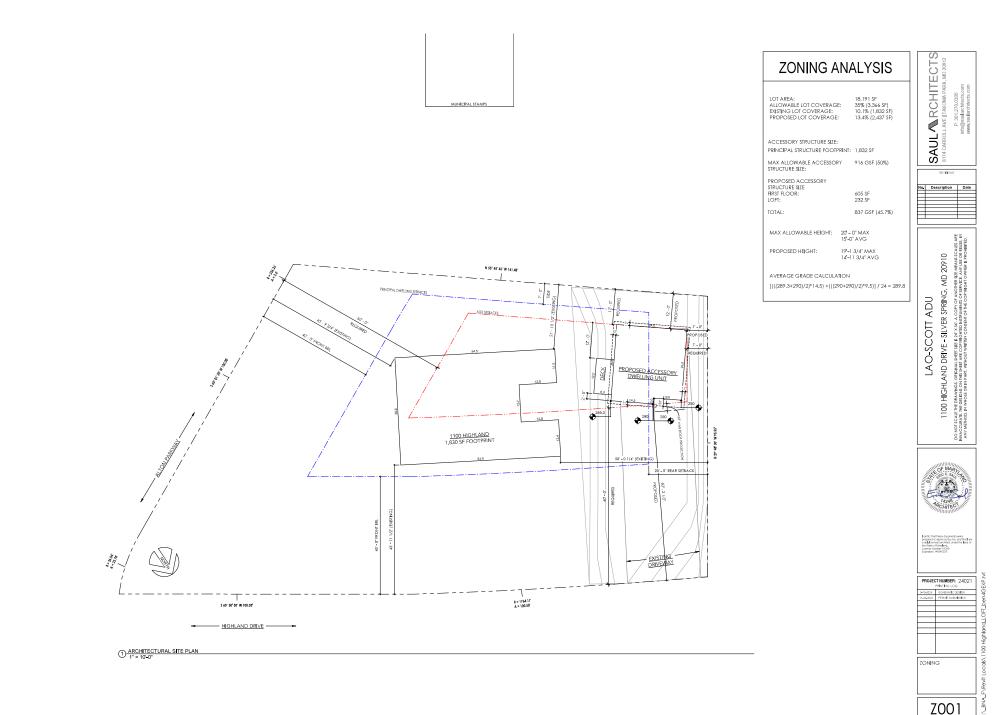
#### Conclusion

Petitioner submits that the subject application meets the evidentiary requirement of demonstrating the subject property's unique and unusual situation when compared to adjoining properties and the current neighborhood; and that this uniqueness causes the zoning requirements to disproportionately impact the reasonable use and enjoyment of this property, thus creating a practical difficulty.

Respectfully submitted,

Enic Sal

Eric C. Saul, Architect 8114 Carroll Ave Takoma Park, MD 20912 Phone: 301.270.0395 <u>eric@saularchitects.com</u> Agent for Petitioner



12/3/2024 11:09:11 AM





DEPARTMENT OF PERMITTING SERVICES

Marc Elrich *County Executive*  Rabbiah Sabbakhan Director

### BUILDING PERMIT DENIAL

The Department of Permitting Services cannot issue a building permit for the property indicated below without a variance from the Montgomery County Board of Appeals.

NAME:	LAO-SCOTT CHRISTOPHER J		
	LAO-SCOTT CHRISTINE G		
ADDRESS:	1100 HIGHLAND DR		
	SILVER SPRING, MD 20910		
LOT <b>-</b> BLOCK	K: P28 - J2		ZONE: R-60
THE VARIAN	ICE REQUEST IS FOR		
Ν	EXISTING STRUCTURE	Y	PROPOSED STRUCTURE
Ν	NON-CONFORMING	Ν	NON-COMPLYING
Ν	NEW SINGLE-FAMILY DWELLING		
TYPE OF CO	STRUCTION:		
Ν	ROOM ADDITION	Ν	SWIMMING POOL
Ν	PORCH	Ν	DECK
Ν	SHED	Ν	FENCE/RETAINING WALL
Y	ACCESSORY STRUCTURE	Ν	GARAGE/CARPORT
Y	OTHER – DETACHED ACCESSORY DV	VELLING	G UNIT

The proposed construction requires a 1.00 ft. variance as it is within 7.00 ft. of the right lot line.

The required setback is 8.00 ft. in accordance with Section 59-4.4.9.B.2. & Section 59-3.3.3.C.2.c.

The proposed construction requires variance as it is on the side of the principal building.

The required location is that any accessory structure must be located behind the rear building line of the principal building in accordance with Section 59-4.4.9.B.2.a.

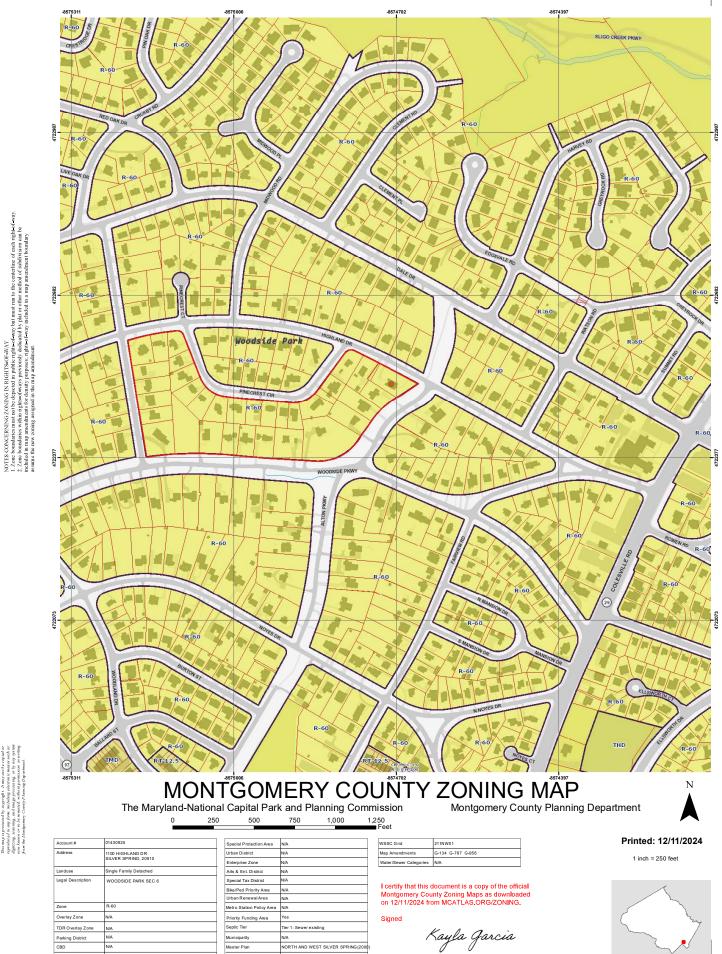
The proposed construction is a Detached Accessory Dwelling Unit.

<u>12/10/2024</u>

Signature

Date

Exhibit 6



Parcel, Lot, Block

N/A, P28, J2

Historic Site/Distri

N/A

Exhibit 7

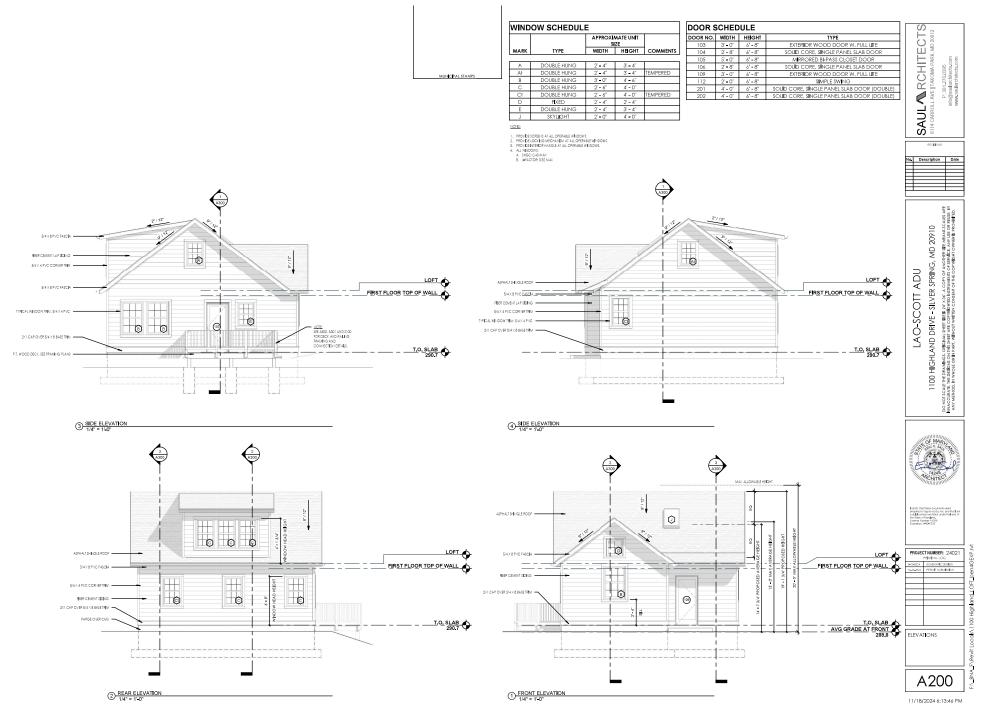
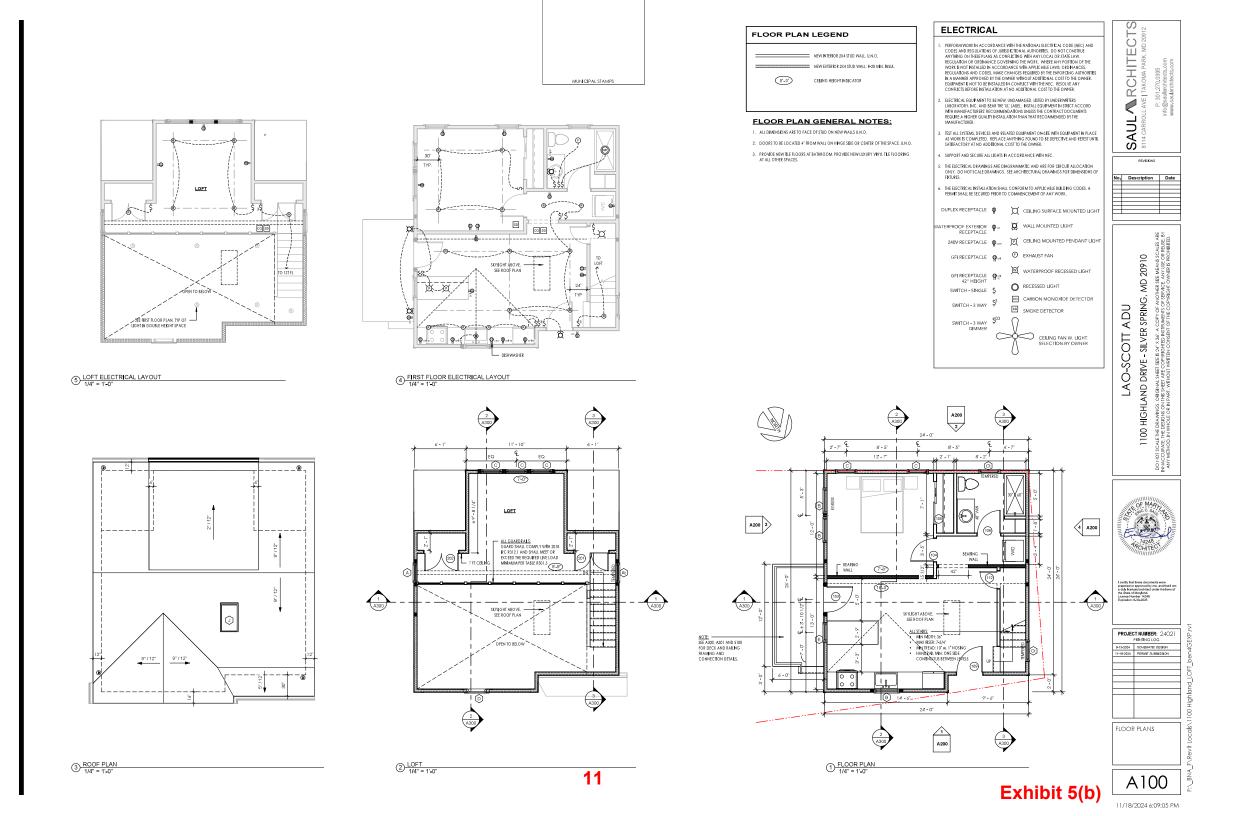


Exhibit 5(a)

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#### CASE NO. A-6904

#### PETITION OF CHRISTINE LAO-SCOTT

#### EXHIBIT LIST

- 1. Application
- 2. List of adjoining/confronting property owners
- 3. Statement of Justification
- 4. Site Plan
- 5. (a) Elevations Plans (b) Floor Plans (c) Photograph
- 6. DPS building permit denial
- 7. Zoning Vicinity Map
- 8. (a) Envelope showing date notice mailed(b) Notice of hearing scheduled for March 5, 2025

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11.	 	
13.	 	
14.	 	
15.	 	

Real Property Data Search () Search Result for MONTGOMERY COUNTY

View Map	View GroundRent Redemption View Ground			w GroundRent	dRent Registration	
Special Tax Recaptur	e: None					
Account Number:	District - 13	3 Account Identifier	- 01430925			
		Owner Informa	ation			
Owner Name:		T CHRISTINE G T CHRISTOPHER J	Use: Principal Re		DENTIAL	
Mailing Address:		LAND DRIVE RING MD 20910	AND DRIVE Deed Reference:		/49518/ 00387	
	Locatio	on & Structure	Informatio	on		
Premises Address:	1100 HIGH SILVER SP	LAND DR RING 20910-0000	Legal Descr	iption: WOO	DSIDE PARK SEC 6	
Map: Grid: Parcel: No JP31 0000 0000 13	eighborhood: Subo 3060162.16 0162		Block: Lot: A		ar: Plat No: Plat Ref: / 358	
Town: None						
Primary Structure Bu	ilt Above Grade Livi	ng Area Finished B	asement Are	a Property Lar	d Area County Use	
1947	1,775 SF	1107 SF		18,191 SF	111	
StoriesBasementType 1 YES STA	Exterio	rQualityFull/Half Ba /4  3 full	thGarage 1 Detached		lajor Improvement	
		Value Informa	tion			
	Base Value	e Value	Phas	e-in Assessme	nts	
		As of 01/01/2025	As of 07/01		As of 07/01/2025	
Land:	388,700	393,200				
Improvements	363,500	543,300				
Total:	752,200	936,500	752,2	200	813,633	
Preferential Land:	0	0				
	-	Fransfer Inform	ation			
Seller: ELLIS MARY C		Date: 12/09/2014			606,000	
Type: ARMS LENGTH		Deed1: /49518/ 00	387	Deed2:	_	
Seller: RICHARD T & I Type: NON-ARMS LEN		Date: 03/06/1998 Deed1: /15604/ 00	567	Price: \$ Deed2:	0	
Seller:		Date:		Price:		
Туре:		Deed1:		Deed2:		
	E	kemption Inform	mation			
Partial Exempt Asses			07/01/2024	07/01	2025	
County:	000		0.00			
	000		0.00			
	000		0.00 0.00	0.00 0	.00	
Municipal:						
State: Municipal: <mark>Special Tax Recaptur</mark>	e: None					
Municipal:	e: None	ead Applicatior	n Informat	ion		

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date: