

Kathleen G. Moody
v.
Town Hall Building (Arthur F. Estabrook/Wm. & John L. Brewster)
and Town of Wolfeboro

Docket No. 3650-87

DECISION

A hearing in this appeal was held, as scheduled, on February 22, 1989. The complainant represented herself. The Town was represented by Mark Puffer, Esq., Chester L. Spinney, Town Assessor, Edward W. Zulauf, Selectman, and H. E. Erickson, Selectmen.

The complainant filed her challenge to the 1987 assessment of the defendant taxpayer pursuant to RSA 71-B:16 (supp.) which states in part: The board may order a reassessment of taxes previously assessed or a new assessment to be used in the current year or in a subsequent tax year of any taxable property in the state:

- I. When a specific written complaint is filed with it, by a property owner, within 90 days of the date on which the last tax bill on the original warrant is sent by the collector of taxes of the taxing district, that a particular parcel of real estate or item of personal property not owned by him has been fraudulently, improperly, unequally or illegally assessed. The board shall consider only one complaint from a property owner for each parcel of land until such time as a reassessment has been made. The complainant shall pay a fee of \$10 for each specific particular parcel or specific item of personal property complained of. The board shall send notice by certified mail to the taxpayer against whose property the complain is made.

The first issue raised by the complainant in the above entitled case was the failure of the defendant taxpayer to timely file the required A-9 form for

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the 1987 tax year. The complainant argued the Town could not properly evaluate the taxpayer's entitlement to an exemption without the A-9 form since it lists the status of the properties on which an exemption is sought.

The Board finds that since Brewster Academy is not tax exempt, the filing of an A-9 form is inappropriate.

The Board finds as follows:

The present Trustees under the will of John Brewster, late of Cambridge, Massachusetts, are Carlton W. Spencer, a resident of Newton, Massachusetts, Arthur J. Mason of Ossippee, New Hampshire, and Lloyd B. Waring of Rockport, Massachusetts. Their trust was established under Mr. Brewster's will, which was admitted to probate by the Middlesex County, (Massachusetts) Probate Court on February, 23, 1986. The Trustees are the owners of land and a building in Wolfeboro, New Hampshire, known as the Wolfeboro Town Hall which is the subject of the complaint by Kathleen Moody. The Trust provides for the use of space in the building by the Town of Wolfeboro, rent free and additional space, originally intended by Mr. Brewster to be leased for income producing purposes is now leased to the Town for its use under an agreement that the Town shall pay the cost of all real estate taxes on the property during its term.

The Board of Tax and Land Appeals rules that the Town of Wolfeboro, as a matter of law, should levy a property tax on the 100% value of the Town Hall Building and render a bill to the owner of record. How the Taxpayer and the Town choose to satisfy the tax obligation under the terms of Brewster Trust and leasehold agreement is a matter beyond the scope of this Board's jurisdiction.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Anne S. Richmond, Esq., Chairman

George Twigg, III, Member

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Wolfeboro

Peter J. Donahue, Member

(Mr. Franklin did not sit.)

Paul B. Franklin, Member

Date: October 2, 1989

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Kathleen G. Moody, the complainant; to the Town Hall Building (Arthur F. Estabrook), the defendant taxpayer; and to Mark Puffer, Esq., Counsel for the Town of Wolfeboro.

Michele E. LeBrun, Clerk

Date: October 2, 1989

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