

Thomas A. Calderone and Sharon M. Calderone

v.

Town of Newmarket

Docket No. 4174-88

DECISION

The Taxpayers appeal their 1988 assessment of \$122,400 (land, \$32,800; buildings, \$89,600) placed on their property located at 10 Stevens Drive.

In its letter of March 13, 1989, the Board indicated that the first issue to be heard would be the question of timely filing with the Town of the Inventory of Taxable Property.

The Taxpayers failed to appear, but consistent with our rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board.

On the timely filing issue, the Taxpayers in their January 29, 1989 letter argued as follows:

In response to your letter dated January 27, 1989, we are providing evidence to the Board that we were unable to comply with the provisions of RSA 74.

The Town of Newmarket has never updated its residence list until recently when we pointed out that our previous address, 3 Stanorm Drive, was an address that we had two years ago, just prior to our moving to 10 Stevens Drive, our current address.

The problem was discovered due to the fact that not only did we not receive our Inventory of Taxable Property, but we never received our 1988 tax bill or our residence tax bill until going to the town offices and requesting them in person. It was at that point that we notified the town that the wrong address was printed on our bill.

The Town stated that no Inventory had been returned for the 1988 tax year. The Town submitted a copy of the deed when the Taxpayer's acquired the property in October of 1986, which indicated the Taxpayers' address as 3 Stanorm Drive, Newmarket, N.H. The Town stated that based on the deed, the 1987 and 1988 Inventories and tax bills were sent to the 3 Stanorm Drive address. They testified that the Taxpayers did not notify the Town of the correct address until after the mailing of the 1988 tax bills. The Town testified that a change of address is made only when corrected by the owner or by the public record created by the recording of a deed.

For the reasons stated below, the Board rules the Taxpayer failed to file their 1988 Inventory and dismisses the appeal.

RSA 74:7-a Penalty for Failure to File.

. . . Any person who fails to file an inventory form and who becomes liable to pay the penalty specified in this section shall lose his right to appeal any matter pertaining to the property tax for which he is liable and his right to appeal any exemptions to which he may be entitled but has not yet received. . . .

RSA 74:8 Extension to Time for Filing.

If a blank inventory is not mailed or hand delivered to any person or corporation before March 25, or if any person is prevented by accident, mistake, or misfortune from returning the same to the selectmen or assessors on or before April 15, such person or corporation may make such return before June 1.

RSA 76:16-a By Board of Tax and Land Appeals.

I. If the selectmen neglect or refuse to so abate, any person aggrieved, having complied with the requirements of RSA 74, . . .

The Board finds that the Taxpayer had a responsibility to keep the Town informed of any change of address. Since the deed did not indicate a change of address, the Town would have had no justification to change the address unless specifically asked to do so by the Taxpayers. Conceivably, the Taxpayer should have been aware that the Town still had an absolute address when their 1987 Inventory and tax bill were apparently forwarded through the mail service.

The statutes are clear that Taxpayers have even with "accident, mistake or misfortune" no later than June 1 of the year in question to file an

inventory.

If that civic duty is not performed, the Taxpayers lose their right of appeal and the Board has no jurisdiction to decide the case on its merits.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue, Member

Paul B. Franklin, Member

Date: February 20, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Thomas A. & Sharon M. Calderone, taxpayers; and the Chairman, Selectmen of Newmarket.

Michele E. LeBrun, Clerk

Date: February 20, 1991

0009