

**James A. Smith and Garrison Condominium Unit Owners and  
John Gibson and Cocheco Condominium Unit Owners  
v.  
City of Dover**

**Docket No. 5603-88**

**DECLARATORY RULING**

A hearing for Declaratory Ruling was held, as scheduled, on July 19, 1989. The petitioners were represented by Peter D. Wenger, Esquire. The City of Dover was represented by Jeffrey Harrington, Finance Director and Dana A. Dean, City Assessor.

The petitioners filed a request for a Declaratory Ruling as to the filing deadline and appeal period for a filing request for tax abatement with the City of Dover, and subsequently the filing deadline with the State Board of Tax and Land Appeals and/or with the Superior Court for the 1988 tax year.

The petitioners argued the City of Dover sent out semi-annual property tax bills for the tax year 1988 and that the second tax billing was finally sent out on April 28, 1989. The petitioners presented evidence the Tax Collector of the City of Dover reported to the Department of Revenue Administration "the final bill covering taxes which were committed to you on the original property tax warrant for 1988" had a final tax bill mailed on April 28, 1989. Mr. Wenger argued for the petitioners the notice of the tax to taxpayers in the taxing jurisdiction is the date the Department of Revenue Administration determines to be the last date of mailing of tax bills by the taxing district, pursuant to RSA 76:16-a.

The City argued the filing period per RSA 76:16 of four months for a tax abatement by the City Assessor begins from the first tax bill mailing date for any given tax year. The City further argued special legislation permits Dover



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to collect its taxes in arrears, with the first payment due in December and the second payment due in June. Ms. Dean stated for the City all of the information for the tax assessment as of April 1st of the tax year is included on the first tax billing sent out by Dover's Tax Collector. The City also argued the determination of the last date of mailing tax bills applies only to the Board of Tax and Land Appeals deadline and not to the abatement application deadline for cities and towns.

The Board finds the last tax bill for purposes of determining dates for deadlines for appeals in writing to Selectmen or Assessors shall be the date the Department of Revenue Administration determines to be the last date of mailing of tax bills by the taxing district as required by RSA 76:16-a. The Board further finds the choice of fiscal year and tax collection schemes were made at the discretion of the City of Dover and facilitated by special legislation passed by the State of New Hampshire General Court. The Board notes three other taxing jurisdictions in the state operate under the same fiscal year and tax collection scheme. The Board takes notice of the City of Dover's assertion that the "window" for tax appeals might be perceived as being extended from four months to ten months. The Board finds those taxing jurisdictions which have opted for the fiscal year and tax collection in arrears scheme have done so with the full knowledge the property tax assessment year runs from April 1st to March 31st of the following year. The Board finds taxpayers rights of appeal should not be abrogated by the public policy choices of the taxing jurisdictions' citizens and officials.

The Board rules the timelines for appeal to Selectmen or Assessors are governed by the notice of the tax and the notice of such tax is the date as determined by the Department of Revenue Administration and is based on the last date of mailing of tax bills by the taxing district. The Board further rules the last date of mailing is the date the last and final tax bill for the

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assessment year is mailed for the taxing district. The Board therefore rules the deadline for appealing tax assessments to the Assessing Officials of the City of Dover for the property tax year 1988 is August 28, 1989 and the deadline for appealing tax assessments pursuant to RSA 76:16-a to the Board of Tax and Land Appeals is October 30, 1989.

All sitting members concurred.

Date:

I certify that copies of the within Ruling have this date been mailed, postage prepaid, to Peter D. Wenger, Esq., counsel for James A. Smith and Garrison Condominium Unit Owners and John Gibson and Cocheco Condominium Unit Owners, taxpayers; and Chairman, Board of Assessors of Dover.

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Michele E. LeBrun, Clerk

Date:

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