

Strafford County Pre-Natal and Family Planning Program

v.

City of Dover

Docket No. 7877-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" denial of an RSA 72:23 V Charitable Exemption for tax year 1989. For the reasons stated below, the appeal is denied as being untimely filed. Furthermore, even if the appeal were timely filed, the appeal would have been denied.

TIMELY FILED

Under RSA 76:16-a, appeals to the board must be filed within six months after the notice of tax. "`Notice of tax` means the date the department of revenue administration [(DRA)] determines to be the last date of mailing of tax bills by the taxing district." The DRA set the City's notice-of-tax date as November 3, 1989. This date was set based on the City's mailing of a tax bill that stated the total 1989 taxes. The tax bill also stated abatement requests must be made from the November, 1989 bill. Thus, the Taxpayer's appeal should have been filed with the board by May 3, 1990. The Taxpayer, however, argued the notice-of-tax date should be the date on the second 1989 tax bill that was sent to the Taxpayer in May, 1990. The Taxpayer asserted the second bill should be used as the starting date because the Taxpayer did not purchase the property until February, 1990, and thus, it did not receive notice of the first tax bill.

Based on the facts and the law, we find the Taxpayer did not timely file

the appeal with the board. The DRA set the notice-of-tax date as November 3, 1989, and the statutory deadlines must be calculated from that date. The City's billing cycle differs from other municipalities, but the November bill stated the full amount of taxes due on the property. Thus, the aggrieved person must file an appeal from that tax bill. Since the property's seller did not file an appeal, after the first bill, the board has no jurisdiction over this matter. Moreover, even if the prior owner had filed a timely appeal, that appeal would be on different grounds than the Taxpayer's appeal. The prior owner would have

simply been appealing over assessment. Whereas, the Taxpayer has attempted to appeal the denial of an exemption. Clearly, the prior owner could not have filed for an exemption.

ENTITLEMENT TO EXEMPTION

Even if the board had treated this appeal as timely filed, the board would have denied the appeal, since the Taxpayer did not own the property on April 1, 1989. RSA 76:2 states: "The property tax year shall be April 1, to March 31, and all property taxes shall be assessed on the inventory taken in April of that year." An exemption can only be granted if the exempt entity owns the property on April 1st of the tax year. The Town or the board can prorate the taxes based on the length of the tax-exempt entity's ownership, occupancy and use. In this case, the Taxpayer did not acquire the property until February, 1990, and thus, the Taxpayer was not entitled to the charitable exemption for any part of 1989 since the property was owned by a nonexempt entity on April 1, 1989.

TAXPAYER'S REQUESTS FOR FINDINGS OF FACT & RULINGS OF LAW

1. Granted
2. Granted
3. Granted
4. Granted¹
5. Neither Granted nor Denied
6. Neither Granted nor Denied
7. Granted
8. Granted
9. Granted
10. Granted
11. Granted
12. Granted
13. Granted
14. Neither Granted nor Denied
15. Granted
16. Granted
17. Granted
18. Granted

¹The Taxpayer made much of the policy statement concerning the proration of taxes. That statement has nothing to do with the legal requirements concerning appealing taxes or seeking an exemption. The statement is nothing more than a policy that does not bind seller, buyer, municipality or this board.

19. Granted
20. Granted
21. Denied as to 1989
22. Granted

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I certify that copies of the foregoing decision have this date been mailed, postage prepaid, to M. Betts Davis, Esq., counsel for the Strafford County Pre-Natal and Family Planning Program, taxpayer; and the Chairman, Board of Assessors of Dover.

Valerie B. Lanigan, Clerk

Date:

0009