**Guy W. Parker**

**v.**

**Town of Westmoreland**

**Docket No.: 13640-92PT**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of $300,700 (land $81,500; buildings $219,200) on a 6.9-acre lot with a boarding home (the Property). For the reasons stated below, the appeal for abatement is granted.

This appeal raises a legal question for which there is a clear answer. The Property was owned on April 1 by an exempt entity, and the Property was being used by that entity for an exempt purpose. Thus, on April 1, 1992, the Property was tax exempt. The board was not provided with any information to demonstrate that the prior owner was not entitled to the exemption on April 1, 1992. The Taxpayer purchased the Property in July 1992, and the Town then assessed the Property and taxed the Taxpayer in 1992. The board concludes that because the Property was owned and used by a tax-exempt entity on April 1, 1992, the Town erred by taxing the Taxpayer who purchased the Property after April 1, 1992.

The board's decision here is based on reading the several assessing statutes that establish the April 1 tax date. E.g., RSA 74:1, 2; RSA 76:2; RSA 75:8; RSA 72:23-c. All of these statutes reflect the April 1 assessment date, and there is no provision for proration of any changes that occur after April 1, except for manufactured housing that is brought into a municipality after April 1. RSA 72:7-a I-a. Because the assessing and taxing statutes do not generally allow proration, the Town was incorrect in taxing this Property even though it was conveyed by an exempt entity to a nonexempt entity during the tax year.

If the taxes have been paid, the total amount paid in 1992 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within thirty (30) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or in law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are

limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Guy W. Parker, Taxpayer; and Chairman, Selectmen of Westmoreland.

Dated: October 18, 1995

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Valerie B. Lanigan, Clerk