

**Renee Mitchell**

**v.**

**Town of Cornish**

**Docket No.: 15917-95EX**

**DECISION**

The "Taxpayer" seeks an RSA 72:38-a lien for tax year 1995. For the reasons stated below, the board grants the lien.

The "Town" agreed the Taxpayer, individually, met all of the RSA 72:38-a requirements to be eligible for the disability lien. The Town, however, was concerned that the Taxpayer owned the Property jointly with Nancy Noll (Noll), and Noll had not joined in the application. Specifically, the Town was unsure about whether one joint owner (the Taxpayer) could request a lien, and if so, whether the Town would be adequately protected should the other joint owner (Noll) who did not apply for the lien object at some point to the lien. This same issue was raised in Renee Mitchell v. Town of Cornish, BTLA Docket Nos.: 14982-93EX and 15026-94EX. The Town has a legitimate concern, and thus, the board asserted jurisdiction over Noll and had her served with an order concerning the board's assertion of jurisdiction. Noll, who is also disabled and of limited means, has objected to the lien request, but she did not provide any basis for the board denying the lien.

Based on the above, the board finds the Taxpayer is entitled to the RSA 72:38-a disability lien subject to the provisions of RSA 72:38-a. In making this order, the board, having jurisdiction over the Taxpayer through this appeal and having jurisdiction over Noll through proper service and notice, orders that the lien shall apply to both the Taxpayer's and Noll's interest in the Property.

The Town may record a copy of this order with the lien at the registry of deeds. Upon the Town's request, the board will certify this order to the superior court, pursuant to RSA 71-B:13, and the superior court shall then enter final judgement, allowing the Town to obtain and record a copy of a superior court judgement should the Town conclude a board decision is insufficient to protect its interests.

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

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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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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

**Certification**

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Laura J. Milliken, Esq., counsel for Renee Mitchell; Michael A. Fuerst, Esq., counsel for the Town of Cornish; and Nancy Marie Noll.

Dated: February 29, 1996

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Valerie B. Lanigan, Clerk



Renee Mitchell

v.

Town of Cornish

Docket No.: 15917-95EX

**ORDER OF NOTICE FOR NANCY MARIE NOLL**

The New Hampshire Board of Tax and Land Appeals has received an appeal from Renee Mitchell (copy attached) who is seeking a disability tax lien pursuant to RSA 72:38-a (copy attached) for tax year 1995 on property owned by Mitchell and Noll. The board is serving this notice on you:

- 1) because the board has ordered that you be a named party; and,
- 2) to provide you with an opportunity to participate in the proceedings and to raise any issues you would like to raise.

**If the board grants Mitchell's request for the lien, the lien would affect your rights in the property.**

You are ordered to respond to this notice by notifying the board in writing that you wish to participate in this proceeding. Your notification must be made to the board in writing no later than February 12, 1996. If you fail to so notify the board, you will be finally defaulted, and the board will

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proceed without your input. This means that if the board grants the RSA  
72:38-a lien, that lien would also affect your rights.

**FAILURE TO ACT ON THIS NOTICE COULD ADVERSELY AFFECT YOUR RIGHTS.**

If you have any questions please contact the undersigned.

BOARD OF TAX AND LAND APPEALS

Dated: January 9, 1996

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Valerie B. Lanigan, Clerk

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this  
date, postage prepaid, to Laura J. Milliken, Esq., counsel for Renee Mitchell,  
Taxpayer; Nancy Marie Noll, Taxpayer (certified mail); and a courtesy copy to  
Michael A. Fuerst, Esq.; and Chairman, Board of Selectmen for Cornish.

Dated: January 9, 1996

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Valerie B. Lanigan, Clerk