

**Carolyn A. Brown
Taylor River Twenty-Eight Realty Trust**

v.

Department of Revenue Administration

Docket No.: 18074-99HR

FINAL ORDER

This order responds to the statement filed in accordance with the board's August 23, 2000 order. The board ordered the parties to file statements as to why this appeal should not be dismissed due to untimely filing. The "Taxpayer" did not file a statement. The department of revenue administration ("DRA") filed its statement on September 7, 2000. Based on the evidence contained in the file, the board dismisses the appeal because the Taxpayer's Education Property Tax Hardship Relief Application ("Application") was not filed in accordance with RSA 198:51, VI.

AUTHORITY

When reviewing the DRA's determination, the board's RSA 198:54, II authority is limited to errors of law or when the board finds the commissioner's actions to be arbitrary or unreasonable. This matter involves a timely filing issue. The requirement for timely filing is in the nature of a statute of limitations and, thus, further appeal to the board is precluded. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's powers are entirely statutory); Arlington American Sample Book Company v. Board of Taxation, 116 N.H. 575, 576 (1976) (untimely

appeal barred); see also Daniels v. B & J Realty, 134 N.H. 174, 176 (1991) (administrative boards do not have the authority to extend statutory deadlines). If the law clearly prescribes a filing deadline, the board must apply that deadline without exception because it lacks the authority to waive a deadline for any reason. In this case, the deadline to file with the DRA was June 14, 2000. The Taxpayer's Application was received by the DRA on June 24, 2000; therefore, the board must deny the appeal.

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(a). 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(f). 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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Douglas S. Ricard, Member

CERTIFICATION

I hereby certify that copies of the foregoing order have this date been mailed, postage prepaid, to Carolyn A. Brown, Taxpayer; and Ms. Jan M. Wickens, Hardship Relief Bureau Manager, Department of Revenue Administration.

Dated: September 22, 2000

Lynn M. Wheeler, Clerk

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