

Nancy A. and Joseph R. Gobbi

v.

Department of Revenue Administration

Docket No.: 18143-99HR

ORDER

The “Taxpayers” appeal, pursuant to RSA 198:54, the department of revenue administration’s (“DRA”) April 26, 2000 denial of the Taxpayers’ Education Property Tax Hardship Relief Application (“Application”) because it was filed past the February 15, 2000 deadline.

CHRONOLOGY

Based on the documents in the file, the board finds the chronology of events is as set forth below.

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| December 9, 2000 | The Taxpayers filed the Application with the DRA. |
| January 6, 2000 | DRA returned the Application because it was incomplete, <u>i.e.</u> , the Taxpayers did not attach copies of the 1998 property-tax bills. The DRA requested the Taxpayers return these items within 10 days or the Application would be denied. The form is mailed to the Taxpayers’ Portsmouth, NH address. |
| January 7, 2000 | The United States Post Office returned the January 6, 2000 letter to the DRA instead of forwarding it to the Taxpayers in Florida. |

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February 1, 2000	The DRA remails the Application to the Taxpayers, requesting the required items be returned within 10 days on a form dated January 28, 2000. The form is mailed to the Taxpayers' Florida address.
February 19, 2000	The Taxpayers resubmitted the Application with the 1998 property-tax bill.
March 15, 2000	The DRA denied the Application on the grounds that it was untimely.
April 12, 2000	The Taxpayers filed an appeal with this board under RSA 198:54,I.

BOARD'S AUTHORITY

The board's authority over education property tax relief appeals is contained in RSA 198:54, II, which states the board, "may reverse, wholly or partly, or may modify the decision brought up for review when there is an error of law or when the board finds the commissioner's action to be arbitrary or unreasonable."

In this matter, the board finds DRA's actions to be unreasonable. First, the Taxpayers initially filed the Application with the DRA, and it was timely. The DRA received the Application within the statutory 60-day period but returned the Application for additional documents, which it was correct in doing. However, it is unclear exactly when the Taxpayers received the second notification. Due to post office delays in receiving the notification, the Taxpayers were unable to return the information until February 19, 2000.

Given the Taxpayers' good-faith efforts to return the Application and supporting documents in a timely manner, in conjunction with the fact that the initial Application was timely, the board finds the DRA's denial was unreasonable. The DRA failed to consider the extenuating circumstances beyond the Taxpayers' control which excused their inability to comply with the DRA's 10-day request.

Board's Rulings

The board hereby reverses the DRA's decision and remands the matter to the DRA for a substantive determination of the Taxpayers' Application. The DRA shall review the file and make a determination within 30 days of the date of this order. The Taxpayers shall, upon receipt of DRA's ruling, notify this board in writing whether it is still necessary to proceed with the appeal.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Douglas S. Ricard, Member

Albert F. Shamash, Esq., Member

CERTIFICATION

I hereby certify that copies of the foregoing order have this date been mailed, postage prepaid, to Nancy A. and Joseph R. Gobbi, Taxpayers; and Jan M. Wickens, Hardship Relief Bureau Manager, Department of Revenue.

Dated: June 15, 2000

Lynn M. Wheeler, Clerk