

David and Barbara Somero
v.
Department of Revenue Administration
Docket No.: 20725-05ID

--

Paul and Jayne Somero
v.
Department of Revenue Administration
Docket No.: 20726-05ID

ORDER

The board has reviewed the “Taxpayers” July 6, 2006 “Motion for Reconsideration” (“Motion”)¹ of the board’s May 11, 2006 “Decision” in these appeals and the department of revenue administration’s (“DRA”) July 12, 2006 “Objection” to the Motion. The Motion is denied.

The Objection makes two arguments that (1) the Motion is untimely and (2) it is without merit. On the timely filing issue, the last paragraph of the Decision clearly states any reconsideration motion must be filed within 30 days of the May 11, 2006 Decision and the clerk’s certification indicates the Taxpayers’ attorney (Kenneth R. Goldberg, Esq.) was duly served. In his July 6, 2006 letter, Attorney Goldberg states he did not receive the Decision “until

¹ The Motion received by the board consists of three full pages and was accompanied by a signed July 6, 2006 transmittal letter. Page 3 of the Motion ends with a full paragraph, but there is no closing, signature or certification on any additional page, as is customary in pleadings, raising questions regarding its completeness.

June 6, 2006,” when, upon inquiry to the board, a copy was sent to him electronically. He then waited an additional 30 days to file the Motion. The DRA correctly notes, as stated in the Decision, the 30 day time period runs from the “clerk’s date . . . not the date this decision is received.” (Emphasis in original Decision.)

Even though there is no satisfactory explanation given for the delays noted above, and the DRA’s “untimeliness” argument may be an alternate ground for denial of the Motion, the lack of merit in the Motion itself makes the timely filing issue moot. In brief, the board finds no “good reason” to grant the Motion because the Taxpayers have not met their burden of proving the board “overlooked or misapprehended the facts or the law” in these appeals. See RSA 541:3 and TAX 201.37(d). Each of the issues presented in the Motion was also presented at the hearing and was considered and ruled on by the board; consequently, the board finds no ‘error’ requiring reconsideration of the Decision.

Any appeal of the Decision must be by petition filed with the supreme court within 30 days of the clerk’s date shown below. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Michele E. LeBrun, Member

Douglas S. Ricard, Member

Albert F. Shamash, Esq., Member

Page 3 of 3

Case Name: David and Barbara Somero, et al.

Docket Nos.: 20725-05ID and 20726-05ID

Certification

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Kenneth R. Goldberg, Esq., Brown Rudnick, One Financial Center, Boston, MA 02111, representative for the Taxpayers; and Michael R. Williams, Esq., State of New Hampshire Department of Revenue Administration, 45 Chenell Drive, Concord, NH 03301, counsel for DRA.

Date:

Anne M. Stelmach, Clerk