

Edmund L. and Gabrielle T. Portyrata

v.

Department of Revenue Administration

Docket No.: 23966-07LM

DECISION

On November 7, 2008, the board received the “Taxpayers” Low and Moderate Income Homeowner’s Property Tax Relief appeal of the department of revenue administration’s (“DRA”) denial. The DRA denied the claim because the Taxpayers did not reserve a beneficial interest for life in the irrevocable trust.

Pursuant to RSA 198:57, III(a), claimants eligible for hardship relief must own a homestead or interest in a homestead. RSA 198:56, II(c), defines homestead as “the dwelling owned by the claimant ... and a person who has equitable title, or the beneficial interest for life in the homestead.”

Based on RSA 198:56, II(c), the statutory definition of homestead, the trust document dated September 18, 1995, and the Taxpayers’ response, the appeal is hereby dismissed.

A motion for reconsideration 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 reconsideration motion must state with specificity all of the reasons supporting the request. RSA 541:4; Tax 201.37(b). A reconsideration motion is granted only if the moving party

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establishes the board's decision was erroneous in fact or law. Filing a reconsideration motion is a prerequisite for appealing to the supreme court, and the grounds for appeal will be limited to those stated in the reconsideration motion. RSA 541:6.

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 copies of the foregoing Decision have this date been mailed, postage prepaid, to: Edmund L. & Gabrielle T. Portyrata, 177 Exeter Road, Newmarket, NH, 03857, Taxpayers; and Michael R. Williams, Esq., 109 Pleasant Street, Concord, NH 03301, counsel for the New Hampshire Department of Revenue Administration.

Dated: March 4, 2009

Anne M. Stelmach, Clerk