

Rose L. Galloway

v.

Department of Revenue Administration

Docket No.: 24004-08LM

ORDER

The “Taxpayer” appeals, pursuant to RSA 198:57, the department of revenue administration’s (“DRA”) determination of the Taxpayer’s Low and Moderate Income Homeowners Property Tax Relief Application (“Application”). The DRA reduced the amount of relief because: 1) the information received with the Application indicated the applicant is not the sole owner of the primary residence; and 2) the Taxpayer’s 2007 adjusted gross income exceeded the limits contained in RSA 198:57, III(c).

RSA 198:57, V, states “[i]f a homestead is owned by 2 or more persons as joint tenants or tenants in common, and one or more of such joint owners do not principally reside at such homestead, tax relief applies to the proportionate share of the homestead value that reflects the ownership percentage of the claimant. Only one claim may be filed for a single homestead.” (Emphasis added.)

Pursuant to RSA 198:57, III(c) “an eligible tax relief claimant is a person who... [r]ealizes total household income of \$20,000 or less if a single person; [and] (2) \$40,000 or less if a married person or head of a New Hampshire household.” Furthermore, RSA 198:56, III states, in part, that “household income” means the sum of the adjusted gross

income for federal income tax purposes of the claimant and any adult member of the claimant's household who resides in the homestead for which a claim is made.”

Pursuant to RSA 198:60, II and upon reviewing DRA's determination, the board's authority is limited to errors of law or when the board finds the commissioner's actions to be arbitrary or unreasonable.

Based on the joint ownership provisions of RSA 198:57, V, and the income provisions of RSA 198:57, III(c), the board orders the parties to provide a written statement, within twenty (20) days of the clerk's date below, as to why this appeal should not be dismissed without a hearing. Both parties' statements shall be copied to opposing parties in accordance with board rule Tax 201.14, and the statements shall certify this was done. Upon receipt of the statements, the board will issue its ruling.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Albert F. Shamash, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Rose L. Galloway, 92 Back River Road, Dover, NH 03820, Taxpayer; and Michael R. Williams, Esq., Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301, counsel for DRA.

Dated:

Melanie J. Ekstrom, Deputy Clerk