

Michael R. Timothy

v.

Department of Revenue Administration

Docket No.: 24026-08LM

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 the information received with the Application indicated the applicant is not the sole owner of the primary residence.

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 198:60, 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, 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.

The board received the Taxpayer's July 22, 2009 request to not attend any scheduled hearing regarding his appeal. The board grants this request and any evidence he wishes to submit can be in writing.

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: Michael R. Timothy, 8 Coffin Hill Road, Lempster, NH, 03605, 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