

Donna and James Cataldo, II

v.

Department of Revenue Administration

Docket No.: 24723-08LM

DECISION

On December 7, 2009, the board received the “Taxpayers” appeal of the department of revenue administration’s (“DRA”) denial of its Low & Moderate Income Homeowner’s Property Tax Relief Application. The DRA denied the claim because it was filed on October 5, 2009 after the deadline of June 30, 2009.

In its December 22, 2009 Order, the board quoted RSA 198:57, VI, (a) and asked the parties to submit written statements regarding whether the timeline set forth in this statute for a “complete” application for state tax relief should be extended due to accident, mistake or misfortune. Upon review of the statements submitted, however, the board finds the Taxpayers did not submit a “complete” application by November 1 (following the due date on the final tax bill), the extended date provided in this statute when accident, mistake or misfortune is claimed to exist that would prevent a filing by June 30. As noted in the detailed January 11, 2010 submission of the DRA, and not disputed by the Taxpayers, a complete application was not filed by the Taxpayers until November 7, 2009 and the application was rejected by the DRA as untimely on November 13th. In these circumstances, the board finds no statutory basis exists for granting the appeal and it is therefore 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 establishes the Board's order 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 a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Donna and James Cataldo, II, PO Box 35, Northfield, NH 03276, Taxpayers; and Peter M. Colbath, CPA, Assistant Director, Document Processing, Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301.

Date: January 26, 2010

Anne M. Stelmach, Clerk