

Camp Glen Brook

v.

Town of Marlborough

Docket No.: 23997-09EX

ORDER

The board has reviewed the Motion for Rehearing (“Motion”) filed by the “Taxpayer” regarding the board’s dismissal of this exemption appeal for lack of jurisdiction. The July 9, 2009 suspension order is dissolved and the Motion is denied for the following reasons.

Rehearing motions are governed by RSA 541:3 and Tax 201.37 and require “good reason” in order to be granted, but no good reason has been shown. The Taxpayer’s obligation to file a timely “A-12” form with the “Town” by June 1, 2009 (for a tax year 2009 exemption) predates and is independent of any “misunderstanding” the Taxpayer’s representative may have had when he was considering whether to file a charitable exemption appeal with the board following the denial of the exemption by the Town.

It is illogical to conclude, based on a fair reading of the statute, RSA 72:23, VI, and the wording on the Form A-12 itself (a form the legislature directed the board to

create), that an entity seeking a charitable exemption for a specific tax year can wait until June 1 of the following year to supply the municipality with basic financial information on which to decide whether the entity is eligible for a charitable exemption.

The form is clear in indicating the information should be filed with the municipality, not the board, and the statute gives the municipality the right to have this completed form and “such other information as may be necessary to establish (the applicant’s) status and eligibility for tax exemption.” RSA 72:23, VI. As noted, it is illogical to conclude, based on considering the entire wording of the statute, that the A-12 form need only be applied after the town has determined the “status and eligibility for tax exemption.” The A-12 and financial forms required certainly could shed light on whether the requirements of RSA 72:23-1 have been met including whether there is any “pecuniary profit or benefit to its officers or members....”

Loss of jurisdiction and denial of the exemption appeal result when the applicant fails to file the Form A-12 by June 1 of the year in which the exemption is sought, regardless of any claim of accident, mistake or misfortune or other “mitigating factors.” Huggins Hospital v. Town of Alton, BTLA Docket No. 20248-03EX (May 27, 2005); and Connecticut River Watershed Council, Inc. v. Town of Cornish, BTLA Docket No. 12738-92EX (August 17, 1993).

Whether an entity is seeking a charitable exemption for the “first time,” or a renewal of an exemption already granted, the law is clear the information prescribed by the statute must be provided so the municipality can consider it and grant or deny the exemption on a reasoned and timely basis, rather than being forced to act on the

exemption application without necessary information (because the applicant chooses to delay completing and filing the Form A-12 with the municipality until the next year).

In further response to the Motion, the board notes the language at issue must be read in the context of the entire statute and the statutory scheme as a whole, not simply by looking at isolated words or phrases. Pennelli v. Town of Pelham, 148 N.H. 365, 366 (2002); Barksdale v. Town of Epsom, 136 N.H. 511, 514 (1992); and Great Lakes Aircraft Co. v. City of Claremont, 135 N.H. 270, 277 (1992). In addition, a statute should not be construed to lead to an illogical or absurd result. Foster v. Town of Henniker, 132 N.H. 75, 82 (1989); and Appeal of Geekie, 157 N.H. 195, 201-02 (2008).

Although denied an exemption for tax year 2009 by the Town, the Taxpayer can, of course, apply again in a future year.

For these reasons, the Motion is denied. Any appeal must be by petition to the supreme court filed within thirty (30) days of the Clerk's date shown below. 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

Camp Glen Brook v. Town of Marlborough

Docket No.: 23997-09EX

Page 4 of 4

CERTIFICATION

I hereby certify a copy of the foregoing Order has been mailed this date, postage prepaid, to: Twain Braden, Camp Glen Brook, 35 Glen Brook Road, Marlborough, NH 03455, Taxpayer's representative; and Chairman, Board of Selectmen, Town of Marlborough, P.O. Box 487, Marlborough, NH 03455.

Dated: August 4, 2009

Melanie J. Ekstrom, Deputy Clerk