

**Shirley J. Schneider**

**v.**

**Department of Revenue Administration**

**Docket No.: 25433-09LM**

**DECISION**

On November 22, 2010, the board received the “Taxpayer’s” Low and Moderate Income Homeowner’s Property Tax Relief appeal of the department of revenue administration’s (“DRA”) denial. The DRA denied the application because the Taxpayer did not hold a beneficial interest for life in the 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 waiver in the trust document dated October 29, 2007, and the DRA’s response, the board finds the Taxpayer does not have an “equitable title or the beneficial interest for life in the homestead” and the appeal is hereby dismissed.

Any party seeking a rehearing, reconsideration or clarification of this Decision must file a motion (collectively “rehearing motion”) within thirty (30) days of the clerk’s date below, not the date this decision is received. RSA 541:3; Tax 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; Tax 201.37(b). A rehearing motion is granted only if

the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or in law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule Tax 201.37(g). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial with a copy provided to the board in accordance with Supreme Court Rule 10(7).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Chairman

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Michele E. LeBrun, Member

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Douglas S. Ricard, Member

**CERTIFICATION**

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Shirley J. Schneider, 44 Kerrie Court, Moultonborough, NH 03254, Taxpayer; and Peter M. Colbath, CPA, Assistant Director, Document Processing, Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301.

Date:

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Anne M. Stelmach, Clerk