

George R. Stanley

v.

Department of Revenue Administration

Docket No. 25446-09LM

DECISION

The board has reviewed the parties' statements filed in response to the February 8, 2011 Order. That order directed the parties to submit written statements regarding whether this appeal should be dismissed without a hearing. For the reasons set forth in the statement of the department of revenue administration ("DRA"), the appeal is dismissed.

In brief, the board finds the DRA did not commit any error of law or engage in arbitrary or unreasonable action when it determined the "Taxpayer" did not qualify for any Low and Moderate Income Homeowners Property Tax Relief for tax year 2009. See RSA 198:60, II. By the time of his application for that tax year, the Taxpayer no longer owned the property, having transferred full ownership (via a Quitclaim Deed dated February 7, 2008 and subsequently recorded) to a limited liability company ("LLC"). On the facts presented and under the statutes and regulation cited by the DRA, the Taxpayer is not eligible for this tax relief. See RSA 198:57, III (a); RSA 198:56, II; and Rev 1201.03. The Taxpayer's counter-arguments regarding the "Declaration of Homestead" he signed in March, 2008 and the claim that he is the sole member of the LLC now owning the property do not change the outcome of this appeal.

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

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 been mailed this date, postage prepaid, to: George J. Stanley, 469 Hillsboro, Berlin, NH 03570, Taxpayer; and Kathryn Skouteris, Esq., 109 Pleasant Street, Concord, NH 03301, counsel for DRA.

Dated: March 3, 2011

Anne M. Stelmach, Clerk

George R. Stanley

v.

Department of Revenue Administration

Docket No. 25446-09LM

ORDER

The “Taxpayer” filed a March 7, 2011 “rehear[ing]” and “clarification” motion (“Motion”) of the board’s March 3, 2011 Decision. The Motion is denied for the following reasons.

The requirements for granting a rehearing or clarification motion are stated in RSA 541:3 and Tax 201.37. While the Taxpayer appears to have some understanding of these requirements, the board does not agree the Motion has met the burden of establishing what is necessary for either rehearing or clarification. For example, the Motion does not submit any “new evidence” not previously available to the Taxpayer prior to the issuance of the Decision. See Tax 201.37(g).

The board is aware, and noted in the Decision, that the Taxpayer is the “sole member” of the limited liability company (“LLC”) who is the legal owner of the “Property.” Ownership by the LLC, rather than by the Taxpayer, is a proper ground for denial of the relief he seeks and is neither arbitrary nor unreasonable, as the board specifically found in the Decision. Simply referencing a “Berlin District Court” case (naming the Taxpayer as a defendant) is not a basis for rehearing or clarification; nor is the fact, assumed by the board in its Decision, that the Taxpayer has lived, and continues to live, on the Property.

Any appeal of the Decision must be by petition to the supreme court filed within 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, Member

CERTIFICATION

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to:
George J. Stanley, 469 Hillsboro Street, Berlin, NH 03570, Taxpayer; and Kathryn E. Skouteris, Esq.,
109 Pleasant Street, Concord, NH 03301, counsel for DRA.

Dated: March 18, 2011

Anne M. Stelmach, Clerk