

State of New Hampshire

Board of Tax and Land Appeals

Michele E. LeBrun, Member
Douglas S. Ricard, Member
Albert F. Shamash, Esq., Member

Anne M. Stelmach, Clerk



Governor Hugh J. Gallen
State Office Park
Johnson Hall
107 Pleasant Street
Concord, New Hampshire
03301-3834

Airport Road 90 Realty, LLC

v.

City of Concord

Docket No.: 25788-10PT

DECISION

The board has received the "City's" October 26, 2011 "Motion to Dismiss" (the "Motion"). The board notes no objection was filed by the "Taxpayer." For all the reasons stated in the Motion the board dismisses this appeal and in further support thereof states the following.

RSA 76:16, III, reads as follows:

The [abatement application] form shall include the following and such other information deemed necessary by the board: * * *
(g) a place for the applicant's signature with a certification by the person applying that the application has a good faith basis and the facts in the application are true.

In harmony with this statute, the board's rule, Tax 203.02(b), states the abatement application: "shall . . . include[] all of the following: * * * (4) The taxpayer's signature on the abatement application certifying that the taxpayer has a good faith basis and the facts contained [in the application] are true." Further, Tax 203.02(d) provides:

The taxpayer shall sign the abatement application. An attorney or agent shall not sign the abatement application for the taxpayer. An attorney or agent may, however, sign the abatement application along with the taxpayer to indicate the attorney's or agent's representation. The lack of the taxpayer's signature and

certification shall preclude an RSA 76:16-a appeal to the board unless it was due to reasonable cause and not willful neglect.

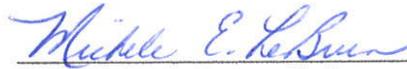
The unsigned application was filed with the Town on February 10, 2011. The lack of the Taxpayer's signature certifying the applicant has a good faith basis for seeking abatement and that facts in the application are true thus precludes an appeal to the board. "[T]he information required by RSA 76:16, III, including the taxpayer's signature and certification that the information submitted is true, affects the right to seek tax relief." Appeal of Wilson, 161 N.H. 659, 663 (2011).

Consequently, the appeal is 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



Michele E. LeBrun, Chair



Douglas S. Ricard, Member

CERTIFICATION

I hereby certify copies of the foregoing Decision have been mailed this date, postage prepaid, to: Carl Chamberlain, P.O. Box 400, Alton Bay, NH 03810, Representative for the Taxpayer; James W. Kennedy, Esq. and Chairman, Board of Assessors, City of Concord, 41 Green Street, Concord, NH 03301.

Dated: *November 30, 2011*



Anne M. Stelmach, Clerk