

Scott A. Chesley d/b/a C. Chesley Food Service, LLC

v.

Department of Revenue Administration

Docket No.: 25457-11MR

ORDER

The board has reviewed the “Taxpayer’s” November 21, 2011 “Motion for Reconsideration And/Or Rehearing” (the “Motion”) of the board’s October 21, 2011 Decision. The suspension Order issued on November 23, 2011 is hereby dissolved. The Motion is denied for the following reasons.

Rehearing motions are governed by RSA 541:3 and Tax 201.37 and are not granted unless the movant demonstrates “good reason” for doing so. The Motion fails to satisfy this standard. The mere fact the “Taxpayer” may disagree with the Decision is not a proper ground for a rehearing.

For example, the Motion is mistaken in its arguments regarding the burden of proof in a tax appeal. The burden does not shift to the department of revenue administration (“DRA”) simply on the basis of recitations in the Motion (without legal citations or other support) of constitutional principles the Taxpayer might believe should govern the appeal. (See, e.g., Appeal

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of Steele Hill Development, Inc., 121 N.H. 881, 884 (1981), cited and discussed on p. 3 of the Decision.) The board finds no reconsideration or rehearing is required regarding this or any of the other issues presented in the Motion. Consequently, the Motion is denied.

Pursuant to RSA 541:6, any appeal of this Order to the supreme court must be filed within thirty (30) days of the date on this Order with a copy provided to the board in accordance with Supreme Court Rule 10(7).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Douglas S. Ricard, Member

Albert F. Shamash, Esq., Member

Certification

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Patrick M. Carron, Esq., 13 Chapel Street, Concord, NH 03301, counsel for the Taxpayer; and Kathryn E. Skouteris, Esq., State of New Hampshire, Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301.

Date: 12/5/11

Anne M. Stelmach, Clerk