

TQS Trust

v.

Town of Plainfield

Docket No. 27122-12PT

DECISION

The board is in receipt of the “Town’s” November 13, 2013 “Motion to Dismiss” (the “Motion”). The “Taxpayer” did not file any objection or other response to the Motion.¹ See Tax 201.18(d) (prescribing such filing must be “within 10 days”). The Motion is granted and the appeal is dismissed for the reasons stated below

Following preliminary review of the Motion, the board issued a November 22, 2013 Order requesting a copy of the complete abatement application filed by the Taxpayer in the Town. The filing of a timely written tax abatement application by March 1 with the Town selectmen is a jurisdictional requirement to filing an appeal with the board. See RSA 76:16; and RSA 76:16-a.

¹ On December 11 and 13, 2013, the board did receive correspondence from Joseph S. Haas mentioning this appeal, but Mr. Haas has never claimed to be an authorized representative of the Taxpayer (designated as a “Trust”). As unauthorized submissions, these documents are not persuasive on the question of whether the Taxpayer’s appeal should be dismissed.

On December 2, 2013, the Town's administrator responded to the board's Order, stating the Town had only received the first two pages of an abatement application ("[n]o pages 3 and 4 are in evidence"). The two pages in the Town's possession lack any Taxpayer signature.

Consequently, the board grants the Motion and dismisses this appeal on several grounds. First, there is no evidence that would permit the board to find the Taxpayer or any authorized representative signed the abatement application. This is a specific statutory requirement. See RSA 76:16, III(g); and Appeal of Wilson, 161 N.H. 659, 663-64 (2011). Further, the board finds the additional arguments for dismissing the appeal stated in the Motion are supported by the authorities and prior board decisions cited by the Town and have merit as additional grounds for dismissal.

For all of these reasons, the appeal is dismissed.

Any motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed 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(f). 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Michele E. LeBrun, Chair

Albert F. Shamash, Member

Concurred, unavailable for signature
Theresa M. Walker, Member

CERTIFICATION

I hereby certify that a copy of the foregoing Decision has this date been mailed, postage prepaid, to: TQS Trust, c/o Dr. Elaine-Alice Brown #039240-49, FCI Aliceville - PO Box 4000, Aliceville, AL 35442, Taxpayer; Town of Plainfield, Chairman, Board of Selectmen, PO Box 380, Meriden, NH 03770; and George Hildum, 2 Sanborn Road, Concord, NH, 03301, Contracted Assessor.

Date: 1/27/14

Anne M. Stelmach, Clerk