

The Normand and Priscilla Robidoux Irrevocable Trust, II

v.

City of Manchester

Docket No.: 27004-13EX

ORDER

The board has reviewed the “City’s” April 21, 2014 Motion for Reconsideration and Clarification (“Motion”) of the March 21, 2014 Decision and the “Taxpayer’s” May 1, 2014 “Objection” to the Motion. The Decision granted the Taxpayer’s appeal of the City’s denial of an RSA 72:39-a elderly exemption on Map 139, Lot 4A, 63 Eugene Street (the “Property”). The suspension Order entered on April 25, 2014 is hereby dissolved and the Motion is denied for the following reasons.

Reconsideration and clarification motions are governed by RSA 541:3 and Tax 201.37 and require a showing of “good reason” in order to be granted.¹ Mere disagreement with the outcome of the Decision or the board’s findings is not sufficient.

The City’s emphasis on the deed language is addressed in the Decision and its repetition of arguments already made do not persuade the board the Decision should be reconsidered or clarified. The undisputed evidence presented at the hearing established that Normand and

¹ “[G]ood reason” is generally considered to be a showing “the board overlooked or misapprehended the facts or the law” (see Tax 201.37(e)).

Priscilla Robidoux have occupied the Property as their primary residence for over 38 years and continue to do so. They transferred legal ownership and title to the Property to their trust and then signed and recorded Warranty Deeds, retaining the right to live on the Property “rent free” for an unlimited time; they also retain other incidents of ownership including the obligation to pay the taxes on the Property and all other expenses associated with ownership and occupancy. Based on the facts established in the trust document and the undisputed evidence at the hearing, the board properly found they have a “beneficial interest for life” within the meaning of the elderly exemption statutes. See RSA 72:39-a, II and RSA 72:29, VI (quoted in the Decision).

The Motion discusses footnote 4 in the Decision and misconstrues its meaning. The Taxpayer’s attorney did represent at the hearing that, as a matter of probate law, title standards and registry of deeds policies, Mr. and Mrs. Robidoux would be required to consent to any transfer of the Property. The City did not object to or otherwise dispute these representations at the hearing, whatever else remained in dispute regarding the meaning and effect of the trust and deed documents.

Further, contrary to the City’s request, the board will not ‘order’ Mr. and Mrs. Robidoux “to amend the deed and trust documents” for the purposes of this tax year 2013 exemption appeal; that issue is not within the board’s jurisdiction in deciding the merits of this appeal. (See Objection, paragraph 5, arguing that such amendment is “unnecessary.”)

For all of these reasons, the Motion is denied. The board also denies the Taxpayer’s requests for costs and attorney’s fees (stated in the Objection) because these requests are not supported by the record. See RSA 71-B:9; and Tax 201.39.

Any appeal of the Decision must be by petition to the supreme court filed within 30 days of the Clerk's date below, with a copy provided to the board in accordance with Supreme Court Rule 10(7). See RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Michele E. LeBrun, Chair

Albert F. Shamash, Member

Theresa M. Walker, Member

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Stephanie K. Burnham, Esq., PO Box 926, Raymond, NH 03077, counsel for the Taxpayer; and Chairman, Board of Assessors, City of Manchester, One City Hall Plaza-West Wing, Manchester, NH 03101.

Date: 5/14/14

Anne M. Stelmach, Clerk