

**Beatrice J. Lampen**

**v.**

**Town of Merrimack**

**Docket No. 27180-14EX**

**DECISION**

On July 23, 2014, the board received a “Motion for Summary Judgment” (“Motion”) from the “Town” in this RSA 72:39-a elderly exemption appeal. The board allowed the “Taxpayer” 30 days to respond to the Motion and no response has been received.

The Motion is based on the fact the Taxpayer’s “income exceeds the established limit as determined by the Town of Merrimack.” Based on the evidence presented, the board agrees. Including several additional sources of income (an IRA taxable distribution, a capital gain, interest and dividends, all reported on the 2013 federal income tax return the Taxpayer filed jointly with her husband) results in a total income calculation of \$61,506, as shown on the document attached to the Town’s checklist; this amount is in excess of the Town’s income limit of \$60,000 “from all sources.” [See RSA 72:39-a, I (b).]

The board has treated the Motion as a “motion to dismiss” and grants the Motion because there is no dispute that the Taxpayer does not qualify for the elderly exemption in tax year 2014 based on income. The appeal is therefore denied.

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

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Michele E. LeBrun, Chair

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Albert F. Shamash, Member

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Theresa M. Walker, Member

**CERTIFICATION**

I hereby certify a copy of the foregoing Decision has been mailed this date, postage prepaid, to: Beatrice J. Lampen, 169 Naticook Road, Merrimack, NH 03054, Taxpayer; Chairman, Board of Selectmen, Town of Merrimack, 6 Baboosic Lake Road, Merrimack, NH 03054; and Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, NH 03258, Contracted Assessing Firm.

Dated: 9/8/14

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Anne M. Stelmach, Clerk