

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT

CHESHIRE, SS.

No. 213-2014-CV-178

SHIRE FREE CHURCH: MONADNOCK

v.

CITY OF KEENE

ORDER ON DEFENDANT'S MOTION TO DISMISS

The Plaintiff, Shire Free Church: Monadnock, filed a complaint pursuant to RSA 72:34-a, appealing the City of Keene Board of Assessor's denial of a property tax exemption for an alleged parsonage. The City of Keene moves to dismiss on the grounds that the complaint was filed prematurely. For the following reasons, the motion to dismiss is DENIED.

Shire Free Church owns property located at 73 and 75 Leverett Street, Keene, New Hampshire. Shire Free Church claims that this property is a parsonage and that the property is therefore entitled to a religious-based tax exemption under RSA 72:23, III. On June 11, 2014, the City of Keene Board of Assessors denied Shire Free Church's application for tax exemption for the property. Shire Free Church filed this appeal on August 28, 2014, pursuant to RSA 72:34-a.

RSA 72:34-a explains the procedure for appealing a denial of a religious-based property tax exemptions. It states:

[w]henver the selectmen or assessors refuse to grant an applicant an exemption . . . to which the applicant may be entitled under the provisions of RSA 72:23 . . . , the applicant may appeal in writing, on or before

September 1 following the date of notice of tax under RSA 72:1-d, to the board of tax and land appeals or the superior court[.]

RSA 72:34-a. The “date of notice of tax” is defined as “the date the board of tax and land appeals determines to be the last mailing date of the final tax bill for which relief is sought.” RSA 72:1-d, II. Keene’s date of notice of tax has not yet been determined for the 2014–15 tax year. (Def.’s Ex. A).

The City argues that the Court lacks subject matter jurisdiction over this case because Shire Free Church filed its appeal prematurely. In support, the City points the language of RSA 72:34-a that states that “the applicant may appeal in writing, on or before September 1 *following the date of notice of tax*[.]” The City argues this language precludes Shire Free Church from appealing the Board’s denial of tax exemption until after the date of notice of tax for the 2014–15 tax year.

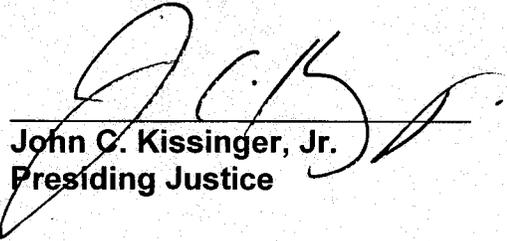
The Court disagrees with the City’s interpretation of RSA 72:34-a. The statutory language, “on or before September 1 following the date of notice of tax” creates only a filing deadline. It does not set a date before which an appeal may not be filed.

The Court concludes that RSA 72:34-a does not require Shire Free Shire to wait until after the date of notice of tax before filing its appeal. Accordingly, the City’s motion to dismiss is DENIED.

SO ORDERED.

Date

9/25/14


John C. Kissinger, Jr.
Presiding Justice