

**State of New Hampshire
Department of Revenue Administration**

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Lindsey M. Stepp
Commissioner

Ora M. LeMere
Assistant Commissioner

HEARINGS BUREAU
Denise A. Daniel
Hearing Officer

September 13, 2022

Jeremy D. Eggleton, Esq.
Orr & Reno, P.A.
PO Box 3550
Concord, NH 03302-3550

Re: Town of Haverhill
Docket Number 22-096
Tax Rate 2022

CERTIFIED MAIL (Return Receipt Requested) # 7017 3040 0000 8489 0410

Dear Attorney Eggleton:

Enclosed is an *Order on the Woodsville Fire District's Motion for Reconsideration* in the above-referenced case.

As provided in RSA 21-J:28-b, IV, you have the right to appeal this order within thirty (30) days to the Board of Tax and Land Appeals, State Office Park South, 107 Pleasant Street, Concord, New Hampshire 03301, or to the Superior Court of the county in which you reside. If you do not take an appeal within the time required by statute, this tax liability will become final and any outstanding amount shall be payable immediately.

Please visit our website at <http://www.revenue.nh.gov/about-us/hearings-bureau.htm> to take our Hearings Bureau Survey. Your feedback will help us improve our service to the public.

If you have any questions, please feel free to write or call the Hearings Bureau at (603) 230-5003.

Sincerely,

Denise A. Daniel
Hearing Officer

DAD/kmt
Enclosure

cc: Peter C. L. Roth, Esq., Revenue Counsel Legal Bureau (w/ enclosure)
Ms. Christina Hebert, Town Clerk, Town of Haverhill (w/ enclosure)
Fred Garofalo, Chair of the Select Board, Town of Haverhill (w/ enclosure)

TDD Access: Relay NH 1-800-735-2964

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Attorney Jeremy D. Eggleton Esq.
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Steve Robbins, Vice Chair of the Select Board, Town of Haverhill (w/ enclosure)
Michael Graham, Select Board, Town of Haverhill (w/ enclosure)
Katie Williams, Select Board, Town of Haverhill (w/ enclosure)
Kevin Knapp, Select Board, Town of Haverhill (w/ enclosure)

**Before the
DEPARTMENT OF REVENUE ADMINISTRATION
Concord, New Hampshire**

ADJUDICATIVE PROCEEDING

In Re: Town of Haverhill
Docket Number: 22-096
Tax Rate 2022

**ORDER ON THE WOODSVILLE FIRE DISTRICT'S MOTION FOR
RECONSIDERATION**

I. General Factual and Procedural Background

On August 12, 2022, a *Final Order* was issued in the above-referenced matter, which found that the Woodsville Fire District's (hereinafter the "District")¹ request for reconsideration of the disallowance of the Town of Haverhill's warrant articles under RSA 21-J:35, VI, was prematurely filed, and also found that even if the request had not been prematurely filed, the District had no standing to appeal a tax rate for the Town of Haverill.

On August 19, 2022, the District through its representatives, Attorney Lynnette V. Macomber and Attorney Jeremy D. Eggleton, both of Orr & Reno, P.A, timely filed its *Woodsville Fire District's Motion for Reconsideration with Incorporated Memorandum of Law*, with the Hearings Bureau. The District reiterated its arguments that it made at the hearing with respect to its position that it had standing to contest the disallowance of the Town of Haverhill's warrant articles and that its appeal was not premature under the provisions of RSA 21-J:35, VI. The District also presented new legal arguments for its position that were not presented at the hearing or in the District's previous pleadings, citing RSA 21-J:13, VII (c).

On August 25, 2022 the Hearings Bureau received the *Municipal and Property Division's*

¹ The District is a municipal corporation located in the Town of Haverhill, New Hampshire.

Objection to the Motion for Reconsideration, filed by Attorney Peter C.L. Roth, Revenue Counsel, representing the Municipal and Property Division (hereinafter “the Division”) in response to the *Woodsville Fire District’s Motion for Reconsideration with Incorporated Memorandum of Law*. The Division objected to the *Woodsville Fire District’s Motion for Reconsideration with Incorporated Memorandum of Law*, stating that the District’s request for reconsideration did not include any new, previously unknown evidence. The Division also objected on the basis that the District’s request did not provide evidence of any obvious errors in the final decision, and that the District’s request reiterated the argument provided during the hearing. The Division further argued that a motion for reconsideration is not the venue to permit a party to advance arguments that it should have developed prior to the hearing or to rehash or regurgitate arguments previously considered and rejected, citing Bitcliffe v. CitiMortgage, Inc., 772 F.3d 925, 929-930 (1st Cir. 2014).

I have reviewed the *Final Order*, the *Woodsville Fire District’s Motion for Reconsideration with Incorporated Memorandum of Law*, the *Municipal and Property Division’s Objection to the Motion for Reconsideration* thereto, and any other part of the record in this matter, as necessary.

II. Discussion

As provided in NH Code of Admin. Rules, Rev. 207.01 (b)(3), in accordance with RSA 21-J:35, VI, the order of the department on any tax rate appeal shall be final except that petitions for reconsideration or motions for rehearing shall be permitted if filed within five (5) business days of the issuance of the final decision or order. N.H. Code of Admin. Rules, Rev. 206.02, with respect to motions for reconsideration or petitions for rehearing, requires the motion or petition to:

- (1) Include any memoranda of law the moving party wishes to submit;
- (2) Identify each error of fact, reasoning or conclusion which the moving party wishes reconsidered; and
- (3) Concisely state the correct factual finding, reasoning, or conclusion urged by the moving party.

See N.H. Code of Admin. Rules, Rev. 206.02(b).

The standard for review under reconsideration is limited to:

- (1) Consideration of evidence not previously submitted if such evidence was not known, and could not have been discovered, prior to the issuance of the final order; and
- (2) Correction of obvious errors in the final decision or order.

See N.H. Code of Admin. Rules, Rev. 206.02 (e).

After reviewing the record before me, I find that the District has not proffered any new evidence that was not previously submitted if such evidence was not known and could not have been discovered prior to issuing the final order, nor pointed out any errors, obvious or otherwise, in the *Final Order* requiring correction within the contemplation of N.H. Code of Admin. Rules, Rev. 206.02. The *Woodsville Fire District's Motion for Reconsideration with Incorporated Memorandum of Law* reiterates arguments that were made on behalf of the District at the August 1, 2022 hearing, which I addressed in the *Final Order*, and presents new arguments in support of its position that were not presented at the hearing. Even if I were to consider the new arguments presented in the *Woodsville Fire District's Motion for Reconsideration with Incorporated Memorandum of Law*, my reading of the statute cited, RSA 21-J:13, VII (c), which provides the rulemaking authority for the Commissioner to adopt rules relative to the method by which a local unit of government may appeal a decision made by the department in the establishment of tax

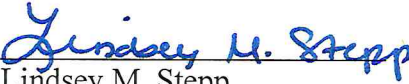
rates under RSA 21-J3, VX,² still requires that a tax rate be set. While it is clear that the District does not agree with the reasoning and conclusion that I reached in the *Final Order* after considering the evidence presented, the arguments presented in the *Woodsville Fire District's Motion for Reconsideration with Incorporated Memorandum of Law* do not meet the standard of review in N.H. Code of Admin. Rules, Rev. 206.02.

III. Order

Based upon the record, I conclude that the District has not raised any new evidence “. . . not previously submitted if such evidence was not known, and could not have been discovered, prior to the issuance of the final order;” nor has the District pointed out any errors, obvious or otherwise, in the *Final Order* requiring correction within the contemplation of N.H. Code of Admin. Rules, Rev. 206.02. I conclude that there are no obvious errors in the *Final Order* of August 12, 2022. Accordingly, the District’s request for reconsideration is **denied**.

By order of the Commissioner of the Department of Revenue Administration.

DATE 9/12/2022


Lindsey M. Stepp
Commissioner

² RSA 21-J3, VX, states that the Commissioner shall “[e]stablish and approve tax rates as required by law.”