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In re City of Nashua

Supreme Court of New Hampshire - April 12, 2013 - A.3d - 2013 WL 1499318

Supreme Court New Hampshire holds that only encumbrances on includable assets are deductable when calculating net assets for purposes of elderly exemption.

Taxpayer filed an application with the city for an elderly exemption for tax year 2011. The application listed total assets, not including the value of her residence, of $145,724.19. It also noted the existence of an equity loan secured by the taxpayer's residence in the amount of $42,000. To qualify for the elderly exemption under the city's ordinance, the taxpayer's net assets could not exceed $125,000, excluding the value of the taxpayer's residence. The city denied the exemption on the ground that the taxpayer's net assets exceeded $125,000.

The taxpayer appealed to the BTLA. She contended that because the statutory definition of "net assets" deducts the value of "good faith encumbrances," the amount of her equity loan should be subtracted from her total assets (excluding the value of her residence) to arrive at "net assets," thereby bringing her "net assets" below the prescribed limit. The BTLA agreed, and the City appealed.

The Supreme Court New Hampshire held that only encumbrances on includable assets are deductable when calculating net assets for purposes of elderly exemption, reversing the BTLA's decision.

Term "net assets" in statute providing elderly exemption from property taxes meant the value of all includable assets net of any encumbrances on those assets, rather than encumbrances on any assets of taxpayer, and therefore encumbrance on taxpayer's residence, which, pursuant to statute, was not counted as an asset in the net asset calculation, was not deducted in the net assets calculation in determining applicability of exemption to taxpayer.