

Platinum Holding Company LLC

v.

Town of Milford

Docket No.: 21449-04PT

ORDER

On March 10, 2006, the “Taxpayer” (through its representative, Christopher Snow) filed a “Motion to Reconsider” (“Reconsideration Motion”) the board’s February 10, 2006 Order dismissing the appeal. That Order granted a January 23, 2006 Motion to Dismiss (“Motion”) filed by the “Town.” The board denies the Reconsideration Motion for the following reasons.

The Reconsideration Motion fails to explain why no objection, or response of any sort, was made to the Town’s Motion within the period specified in the board’s rules. See TAX 201.18(d) (“10 days” to file objection); see also TAX 201.18(f) (motions can be “decided with or without an oral hearing”). Under the board’s rules, reconsideration motions can only be granted for “good reason” pursuant to RSA 541:3 and evidence or arguments previously available but not presented by the moving party will not be considered. TAX 201.37(d) and (f). Mr. Snow failed to present in a timely manner any reasons, evidence or arguments for not granting the Town’s Motion.

The Motion is based on a 2002 Settlement Agreement signed by the Town and by Mr. Snow on behalf of the Taxpayer. The parties agreed to an assessment for tax year 2000 (\$2,457,900) and a reduced assessment (\$2,132,200) for tax years 2001, 2002 and beyond (until either a municipal wide-reassessment or a revised assessment pursuant to RSA 75:8, neither of which events had occurred in tax year 2004, the year under appeal¹).

Mr. Snow's reliance on TAX 201.23(c) is misplaced. That section is not intended to apply to assessments resolved by settlement agreement absent, for example, a showing of fraud or illegality in the inducement of the agreement and such facts are not present here.

While, in hindsight, Mr. Snow may have had second thoughts (regarding whether the Taxpayer should have agreed upon an assessment for years beyond 2002) and has argued the agreed-upon assessments (applicable to tax year 2004, the year under appeal) are 'disproportionate' or 'unfair,' an understanding of the purposes and objectives of settlements does not support such a position. The Taxpayer, represented and advised by Mr. Snow, voluntarily chose to enter a settlement encompassing multiple years. Mr. Snow should be well aware that 'equalization ratios' (which may reflect the level of assessment throughout the Town) can fluctuate up or down from year to year, depending upon market conditions, for example, and/or the Town's assessment methodology. If the level of assessment had risen rather than fallen, the Taxpayer would have gained a benefit (to the detriment of other taxpayers), rather than an alleged harm, from entering into the above-described settlement with the Town.²

The board finds Mr. Snow's remaining arguments regarding the dismissal of this appeal

¹ The tax year 2000 appeal (BTLA Docket No. 18712-00PT) was resolved through the Settlement Agreement.

² This is true because the so-called "equalized assessment" referred to by Mr. Snow in the Reconsideration Motion would have decreased rather than increased in comparison to the market value of the property if the level of assessment in the Town had gone up rather than down.

lack merit and warrant no further discussion. See In re Brady, 145 N.H. 308, 311 (2000), citing Vogel v. Vogel, 137 N.H. 321, 322 (1993).

Any appeal of the dismissal must be by petition to the supreme court within 30 days after the clerk's date shown below. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Douglas S. Ricard, Member

Albert F. Shamash, Esq., Member

CERTIFICATION

I hereby certify a copy of the within Order has this date been mailed, postage prepaid, to: Christopher Snow, Property Tax Advisors, Inc., 56 Middle Street, Portsmouth, NH 03801, Taxpayer Representative; and Chairman, Board of Selectmen, Town of Milford, 1 Union Square Milford, NH 03055.

Date:

Anne M. Stelmach, Clerk