

Gene G. Chandler and Erik G. Chandler

v.

Town of Jackson

Docket No.: 24498-08PT

ORDER

This “Order” responds to the “Town’s” July 6, 2010 request for reimbursement of costs (“Request”). The Request was copied to the “Taxpayers”; however no objection or response was received by the board from the Taxpayers.

For the reasons that follow, the Request is granted in the amount of \$600.00 based on the invoice attached to the Request of the Town’s contract assessor’s appearance and related mileage for attending the hearing on June 30, 2010. The board is authorized to award costs as in the superior court. RSA 71-B:9; Tax 201.39. Costs are awarded where an appeal was frivolously or unnecessarily filed or maintained. The Taxpayers shall pay the Town \$600.00 within thirty (30) days of the clerk’s date below, sending a copy of the payment letter to the board. If the Taxpayers fail to comply, the Town may file a request for enforcement with the board, resulting in enforcement by the Merrimack County Superior Court in accordance with RSA 71-B:13.

The following facts are drawn from the record of the appeal including the board’s docket tracking transaction summary and the unrefuted assertions contained in the

Request. On March 23, 2010, the board issued a Hearing Notice to the parties scheduling the case for hearing on June 30, 2010 at the board's office in Concord, New Hampshire. On June 25, 2010, the board's clerk, Ms. Anne Stelmach, received a telephone call from one of the Taxpayers, Gene G. Chandler, indicating that he was withdrawing the case and that he would send in the mediation report indicating the same. The clerk advised him he should provide a copy to the Town and call the Town of the withdrawal given the impending hearing date of June 30, 2010. Mr. Chandler did on June 25, 2010 mail a "Report of Settlement Meeting & Order" indicating he wished to withdraw the case and after its receipt by the board on June 28, 2010, the board issued a June 29, 2010 order noting the file would be marked "appeal withdrawn; no further action." As asserted to in the Request, apparently the Taxpayers neither verbally contacted the Town indicating withdrawal nor did they copy the Town with the Report of Settlement Meeting & Order withdrawing the case. Consequently, the Town's contract assessor, Jason Call of Northtown Associates, LLC appeared at the board prepared for the hearing on June 30, 2010.

Because Mr. Call's appearance resulted in an unnecessary expense to the Town that could have been avoided if the Taxpayers had communicated their withdrawal to the Town, the board awards costs for his appearance and expenses in attending the hearing.

Any party seeking a rehearing, reconsideration or clarification (collectively "rehearing motion") of this order must be filed within thirty (30) days of the clerk's date below, not the date this order is received. RSA 541:3; Tax 201.37(a). 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

order needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's order 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(f). 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 541:3 and 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

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Douglas S. Ricard, Member

Albert F. Shamash, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing Order has this date been mailed, postage prepaid, to: Gene G. Chandler and Erik G. Chandler, P.O. Box 296, Bartlett, NH 03812; Taxpayers; Town of Jackson, Chairman, Board of Selectmen, P.O. Box 268, Jackson Falls Center, NH 03846; and Northtown Associates, LLC, 1794 Presidential Highway, Jefferson, NH 03583, Contracted Assessing Firm.

Dated: 7/30/10

Anne M. Stelmach, Clerk