

Telegraph Publishing Co.

v.

Town of Hudson

Docket No. 25377-09PT

ORDER

The board held a limited hearing on June 2, 2011 regarding the parties' compliance with the board's mediation rule, Tax 203.07. Christopher Snow of Property Tax Advisors, Inc., the "Taxpayer's" representative, and Jim Michaud, the "Town's" Assistant Assessor, attended the hearing.

In brief, and based on the testimony and other evidence presented, the board finds the analysis attached to the appeal document prepared by Mr. Snow (the "Snow Appraisal") is the only appraisal the Taxpayer can rely upon and present at the hearing of this appeal; any other appraisal, including an earlier appraisal prepared by Stephen Bullock (the "Bullock Appraisal"), shall be excluded. This evidentiary exclusion ruling is based on the Town's objection with respect to Tax 203.07(g) and the following facts.

Mr. Snow testified he supplied a copy of the Bullock Appraisal to the Town on March 11, 2011, the date he responded to the Town's interrogatories (via e-mail). In fact, while the Town

received his e-mail with some interrogatory responses on that date, the Town did not receive the Bullock Appraisal from Mr. Snow until March 24, 2011. (See the Town's April 1, 2011 letter.)

Consequently, the Town's objection to the untimely submission of the Bullock Appraisal has merit. Under Tax 203.07(g), if the grounds for a taxpayer's appeal include an appraisal, it must be submitted to the municipality during the prescribed mediation time period and not thereafter.

In this appeal, the board issued a November 15, 2010 Order referencing Tax 203.07 and requiring the submittal of "any appraisal . . . which the Taxpayer intends to rely on" by the time of the settlement meeting, a meeting the parties' representatives were required to participate in with good faith. That Order required them to have the settlement meeting and file a report regarding it within the four month period ending March 15, 2011. As noted above, the Bullock Appraisal was not submitted until nine days later (on March 24, 2011) and Mr. Snow acknowledged at the hearing that no settlement meeting with the Town took place within the prescribed period. Contrary to Mr. Snow's contention, submitting the Bullock Appraisal as part of a discovery response does not 'open the door' to its use at the hearing.

Further, because of the parties' concurrence that no settlement meeting has yet occurred regarding the grounds for the appeal (contained in the Snow Appraisal), they are ordered to comply with Tax 203.07, within thirty (30) days of the Clerk's date shown below, by having the prescribed settlement meeting and accurately completing and filing (either jointly or separately) the enclosed Report of Settlement Meeting & Order ("Report"). The Report will supersede the parties' earlier filings. If the Report indicates to the board that no settlement has been reached, the board will proceed to schedule a hearing on the merits of this appeal. Mr. Snow is further

ordered to certify to the board (in writing within ten (10) days) that he has provided a copy of this Order to his client, the Taxpayer.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Albert F. Shamash, Esq., Member

CERTIFICATION

I hereby certify that copies of the foregoing Order have been mailed this date, postage prepaid, to: Christopher Snow, Property Tax Advisors, Inc., 125 Brewery Lane, Suite 6, Portsmouth, NH 03801, representative for the Taxpayer; and Chairman, Board of Selectmen, Town of Hudson, 12 School Street, Hudson, NH 03051.

Date: June 17, 2011

Anne M. Stelmach, Clerk