

Generations Pizzeria, LLC

v.

Department of Revenue Administration

Docket No.: 24756-10MR

ORDER SCHEDULING HEARING

At the July 15, 2010 hearing of this appeal of a meals and rooms license revocation by the department of revenue administration (“DRA”), the parties’ representatives (Joseph Costanzo on behalf of the “Taxpayer” and John F. Hayes, Esq., Revenue Counsel on behalf of the DRA) advised the board they had “reached a settlement and agreed to file a signed settlement document” within ten (10) days. (See the board’s July 16, 2010 Order confirming these facts.) No such settlement document has been filed.

Instead, the board received a July 27, 2010 “Motion for a Hearing” from Attorney Hayes of the DRA discussing problems pertaining to the Taxpayer’s representation (by Mr. Costanzo and by “Clear Creek,” a company in Louisville, Colorado that filed the appeal as the Taxpayer’s representative) and “other issues” requiring “clarification” for a “final resolution” of this appeal. No response of any kind to the DRA’s motion has been filed by any of the Taxpayer’s representatives. On August 6, 2010, the DRA filed appearance and withdrawal forms to enter Kathryn E. Skouteris, Esq., Assistant Revenue Counsel as the DRA’s attorney in place of Attorney Hayes.

In light of the questions and concerns raised by these developments, the board is scheduling a hearing on **Monday, September 27, 2010 at 9:00 a.m.** at the board's offices in Concord, New Hampshire to address and resolve the following:

- (1) each of the issues presented in the DRA's Motion, including those pertaining to the Taxpayer's representatives;
- (2) whether the withdrawal requested by Attorney Hayes as the DRA's attorney is in compliance with Tax 201.11 (Withdrawal of Appearance); and
- (3) the reasons for non-compliance with the agreements stated in the July 16, 2010 Order, which followed the board's May 20, 2010 Order (requiring the posting of a bond "during the pendency of the appeal").

Because of the nature of these issues and the lack of resolution of the issues discussed by the parties at the July 15, 2010 hearing, attendance will be required by each person and entity that has filed an appearance, including the two DRA attorneys, Mr. Costanzo and Clear Creek. Compliance with the board's orders, which includes scheduled hearings, is part of the prescribed "Standards of Conduct" for tax representatives contained in the board's rules. See Tax 207.01 and 207.03.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Albert F. Shamash, Esq., Member

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CERTIFICATION

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Clear Creek, Attention: Alec Harris, Jonathan Ingebrigsten, 285 Century Place, Suite 200, Louisville, CO 80027, Taxpayer Representative; Joseph Costanzo, 27 Fresh River Road, Epping, N.H. 03042, Taxpayer Representative; and John F. Hayes, Esq. and Kathryn E. Skouteris, Esq., State of New Hampshire, Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301, counsel for DRA.

Dated: 8/11/10

Anne M. Stelmach, Clerk