

Richard Totaro

v.

Town of Wolfeboro

Docket Nos. 25761-10PT/26269-11PT

ORDER

The board has reviewed the “Taxpayer’s” December 26, 2013 “Motion for Rehearing” (the “Motion”) of the November 26, 2013 Decision. The suspension Order entered on December 31, 2013 is dissolved and the Motion is denied.

Rehearing motions are governed by RSA 541:3 and Tax 201.37 and require a showing of “good reason” in order to be granted. In other words, the movant needs to make a sufficient showing that “the board overlooked or misapprehended the facts or the law and such error affected the board’s decision.” See, in particular, Tax 201.37(e).

The Motion does not satisfy these requirements but is clear in expressing disagreement with the board’s finding that no tax abatements were warranted -- a ruling based on the overall finding that the Taxpayer failed to meet its burden of proving disproportionality for the tax years under appeal. The Motion begins with a quote of one sentence from the Decision and then selectively summarizes data pertaining to several waterfront sales to argue points that were either made or should have been made at the rehearing. See Tax 201.37(g) (“rehearing motions shall not be granted to consider evidence previously available to the moving party but not presented at

the original hearing or to consider new arguments that could have been raised at the hearing”). The board weighed and considered all of the evidence presented as a whole (see Decision, p. 4), including this limited sales data and no useful purpose is served by isolating attention on that limited data or restating here the obvious points of difference between the Taxpayer’s appraiser and the “Town’s” assessor.

In summary, disagreement with how the board weighed the evidence as a whole does not constitute good reason for granting a rehearing. The Motion is therefore denied.

Pursuant to RSA 541:6, any appeal of the Decision must be by petition filed with the supreme court within thirty (30) days of the date of this Order, with a copy provided to the board in accordance with Supreme Court Rule 10(7).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Michele E. LeBrun, Chair

Albert F. Shamash, Member

CERTIFICATION

I hereby certify that a copy of the foregoing Order has this date been mailed, postage prepaid, to: Mark Lutter, Northeast Property Tax Consultants, 14 Roy Drive, Hudson, NH 03051, Taxpayer Representative; Chairman, Board of Selectmen, Town of Wolfeboro, P.O. Box 629, Wolfeboro, NH 03894; and David C. Wiley, P.O. Box 40, Melvin Village, NH 03850, Contracted Assessing Firm.

Date: January 17, 2014

Anne M. Stelmach, Clerk