

**Elizabeth H. Breunig Trust**

**v.**

**Town of Randolph**

**Docket No.: 25773-10PT**

**ORDER**

The “Taxpayer” filed a February 25, 2013 motion for “Reconsideration” and “Rehearing if Necessary” (“Motion”) with respect to the January 29, 2013 Decision denying a further tax abatement. The suspension Order issued March 1, 2013 is hereby dissolved and the Motion is denied for the following reasons.

The Motion is governed by RSA 541:3 and Tax 201.37 and cannot be granted unless the Taxpayer demonstrates “good reason” for doing so. Good reason involves a showing that the board “overlooked or misapprehended the facts or the law and such error affected” the Decision. [Tax 201.37 (e).] The board closed the record at the conclusion of the December 18, 2012 hearing and then made the findings contained in the Decision after considering and weighing all of the evidence presented. Merely stating areas of disagreement with certain findings in the Decision is not a proper ground for granting a reconsideration or rehearing motion.

With respect to the “Baldwin” property, the Motion (pp. 2-4) seeks to challenge one Town assessor’s sworn testimony regarding a “partial life estate” by presenting additional

documents (the “listing sheet,” “deed,” and “mortgage” for the Baldwin property) to rebut this testimony, but the board denies the Taxpayer’s requested “leave” to do so and its request to “hold a rehearing.” (See Motion, p. 11.) Parties are required to submit “all evidence and present all arguments at the hearing.” [Tax 201.37(g).] The board finds the Taxpayer had adequate opportunity to present any such evidence directly or as rebuttal evidence at the December 18, 2012 hearing or to request leave to keep the record open for their submission, but chose not to do so. In any event, whether or not a formal, written “partial life estate” exists on the Baldwin property was not material to the findings in the Decision. [Cf. Tax 201.37 (e).]

The Motion dwells on the “contributory view value” issue. (Motion, pp. 4-12.) The board considered and weighed all of the evidence presented on this disputed issue [see, e.g., Taxpayer Exhibit No. 1 (pp. 7-13); Taxpayer Exhibit Nos. 2 and 3; and Municipality Exhibit A] before making its findings (see Decision, pp. 4-6). No further “review” is merited.

Finally, the board does not agree the tax year 2010 assessment on the Property should be further abated to “\$184,000” (Motion, p. 12) from \$229,700, the abated value determined by the Town. The board made specific findings in the Decision (pp. 2-3 and 6) on the market value dispute between the parties and why the Taxpayer did not meet its burden of proof on this issue.

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

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Michele E. LeBrun, Chair

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Albert F. Shamash, Esq., Member

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Theresa M. Walker, Member

**Certification**

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: John T.B. Mudge, 25 Lamphire Hill, Lyme, NH 03768, representative for the Taxpayer; H. Bernard Waugh, Jr., Esq., Gardner, Fulton & Waugh, PLLC, 78 Bank Street, Lebanon, NH 03766, counsel for the Town; Chairman, Board of Selectmen, Town of Randolph, 130 Durand Road, Randolph, NH 03593; and Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, NH 03258, Contracted Assessing Firm.

Date: March 22, 2013

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Anne M. Stelmach, Clerk