

**Joseph S. Haas**

**v.**

**Town of Boscawen**

**Docket No. 25918-10PT**

**ORDER**

The board has reviewed the “Town’s” May 4, 2012 Motion to Dismiss (“Motion”) this tax year 2010 appeal and the “Taxpayer’s” May 14, 2012 “Objection” to the Motion. The Motion concerns compliance with the board’s March 13, 2012 Order which directed the parties to comply with the board’s mediation rule by meeting and filing a “Report . . . no later than April 30, 2012.” (See Tax 203.07.)

Instead of ruling on the procedural issue presented in the Motion at this time, the board will hold it in abeyance pending the resolution of a more immediate and substantive question regarding the board’s jurisdiction to hear and decide this appeal. This jurisdictional issue was discovered on closer review of the Taxpayer’s appeal document filed on September 1, 2011. Numbered page 2 of that appeal document (copy attached to this Order) contains a handwritten statement by the Taxpayer that another appeal was filed “in superior court for 2010.”

The law is clear that a taxpayer can only file and maintain one appeal, either in the superior court or at the board (but not both) for any one tax year, regardless of how many properties he or she may own within the Town. (See RSA 76:1 and RSA 76:17.) A party cannot

maintain separate appeals in each tribunal for the same tax year and “appeal to one tribunal shall be a waiver of the right to appeal to the other tribunal.” See Tax 201.24 (a).

Consequently, and consistent with its authority under Tax 201.24, the board orders both the Taxpayer and the Town to submit, within thirty (30) days of the Clerk’s date shown below, all relevant information concerning the 2010 superior court action, including a written summary of its nature and progress along with documentation confirming the date the action was filed, what has transpired to date in that proceeding and its present status. The documents provided should include copies of the complaint and any answer and motions filed, all superior court orders and the decision and any supreme court orders (if an appeal was filed of any superior court order or the decision).

Following this further review, the board will make any additional rulings that are appropriate in this appeal.

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: Joseph S. Haas, PO Box 3842, Concord, NH 03302, Taxpayer; Chairman, Board of Selectmen, Town of Boscawen, 116 North Main Street, Boscawen, NH 03303; and Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, NH 03258, Contracted Assessing Firm.

Date: May 31, 2012

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Anne M. Stelmach, Clerk