

**177 Stowell Road, Unit #3, LLC**

**v.**

**Town of New Ipswich**

**Docket No. 26140-11PT**

**ORDER**

The board has reviewed the “Taxpayer’s” April 17, 2014 request for a “rescheduled” hearing and the “Town’s” April 29, 2014 response. The board has treated the Taxpayer’s request as a Motion for Reconsideration (“Motion”), pursuant to Tax 201.37(f), of its April 9, 2014 Decision. The Decision dismissed this appeal, pursuant to Tax 202.06(i), because of the Taxpayer’s default in not attending the duly scheduled and noticed April 8, 2014 hearing. The suspension Order issued on April 23, 2014 is hereby dissolved and the Motion is denied.

The Motion, signed by the Taxpayer’s “Manager,” rests solely on assertions one of its employees, who was “disgruntled,” did not give the “owner of the company” certain “documents of importance” and did not notify the owner of their “existence.” The Motion does not identify either the owner or the referenced employee, but presumably this problem pertained to the handling of the hearing notice issued in this appeal, preventing the owner from knowing about or attending the April 8, 2014 scheduled hearing. The Town did attend this hearing.

The Motion is denied because the Taxpayer's allegations, even if accepted at face value, do not satisfy the applicable "accident, mistake or misfortune" standard in Tax 201.37(f). This standard "means something outside the party's own control and not due to neglect . . . or something that a reasonably prudent person would not be expected to guard against or provide for." Tax 102.02.

The Taxpayer is responsible for the acts or omissions of persons hired as employees or other representatives, including proper supervision to insure they carry out their duties. In Arlington Am. Sample Book Company v. Board of Taxation, 116 N.H. 575, 576-77 (1976), the supreme court found that the inadvertent failure of an attorney hired by a taxpayer to file a timely appeal (despite the giving of instructions to do so) did not satisfy the accident, mistake or misfortune standard for granting relief. See also Brayton Family Trust v. City of Laconia, BTLA Docket No. 20244-03PT (December 28, 2005) (non-attendance at hearing by taxpayer or its agent, an appraiser, resulted in dismissal of the appeal because taxpayer is bound by the "acts or omissions" of the agent and taxpayer did not satisfy the "accident, mistake or misfortune" standard).

For all of these reasons, the Motion is denied.

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

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Michele E. LeBrun, Chair

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Albert F. Shamash, Member

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Theresa M. Walker, Member

**CERTIFICATION**

I hereby certify that a copy of the foregoing Order has this date been mailed, postage prepaid, to: 177 Stowell Road, Unit #3, LLC, 586 Turnpike Road, New Ipswich, NH 03071, Taxpayer; Chairman, Board of Selectmen, Town of New Ipswich, 661 Turnpike Road, New Ipswich, NH 03071; and Marazoff Assessing Services, 354 Glebe Road, Westmoreland, NH 03467, Contracted Assessing Firm.

Date: 5/15/14

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Anne M. Stelmach, Clerk