

**Jebb Road Real Estate Trust**

**v.**

**Town of Merrimack**

**Docket No.: 26521-11PT**

**ORDER**

The board has reviewed the “Taxpayer’s” “Request for Rehearing” (“Request”) filed on November 3, 2014. The November 7, 2014 suspension order is hereby dissolved and the Request is denied.

Rehearing motions shall only be granted for good reason, pursuant to RSA 541:3, and a showing shall be required that the board overlooked or misapprehended the facts or the law and such error affected the board’s decision. Tax 201.37(e). Rehearing motions shall not be granted to consider evidence previously available to the moving party but not presented at the hearing or to consider new arguments that could have been raised at the hearing. Tax 201.37(g).

The board held a hearing on the merits on February 19, 2014 and subsequently directed its review appraiser (Cynthia L. Brown, CNHA) to perform an independent valuation of the Property. The “Brown Report” was filed on June 27, 2014, and the parties were given twenty (20) days review and to submit any comments; the Taxpayer and the “Town’s” replies were filed on July 15, 2014 and July 30, 2014, respectively.

The Request states the Taxpayer “do[es] not believe that Ms. Browns’ [sic] report adequately addressed our multiple flooding incidents with resulting property damage and the abutting properties concerns.” In its deliberations, the board considered these issues (which were testified to at length at the hearing on the merits and were addressed again in the Taxpayer’s comments to the Brown Report) in making its market value findings.

To the extent the Request raises areas of dispute the Taxpayer has with the Brown Report, the board finds the Taxpayer had adequate time (20 days) to present those arguments after the Brown Report was filed, and did so in its July 14, 2014 comments, and are not grounds for granting the Request. The Request also states that Ms. Brown should have used two comparable sales (24 Lakeside Drive and 28 Clark Avenue); however, the Brown Report stated specific reasons why they were not appropriate indications of the Property’s market value and were therefore not included in her analysis. (See Brown Report, pp. 17-19.)

For all these reasons, the Request is denied.

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 date on 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

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Michele E. LeBrun, Chair

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Theresa M. Walker, Member

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**Certification**

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Jebb Road Real Estate Trust, David A. & Donald W. Roberts, Trustees, 6 Moore Street, Wilmington, MA 01887, Taxpayer; Chairman, Board of Selectmen, Town of Merrimack, 6 Baboosic Lake Road, Merrimack, NH 03054; and Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, NH 03258, Contracted Assessing Firm.

Date: December 1, 2014

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Anne M. Stelmach, Clerk