

**Kristin Cassidy**

**v.**

**City of Manchester**

**Docket No.: 26596-11PT**

**ORDER**

The board has reviewed the “Taxpayer’s” April 28, 2014 Motion For Rehearing (“Motion”) filed in response to the March 28, 2014 Decision denying her tax abatement appeal for 2011 and the “Objection” to the Motion filed by the “City.” The suspension Order issued on May 2, 2014 is hereby dissolved and the Motion is denied for the following reasons.

Rehearing motions are governed by RSA 541:3 and Tax 201.37 and can only be granted for “good reason.” Mere disagreement with the outcome of the Decision or the board’s specific findings does not constitute good reason. Instead, a showing is required that “the board overlooked the facts and the law and such error affected” the Decision. (See Tax 201.37(e); and Objection, p. 1.) Parties are required to “submit all evidence and present all arguments at the hearing” and the board will not consider “new arguments that could have been raised at the hearing.” (See Tax 201.37(g); and Objection, p. 1.)

The Taxpayer did not attend the February 7, 2014 hearing (where she was represented by her husband, James M. Cassidy, CPA), but the Motion she signed accuses the board of “either bias or ineptitude” in making various findings and denying a tax abatement appeal on the

Property. The board does not agree with these characterizations or that it overlooked the facts or the law in denying her appeal. The board carefully considered and weighed all of the evidence presented, giving due regard to the Taxpayer's burden of proof in this appeal. (See also Objection, p. 1.)

For example, in the Decision (pp. 4-5) the board explained why it could place no material weight on the "negotiated settlement" referenced in the Motion. The evidence presented indicates a "Stipulation" (mentioning a \$325,000 value for the Property) was signed by attorneys for the Taxpayer's parents (who owned the Property at that time) and their mortgage company (Aurora Loan Services LLC). The Stipulation was apparently filed in the bankruptcy court for the limited purpose of approving a Chapter 13 Plan submitted by the Taxpayer's parents who were the "debtors" in that bankruptcy proceeding. Simply because that bankruptcy court may have 'approved' this stipulation with respect to her parents' bankruptcy does not make the value mentioned "binding" on the board in this tax abatement appeal. Contrary to the Motion, the issue of market value was not "litigated and decided" between the Taxpayer and the City because neither the Taxpayer nor the City were parties to either the Stipulation or the bankruptcy proceeding.

Another issue mentioned in the Motion pertains to the roof on the house. Apart from submitting one estimate (from 2009, two years prior to the assessment date) which is discussed in the Decision (at p. 5), the Taxpayer chose not to put on any other evidence regarding the alleged condition of the Property as of the April 1, 2011 assessment date and how, if at all, that condition adversely affected its market value.

Further, it was not 'erroneous' for the board to consider the information contained in a real estate brokerage listing sheet which describes the Property's features and condition. The listing sheet was admitted as Municipality Exhibit C, without objection from the Taxpayer's representative, and the Taxpayer does not claim in the Motion that any of the information listed on this sheet is inaccurate. The Motion (p. 2) acknowledges the City made an inspection of the Property in January, 2014 and observed its physical condition at that time.

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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Albert F. Shamash, 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: James M. Cassidy, 736 Pine Street, Manchester, NH 03104, representative for the Taxpayer; and Chairman, Board of Assessors, City of Manchester, One City Hall Plaza-West Wing, Manchester, NH 03101.

Date: 5/20/14

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Anne M. Stelmach, Clerk