

**MC & G Inc.**

**v.**

**Town of Tilton**

**Docket No. 26862-12PT**

**ORDER**

The board has reviewed the December 15, 2014 “Motion for Summary Judgment” (“Motion”) filed by the “Town” and the December 19, 2014 response to the Motion filed by the “Taxpayer.” The Motion is denied.

The board does not agree with the Town the Taxpayer should be precluded from a hearing on the merits of a tax year 2012 appeal on the “Property” (Map U06, Lot 1, described as 322 W. Main Street in the appeal document) simply because several previous decisions addressed the proportionality of prior year assessments on several properties owned either by the Taxpayer or an affiliated entity: the Motion encloses a board decision (for tax years 2009 and 2010) and a superior court decision (for tax year 2011).

Assessments are annual events (see RSA 74:1) and the legislature has given each taxpayer the statutory right to appeal the proportionality of each annual assessment either to the board (RSA 76:16-a) or the superior court (RSA 76-17). Thus, notwithstanding the prior year

tax appeals, the Taxpayer is entitled to contest the proportionality of the tax year 2012 assessment on the Property at the hearing now scheduled for April 16, 2015.

Further, the board notes the Motion, as filed by the Town, does not comply with the requirements of the summary judgment statute: RSA 491:8-a states these requirements, including an obligation on the moving party to “accompany [the summary judgment] motion with an affidavit based upon personal knowledge of admissible facts. . . .” The Town, the moving party, did not file any affidavit to accompany the Motion. Cf. Kooaukee Island Association v. Town of Strafford, BTLA Docket No. 26947-12PT (September 29, 2014), pp. 1-3 (unsworn statements by a municipality do not satisfy the affidavit requirement in the summary judgment statute).

For these reasons, the Motion is denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

---

Albert F. Shamash, Member

---

Theresa M. Walker, Member

#### CERTIFICATION

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Mark Lutter, 14 Roy Drive, Hudson, NH 03051, Taxpayer Representative; Chairman, Board of Selectmen, 257 Main Street, Tilton, NH 03276; and Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, NH 03258, Contracted Assessing Firm.

Dated: January 7, 2015

---

Anne M. Stelmach, Clerk