

Hinsdale Real Estate Development, LLC

v.

Town of Hinsdale

Docket No.: 26975-12PT

ORDER

This Order results from the lack of timely compliance with the board's rules regarding meaningful mediation, as prescribed in Tax 203.07, and prior orders aimed at achieving compliance. As discussed below, the consequence for this noncompliance and demonstrated lack of diligence is entry of a default pursuant to Tax 201.04.

In its July 29, 2014 Order (p.1), the board, after noting the "Town's" non-objection and explanation of its partial responsibility for the delays in completing the mediation process, granted the "Taxpayer's" second motion to strike a conditional default and granted a further extension of time, ordering both parties to:

comply in good faith and in a timely manner with the requirements of Tax 203.07 and [to] update the board regarding the status of the mediation process, including the exchange of all related materials and appraisal reports, no later than October 1, 2014.

(Emphasis added.) [See also the March 10, March 26 and June 13, 2014 Orders, which detail the the circumstances leading to entry of two prior conditional defaults stemming from the Taxpayer's noncompliance with Tax 203.07.]

To date, the board has received no response from the Taxpayer and only a limited response from the Town to the July 29, 2014 Order. The Town's response consists of a one paragraph October 1, 2014 letter from the Town's contract assessor (George E. Sansoucy) which states: "This letter is to inform the [b]oard that a settlement has not yet been reached in the above referenced tax appeal. We anticipate continued discussions, but at this time the case should be scheduled for trial."

The board does not agree with this suggestion for the simple reason that neither party has yet complied with the clear requirements of the July 29, 2014 Order "in good faith and in a timely manner." The board's rules and established procedures clearly envision the completion of the mediation process before a hearing on the merits is scheduled. [See, e.g., the March 26, 2014 Order, as well as the October 18, 2013 Order.]

For these reasons, and pursuant to Tax 201.04, the board enters a default against the Taxpayer for its complete lack of diligence and failure to comply with the July 29, 2014 Order. If the Taxpayer does not comply within ten (10) days of the clerk's date below, the Taxpayer will be placed in final default pursuant to Tax 201.05 and the appeal will be dismissed.¹ If, on the other hand, the Taxpayer does comply and the Town supplements its incomplete response to the July 29, 2014 Order in a timely manner, the board will review the responses and then decide whether this appeal is ready to schedule for a hearing on the merits or whether to first prescribe further conditions to achieve meaningful mediation.

¹ The Taxpayer's lack of compliance appears to be more culpable and egregious in this appeal. In comparison, the Town did file a Report of Settlement Meeting & Order on February 21, 2014 in an effort to comply with Tax 203.07, unlike the Taxpayer who has not filed any such report.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Michele E. LeBrun, Chair

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: Michael P. Bentley, Esq., Lane & Bentley, PC, PO Box 472, Keene, NH 03431, counsel for the Taxpayer; Chairman, Board of Selectmen, Town of Hinsdale, P.O. Box 13, Hinsdale, NH 03451; and George E. Sansoucy, PE, LLC, 279 Main Street, Lancaster, NH 03584, Contracted Assessing Firm.

Date: 10/28/14

Anne M. Stelmach, Clerk