

Peter and Anna Lessels

v.

Town of Stratham

Docket No.: 26996-12PT

ORDER

The board has reviewed the “Town’s” December 20, 2014 “Motion for Rehearing, Reconsideration or Clarification” (“Motion”) of the November 21, 2014 Decision granting a tax abatement on the “Property” owned by the “Taxpayers.” The suspension Order issued on December 30, 2014 is hereby dissolved. For the reasons stated below, the Motion is denied

The standards set forth in RSA 541:3 and Tax 201.37 apply to the Motion and these standards require a showing of “good reason” for granting it. Parties are required to “submit all evidence and present all arguments at the hearing” and the Motion cannot “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” and, unless prior leave is granted, parties “shall not submit new evidence with rehearing motions.” (See Tax 201.37.)

The Motion attempts to present new evidence and new arguments the Town chose not to present at the hearing, even though this material was clearly available at that time of the hearing. In particular, the parties referenced a “financing appraisal” (referred as an “independent

appraisal” in the Motion, ¶3) and the Town acknowledged the Taxpayers had provided the Town a copy of that appraisal; yet, the Town did not attempt to introduce the appraisal at the hearing but only submitted two pages from it at that time. (See Decision, pp. 6-7.) The board finds it is too late for the Town to now request an “opportunity” to present the whole appraisal.

Similarly, the Motion discusses and attaches several department of revenue administration (“DRA”) documents pertaining to the equalization process, but the Town made no attempt to either make these arguments or introduce these documents at the hearing. According to the Motion, the Town reported to DRA that the November, 2012 sale of the Property should be “excluded” from the 2013 equalization study because the sale may have been an “outlier” and the Town was “investigating” since the property had been “on the market for a while.” (See the “Notes” section of the Town’s “2013 Final Ratio Study Report” attached to the Motion.) Even if, as the Town argues, the sale was properly excluded from the equalization study, this does not preclude the board from finding, in a property-specific tax abatement appeal based on all of the evidence presented, that the sale was an arm’s-length transaction.¹ The board therefore does not find the Town’s arguments for a rehearing or reconsideration to be reasonable.

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 Clerk’s date shown below, with a copy provided to the board in accordance with Supreme Court Rule 10(7).

¹ Further, as stated in the DRA materials themselves, “[a] sale not typically used by the DRA may in fact be an arm’s length transaction and represent market value. Such sales should be included.” [See paragraph 8 of Section 3.02 of the DRA materials titled “New Hampshire Equalization Process 2014” attached to the Motion.] See also Decision, pp. 3-5.

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: Peter and Anna Lessels, 3 Oak Lane, Stratham, NH 03885, Taxpayers; and Chairman, Board of Selectmen, Town of Stratham, 10 Bunker Hill Avenue, Stratham, NH 03885.

Date: 01/08/15

Anne M. Stelmach, Clerk