Bruce C. Treat, LLC

v.

Peter and Janice Stimmell and Town of Northwood

Docket No. 27151-14OS

ORDER

The board has reviewed the May 14, 2014 "Motion for Reconsideration" (the "Motion") filed by Bruce C. Treat, LLC ("Treat"); the Motion "asks the board to reconsider" the April 23, 2014 Closing Order dismissing Treat's "Written Complaint." The board has also reviewed the May 21, 2014 letter from Peter and Janice Stimmel, the owners of the "Stimmel" lot (located at 554 Jenness Pond Road in the "Town") in which they object to the Motion and ask the board to deny the Motion and "close this docket." The suspension Order issued on May 15, 2014 is hereby dissolved and the Motion is denied for the following reasons.

Reconsideration motions, like rehearing motions, are governed by RSA 541:3 and Tax 201.37 and require "good reason" in order to be granted. Mere disagreement with the outcome of the Closing Order or the board's specific findings does not constitute good reason for reconsideration and, therefore, the Motion does not satisfy this good reason standard.

There is no dispute regarding the board's finding that Treat is not a property owner in the Town. Thus, Treat does not have standing under either RSA 71-B:16, I or RSA 79-A:12, I to

challenge the assessment of the Stimmel lot through the written complaint procedure prescribed in these statutes (as explained on page 3, footnote 2, of the Closing Order).

The Motion does not cite either of these statutes or address the standing requirements stated in them. Instead, the Motion emphasizes the "hearing" procedure stated in Tax 208.03, but this rule is applicable only where jurisdiction is established under these two statutes. In actuality, the board acted in this appeal based upon its broad authority under RSA 71-B:5, I (cited in the Closing Order at page 1) and thus the reference to the "hearing" mentioned in Tax 208.03(a) is not applicable.

Even if the board were to assume, for the sake of argument, that Treat had standing under either of the two statutes mentioned in Tax 208.03, the board has clear authority to waive any rule it has adopted "when justice otherwise requires." [See Tax 201.41(b).] In general, the board only schedules a hearing "when the board concludes an oral hearing will materially assist the board or is required to comply with law." [Cf. Tax 201.18 (f).] In addition, the board's rules "shall be interpreted to achieve consistent, just and expeditious disposition of all matters before the board." [See Tax 101.01(b).]

Just and expeditious disposition did not require scheduling and holding a hearing in this appeal because all of the relevant facts and arguments have been presented through the Written Complaint and the responses received from the Stimmels and the Town.[1] Treat does not dispute the Stimmels have owned the lot in question "for 40 plus years" and have used it as a hayfield during that time and these facts are discussed in the Closing Order. The undisputed facts presented in this appeal are distinguishable from the other board rulings cited in the Motion and

[1] Although filing a similar Written Complaint in a companion appeal regarding another property in the Town of Pittsfield, BTLA Docket No. 27152-14OS , Treat did not file a timely reconsideration motion or other objection to the board's dismissal (see Closing Order), even though no hearing was held in that appeal either.

therefore do not support reconsideration of the Closing Order. The unsupported assertion regarding the "Equal Protection Clause of the 14th Amendment," made for the first time in the Motion, is also without merit.

Any appeal must be by petition to the supreme court filed within thirty (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

_____
Michele E. LeBrun, Chair

_____
Albert F. Shamash, Member

_____
Theresa M. Walker, Member

CERTIFICATION

I hereby certify that a copy of the foregoing Order has this date been mailed, postage prepaid, to: Bruce C. Treat, LLC, 3 Hop Kiln Road, Bow, NH 03304; Peter & Janice Stimmell, 554 Jenness Pond Road Northwood, NH 03261; Chairman, Board of Selectmen, Town of Northwood, 818 First NH Turnpike, Northwood, NH 03261.

Date: June 12, 2014

_____
Anne M. Stelmach, Clerk