

Peter G. Ness and Barbara E. Dutile

v.

Town of Franconia

Docket No.: 27958-14PT

ORDER

The board has reviewed an August 30, 2015 letter from the Taxpayers presenting a “motion” to:

- (1) “[c]onsolidate” this appeal with a tax year “2012 Appeal” (BTLA Docket No. 26725-12PT);
- (2) “[e]nforce” a February 7, 2014 Settlement Agreement resolving the 2012 Appeal; and
- (3) “[m]odify” the Settlement Agreement so that it applies to subsequent years (“2013, 2014, 2015...”).

The motion to consolidate is denied because the 2012 Appeal has already been settled and resolved and is no longer pending before the board. The motion to enforce the Settlement Agreement is denied because, by its terms, that agreement does not apply to any tax year after 2012; thus, it cannot be enforced with respect to the tax year 2014 assessment and appeal. The motion to modify the Settlement Agreement is also denied because the weight of the evidence lends no support to the Taxpayers’ belief the Town ever intended or agreed to apply the 2012

abated assessment of \$110,400 on the Property to tax year 2014 or 2015, for that matter. The Town's position is quite clear that the Property was improved after tax year 2012 and to bind the Town to the abated assessment for that year to future years would result in disproportionality.

The board has also reviewed the Town's September 16, 2015 "Motion to Dismiss" this 2014 appeal. The board will hold this motion in abeyance pending receipt of the completed checklist from the Town.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Michele E. LeBrun, Chairman

Albert F. Shamash, Member

Theresa M. Walker, Member

CERTIFICATION

I hereby certify a copy of the above Order has been faxed and mailed, this date, to: Peter G. Ness and Barbara E. Dutile, 149 Wildlife Boulevard, Belmont, NH 03220, Taxpayers; Chairman, Board of Selectmen, Town of Franconia, P.O. Box 900, Franconia, NH 03580; and Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, NH 03258, Contracted Assessing Firm.

Dated: October 21, 2015

Anne M. Stelmach, Clerk