

Stratham Subaru

v.

Town of Stratham

Docket No.: 27584-15LC

ORDER

The board has reviewed the “Town’s” August 10, 2015 “Tax 201.37 Motion for Rehearing, Reconsideration or Clarification” (the “Motion”) of the July 10, 2015 Decision and the “Taxpayer’s” August 17, 2015 “Objection” to the Motion. The suspension order issued on August 17, 2015 is hereby dissolved and the Motion is denied.

The Decision granted the abatement on the RSA 79-A:7 land use change tax (“LUCT”) assessed by the Town and made an award of costs to the Taxpayer. The Town challenges the board’s findings that the LUCT, based on an estimated market value of \$395,000 for the “Property” (one acre of land removed from current use as of November 4, 2013), was excessive.

The board finds no “good reason” (see RSA 541:3 and Tax 201.37) has been demonstrated either for “reconsideration” of the market value findings in the Decision or for the “limited rehearing” requested in the Motion (p. 3). The board’s findings are amply supported by the “Schubert Appraisal” (estimating a market value of \$120,000) and the other evidence presented by the Taxpayer.

In the Decision (see pp. 3-4 and 6), the board considered and addressed the issues mentioned in the Motion, such as “highest and best use” in light of the “Gateway Commercial Business District” zoning, along with the physical location on Frying Pan Lane and other characteristics restricting the use of the Property and impacting its market value. The Town did not provide an appraisal of its own and did not present any credible evidence to support the assertion the Property would have had a higher value if sold (or leased) to another hypothetical purchaser (or lessee). In addition, the board agrees with the Objection that the “new information” regarding zoning submitted with the Motion cannot be considered under the board’s rules. [See Tax 201.37(g).]

For all of these reasons, the Motion is denied. Any appeal of the Decision must be by petition to the supreme court filed within thirty (30) days of the date of this Order, with a copy provided to the board in accordance with Supreme Court Rule 10(7).

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: Mark Lutter, Northeast Property Tax Consultants, 14 Roy Drive, Hudson, NH 03051, representative for the Taxpayer; Chairman, Board of Selectmen, Town of Stratham, 10 Bunker Hill Avenue, Stratham, NH 03885; and Current Use Board, c/o Department of Revenue Administration, 109 Pleasant Street, Concord, New Hampshire 03301, Interested Party.

Date: 8/26/15

Anne M. Stelmach, Clerk