

Overview on Conducting Tax Assessment Appeal Hearings During A State of Emergency

A new State law passed in the aftermath of the COVID pandemic permits towns, during a state of emergency, to “extend any statutory deadline applicable to municipal corporations, provided the deadline does not relate to a license, permit, program, or plan issued or administered by the State or federal government . . .” Using this authority, the BCA could extend its deadlines related to BCA tax assessment appeal hearings. The deadline(s) could be extended by the act of a majority of the BCA present at a duly warned, public meeting. Towns would need to act fast because once the state of emergency expires, so does this temporary authority to extend any statutory deadline, including that governing the holding of tax assessment appeal hearings. Of course, if the deadline(s) for tax assessment appeal hearings is extended, notice will need to be sent out anew. 20 V.S.A. § 47.

The State of Emergency also affects how the site inspections associated with tax assessment appeal hearings are held. The law on tax assessment appeals ordinarily requires that each property which is the subject of an appeal be inspected by a committee of not less than three members of the Board of Civil Authority (BCA) and that failure of an appellant (the taxpayer appealing their assessment) to allow an inspection will result in the appeal being deemed withdrawn. Alternatively, failure of a BCA to conduct an inspection ordinarily would result in reinstating the previous year’s grand list value. 32 V.S.A. § 4404(c).

During a declared state of emergency, a BCA within a municipality affected by an all-hazards event, such as a flood, is not required to physically inspect a property that is subject to an appeal. If an appellant requests in writing that a property be inspected, a member of the board must conduct the inspection electronically. If the appellant does not facilitate the inspection electronically, the appeal is deemed to be withdrawn. 32 V.S.A. § 4404(c)(2).

In contrast to the previously mentioned law that allows for the extension of deadlines, the law governing site inspections during a State of Emergency only applies to those towns affected by the flooding. The law references a municipality “affected by an all-hazards event” which is

defined in 20 V.S.A. § 2(1) as meaning “any natural disaster, health or disease-related emergency, accident, civil insurrection, use of weapons of mass destruction, terrorist or criminal incident, radiological incident, significant event, and designated special event, any of which may occur individually, simultaneously, or in combination and that poses a threat or may pose a threat, as determined by the Commissioner or designee, to property or public safety in Vermont.”

A committee of not less than three BCA members that inspected the subject property would ordinarily have to report back to the full BCA within 30 days from the hearing on the appeal. However, if there is no inspection, then there is nothing to report, and it would not be required.

If, however, the appellant (the taxpayer appealing their assessment) requests in writing that their property be inspected, then the BCA must conduct the inspection through electronic means.

The law defines “electronic means” as “the transmittal of video or photographic evidence by the appellant at the direction of the Board members or hearing officer conducting the inspection.” 32 V.S.A. § 4404(c)(3). If the appellant (the taxpayer appealing their assessment) does not facilitate the inspection through electronic means, then the appeal must be deemed withdrawn.

Of course, the controlling law doesn’t prevent BCA’s from physically inspecting properties, however, you should never enter any property that has sustained flood damage and presents a danger to human life. This law was enacted so that BCA’s don’t have to inspect properties, and not inspecting is the preferred course of action, but a BCA that wants to physically inspect a property, isn’t prevented from doing so. A refusal by an appellant to allow for an inspection, whether physical or by electronic means, would result in deemed withdrawal.

When a case is “deemed withdrawn”, the BCA’s decision should state the basis for the deemed withdrawal (e.g., the appellant refused a site inspection) and that this action(s) resulted in the appeal being deemed withdrawn. This decision would not be a denial, but rather the withdrawal of the appeal by the appellant by their own actions. The BCA would merely be formally recognizing their withdrawal.

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