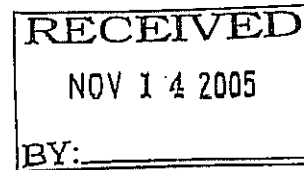


TAX COURT OF NEW JERSEY



HAROLD A. KUSKIN  
JUDGE



77 HEADQUARTERS PLAZA  
1<sup>ST</sup> FLOOR, NORTH TOWER  
MORRISTOWN, NEW JERSEY 07960-3964  
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November 10, 2005

NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE  
TAX COURT COMMITTEE ON OPINIONS

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LEE S. HOLTZMAN, ESQ.  
Schneck Holtzman  
33 Clinton Road  
Suite 108  
West Caldwell, NJ 07006

RE: Heldmann, Anton  
v. Township of Chester  
Docket No. 003608-2005

Dear Counsel:

I enclose a copy of the Order I have entered in the above matter denying defendant's motion to dismiss plaintiff's Complaint. The motion was based upon plaintiff's failure to produce the following documents demanded in a Notice to Produce served by plaintiff and dated June 3, 2005: "Copy of any and all appraisals performed on Block 42, Lot 26, Chester Township, during the years 2003, 2004, and/or 2005." As an additional basis for relief, defendant asserts that to permit plaintiff, at this time, to supply the appraisals would violate the provisions of the Case Management Notice which established a discovery completion date of August 27, 2005.

Under R. 8:6-1(a)(6), interrogatories and requests for production of documents in local property tax matters "shall be in the form and manner prescribed by the Tax Court." The Standard Form Interrogatories prescribed by the Court contain one question, No. 18, relating to the production of appraisals and expert reports. This question requires the attachment of appraisals and expert reports "prepared by any expert named in answer to question No. 17, during or with respect to the year of appeal or either of the preceding two years, in connection with this

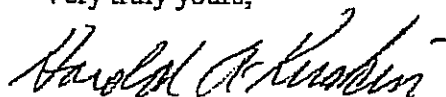
Bradley J. Fiorenzo, Esq.  
Lee S. Holtzman, Esq.  
November 10, 2005  
Page 2

or any other proceeding or for any other reason." Defendant's Notice to Produce, as quoted above, sought appraisals other than those prepared by the appraisal expert identified by plaintiff for purposes of this matter. I interpret R. 8:6-1(a)(6) as prohibiting requests for production of documents that would not be required in response to the Standard Form Interrogatories. Accordingly, defendant's Notice to Produce with respect to appraisals exceeded the discovery permitted by the Rule and cannot provide a basis for dismissal of plaintiff's Complaint.

It is unclear from the papers submitted by defendant in support of its motion, whether defendant contends that the lease agreement provided in response to the Notice to Produce should not be considered responsive because it was delivered on October 20, 2005, after the date established for completion of discovery. In light of the fact that, under the Case Management Notice, the trial date for this matter will not occur until June 2006 and the mandatory settlement conference is to be held by February 2006, I conclude that the late production of the lease is not a basis for granting defendant's motion.

Finally, Paragraph 5 of the Certification submitted by Mr. Fiorenzo in support of the motion to dismiss asserts that plaintiff failed to respond to a Chapter 91 request. The provisions of this paragraph are inadequate to support any relief under Chapter 91 (N.J.S.A. 54:4-34), and, consequently, no relief will be awarded on that basis.

Very truly yours,



Harold A. Kuskin, J.T.C.

HAK:mr  
Enc.

A TRUE COPY

HAROLD A. KUSKIN, J.T.C.  
Tax Court of New Jersey

FILED IN CHAMBERS

NOV 10 2005

HAROLD A. KUSKIN, J.T.C.

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Attorneys for Defendant

ANTON HELDMANN,

Plaintiff,

v:

TOWNSHIP OF CHESTER,

Defendant.

TAX COURT OF NEW JERSEY

Docket No. 003608-2005

~~ORDER DISMISSING PLAINTIFF'S COMPLAINT~~

*DKR*

THIS MATTER having been brought before the Court on motion of McElroy, Deutsch, Mulvaney & Carpenter, LLP, attorneys for Defendant, on notice to all counsel, and the Court having considered all papers filed in connection with this application, and for good cause shown;

IT IS on this 10<sup>th</sup> day of ~~October~~ <sup>Nov.</sup>, 2005,

ORDERED that Defendant's motion to dismiss Plaintiff's Complaint for failure to respond to discovery is ~~GRANTED~~ <sup>DENIED</sup>; and it is further

ORDERED that Defendant's counsel shall serve a copy of this Order on all parties within 7 days.

*Harold A. Kuskini*  
Harold A. Kuskini, J.T.C.

735294

THE COURT'S REASONS FOR  
ENTRY OF THIS ORDER WERE  
SET FORTH IN A LETTER OPINION  
DATED NOVEMBER 10, 2005.