

Bond Case Briefs

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Waterside Villas Holdings, LLC v. Monroe Tp.

Superior Court of New Jersey, Appellate Division - January 24, 2014 - A.3d - 2014 WL 258849

Property owner filed a complaint against township, contesting an assessment of property tax. The Tax Court dismissed the complaint for its failure to respond to a municipal request for income and expense information as required by N.J.S.A. 54:4-34, often referred to as "Chapter 91."

Owner appealed.

The Superior Court, Appellate Division, held that:

- Owner could not assert a claim on appeal that it had good cause for failing to respond to a request for income and expense information, and
- Omission of "may" from a copy of the statute governing such requests that was sent to owner by tax assessor did not entitle owner to any equitable relief from the statute's requirements.

Property owner could not assert a claim, on appeal from an assessment of property tax, that it had good cause for failing to respond to a request for income and expense information that was sent by tax assessor, even though owner, which had constructed an apartment complex on the property, argued that the request was not clear and unequivocal. The notice was sent to owner by certified mail, an accompanying letter expressly requested owner's "operational cost" for the "recent twelve months," specifically January 1 through December 31 of a certain year, and such clear and explicit language was not equivocal or confusing in any respect.

Omission of "may" from a copy of the statute governing municipal requests for income and expense information that was sent to property owner by tax assessor did not entitle owner to any equitable relief from the statute's requirements, including a requirement that an owner respond to a such a request within 45 days of the request or be barred from appealing an assessment. Omission of "may" from a phrase relating to examinations on oath was minor and inadvertent, did not alter the substance of the statute, and did not prejudice owner.

Where a tax assessor, who has a mandatory duty to provide property owners with a copy of the statute governing municipal requests for income and expense information when tendering such a request, provides property owners with a copy of the statute that omits critical and substantive statutory provisions, principles of fair dealing preclude the assessor from seeking relief under the statute if a property owner fails to respond to a request. Where, however, the omission is minor and inadvertent, does not alter the substance of the statute, and does not prejudice the property owner, the municipality is still entitled to a dismissal pursuant to the statute.