

Interrogatories...

*Where Less is More, and It's
Best to Bore.*

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Matthew J. Thomas, Esq.



First...Some Basics

Interrogatories are written questions that must be answered under oath.

- Typically used by a party in a lawsuit or adjudicatory process to discover facts and documents that are admissible in the proceeding.
- Massachusetts Rules of Civil Procedure Rule 33.
- General Laws Chapter 231, Section 61.

ATB Rules of Practice & Procedure

“In accordance with M.G.L. c. 231, § 61, either party, in appeals under the formal procedure may interrogate the opposing party for the discovery of facts and documents admissible in evidence at the hearing of the appeal.”

ATB Rule 1:20(1)

Interrogatories are not allowed under Informal Procedure Rules.

ATB Rules of Practice & Procedure

- If information responsive to an interrogatory is stored in electronic form, the responding party shall produce it in the form or forms in which it is maintained or in a reasonably usable form.

ATB Rule 1:20(2)

- While the interrogatory must be answered, a report or document does not need to be created if one doesn't exist.

ATB Rules of Practice & Procedure

- If a party withholds information that's otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:
 - (a) expressly make the claim; and
 - (b) describe the nature of the documents, communications, or tangible things not produced or disclosed, and do so in a manner that, without revealing information itself privileged or protected, will enable the other party and the Board to assess the claim.
- ATB Rule 1:20(3)

Chapter 59, Section 60

- Applications for Abatements or exemption under Chapter 59, Section 59 are not public records or discoverable.
 - Unless they are the subject of an ATB Appeal.
 - However, another taxpayer's Application and supporting information remains privileged.

Successfully Handling Interrogatories

So, you receive multiple pages of interrogatories including six pages of instructions from a party who previously refused to file an I & E or a Form of List. What do you do?

- Call your Municipal Counsel.
 - Typically, they will handle the objections and ask you to take a shot at answering the questions.

Successfully Handling Interrogatories

Instructions:

- Your Counsel may object to some of the instructions.
 - State the instructions are ambiguous and reinterpret them.

Compound Interrogatories:

- The interrogatories, and all the subsidiary questions, cannot total more than thirty.

Successfully Handling Interrogatories

Objections:

- You cannot “generally object” to the interrogatories, but you can object to specific interrogatories.
 - Ambiguous or Overbroad;
 - Not reasonably calculated to obtain information that is discoverable.

Successfully Handling Interrogatories

Ongoing Activities:

- Reserve the right to supplement answers;
- Reserve the right to list exhibits, experts, etc;

Above all , remember less is more – don't answer something that was not asked. By the way do you know what time it is?

Chapter 231, Section 64

If you fail to answer:

- The ATB can order you to do so;
- Section 64 also provides that a judgment can be entered after five days after written notice from the Clerk;
- Costs and Attorney's Fees can be imposed.

Interrogatories & Public Record Requests

It has become common to receive a Public Record Request at the same time you receive Interrogatories.

Answering one does not relieve you of the obligation to answer the other.

Thank You!

MATTHEW J. THOMAS, ESQ.

Attorney at Law

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