

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of -)
)
Flatland Realty, LLC) ASBCA No. 63409
)
Under Contract No. DACW43-1-14-49)

APPEARANCE FOR THE APPELLANT: Mr. Tyler Brinkmann
Owner

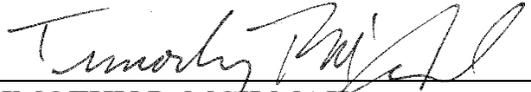
APPEARANCES FOR THE GOVERNMENT Michael P. Goodman, Esq.
Engineer Chief Trial Attorney
Brandon D. Belt, Esq.
Engineer Trial Attorney
U.S. Army Engineer District, St. Louis

OPINION BY ADMINISTRATIVE JUDGE MCILMAIL
ON APPELLANT’S MOTION FOR RECONSIDERATION

Appellant requests reconsideration of our recent decision awarding it \$210,000, plus interest in accordance with 41 U.S.C. § 7109, from July 21, 2022, until the date of payment. *Flatland Realty, LLC*, ASBCA No. 63409, 2023 WL 7797531 (Oct. 30, 2023). Specifically, appellant repeats its original request for \$800,000, plus unspecified interest retroactive to January 1, 2022. We have not requested a response from the government. *See John Shaw LLC d/b/a Shaw Building Maintenance*, ASBCA No. 61379, 18-1 BCA ¶ 37,026 at 180,294.

In support of its motion, appellant not only presents evidence that it did not present earlier, and that is not newly-discovered, it admits that it also presents an argument that it did not previously assert. Motions for reconsideration do not afford litigants the opportunity to take a “second bite at the apple” or to advance arguments that properly should have been presented in an earlier proceeding. *Avant Assessment, LLC*, ASBCA No. 58867, 15-1 BCA ¶ 36,137 at 176,384. Nor is it, as a general rule, a vehicle for the introduction of evidence not newly-discovered. *See Hellenic Express*, ASBCA No. 47129, 97-1 BCA ¶ 28,844 at 143,885. The motion for reconsideration is denied.

Dated: December 18, 2023


TIMOTHY P. MCILMAIL
Administrative Judge
Armed Services Board
of Contract Appeals

(Signatures continued)

I concur



OWEN C. WILSON
Administrative Judge
Acting Chairman
Armed Services Board
of Contract Appeals

I concur



MICHAEL N. O'CONNELL
Administrative Judge
Acting Vice Chairman
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals in ASBCA No. 63409, Appeal of Flatland Realty, LLC, rendered in conformance with the Board's Charter.

Dated: December 19, 2023



PAULLA K. GATES-LEWIS
Recorder, Armed Services
Board of Contract Appeals