Town of Milford

Docket No.: 17330-97RA

ORDER TO SHOW CAUSE

On December 17, 1997 the board heard an appeal of a property assessment filed by First NH Bank pursuant to RSA 76:16-a. See First NH Bank v. Milford, BTLA Docket No.: 16101-95PT. The hearing brought to the board's attention questionable assessing equity within the "Town." Consequently, pursuant to the board's general authority contained in RSA 71-B:16 III, the board will hold a hearing to determine if any or all the property within the town is in need of a reassessment.

The board has reviewed the assessment-to-sales ratios and coefficients of dispersion (COD) as determined by the Department of Revenue Administration (DRA) for the past two years. The DRA's overall ratios and stratified ratios for the two years are summarized below.

1995 DRA Ratios and CODs		
Type	**Ratios**	**CODs**
Overall	138%	16.02%
Residential Land	139%	23.85%
Residential Land & Building	134%	10.94%
Condominiums	152%	8.19%
Manufactured Housing	196%	19.47%
Commercial/Industrial Land & Building	179%	17.85%

1996 DRA Ratios and CODs		
Type	**Ratios**	**CODs**
Overall	134%	12.78%
Land	137%	11.76%
Residential Land & Building	131%	9.04%
Condominiums	146%	10.19%
Manufactured Housing	196%	15.97%
Duplex/Multi	152%	13.41%
Commercial/Industrial Land	141%	1.12%
Commercial/Industrial Land & Building	117%	28.21%

These ratios and CODs (especially some of the stratified ratios) indicate the possibility for significant assessment inequity and the potential for substantial unfairness in the sharing of the tax burden. Further, in First NH Bank, there was testimony that the Town had not been reassessed since 1988, there have been three assessors since that time and the Town does not have the computer capability to perform updates or stratification adjustments to improve assessment equity. Further, the assessor indicated that while he and the board of selectmen had a proposal to proceed with a reassessment, the funding for the reassessment had been deleted by the town budget committee.

Consequently, the Town of Milford is ordered through and by its selectmen to show cause why the board of tax and land appeals should not order all or some of the taxable property to be reassessed under RSA 71-B:16 III. The board will hold a public hearing to receive any information related to the need for a reassessment on February 9, 1998 at 9:00 a.m. at the offices of the board, State Office Park South, 107 Pleasant Street, Johnson Hall, Third Floor, Concord, New Hampshire. The board intends to make further findings of fact in regard to the criteria set forth in RSA 71-B:16-a prior to the issuance of any later order relating to a complete or partial reassessment. Lastly, prior to the hearing, the board will have its appraiser perform an assessment ratio study in accordance

with TAX 208.05. The study will be concluded and will be made available to the Town and interested individuals no later than 14 days prior to the show cause

hearing.

The Town of Milford is ordered to post copies of this order in two public places in the Town and in a newspaper of general circulation upon receipt of this order.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Chairman

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

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Douglas S. Ricard, Member

Certification

I hereby certify that a copy of the foregoing order has been mailed this date, postage prepaid, to Chairman, Selectmen of Milford.

Date: January 7, 1998

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Valerie B. Lanigan, Clerk

Town of Milford

Docket No.: 17330-97RA

ORDER FOR REASSESSMENT

On February 9, 1998, a public hearing was held pursuant to the board's January 7, 1998 order to determine if a reassessment order for the "Town" should be issued.

The board heard a presentation and testimony from: William R. Drescher, Town counsel, John Ruonala, Vice Chairman of the Board of Selectmen, David McMullen, Town assessor, and Lee Mayhew, Town administrator. All recognized the need for a reassessment and spoke in favor of one being ordered for tax year 2000. The Town stated that ordering a reassessment for the year 2000 would provide for orderly appropriating of the estimated $250,000 needed for reassessment over the next three years. The Town stated that $25,000 currently existed in a capital reserve fund, $75,000 was anticipated to be raised each year in 1998 and 1999 and the balance raised in 2000.

Right to Equitable Assessment

The right to equitable assessment and taxation is guaranteed not only by statute (see RSA ch. 75) but, even more importantly, by the New Hampshire Constitution. N.H. CONST. Pt. 1, Art. 12th and Pt. 2, Art. 5th and 6th. "In this State probably no constitutional principle is better understood than that the taxation of property requires a proportional valuation and a uniform rate." Opinion of the Justices, 81 N.H. 552, 558 (1923). Note is made of pertinent decisions of the supreme court as follows: Opinion of the Justices, 106 N.H. 202 (1965); Opinion of the Justices, 101 N.H. 549 (1958); Rollins v. Dover, 93 N.H.

448 (1945); Trustees of Phillips Exeter Academy v. Exeter, 92 N.H. 473; Bow v. Farrand, 77 N.H. 451 (1915); Amoskeag Mfg. Co. v. Manchester, 70 N.H. 336 (1900);

Company v. Gilford, 67 N.H. 517; State v. United States & Canada Express Company, 60 N.H. 219 (1880); Edes v. Boardman, 58 N.H. 580 (1879); Morrison v. Manchester, 58 N.H. 538 (1879); and Opinion of the Justices, 4 N.H. 565 (1829); among others.

Board's Findings

RSA 71-B:16-a sets forth the criteria for the board to consider determining the need for a reassessment. Without reiterating the criteria, the board finds the following facts support the order for reassessment. The last revaluation was conducted in 1988. The Town currently does not have the computer capability to perform assessment updates to adjust various strata of property to the market short of a complete revaluation. From a macro perspective, the recent stratified sales ratio studies, both by the Department of Revenue Administration (DRA) and by Scott Bartlett, the board's review appraiser, contained in his January 26, 1998 report, indicate that there is inequity within the tax base. From a micro perspective, a number of appeals from Milford in the past several years have resulted in fairly significant abatements (e.g. First NH Bank docket # 16101-95PT; Herbert Hardman docket # 16109-95PT; Wilkinson Property Fund III LP docket # 15408-94PT). All these factors indicate the need to look at the market anew and completely reassess the Town.

The Town acknowledges the need for a reassessment. However, the Town is asking the board order a reassessment for tax year 2000 to allow the Town to systematically raise the funds in the intervening years to do a proper reassessment including acquiring computer hardware and software to assist in maintaining the tax base.

Board's Rulings

The board orders a reassessment to be effective for the tax year 2000. While perhaps it would be more ideal to have the reassessment completed by the year 1999 (the earliest year one could logistically be completed), the board orders it for the year 2000 for the following reasons: 1) the measures of

assessment equity as contained in the ratio studies performed by DRA and the board's appraiser, while showing inequities, are not so dire as to make a year extension unreasonable; 2) the Town assessor has indicated that he will continue

to review the market data of property strata and, if feasible, make adjustments (as done in the past for various condominiums) to readily identifiable property types if the market warrants; 3) the Town will continue to meaningfully review requests for abatement and the market data associated with those requests and adjust if warranted; and 4) the Town's actions in recognizing the need for a reassessment and planning for it financially are reasonable and consistent with carrying out a well-planned and managed reassessment.

However, the board is concerned with the time frame for the initiation and completion of the project as presented by the Town at the hearing. The board is concerned that if the reassessment firm begins in March 2000, with a completion date of August - September 2000, the research, analysis, listing, appraisal and review of assessments could be rushed and result in a less than ideal reassessment job. Consequently, the board orders the reassessment be commenced no later than September 1, 1999, with a completion target date no later than August 31, 2000. Beginning the work in September 1999 will allow the reassessment firm to do its initial research and market analysis (identification of sales, listing and analysis of sales, distribution of expense and income surveys for income-producing properties, establishment of base rates and manuals, etc.) at that time and then begin the appraising and listing of properties the first of 2000. (The actual listing and appraising of properties should commence the first quarter of the year 2000 and not wait until the final town meeting vote in the year 2000.) The board understands the Town's desire not to expend funds until after the new fiscal year begins in 2000 so as to have a better understanding as to its fund balance at the end of 1999; however, the research and analysis portion of the reassessment commencing in September 1999 is a relatively small percentage of the overall reassessment contract and should be fairly quantifiable by the Town.

This reassessment must comply with applicable statutes and rules and must comply with chapter REV. PART 600 from the DRA's rules on revaluations.

Upon receipt of this order, the Town shall post the order in two public places in the Town.

The Town shall provide updates on April 1, 1998 and 1999 as to its progress towards the reassessment. Further, a copy of the request for proposals shall be submitted to the board at the time they are sent to prospective reassessment companies. At the commencement of the reassessment in September 1, 1999 and thereafter, the Town shall provide written updates to the board at a minimum of every three months of the steps it has taken to carry out this order for reassessment. These updates will allow the board to review with the Town, to the extent necessary, any concerns the board may have during the reassessment as to the adequacy of the reassessment performance and compliance with this order. The board may also, if appropriate, request its staff appraiser (RSA 71-B:14) to review the reassessment procedures and analyses employed by the contracted firm to carry out the reassessment. So that it is clear, it is not the intention of this board to "watchdog" the actions of the Town or to supplant the selectmen's assessing responsibilities. Rather, based on its experience with other ordered reassessments, the board believes that a more active participation during the reassessment process will be beneficial to the Town rather than waiting until the reassessment is complete. In short, the board wants to ensure, as much as possible, that the Town receives the highest quality reassessment for the funds expended.

Lastly, the Town is to be commended for recognizing the need for the reassessment and for planning its financial course. The board's concern to commence the reassessment earlier hopefully will only enhance the reassessment's chances of being good quality and useful for future tax years.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Michele E. LeBrun, Member

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Douglas S. Ricard, Member

Certification

I hereby certify that copies of the within Order have this date been mailed, postage prepaid, to William Drescher, Esq., counsel for the Town; Chairman, Selectmen of Milford; and the Department of Revenue Administration.

Date: February 25, 1998

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Valerie B. Lanigan, Clerk

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