

**Department of Revenue Administration**

**v.**

**Town of Sandwich**

**Docket No.: 18357-00RA**

**ORDER**

In a February 21, 2006 order, the board of tax and land appeals (“board”) noticed a hearing for March 31, 2006 “to receive testimony and other evidence from Town officials, Avitar employees, and DRA officials as to whether the [board ordered 2004] reassessment has been performed satisfactorily or not.” Further, the board advised the “Town” should also be prepared to address concerns “raised in either the [board’s review appraiser’s] intermediate or the final report.” Present at the hearing were members of the board of selectmen, representatives of Avitar Associates of New England, Inc. (“Avitar”), officials from the department of revenue administration (“DRA”) and two Town taxpayers.

At the hearing, the parties addressed the concerns raised by the board as to: 1) the adequacy of the analysis and supporting documentation for land valuation models performed by Avitar during the 2004 reassessment; 2) the resulting low median ratio (0.63) and high overall coefficient of dispersion (“COD”) (42.73) found by the board’s review appraiser in the subsequent

sales study (7/1/2004 to 9/30/2005 time period) for all residential land sales; and 3) the Town's future reassessment plans.

Avitar officials stated the land value tables and adjustments were consistently applied throughout the Town and the board's review appraiser's use of sales which occurred subsequent to the date of the reassessment in its sales' ratio study was not an appropriate approach to test the soundness of the reassessment. Avitar acknowledged there was no question the market had changed after June 2004, indicated it had not worked in the Town for tax year 2005 but currently is under contract for general assessing and data verification for year 2006. Further, Avitar performed an analysis of land sales and has found the following:

- for the period 10/01/2004 to 9/30/2005, 38 land sales were analyzed which indicated a median ratio of 81.8%, a COD of 20.3 and a price related differential ("PRD") of 1.05; and
- for the period since 10/01/2005, 13 sales were analyzed which indicated the market has changed dramatically. Of the four to five months of sales, an untrended median ratio of 95%, COD of 9.0 and PRD of 1.01 were indicated.

Because 13 sales is not statistically significant, Avitar has recommended the Town tentatively put off a decision until July 2006 regarding performing a land update to allow for additional land sales to occur and then determine if such an update is necessary this year. Last, Avitar stated the Town is currently scheduled for assessment review by DRA in 2008. Avitar's recommendation is for the Town to consider a full reassessment in 2007 and request the DRA to make its certification year coincide with the reassessment.

The Town testified there were no funds on the 2006 warrant article for additional costs for any action the board may direct and concurred with Avitar that allowing time for additional land

sales would be a reasonable way to proceed. Further, the Town agreed with Avitar's recommendations and would plan to vote to place a warrant article to raise the funds necessary over a two-year period.

DRA officials noted its 2005 ratio study is slightly higher than that indicated by Avitar (10/01/2004 - 9/30/2005 – median of 81.6%, COD of 25.9 and PRD of 1.09); however, the increased COD for one year would not necessarily cause the DRA to petition the board because the DRA customarily looks at three years of data. DRA concurs the problem is with the land values, not in the overall valuation. Further, DRA found no unusual aspects in the 2004 revaluation and the final report of its monitor was generally acceptable. DRA also concurred with the plan presented by Avitar to allow a reasonable time to elapse for additional land sales and indicated the Town is currently set for assessment review in 2008 but DRA would be amenable to advance the 2008 review upon request of the Town if a 2007 reassessment is planned. DRA concluded by stating they were comfortable with the board closing the case with respect to the 2004 revaluation.

One Town taxpayer (Chip Kimball) expressed concerns with various categories of land assessments and issues affecting undeveloped parcels. These issues include the skyline district, wetlands, conservation land and unbuildable land. Ms. Cynthia Brown, the board's review appraiser testified she performed random samples during her review. She indicated her investigation had found consistent application based on a review of the assessment-record cards.

### **Board Rulings**

The board removes its August 16, 2001 reassessment order and closes its docket. The board finds there is a remaining issue with the assessment of vacant land and finds the Town's proactive plans to improve land assessment equity to be a reasonable remedy for the deficiencies

noted in the board's review appraiser's November 24, 2004 intermediate report and January 19, 2006 final report. The selectmen should proceed in good faith to insure the land sales are reviewed in several months to determine if an update is required. If the Town was not proceeding with such plans, the board would likely have ordered a similar remedy. Further, the Town should proceed with its plan to do a full revaluation in 2007, if necessary. We note that Avitar will ensure that improved documentation will be included in the next revaluation.

In light of the good faith efforts presented by the Town and Avitar, the board will not order any remedial action. Instead of retaining jurisdiction, the board notes the DRA, through its RSA 21-J:11 monitoring authority<sup>1</sup> and its RSA 21-J:3, XXV and XXVI petitioning and assessment review authority, can review the Town's progress, plans and supporting documentation. If the Town has not complied with the applicable statutes and rules, the DRA could petition the board for future enforcement action. However, given the Town's plans, the board finds such action should not be necessary. While the board has considered taxpayer Kimball's specific concerns (summarized above), and the Town and its assessors should make note of them, those concerns do not require the board to keep this record open.

A final issue concerns Avitar's argument that any subsequent sales ratio study the board's review appraiser performed pursuant to TAX 208.06(a)(2) is inconclusive as to the accuracy of the 2004 reassessment because market dynamics regularly change. The board's rules are consistent with generally accepted publications and standards relating to mass appraisal

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<sup>1</sup> As noted in Town of Orford, Docket No.: 21473-05RA (November 3, 2005), p. 7, "the BTLA would encourage DRA in the future to include, as part of its RSA 21-J:11, II monitoring functions, a review of the extent and quality of the sales analysis documentation and a field review of the consistency of the application of the assessment models throughout the taxing jurisdiction...."

practices, including, but not limited to: Appraisal Standards Board, Uniform Standards of Professional Appraisal Practice, Standards Rule 6 (2000 ed.); Robert J. Gloudemans, Mass Appraisal of Real Property, (International Association of Assessing Officers (IAAO), 1999); and Appraisal Institute, The Appraisal of Real Estate, (12<sup>th</sup> ed. 2001). The board also considers the guidelines adopted on September 5, 2003 by the Assessing Standards Board pursuant to RSA 21-J:14-b. “The final step in the mass appraisal process is a sales ratio study designed to measure the overall quality of appraisals. Values generated by mass appraisal models are compared with a representative sample of sales, preferably including some sales not used in calibration.” Emphasis added. IAAO, Mass Appraisal of Real Property, at 21. In short, the final test is the ratio study based on the mass appraisal models. This is the subsequent sales analysis of unknown sales.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Michele E. LeBrun, Member

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Douglas S. Ricard, Member

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Albert F. Shamash, Esq., Member

**Certification**

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Melinda E. Dupre, Esq., State of New Hampshire Dept. of Revenue Admin., PO Box 1467, Concord, NH 03302, DRA Counsel; Chairman, Board of Selectmen, Town of Sandwich, PO Box 194, Center Sandwich, NH 03227; Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, NH 03258, Contracted Assessor; George "Chip" W. Kimball, 172 Taterboro Road, Center Sandwich, NH 03227; Guy Petell, State of New Hampshire Dept. of Revenue Admin., PO Box 487, Concord, NH 03302; and H. Boone Porter, III, 324 Wentworth Hill Road, Center Sandwich, NH 03227, Interested Parties.

Date: April 19, 2006

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Anne M. Stelmach, Clerk