

**Town of Warner**

**Docket No.: 18359-00RA**

**ORDER FOR REASSESSMENT**

On September 7, 2000, the department of revenue administration (“DRA”) filed a petition, pursuant to RSA 21-J:3, XXV (Supp. 2000), requesting the board to order a reassessment of all property within the Town of Warner (“Town”). On May 23, 2001, a public hearing was held, in accordance with the board’s April 13, 2001 order, to receive testimony and evidence to determine if the board should order a reassessment pursuant to its authority in RSA 71-B:16, III. As a preliminary step in the reassessment, an investigation and analysis (“Study”) of recent sales within the Town was conducted by the board’s review appraiser, Mr. Stephan Hamilton. The Study was made part of the record by its submission to the board on March 26, 2001. The hearing was attended by representatives of the DRA, selectmen, the town appraiser, the assessing assistant and Mr. Hamilton.

The DRA argued an order for reassessment was appropriate due to: 1) the time elapsed since the last complete reassessment in 1994; 2) the coefficients of dispersion for 1997 through 1999 exceeded 20%; and 3) although the Town had plans for a complete reassessment effective for tax year 2004 as of the date of the DRA’s petition, no reassessment funds had been approved.

The Town argued it should be allowed to proceed with its plans for a reassessment in tax

year 2004 for several reasons.

1) The Town indicated \$50,000 of the estimated \$200,000-plus cost had been approved at the 2001 town meeting and placed in a capital reserve fund.

2) The taxpayers in Town are generally satisfied with the assessment level and equity as evidenced by the very minimal number of abatement requests and no appeals.

3) The quality of physical descriptions and building measurements are excellent based on the initial listing performed in 1994 by “in-house” personnel.

4) “Pick up” work of new permitted construction has been done consistently and thoroughly since the reassessment.

5) The Town performed a 2000 assessment update of the one manufactured-home park in Town and adjusted the assessments by a 75% market factor.

6) Attempting to perform the reassessment for tax year 2002 as argued by DRA would not allow the Town enough time to request bids from reassessment firms, choose a reassessment firm, actually perform the reassessment, train personnel on new computer software, and provide adequate notice and reviews of assessment by taxpayers before issuing the 2002 tax bills.

7) Mr. Hamilton’s overall COD and stratified CODs are high due to his inclusion of certain sales that were not arm’s-length or reflect sales of multiple parcels.

### **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 the following pertinent decisions of the supreme court, among others: Sirrell v. State of New Hampshire & a., No. 2001-003, \_\_N.H.\_\_, <http://www.state.nh.us/courts/supreme/opinions/0105/sirre087.htm> (May 3, 2001); Opinion of the Justices, (Reformed Public School Financing), No. 00-179, \_\_N.H.\_\_, <http://www.state.nh.us/courts/supreme/opinions/00012/ojschool.htm> (December 7, 2000); Claremont School District v. Governor, 142 N.H. 462, 471 (1997); Opinion of the Justices, 106 N.H. 202 (1965); Opinion of the Justices, 101 N.H. 549 (1958); Rollins v. City of Dover, 93 N.H. 448 (1945); Trustees of Phillips Exeter Academy v. Exeter, 92 N.H. 473 (1943); Town of Bow v. Farrand, 77 N.H. 451 (1915); Amoskeag Mfg. Co. v. Manchester, 70 N.H. 336 (1900); Winnepiseogee Lake Cotton & Woolen Mfg. Co. v. Town of Gilford, 67 N.H. 517 (1896); State v. United States & Canada Express Company, 60 N.H. 219 (1880); Edes v. Boardman, 58 N.H. 580 (1879); Morrison v. City of Manchester, 58 N.H. 538 (1879); and Opinion of the Justices, 4 N.H. 565 (1829).

### **Board's Rulings**

RSA 71-B:16, III provides:

**Order for Reassessment.** The board may order a reassessment of taxes previously assessed or a new assessment to be used in the current year or in a subsequent tax year of any taxable property in the state: . . .

III. When in the judgment of the board, determined in accordance with RSA 71-B:16-a, any or all of the property in a taxing district should be reassessed or newly assessed: . . .

RSA 71-B:16-a provides:

**Criteria for Ordering Reassessment.** Prior to making any determination to order a reassessment or a new assessment under RSA 71-B:16, III, the board shall give notice to the selectmen or assessors of the taxing district and, if requested, hold a hearing on the matter at which the selectmen or assessors shall have the opportunity to be heard. The board shall not order any such reassessment or new assessment unless it determines a need therefor utilizing the following criteria:

- I. The need for periodic reassessment to maintain current equity.
- II. The time elapsed since the last complete reassessment in the taxing district.
- III. The ratio of sales prices to assessed valuation in the taxing district and the dispersion thereof.
- IV. The quality of the taxing district's program for maintenance of assessment equity.
- V. The taxing district's plans for reassessment.

The last complete reassessment was performed by the Town's "in-house" personnel in 1994 using a manual property-record card system. Since that time, the Town has contracted with Mr. Bruce Bean to perform "pick ups" on new commercial construction and utilized in-house assessing personnel for "pick ups" on noncommercial new construction. The Town does not currently employ the RSA chapter 74 inventory form but relies upon building permits for identifying new construction. The Town testified, however, that building permits are required only when exterior modifications or renovations occur; consequently, interior renovations have not been consistently reported or picked up. The Town performed an assessment update of manufactured homes on the one manufactured home park in Town for tax year 2000. No other updates or market adjustments have been performed since the assessments were established in 1994.

Mr. Hamilton's Study indicated a town-wide median ratio of 0.87, a COD of 25.87 and a price-related differential ("PRD") of 1.13. The Study also included a stratification of various property types which indicated a median ratio range from 0.72 to 1.41. The stratification highlighted several property types with either a high level of assessment variation (high COD) or a level of assessment that varied significantly from the town-wide median ratio.

The DRA's equalization studies for years 1997 through 2000 indicate median ratios of 1.02, 1.03, 0.91 and 0.81 respectively, and CODs of 20.67, 20.56, 23.16 and 18.15 respectively. Further, the DRA's 2000 equalization survey (DRA Exhibit #2) calculated stratified ratios which ranged from a low of 0.56 to a high of 1.12. The board finds the DRA's median ratios and the CODs, even with the exclusion of sales the Town argued were improperly included in Mr. Hamilton's Study, also indicate disparate levels of assessment of various property types.

The time elapsed since the last reassessment and the CODs and PRDs, town-wide and by strata, indicate the need for a reassessment in keeping with several RSA 71-B:16-a criteria. Consequently, the board orders the Town to conduct a full reassessment effective for tax year 2003. While the board on one hand understands the DRA's argument as to the immediacy of the need for reassessment, on the other hand, the board agrees with the Town that to order such reassessment for 2002 would likely result in a rushed, lower quality assessment. The Town intends to go from a manual card system to a computer-assisted mass appraisal ("CAMA") assessment system. The entire process of identifying the company most appropriate to conduct such a conversion, integrating it with existing computer software, training Town staff and performing the listing, analysis and valuation functions of the reassessment will take significant

planning and time. Attempting to complete the process for tax year 2002 could result in short cuts being taken and a lower quality reassessment.

The Town, starting September 1, 2001, and every three months thereafter, shall notify the board in writing as to its progress in carrying out this reassessment order. If random checking determines the existing property-record card building dimensions are reasonably accurate, the Town may utilize those building dimensions, but not the descriptive listings. Other than this exception to utilize the existing building measurements, the reassessment must comply with applicable statutes and regulations, including PART 600 of the DRA's rules on reassessment. Further, the board is requesting Mr. Hamilton to review, on an ongoing basis, the procedures and analyses that will be employed during the 2003 reassessment, including the random check of the quality of the building dimensions before they are used. The involvement of Mr. Hamilton is not intended to supplant the selectmen's assessing responsibility or the DRA's responsibility to monitor appraisals pursuant to RSA 21-J:11, II. Rather, based on its experience with other ordered reassessments, the board believes a more active participation by its review appraiser during the reassessment process will be beneficial to the Town instead of waiting until the reassessment process is complete. In short, the board wants to ensure, as much as possible, the Town receives the highest quality reassessment for the funds expended.

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

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Chairman

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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 that a copy of the foregoing order has been mailed this date, postage prepaid, to: Chairman, Board of Selectmen, Town of Warner; Mark Bennett, Esq., counsel for the DRA; and Guy Petell, Director of Property Appraisal, DRA.

Date: June 20, 2001

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Lisa M. Moquin, Temporary Clerk