

Town of Stoddard

Docket No.: 18362-00RA

ORDER

As part of the requirement for periodic updates of progress on the board-ordered reassessment for tax year 2003, the selectmen submitted a letter dated July 29, 2002. The letter stated that the “Town’s” assessing contractor, Earls Nieder Perkins, LLC, in a meeting with the selectmen and Mr. James Gibney of the Department of Revenue Administration (“DRA”), “determined that above-ground pools, prefab screen houses, driveway paving, and docks will not be assessed.”

The board finds such a blanket determination is contrary to several statutes and case law relative to what property is taxable in New Hampshire. (See also paragraph 2.1.1 of the Town’s contract with Earls Nieder Perkins, LLC.) Specifically, RSA 72:6 provides “[a]ll real estate, whether improved or unimproved, shall be taxed except as otherwise provided.” Further, in part RSA 72:7 states: “[b]uildings, mills, wharves, . . . are taxable as real estate.” (Emphasis added.)

Driveway paving is certainly an improvement to land and should be assessed if it has a contributory value to the property. Docks are also improvements to real estate and are synonymous to wharves as mentioned in RSA 72:7 as being taxable. Docks are permitted and

regulated by the Department of Environmental Services and, at times, add significant value to the adjoining waterfront real estate. Above-ground pools and prefab screen houses can, at times, be either personal property or taxable real estate as fixtures. Such determinations are made on a case-by-case basis and are dependent on a number of factors, i.e., the nature and use of the items, the fashion in which they may be specially adapted to the real estate and vice versa (the interrelationship or intertwining of the item and the underlying real estate) and the intent of the property's owner. See Crown Paper Co. v. City of Berlin, 142 N.H. 563 (1997) and N.E. Tel. & Tel. Co. v. City of Franklin, 141 N.H. 449 (1996). Also see attached board decision in James Falconer and Doris Falconer v. Town of Kensington, Docket No.: 4480-88PT.

The board's intent is not to waste the Town's and its contractor's time during its reassessment by measuring and listing improvements that are of de minimis value. However, the board's concern is that a blanket policy, such as that reflected in the July 29, 2002 update letter, could result in some value-contributing taxable real estate not being assessed, leading to further inequities. Consequently, the Town and its assessing contractor shall measure, list and value all improvements that are determined to be taxable real estate and are of more than nominal value.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

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 Stoddard; Mark Bennett, Esq., counsel for the DRA; and Guy Petell, Director of Property Appraisal, DRA.

Date: August 19, 2002

Anne M. Bourque, Deputy Clerk