

Town of Francestown

Docket No.: 18382-00RA

ORDER FOR REASSESSMENT

On September 28, 2000, the department of revenue administration (“DRA”) filed a petition pursuant to RSA 21-J:3, XXV (Supp. 2000), requesting the board order a reassessment of all property within the Town of Francestown (“Town”). In accordance with the reassessment investigation process contained in TAX 208.05, the board’s tax review appraiser, Mr. Stephan Hamilton, filed a report (“Report”) on June 20, 2001 containing an investigation and analysis of recent sales within the Town. On August 3, 2001, a public hearing was held in accordance with the board’s July 2, 2001 show cause order to receive testimony and evidence to determine if the board should order a reassessment pursuant to RSA 71-B:16, III. The testimony and evidence was presented at the hearing by representatives of the DRA, and O. Alan Thulander, a selectman of the Town.

The DRA argued an order for reassessment was appropriate due to: 1) the time elapsed since the last complete reassessment in 1990; 2) the coefficients of dispersion (CODs) for 1997 through 2000 exceeding 20%; and 3) the lack of knowledge by the DRA of any definitive plans by the Town to perform a complete reassessment.

The Town argued CODs are not accurate measurements of the equity in a small town

such as Fracestown because small towns have a relatively small number of sales. The Town stated it had performed two partial reassessments in 1993 and 1996 based on reviewing sales and adjusting various classes of property at those times. The selectmen had proposed a full measure and list reassessment at the 2001 town meeting. The voters failed to appropriate the necessary funds expressing concerns that a reassessment at this time would reflect value at the peak of the market, as had occurred in the 1990 reassessment. Selectman Thulander stated that, if no reassessment is ordered, the selectmen plan to perform an update for the 2002 tax year.

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 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.

Based on the Town's last complete reassessment in 1990, the assessment updates performed by the selectmen in 1993 and 1996, and the disparate sales ratios and CODs contained in the Report, the board orders the Town to conduct a full reassessment effective for tax year 2003. The selectmen's plans presented at the town meeting to proceed with a full measure and list program is a good one but needs to be fully funded and carried forward. Waiting until the market is stable, as the Town argued, is no justification for continuing with the disparate equity that the ratio studies, conducted both by the DRA and by Mr. Hamilton in the Report, indicate. The board agrees CODs calculated from a small number of sales do not provide the same level of confidence as CODs derived from larger samples. However, Mr. Hamilton's Report enlarged the sample size by using 173 sales over a three-year period, time adjusted to October 1, 2000. Thus, the results of his ratio study can be given more weight than results of the DRA's single-year ratio studies. The Report indicates a range of stratified median ratios as high as 1.23, and as low as .56, and an overall median ratio of .84. This extreme disparity is quantified in the high overall COD of 32.76. These numbers indicate the need for an immediate reassessment.

Notwithstanding this immediate need, the Town should be commended for its efforts in performing past updates and its diligent annual pickup procedure as explained at the hearing.

While the board is not ordering any update in the interim before the full reassessment in 2003, the Town should continue its annual pickups and any interim updates it determines appropriate.

The reassessment must comply with the applicable statutes and regulations, including PART 600 of the DRA's rules on reassessment. Further, the board is directing Mr. Hamilton to review, on an ongoing basis, the procedures and analysis that will be employed by the 2003 reassessment. The involvement of Mr. Hamilton is not intended to supplant the selectmen's assessment responsibilities or to be duplicative of 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 the Town receives the highest quality reassessment for the funds expended.

The Town shall notify the board, in writing, starting January 1, 2002 and every three months thereafter as to its progress in carrying out the reassessment. Further, upon execution of a DRA approved contract to carry out the reassessment, the Town shall provide a copy of such contract to the board.

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

Findings of Fact and Rulings of Law

The board responds to the DRA's requests as follows.

In these responses, “neither granted nor denied” generally means one of the following:

- a. The request contained multiple requests for which a consistent response could not be given;
- b. The request contained words, especially adjectives or adverbs, that made the request so broad or specific that the request could not be granted or denied;
- c. The request contained matters not in evidence or not sufficiently supported to grant or deny;
- d. The request was irrelevant; or
- e. The request is specifically addressed in the decision.

Findings of Fact

1. Granted, with a change to the verbiage amending “study of the assessment equity” to an equalization study.
2. Granted.
3. Granted.
4. Granted, with 1999 COD corrected to 22.35.
5. Granted, with “Officials” corrected to officers.
6. Neither granted nor denied.
7. Granted.
8. Granted.
9. Granted.
10. Granted.
11. Granted.
12. Granted.

13. Granted.

14. Granted.

15. Granted.

16. Granted.

17. Granted.

18. Granted.

Rulings of Law

1. Neither granted nor denied.

2. Granted.

3. Neither granted nor denied.

4. Neither granted nor denied.

5. Neither granted nor denied.

6. Granted.

7. Granted.

8. Granted.

9. Granted.

10. Granted.

11. Granted.

12. Neither granted nor denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Douglas S. Ricard, 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 Fracestown; Mark Bennett, Esq., counsel for the DRA; Guy Petell, Director of Property Appraisal, DRA; and Nancy Levinus, Interested Party.

Date: September 4, 2001

Lisa M. Moquin, Clerk