

In Re: City of Claremont Reassessment Inquiry

Docket No.: 18398-00RA

ORDER

This Order responds to the letter from the Town of Sunapee (“Town”) dated July 9, 2001. The Town’s letter requests the right to “present . . . comments” at the hearing in this action involving the City of Claremont (“City”), now scheduled for August 7, 2001. Upon consideration of the “reasons” stated in the Town’s letter, the board must deny the request.

Previously, on June 22, 2001, the board granted the Town’s request to be “on the list of interested parties” in this proceeding. While the Town is welcome to attend the August 7th hearing as an observer, the board will not hear evidence from witnesses other than the City and its own taxpayers, the board’s Review Appraiser (Mr. Stephan Hamilton) and the DRA, if necessary. The Town will, however, remain on the board’s mailing list because of the interest it has expressed in these proceedings and the board’s prior ruling. As requested, a copy of Mr. Hamilton’s report will be sent to the Town with this Order.

Both the City and the Town are situated in Sullivan County and, according to the Town, are its two largest taxpayers. The Town’s letter refers to the DRA’s setting of the Town’s 2000 tax rate and an appeal of that decision by the Town, an appeal apparently based on alleged “errors and omissions” in the City’s assessment practices which affected the computation of the

Town's tax rate. According to the letter, the DRA denied the Town's appeal and, in the Hearing Officer's report (quoted by the Town), made reference to these proceedings before the board as a source for "the relief [the Town] is requesting."

The board cannot be certain how or why the DRA implied such a conclusion. The board has not received a copy of the DRA report and is not clear why these proceedings could affect an appeal of the Town's prior tax rate. In other words, the board does not believe any relief from taxes previously paid to the county by the Town can be achieved through, or as a result of, this proceeding focused only on the City. A reassessment order, if issued by the board as a result of the inquiry it has undertaken of the City's assessment practices, is likely to be prospective in nature, not a correction of prior tax year assessments. It is, therefore, difficult to understand how a reassessment in the City, if one is ordered, will benefit the Town in its efforts to appeal the year 2000 tax rate set by the DRA.

In this regard, the recently decided City of Berlin v. County of Coos case, No. 98-699 (March 1, 2001), ___ N.H. ___, <http://webster.state.nh.us./courts/supreme/opinions/0103/berli033.htm>, is instructive. In Berlin, the supreme court reversed a trial court ruling requiring a county to reduce a municipality's share of county taxes (based upon the DRA's equalized valuation). The municipality had argued such relief was appropriate because a substantial abatement application by a local taxpayer might later be successful, thus lowering its assessed values and, therefore, its share of county taxes.

In a similar fashion, the Town may believe its share of county taxes would be lower if the Claremont reassessment should result in a higher total assessed value for that municipality. But, as in Berlin, a conclusion that the Town had thereby “suffered any unconstitutional disproportionality of its county taxes” or is otherwise entitled to relief in these proceedings would be unwarranted.

The board has also reviewed the Town’s request in light of the requirements for intervention, assuming the letter can be construed as a “petition,” but the board is unable to conclude the Town qualifies under RSA 541-A:32. This statute requires a factual showing of the Town’s “rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding” in order to grant a petition for intervention. The board believes the reasons stated by the Town, which relate to its belief its share of prior county taxes might be affected by the reassessment proceedings involving the City, are not sufficient to permit intervention.

Absent other authority permitting participation, only parties, including successful intervenors, are permitted to appear before a tribunal to present evidence. See RSA 541-A:33; TAX 201.07; and TAX 102.35. Nothing in the board’s rules pertaining to municipal-wide reassessments permits a second municipality from appearing as a party to such a proceeding. TAX 208.01 et seq.

For all of these reasons, the request stated in the Town’s letter is denied.

SO ORDERED.
BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Douglas S. Ricard, Member

Albert F. Shamash, Esq., Member

Certification

I hereby certify that a copy of the foregoing order has been sent this date, postage prepaid, to: Chairman, Claremont Board of Assessors; Guy Petell, Director Property Appraisal Division, Department of Revenue Administration; and Town of Sunapee. The Town was also sent a copy of the Review Appraiser's report referenced in the order.

Date: July 20, 2001

Lisa M. Moquin, Clerk