

City of Claremont

Docket No.: 18398-00RA

ORDER FOR REASSESSMENT

In a November 15, 2000 order, the board initiated an investigation, pursuant to its authority in RSA 71-B:16, II and III, of the “City’s” assessment practices. The board directed its review appraiser, Mr. Stephan Hamilton, to gather facts and submit a report to the board as to the status of the City’s assessment practices and equity. Based on the facts presented in the May 24, 2001 Report (the “Report”), the board held a hearing on August 7, 2001 to receive testimony and evidence from City officials and any City taxpayers as to whether the board should order a reassessment in the City.

At the hearing, the City submitted a report (Municipality Exhibit A) prepared by Mr. Joseph Lessard, the appraiser recently utilized by the City through a contract with Municipal Resource, Inc. (“MRI”). The City argued that while there had been a disruption in performing annual assessment “pick-ups” due to assessing staff departures, MRI (employed at the end of September 2000) had quickly picked up 353 of the 600 largest properties and those new values had been included in the 2000 total valuation. MRI continued into 2001 reviewing those pick-ups, assessing the remaining 247 prior year pick-ups, assessing the 400 new pick-ups for tax year 2001 and updating manufactured homes on rented sites. The City pointed out that such revisions

had improved the City's overall level of assessment and assessment equity as indicated by the chart on page 5-3 of Municipality Exhibit A. The City also stated that it was in the process of updating its tax maps to the GIS format and during this process had discovered many differences between the updated tax maps and the acreage stated in the City's existing computer-assisted mass appraisal ("CAMA") assessing system. Given the progress the City has made in improving its assessment maintenance practices, its plans to hire a full-time assessor and staff, and the need to finalize the tax map revisions and acreage modifications, the City proposed a reassessment schedule as shown on page 7-1 of Municipality Exhibit A. The City proposed a full reassessment be completed effective for tax year 2004, preceded by assessment updates to: manufactured homes on their own land for tax year 2002; and commercial properties and any other strata that showed significant overall variation from the City's general level of assessment for tax year 2003.

Larry Beswick, a taxpayer who owns multi-family and commercial property, argued that the reassessment should not be rushed into and that the City's schedule was, therefore, reasonable.

Alan Whipple, city councilor, supported the need for a complete reassessment but stated it was imperative, given the City's past assessing practices, that it be completed for tax year 2002.

Guy Petell, director of the property appraisal division of the department of revenue administration ("DRA") testified to his belief that the City would have a difficult time finding many reassessment firms that would be available to perform the reassessment for 2002 given the

number of parcels (5,400) in the City and the overall complexity of the process.

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 supreme court decisions, 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.

The board orders the City to complete a full reassessment for tax year 2003 and continue with the planned assessment update of manufactured housing on their own land for 2002.

After careful review of the City's proposed reassessment schedule, the board orders a full reassessment for tax year 2003 for the following reasons. 1) While the board agrees with the City that it is critical to employ a full-time assessor and staff to provide appropriate attention to

the City's revenue side of its fiscal affairs, the board believes that such an individual can be hired and become familiar with the City and its assessing needs more quickly than suggested by the City. 2) Despite the City's and MRI's efforts in improving the assessment records within approximately the last ten months, the testimony at the hearing, information contained in the Report, and the DRA's monitoring report, indicates the physical data of the City's assessing records needs to be reviewed as soon as possible. 3) As recently enunciated in Sirrell, the 11 years that have elapsed since the City's last reassessment is well past the five-year time period to value property anew as required by Pt. II, Art. 6 of the New Hampshire Constitution and, in practical terms, the market changes during the past 11 years, coupled with the physical data deficiencies, have resulted in unacceptable assessment inequity. 4) Doing a complete reassessment for tax year 2003 would provide the City with two budget cycles in which to appropriate the funds necessary to perform the 2002 update and the 2003 complete reassessment. While fiscal burden is not one of the five criteria contained in RSA 71-B:16-a, the board is cognizant of the financial commitment such a reassessment places upon the City. The board notes that RSA 33:3-b allows the cost of reassessments and tax maps to be bonded and spread out into future fiscal years.

In conjunction with the complete reassessment, the City should also review its current-use records to ensure their accuracy with regard to the categories requested for current use and the land that is retained out of current use. If the records are less than accurate, the City should take

this opportunity to improve those records in accordance with the current-use board's administrative rules.

The board finds ordering a complete reassessment for 2002 is not practical because it is very unlikely the City could execute a contract with any reassessment firm to get the work done in a timely fashion to allow submission of values to the DRA by September 1, 2002 for tax rate setting. As evidenced by testimony of the quality of the last reassessment in 1990, it is clear that careful data collection and review process, with good oversight of the City's assessing staff, needs to occur to ensure quality control. Ordering a complete reassessment for 2002 would be too hasty a time frame to properly perform the important data collecting and market review steps.

The reassessment must comply with the 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 analysis that will be employed during the 2003 reassessment. The involvement of Mr. Hamilton is not intended to supplant the City'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 an active participation by its tax review appraiser during the process will be beneficial to the City and is preferable to waiting until the reassessment is complete. In short, the board wants to ensure the City receives the highest quality reassessment for the funds expended.

The City shall notify the board, in writing, every three months, commencing January 1,

2002 through the completion of the reassessment, as to its progress in carrying out tax map

revisions, the 2002 update and the 2003 complete reassessment. Part of this notification shall be copying the board with any executed reassessment contracts approved by the DRA.

Upon receipt of this order, the City shall post copies of this order in two public places within the City.

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 sent this date, postage prepaid, to: Matthew H. Upton, Esq., counsel for the City of Claremont; Chairman, Claremont Board of Assessors; Guy Petell, Director Property Appraisal Division, Department of Revenue Administration; and Town of Sunapee.

Date: September 6, 2001

Lisa M. Moquin, Clerk