

Department of Revenue Administration

v.

Town of Deering

Docket No.: 18409-00RA

ORDER

In an order dated November 29, 2005, the board of tax and land appeals (“board”) noticed a hearing for December 19, 2005 “to receive testimony and other evidence from town officials, Avitar employees, and DRA officials as to whether the reassessment [ordered by the board for 2004] has been performed satisfactorily or not.” Present at the hearing were members of the board of selectmen, representatives of Avitar Associates of New England, Inc. (“Avitar”), several officials of the department of revenue administration (“DRA”) and several Deering taxpayers.

At the hearing, the parties addressed three issues all related to the determination of whether the 2004 reassessment was satisfactorily performed:

- 1) the concern raised in earlier orders of whether adequate “analysis and supporting documentation” for land valuation models and adjustments were performed by Avitar during the 2004 reassessment;
- 2) the concern of the high overall coefficient of dispersion (“COD”) of 20.34%

found by the board's review appraisers in the subsequent assessment-to-sale ratio study for all properties and the low median ratio of 75% and COD of 24.57% for land only sales; and

3) the "Town's" future reassessment plans.

The Town and Avitar officials stated funding existed to perform an assessment update for 2006 and a contract would be signed shortly formalizing that plan. Avitar acknowledged the rapidly increasing land values that were occurring during and subsequent to the 2004 reassessment and recognized the need to address the inequity indicated by the low median ratio and high COD for land only sales by performing the 2006 update. Avitar also acknowledged the benefit of providing better analysis and documentation than what was provided during the 2004 reassessment. The town officials stated, in addition to the 2006 assessment update, the Town was contracting with Avitar to perform a 4 year cyclical assessment data review with a possible additional update in 2008, if necessary, and a full assessment update in 2010.

DRA officials noted the Town's current assessment statistics do not comply with the assessing standards board's guidelines and agreed that a 2006 assessment update would be an appropriate endeavor to improve the Town's assessment equity. DRA also testified the board should retain jurisdiction over the 2006 assessment update to ensure it was adequately performed.

Board Rulings

The board finds the Town's proactive plans to improve assessment equity through the 2006 assessment update and the subsequent cyclical assessment data review process to be an appropriate remedy for the deficiencies noted in the board's review appraiser's December 8, 2004 intermediate report and October 21, 2005 final report. If the Town

was not proceeding with such plans, the board would likely have ordered a similar remedy. Consequently, the board finds no need to order any remedial action because the Town is proceeding appropriately on its own. As the board noted in Orford, Docket No.: 21473-05RA, p. 16, the board “only intercedes in municipal assessing functions as provided by RSA 71-B:16 when the municipality has not or is unwilling to fulfill its responsibility to assess property proportionally.”

The board considered the DRA’s testimony that the board should retain jurisdiction to ensure the Town carries out its assessing functions properly during the 2006 update. While this is certainly an option the board could pursue, we find the Town and Avitar have recently proceeded in good faith to prospectively address the problems of the 2004 reassessment. Mr. Gary J. Roberge, President of Avitar noted at the hearing that improved documentation which was required and submitted in Orford has been provided and been a benefit to several other towns in which Avitar is currently working. In light of the good faith plans presented by the Town and Avitar, instead of retaining jurisdiction, the board would note that DRA, through its RSA 21-J:11 monitoring authority¹ and its RSA 21-J:3, XXV and XXVI petitioning and assessment review authority, can review the Town’s 2006 assessment update and supporting documentation. If DRA finds the Town has not complied with applicable assessing statutes and rules, it could petition the board for future enforcement action.

However, given the Town’s commitment to improving the lack of assessment documentation

¹ As noted in Orford, Docket No.: 21473-05RA, p. 7, “the BTLA would encourage DRA in the future to include, as part of its RSA 21-J:11, II monitoring functions, a review of the extent and quality of the sales analysis documentation and a field review of the consistency of the application of the assessment models throughout the taxing jurisdiction including neighborhood delineation, land and building base rates and grades, and significant and reoccurring adjustments such as view factors, waterfront factors, undeveloped factors, building depreciations, etc.”

that existed during the 2004 reassessment, the board finds it is unlikely such future enforcement action would be necessary.

While the board finds the 2004 reassessment was not performed satisfactorily, we find the Town understands the need to improve its assessment equity and documentation and it has concrete and funded plans to do so. Consequently, the board removes its October 5, 2001 reassessment order and closes its file.

SO ORDERED.

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Douglas S. Ricard, Member

Albert R. Shamash, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Kathleen J. Sher, Esq., State of New Hampshire, Department of Revenue Administration, PO Box 457, Concord, New Hampshire 03302-0457, counsel for the Petitioner; Chairman, Board of Selectmen, Town of Deering, 762 Deering Center Road, Deering, New Hampshire 03244; Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, New Hampshire 03258, Contracted Assessing Firm; Guy Petell, State of New Hampshire, Department of Revenue Administration, PO Box 457, Concord, New Hampshire 03302-0457; and Edward Naile, 61 Tubbs Hill Road, Deering, New Hampshire 03244, Interested Parties.

Date: 1/13/06

Melanie J. Ekstrom, Deputy Clerk