

Department of Revenue Administration

v.

Town of Deering

Docket No.: 18409-00RA

AMENDED SHOW CAUSE ORDER

On December 19, 2000, a petition was filed with the board by the department of revenue administration (“DRA”), pursuant to RSA 21-J:3, XXV, requesting the board order a reassessment in the Town of Deering (“Town”). In accordance with TAX 208.05, the board directed its tax review appraiser, Mr. Stephan Hamilton, to perform an investigation of the assessing practices of the Town and an assessment-to-sales ratio study.

On June 19, 2001, Mr. Hamilton filed an initial investigation report outlining his findings as to the Town’s assessing practices and the time elapsed since the Town’s last property valuation (copy attached). In this case, Mr. Hamilton found the Town has not performed any reassessment or assessment update since 1994. According to the Town, an update of the tax maps will be performed for tax year 2002.

Pt. 2, art. 6 of the New Hampshire Constitution requires: “there shall be a valuation of the estates within the state taken anew once every five years, at least, and as much oftener as the general court shall order.” Further, RSA 75:8 (2001) requires an annual review and

valuation of properties that have changed in value from the preceding year. The supreme court in Sirrell & a. 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) clearly emphasized that Pt. 2, art. 6. of the New Hampshire Constitution “requires . . . property be assessed at market value at least every five years.”

The board waives TAX 208.05 (a) (3) which provides for an assessment-to-sales ratio study to be conducted and considered as one of the bases for determining if “good cause appears to exist to order a municipal wide reassessment.” See TAX 201.41 and Appeal of Land Acquisition, LLC, No. 98-672, __N.H.__ <http://www.state.nh.us/courts/supreme/opinions/0012/landacq.htm> (December 8, 2000) (. . . “[T]he board has reserved the right to waive its rules.”) Considering the constitutional and statutory provisions relative to periodic reassessment, the board finds the seven years elapsed since a reassessment raises the question whether a reassessment is necessary and should be ordered by the board pursuant to its RSA 71-B:16 and 16-a authority. Consequently, the board intends to make further findings of fact with regard to the criteria set forth in RSA 71-B:16-a prior to the issuance of any order relating to reassessment. A hearing will be held on Tuesday, September 4, 2001 at 9:00 a.m. in the offices of the board located at Johnson Hall, Third Floor, State Office Park South, 107 Pleasant Street, Concord, New Hampshire. The Town is ordered to show cause at the hearing why the board should not order a reassessment of all taxable property in the Town pursuant to RSA 71-B:16, III. The board will

also hear testimony from DRA and any Deering taxpayers relative to the need for a general reassessment of all property.

Finally, the Town is ordered to post copies of this order in two public places in Town and in a newspaper of general circulation no later than 10 days prior to the hearing date.

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: Jay L. Hodes, Esq., Counsel for Town of Deering (with copy of Mr. Hamilton's report); Chairman, Board of Selectmen, Town of Deering; Mark Bennett, Esq., Counsel for the DRA; and Guy Petell, Director of Property Appraisal, DRA.

Date: August 22, 2001

Lisa M. Moquin, Clerk