

Department of Revenue Administration

v.

Town of Stark

Docket No.: 18410-00RA

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 Stark (“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 18, 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 1992. According to the Town, they have contracted with a reassessment company to perform a valuation update and correct COD for 2001. In addition, the Town has plans for a full reassessment to occur over the next three years, effective for tax year 2004.

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 nine 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 August 6, 2001 at 11:00 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 Stark 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

Douglas S. Ricard, 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: Chairman, Board of Selectmen, Town of Stark; Mark Bennett, Esq., counsel for the DRA; and Guy Petell, Director of Property Appraisal, DRA.

Date: July 2, 2001

Lisa M. Moquin, Temporary Clerk