

Department of Revenue Administration

v.

Town of Winchester

Docket No.: 18412-00RA

ORDER

This order relates to whether the board's February 16, 2005 Order ("Update Order") requiring Nyberg Purvis & Associates, Inc. ("Nyberg") to perform an assessment update for 2005, due to the unsatisfactory nature of the 2003 reassessment, has been complied with. As memorialized in the Update Order, Nyberg agreed to "provide a performance bond in the amount of \$75,000 to the Town to be released only upon board review and determination that the assessment update was performed satisfactorily." Following completion of the update, the board's review appraisers filed a "Follow-up Report" on September 30, 2005 which analyzed the adequacy of the 2005 update by performing a subsequent sales analysis and reviewing the update's compliance with the provisions set out in the board's Update Order.

After a review of the findings of the Follow-up Report, the board concludes the 2005 update achieved satisfactory assessment equity as indicated in the assessment statistics summarized on page 4 of the report. Those statistics indicate the update generally complies with assessment equity guidelines recommended by the Assessing Standards Board on December 19, 2003 and the International Association of Assessing Officers Performance

Standards contained in its Standard on Ratio Studies, Table 7 (July 1999). The board also reviewed Nyberg's compliance with the provisions in the Update Order as to the analysis of sales, their documentation and the descriptive notes contained on the assessment-record cards.

The board's review of the updated final draft sales analysis indicates that no analysis or market extraction was performed for any major adjustments of the sales such as views. In fairness, the board noted only one sale property that had a condition factor of 200 which may have related to the property having a view. (The board was unable to discern whether this factor related to a view because the assessment-record card, as in many other instances, had no notation as to the basis of the adjustment.) In reviewing assessment-record cards, the board noted other such condition factors that may relate to views but there were no explanations on the assessment-record cards, nor was there any general discussion of the market estimate of views in the final draft sales analysis other than a description of "Low Range", "Mid-Range", and "High Range" views.

As noted in the Follow-up Report, the building base price extraction contained at Tab A of the final draft sales analysis involves buildings that were not of new construction making the extracted indicated cost of the buildings less reliable than if based on new construction.

Nyberg's lack of adequate assessment-record card notes as to significant adjustments, lack of discussion of basis for view adjustments and the questionable support for the replacement costs for improvements are not in compliance with paragraphs 3, 4, and 6 on pages 5 and 6 of the Update Order. Such lack of documentation, while not so fatal for the board to conclude the update was not satisfactorily performed, lessens the understandability and transparency of the reassessment and utility of the assessment-record cards. The board notes the Town has entered into two contracts with Avitar Associates of New England, Inc. ("Avitar") to perform both

general assessing practices and assessment updates in the future. Inasmuch as Avitar will necessarily rely upon, to some extent, the information (or the lack thereof) contained on the assessment-record cards created by Nyberg in both the defense of the Nyberg assessments (See 5 year General Assessing Agreement between Avitar and the Town) and in other ongoing functions including assessing updates, it is likely the Town, through its contract with Avitar, will incur additional appeals and expenses that could have been avoided through better assessment-record card notation and adjustment documentation and discussion by Nyberg. Consequently, the parties have twenty (20) days from the clerk's date on this order to show cause, in writing, why the Town would not be justified in releasing \$70,000 of the performance bond and retaining \$5,000 for the additional expenses likely to be incurred in Avitar's defense of the Nyberg assessments and subsequent assessing update practices due to Nyberg's lack of full compliance with the board's provisions in the Update Order. After receipt and review of the parties' comments, the board will issue a final order in this matter.

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 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, counsel for the Petitioner; Chairman, Board of Selectmen, Town of Winchester, 1 Richmond Road, Winchester, New Hampshire 03470; Barton L. Mayer, Esq., Upton & Hatfield LLP, PO Box 1090, Concord, New Hampshire 03302-1090, counsel for the Town; Brett S. Purvis, Nyberg Purvis & Associates, 3 High Street, 2A, PO Box 767, Sanbornville, NH 03872, contract assessor for the Town; Avitar Associates of New England, Inc., PO Box 981, Epsom, New Hampshire 03234, contracted assessing firm; and the following Interested Parties: Gary J. Kinyon, Esq., Bradley, Burnett, Kinyon, Fernald & Green, P.A., PO Box 666, 50 Washington Street, Keene, New Hampshire 03431; Arthur Alexander, 384 Back Ashuelot Road, Winchester, New Hampshire 03470; Marcia Ammann, 32 Michigan Street, Winchester, New Hampshire 03470; Blaise J. Barstow, 100 Elm Street, Winchester, New Hampshire 03470; Broderick Bashaw, 17 Fenton Hill Road, Ashuelot, New Hampshire 03441; Jacqueline L. Beaman, 463 Old Spofford Road, Winchester, New Hampshire 03470; Scott Bradley, #30 Old Rixford Road, Winchester, New Hampshire 03470; Cary Broadbit, 34 Very Brook, Winchester, New Hampshire 03470; Bruce Caron, 126 South Parrish Road, Winchester, New Hampshire 03470; Myla Carpenter, 66 Rabbit Hollow Road, Winchester, New Hampshire 03470; Dan Carr, Box 111, 25 Main Street, Ashuelot, New Hampshire 03441; George E. Chenier, 507 Forest Lake Road, Winchester, New Hampshire 03470; Erika Cohen, The Keene Sentinel, 60 West Street, Post Office Box 546, Keene, New Hampshire 03431; Margaret Conant, 367 Keene Road, Winchester, New Hampshire 03470; Sandy Cook, 811 Manning Hill Road, Winchester, New Hampshire 03470; Phillip Earley, 4A Chapel, Winchester, New Hampshire 03470; John & Chris Frado, 259 Bolton Road, Winchester, New Hampshire 03470; Christine B. Hadley, 60 Rabbit Hollow Road, Winchester, New Hampshire 03470; Elena Heiden, Post Office Box 93, Winchester, New Hampshire 03470; Vicki Hooper, 15 Smith Court, Winchester, New Hampshire 03470; Billie-Jo Knoll, 248 Back Ashuelot Road, Winchester, New Hampshire 03470; Robert Merchant, 242 Bolton Road, Winchester, New Hampshire 03470; John Miner, 71 Broad Brook Road, Ashuelot, New Hampshire 03441; Edward Naile, 61 Tubbs Hill Road, Deering, New Hampshire 03244; Whip Newell, 3 Old Chesterfield Road, Winchester, New Hampshire 03470; Gary R. O'Neal, 400 Schofield Mountain Road, Ashuelot, New Hampshire 03441; Brian Oates, 24 Avery Circle, Winchester, New Hampshire 03470; Henry Parkhurst, State Representative, District #4, One Parkhurst Place, Winchester, New Hampshire 03470; Guy Petell, State of New Hampshire, Department of Revenue Administration, PO Box 457, Concord, New Hampshire 03302; Rep. Stanely S. Plifka, Jr., Post Office Box 459, Scofield Road, Winchester, New Hampshire 03470; Alden Powers, 636 Warwick Road, Winchester, New Hampshire 03470; Irene Pratt, State Representative, District #4, 66 Clark Road, Winchester, New Hampshire 03470; Richard Pratt, 222 Richmond Road, Winchester, New Hampshire 03470; Richard and Rebecca Pratt, 89 Old Mountain Turnpike Road, Winchester, New Hampshire 03470; Jill Rokes, 70 Acorn Drive, Winchester, New Hampshire 03470; Paul Sepe, PMB 242, 75 Main Street, Suite 4, Plymouth, New Hampshire 03264; Jane Severance, 84 Warwick Road, Winchester, New Hampshire 03470; Anthony F. Simon, 700 Hall Street, Manchester, New Hampshire 03104; William Struthers, 63 Ashuelot Street, Winchester, New Hampshire 03470; Brian Thompson, 13 North Winchester Street, Winchester, New Hampshire 03470; and Alan Willard, 35 Woodward Avenue, Winchester, New Hampshire 03470.

Date: November 1, 2005

Anne M. Stelmach, Clerk