

In Re: Unity Reassessment

Docket No.: 19437-03RA

ORDER

On March 12, 2004 the board held a noticed hearing “to gather further evidence as to whether a need exists [in the “Town”] for the board to assert its RSA 71-B:16 and RSA 71-B:16-a authority to order a full or partial reassessment.” This action was initiated as the result of allegations contained in a March 7, 2003 letter from a Unity taxpayer, Ms. Elaine Van Dusen, relative to the thoroughness and understandability of the 2002 reassessment performed by the Town’s contract assessing firm, Earls Neider Perkins, LLC (“ENP”). An initial investigation of the concerns raised in the Van Dusen letter was performed by Ms. Cynthia L. Brown, one of the board’s RSA 71-B:14 review appraisers, who filed a report of her findings on November 25, 2003 (“Report”).

At the hearing, the board received testimony from several Unity residents, including Ms. Elaine Van Dusen and Mr. Larry A. Wiggins. Ms. Mary L. Gere, chairperson of the board of selectmen and Mr. Jeffrey Earls of ENP were present and testified on behalf of the Town. The other members of the board of selectmen, Mr. Randall Bragdon and Mr. Willard Hathaway, and the selectmen’s secretary, Ms. Priscilla Swensen, were also present at the hearing.

Ms. Van Dusen's detailed concerns and arguments are contained in Taxpayer Exhibit 1 and are too lengthy to recite in their entirety here. However, the general concern is that the 2002 reassessment resulted in a dramatic reordering of different properties' values in the Town. Based on her review of the reassessment, Ms. Van Dusen had a number of specific concerns including: errors on the assessment-record cards, the assessment-record cards were not understandable and did not contain all information necessary to understand the calculations, insufficient interior inspections had occurred and it appeared as if better homes and multi-level homes were underassessed as a result of ENP's assessment methodology. Both Ms. Van Dusen and Mr. Wiggins argued there should be either a new full reassessment performed or some other remedial action to improve the shortcomings of the 2002 reassessment. Ms. Van Dusen and Mr. Wiggins also argued they were unable to have the assessment process adequately explained to them because the selectmen were not knowledgeable of the work product submitted to the Town by ENP and ENP had not submitted a copy of the appraisal manual and sales survey to the Town until well after the March 1, 2003 abatement application filing deadline.

On behalf of the Town, Ms. Gere and Mr. Earls argued the department of revenue administration ("DRA") had monitored the reassessment and had not noted any significant errors during the process. Further, the DRA's 2002 and 2003 ratio studies showed acceptable assessment equity indices resulting from the 2002 reassessment. Mr. Earls also asserted the inspection process required by the contract between the Town and ENP ("Contract") had been followed. The Contract provided for a "call back" process during the measuring and listing portion of the reassessment so as to obtain as many interior physical inspections as possible. Mr. Earls acknowledged the late submission of the appraisal manual and sales survey to the Town and also stated the table of codes relative to the assessment-record cards, which was

submitted at hearing, had not been provided to the Town but would be provided within two weeks.

Board Rulings

The board's authority to order a partial or full reassessment is contained in RSA 71-B:16, III after due consideration of the following five criteria contained in RSA 71-B:16-a:

- 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 fact that the Town contracted for and completed a reassessment for tax year 2002 addresses criteria I, II and V. Further, while the board finds the 2002 reassessment resulted in acceptable assessment equity indices (criteria III), ENP's work product is deficient relative to a number of the DRA 600 rules and Contract requirements to the extent that it impinges on the understandability of the assessments and the ability to maintain them adequately (criteria IV). However, instead of performing a new reassessment, the board finds there are a number of remedial measures which the Town can undertake to improve the reassessment's shortcomings.

The board finds the DRA's 2002 and 2003 ratio studies indicate that reasonable and acceptable assessment equity was achieved as a result of the reassessment. In particular, the 2003 DRA ratio study, which relied upon sales that occurred subsequent to the reassessment from October 1, 2002 through September 30, 2003, indicated an overall median ratio of 92.6% with a corresponding coefficient of dispersion ("COD") of 13.2% and price-related differential ("PRD") of 1.00. Because the 2003 equalization ratio study was based upon a sample of sales that occurred

subsequent to the reassessment, it is a good indication of the assessment equity that resulted from the 2002 reassessment. The 13.2% COD and the 1.00 PRD indicate relatively consistent assessment equity and non-regressivity in the assessments and are in keeping with the International Association of Assessing Officers guidelines contained in the highlighted sections of the footnoted Standard on Ratio Studies, Table 7 (July 1999).¹ Thus, the board finds criteria III has been reasonably complied with.

While the assessment equity appears reasonable, the board finds the reassessment was not adequately supported by the assessment documents called for both in the DRA 600 rules and the Contract. The board further finds ENP’s work product (sales survey, appraisal manual, assessment-record cards and supporting CAMA system) is such that it is neither understandable by the Town assessing officials and taxpayers, nor sufficiently documented to be utilized in maintaining assessment equity in subsequent years. The following is a summary of the documents the board finds have shortcomings that will inhibit the Town in maintaining assessment equity if not rectified: 1) a proper sales survey as required by Rev 603.15 and paragraph 3.4 of the Contract; 2) nonexistent documentation of the development of unit costs for establishing the replacement cost tables for buildings as required by Rev 603.14 and paragraph 3.1 of the Contract; 3) an understandable manual of appraisal also required in Rev 603.14 and paragraph 3.2.1 and

1

Table 7
Ratio Study Performance Standards

Type of Property	Measure of central tendency	COD	PRD
Single-family residential			
Newer, more homogenous areas	0.90-1.10	10.0 or less	0.98-1.03
Older, heterogeneous areas	0.90-1.10	15.0 or less	0.98-1.03
Rural residential and seasonal	0.90-1.10	20.0 or less	0.98-1.03
Income-producing properties	0.90-1.10		0.98-1.03
Larger, urban jurisdictions	0.90-1.10	15.0 or less	0.98-1.03
Smaller, rural jurisdictions	0.90-1.10	20.0 or less	0.98-1.03
Vacant land	0.90-1.10	20.0 or less	0.98-1.03
Other real and personal property	0.90-1.10	Varies with local conditions	0.98-1.03

item 2 of the addendum of the Contract; 4) assessment-record cards that provide adequate pricing detail to understand the computation of land and building components of assessments as required by Rev 603.14 and section 3.3 of the Contract.

The board finds a number of deficiencies in the performance of the 2002 revaluation with respect to each of these documents and orders the specific remedies set forth below. The board will then provide some more general observations and guidance regarding the responsibilities of municipalities, assessing contractors and the DRA in the reassessment process.

Sales Survey

In part Rev 603.15 provides “[t]he analysis portion of the sales survey shall show the sale price and support adjustments made” (Rev 603.15(e)5(c)). The Contract at section 3.4 mirrors the requirements contained in Rev 603.15, and specifically, at section 3.4.6 states: “[T]he analysis shall show the sale price, adjustments made and final value as of the effective date of the revaluation.”

As a result of the directive contained in the board’s order of January 23, 2004, ENP submitted a three-ring binder to the board on February 17, 2004 containing “general information and sales analysis” for the 2002 reassessment (“Reassessment Binder”). The sales analysis portion contains several sections of land only and land and building sales analyses that are intended to derive primary site values from the market for different non-waterfront and waterfront neighborhoods in the Town. While such analysis is the core to any sales survey as required by the DRA’s rules and the Contract, a number of shortcomings exist relative to its understandability, reliability and ease of application to unsold properties within the Town. First, no maps or summations of the base units of comparisons (1 acre, 0.5 acre, etc.) accompany the sales analyses as required by both Rev 603.15 and section 3.4 of the Contract. Lack of delineation of the different

value neighborhoods and a summary of their respective primary site sizes inhibit the understandability and application of the sales survey by either the assessing officials or taxpayers. Second, the adjustments made to the land in the analyses, as depicted on the assessment-record cards, are at times not adequately explained and, in one instance, appears to be inconsistent. For example, in the waterfront land and building analysis section, the first three sales have an adjustment of 50% for “canal and small stream” as noted on the land side of the accompanying assessment-record cards. However, there is no delineation on any maps or in any descriptive text as to the extent such an adjustment should be applied to unsold properties. Further, on the assessment-record card of the sale of Map 19, Lot 338, there is an indicated influence factor of 350% for the rear land base rate of \$10,000, yet there is no discussion or documentation as to how that significant influence factor for the excess rear land was derived and how and when it should be applied to unsold properties. Also, the analysis of the sale of Map 19, Lot 4 indicates an adjustment in the spreadsheet of 0.86 (with no notation as to the reason for the adjustment), while the accompanying assessment-record card shows no such adjustment or any notation as to why there is no adjustment.

These examples of unexplained and inconsistent adjustments raise questions as to whether the unsold properties (that were subsequently assessed as a result of the establishment of the base rates from the sales analysis) were assessed in a consistent and predictable manner.

Remedy

The Town shall ensure it obtains from ENP copies of maps indicating the delineations of the various land valuation neighborhoods and a summary and discussion of any categorical adjustments that are made (e.g., canal and small stream adjustment in the waterfront area). This explanation should also include any adjustments that were not specifically market derived but

which were applied in a categorical fashion throughout different areas of the Town, including such things as the different land base rates (both home site and rear land), any factors applied to them and the different standard lot sizes.

Appraisal Manual and Development of Unit Costs

Rev 603.14 provides for the reassessment firm to develop unit costs for improvements directly from market data:

“(a) The company shall develop and use valuation tables and data unit costs as follows:

(1) The company shall make a study and investigation of the costs of residential, commercial and industrial construction in the area, based upon material costs and prevailing wage rates in the building trades, and provide supporting cost surveys;

(2) The company shall select data unit costs which shall include architects and engineers' fees and contractors' overhead and profits;

(3) Before using such unit costs, the company shall make tests using the unit costs against actual appraisals, and available sales of property for which the building costs are known in order to ensure accuracy;

(4) Valuation tables shall consist of unit base prices based upon the following:

a. Definite specifications for houses of various types;

b. Quality of construction; and

c. The building customs and practices in the community; and

(5) The valuation tables shall be complete for various story heights and cover ground areas adequate for the valuation of all types of buildings and land improvements, with tables for additions and deductions for variations from base specifications.”

Rev 603.18(k) also requires that the replacement cost of the improvements “[b]e verified with local contractors . . . [and] [b]e computed using the unit costs.” Section 3.1 of the Contract again mirrors the DRA’s rules provisions.

Further, the DRA’s rules at Rev 603.14(b) and the Contract provide for the compiling of these developed unit costs into an appraisal manual to be submitted to the Town and instruction of the assessing officials as to its use:

“(b) The company shall compile a manual of appraisal, as follows:

- (1) The manual of appraisal shall be compiled using a summary of the cost data and schedules selected for the valuation of residential, commercial, industrial, manufactured housing and exempt properties;
- (2) The manual shall be bound so as to allow for repeated use, such as a 3 ring binder; and
- (3) The company shall instruct the assessing officials in the use of the manual to provide the assessing officials with an understanding of the appraisal system being utilized.”

Further, the addendum to the Contract at item #2 provides that “the Manual of Appraisal . . . shall be the Proval Manual,” the valuation software utilized by ENP during the 2002 reassessment.

First, no analysis of unit costs derived from local construction costs was submitted nor was any testified to as to having been performed by ENP. Second, the “ProVal Manual” was not supplied to the Town until April 2003, after the March 1, 2003 abatement application deadline had passed. A copy of the “ProVal Manual” was submitted by Ms. Van Dusen at the hearing and the valuation tables had been submitted by ENP to the board earlier and incorporated in the board’s tax review appraiser’s November 25, 2003 report.

While the “ProVal Manual” submitted at the hearing may technically comply with the provisions of the Contract, it was late in its submission to the Town and, even as it stands, is intended to be more of a user guide for the computer software program as opposed to a tabulation of unit costs developed during the reassessment as envisioned by the above-cited rules and Contract provisions. In addition to describing the operation of the computer software, the “ProVal Manual” contains 18 pages of valuation tables headed “ProValuation Table Elements.” The notations on the valuation tables appear to be headings that are drawn from various valuation software screens; yet it is difficult to understand exactly what structures the tables relate to and how the base prices relate to the calculations on the assessment-record cards.

Remedy

The Town shall ensure it obtains from ENP a better organized and more understandable table of unit values for buildings than the current 18-page list. The revised tables should be of such a nature so that they relate to specific calculations on the assessment-record cards. To the extent that any local construction costs were obtained and analyzed by ENP during the reassessment, that information should be supplied to the Town. If no such analysis exists, as envisioned by the DRA rules and the Contract, the Town shall ensure that ENP supplies a discussion as to how the 2002 reassessment building base rates were determined and checked for reasonableness for the Unity market. The Town assessing officials shall also be instructed by ENP as to how the base rates were determined and how the valuation tables in the appraisal manual were utilized in calculating the improvement values on the assessment-record cards.

Assessment-Record Cards

In addition to Rev 603.18(k) cited above, Rev 603.14(c) requires the assessment-record cards contain certain information including “[d]escriptive information of the buildings . . . and

[p]ricing detail.” Section 3.3.3 of the Contract parallels the DRA’s rules requiring that pricing detail and descriptive information of the buildings be contained on the assessment-record cards. Further, both Rev 603.14(c)(3) and the Contract at section 3.3.4 require that any coding used on the card “shall be clearly explained in writing elsewhere on the card or on an attachment thereto.”

The board finds the assessment-record cards have reasonably descriptive information as to the various building components and quality of the structures but its pricing detail is incomplete and confusing. The deficiency of the pricing was highlighted by the fact that Mr. Jeffrey Earls, a principal of ENP, could not explain the pricing calculations of a relatively uncomplicated multi-story residential building. The pricing detail for the buildings should be straightforward and comprehensible so that an assessing official or a taxpayer can relate all the separate square-foot areas of a structure to a discrete calculation on the assessment-record card and its associated unit price. The assertion by ENP that such calculations occur within the ProVal software is no substitute for a clear depiction of the pricing process on the assessment-record card so that it is understandable by assessing officials and taxpayers.

Included with the Reassessment Binder was a 10-page listing of codes headed “ProVal Codes Table Report.” The testimony of both the Town officials and the taxpayers indicated that this code report had not been submitted to the Town as part of the 2002 reassessment.

Remedy

The Town shall ensure that ENP provides assessment-record cards that contain comprehensive pricing details of the various building valuations and that there is correlation between such pricing and the revised tables of unit costs submitted as part of the appraisal manual. While the ProVal software may properly perform such pricing, the assessment-record cards should reflect that process in a transparent, comprehensive fashion for all to review and understand.

Further, to the extent the Town has not received an adequate table of codes from ENP, it shall do so. Given the lengthy nature (10 pages) of the table submitted to the board, it may not be practical to attach such coding to every assessment-record card, however, it should be readily available for any taxpayer when reviewing or inspecting assessment-record cards.

The Town shall have three months from the date of this order to procure the missing or inadequate documents cited in the above paragraphs. The board instructs its RSA 71-B:14 review appraisers to review the Town's compliance with this order at the conclusion of the three-month period and file a report with the board. At that time, the board will review the remedial actions taken by the Town and ENP to determine if they substantively comply with the DRA 600 rule standards and Contract provisions.

General Conclusions

Having ordered the specific remedies pertaining to the documents discussed above, the board will conclude with a more general review of the respective responsibilities of municipalities, assessing contractors and the DRA in the reassessment process.

It is critical the reassessment process, including the analyses that document the market origin of the assessments, is readily understandable for the assessing officials, their contract assessors and taxpayers, and that it can be used in explaining the assessment process and in maintaining assessment equity in a municipality. The process of determining each taxpayer's proportional share of the tax burden initially places the responsibility with municipalities to assess properties, pursuant to RSA 75:1, at market value. The abatement and appeal process then essentially provides for an "auditing" by taxpayers as to the accuracy of the municipality's market value estimate. (Interestingly, this process is entirely the opposite of the federal income tax where taxpayers essentially self-assess the tax by filing their income tax return and then are potentially

subject to audit by the federal government.) Because the New Hampshire property tax statutes provide for such an audit by taxpayers, the assessing process must be adequately transparent so that taxpayers can perform a meaningful review of their individual assessments and be able to research the documentary trail that municipalities have created in analyzing the market data to arrive at the assessments. When those documents, such as the sales survey, appraisal manual and assessment-record cards, are either lacking or cannot be deciphered so as to understand how the individual assessment is market related and calculated, then both the ability to maintain assessment equity and the taxpayer's confidence in that system suffer.

As the board noted in its July 5, 2002 order in the Town of Milford, Docket No.: 17330-97RA, 2002 WL 31050875:

“The board cannot emphasize enough the critical nature of documenting, reviewing and analyzing the sales, cost and income data to create the appraisal models (schedules) that are then applied in a consistent fashion to assess all properties. This documentation and analyses then become the “touchstone” to the market for any subsequent revisions or additions that need to be made and, thus, ensures ongoing assessment consistency. The board believes part of the “appropriate enforcement measures” that were enunciated in Sirrell v. State of New Hampshire, 146 N.H. 364 (2001), already exist with proper adherence to the DRA's 600 rules. Certainly, if all reappraisals are based on a well-documented sales analysis accompanied by an appraisal manual presented in an understandable form and tied to an adaptable CAMA system, such a process would result in improved assessment consistency between taxing jurisdictions.”

Last, the board has observed a pattern recently of the lack of substantive compliance with the DRA's 600 rules all to the detriment of the ability to maintain assessment equity and transparency for taxpayers. In addition to the lack of compliance noted in this order and in Milford, the board found in its January 23, 2004 order in the Town of Wilmot (Docket No.: 19503-03RA), 2004 WL 290977, at page 8, that the assessing contractor:

“did not perform an appropriate sales survey as required by Rev 603.15 and the Contract to establish proper land assessment models. This lack of a proper sales survey results in there being no understandable documented analysis available for

taxpayers and Town assessing officials to understand how the market data relied upon during the reassessment was analyzed and equated to assessment models to produce proportional assessments and assist in maintaining their proportionality.”

Such shortcomings as highlighted in this order and in the two previously-cited orders are areas the DRA has authority, pursuant to RSA 21-J:11, II,² to oversee. The statute instructs the DRA to monitor reassessments to ensure that municipalities are made aware of whether appropriate documentation and analysis of market data to support the reassessment is being provided and that it is in an understandable format on the assessment-record cards. Again, as discussed in Milford at page 7,

“[The DRA’s 600] rules are not simply bureaucratic verbiage to be recited and not complied with; rather, they are general reassessment provisions that are based on industry standards and are intended to provide [municipalities] with a product that is documented, useful by [municipal] officials and taxpayers alike, and provide continuing utility and adaptability of the reassessment in future years. Regardless of whether a town receives a CAMA system or a manual reappraisal system, the documentation included in the appraisal manual, sales survey and properly detailed assessment-record cards is an important element in performing a reassessment satisfactorily.”

The board strongly urges the DRA incorporate such documentation review as a routine part of its RSA 21-J:11, II monitoring of reassessments.

² II. The commissioner, at no expense to the municipality, shall monitor appraisals of property and supervise appraisers as follows:

- (a) Assure that appraisals comply with all applicable statutes and rules;
- (b) Assure that appraisers are complying with the terms of the appraisal contract or agreement;
- (c) Review the accuracy of appraisals by inspection, evaluation, and testing, in whole or in part, of data collected by the appraisers; and
- (d) Report to the governing body on the progress and quality of the municipality’s appraisal process.

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 been mailed this date, postage prepaid, to: Chairman, Board of Selectmen, Town of Unity, HCR 66, Box 176, Newport, New Hampshire, 03773; and Interested Parties: Elaine Van Dusen, HCR 66, Box 206, Newport, New Hampshire 03773; Jeffrey Earls, 556 Pembroke Street, Suite #1, Pembroke, New Hampshire 03275; Director Robert Boley, Department of Revenue Administration, Community Services Division, 57 Regional Drive, Concord, New Hampshire, 03301; Guy Petell, Manager, Department of Revenue Administration, Bureau of Assessments, 57 Regional Drive, Concord, New Hampshire, 03301; and Keith Gagnon, Department of Revenue Administration, Community Services Division, 57 Regional Drive, Concord, New Hampshire, 03301.

Date: April 28, 2004

Anne M. Stelmach, Deputy Clerk