

Town of Sanbornton

Docket No.: 19517-03RA

ORDER

The board has reviewed the “Town’s” October 29, 2003 motion for rehearing (“Motion”) and the November 4, 2003 “Objection” filed by the “Petitioners.” The Motion states that, because a special town meeting has recently been scheduled to address warrant articles seeking authorization to implement the reassessment for tax year 2004 (instead of tax year 2003), the board should “. . . suspend the Order pending timely presentation of the results of the special town meeting of November 13, 2003, . . . [and] modify the Order so that the ongoing reappraisal is applied starting April 1, 2004” The board denies the Motion and denies the Town’s request to “suspend” the board’s earlier order dated October 2, 2003 (“Reassessment Order”).¹

In denying the Motion it should be emphasized that the board’s findings in the Reassessment Order hinged not so much on the March, 2003 Town meeting vote, but rather on the lack of acceptable assessment quality and the time elapsed since the last reassessment. On pages 2 through 4 of the Reassessment Order, the board outlined the constitutional and statutory provisions relative to the need for periodic and timely reassessments. The Reassessment Order

¹ As the Petitioners correctly note in the Objection, the Motion fails to satisfy the established standards for a rehearing. See RSA 541:3 (Motion for Rehearing: “good reason” requirement); and TAX 201.37(d) and (f). The Motion fails to even mention these standards, let alone make the requisite showing that they have been met.

also highlighted the statistics of the last three years that showed “. . . there is significant disparity in assessments of different classes or types of property . . . [and] there is a dire need for a reassessment in the Town.” The Reassessment Order was made under the board’s authority to order a reassessment contained in RSA 76:16 after considering the criteria of RSA 71-B:16-a. The Reassessment Order discussed at some length the town meeting vote to show that indeed the Town had a plan, see RSA 71-B:16-a, V (“The taxing district’s plans for reassessment”), to ameliorate the assessment inequities that everybody attending the hearing recognized and that the board summarized in the Reassessment Order.

All the evidence supports the conclusion that the Town’s plan was to perform a reassessment for tax year 2003 to address the assessment inequities as quickly as possible in light of the assessment statistics and the questions raised regarding the Town’s assessment practices in an appeal of two superior court decisions now pending in the supreme court.² The requests for proposals (“RFPs”) the Town put out to prospective reassessment companies all envisioned a tax year 2003 implementation. The warrant articles and discussion at Town meeting by both the selectmen and the Town assessor, Mr. Heyn, reference the reassessment to begin and to be implemented in 2003. The contract signed subsequent to Town meeting with Vision Appraisal Technology is, as the Reassessment Order notes at page 6, “replete with references that the reassessment is to be implemented for the 2003 tax year.” It was not until later in the summer months of 2003 that the current board of selectmen and tax collector expressed concerns about the logistics of implementing the new values in 2003 given the contract completion date of December 17, 2003.

² Supreme Court Docket No. 02-0680, Porter v. Town of Sanbornton and Roy v. Town of Sanbornton (Belknap County Superior Court Docket Nos. 00-E-163 and 01-E-197, respectively). The supreme court heard oral arguments on this appeal in September, 2003; no decision has yet been issued. See also Decision, page 4, fn. 2.

The board need not state all the reasons it found in the Reassessment Order as to why the logistical and cash flow concerns raised by the Town pale in comparison to the constitutional and statutory requirements that assessments be equitable. The board would note, however, that to put off the reassessment for another year, given the clear and undisputed evidence of poor and deteriorating assessment equity, would only exacerbate the inequitable assessments, particularly between lower-valued properties and higher-valued properties as reflected in the increasing price-related differential, and would cause such taxpayers to continue to pay a higher and increasingly disproportionate share of the tax burden. Such wrongs are exactly what the board's RSA 71-B:16 authority to order a reassessment is intended to address. As stated in the Reassessment Order at page 9, “. . . the important right of proportional assessment is one guaranteed by the New Hampshire Constitution.” A popular vote at a special town meeting does not negate that right. One of the very reasons that proportional taxation is a constitutional guarantee is to ensure that a popular majority vote cannot perpetuate disproportional assessments to the detriment of the minority.

RSA 71-B:16, 16-a and 17 envision the board to review the constitutional and statistical needs for a reassessment considering the RSA 71-B:16-a criteria and order such a reassessment if warranted. The board's Reassessment Order did just that. RSA 71-B:17 provides that if a reassessment is not done to the board's satisfaction, the board can certify it to the department of revenue administration (“DRA”) which is authorized by RSA 21-J:9-c “to complete such reassessments in compliance with any certified orders of the board of tax and land appeals” and any expenses incurred by the DRA “shall, without vote of the municipality,” be assessed and collected. (Emphasis added.) See also RSA 71-B:18 (expenses to be borne by municipality). The Town should be aware that if the Town does not proceed in compliance with the board's

Reassessment Order, the board has the authority to certify the reassessment to the DRA so that it can be carried out as ordered.³

Any appeal of the Decision must be made within 30 days after the date of this Order by petition to the supreme court. See RSA 541:6; and Supreme Court Rule 10.

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

³ Cf. Sandown Reassessment (Order and Certification dated March 13, 2001) BTLA Docket No.: 18015-00RA (reassessment certified to DRA where voters did not approve warrant article for funding at town meeting).

Certification

I hereby certify a copy of the foregoing Order has this date been sent by facsimile and mailed, postage prepaid, to: Robert D. Ciandella, Esq. and Christopher L. Boldt, Esq., Donahue, Tucker & Ciandella, 225 Water Street, Exeter, New Hampshire 03833, Fax (603) 772-4454, counsel for the Town; Edward D. Philpot, Jr., Esq., 67 Water Street, Suite 110, Laconia, New Hampshire 03246, Fax (603) 528-1117, counsel for the Petitioners; Chairman, Board of Selectmen, Town of Sanbornton, 573 Sanborn Road, Sanbornton, New Hampshire 03269, Fax (603) 286-9544; Guy Petell, Manager, Bureau of Assessments, Department of Revenue Administration, 57 Regional Drive, Concord, New Hampshire 03301, Fax (603) 271-1161, Interested Party; Gordon King, The Citizen, 171 Fair Street, Laconia, New Hampshire 03246, Fax (603) 527-3593, Interested Party; and Rebecca Tsaros Dickson, Concord Monitor, 54 Canal Street, Laconia, New Hampshire 03246, Fax (603) 528-2046, Interested Party.

Date: November 6, 2003

Anne M. Stelmach, Deputy Clerk