

**Town of Seabrook**

**v.**

**Department of Revenue Administration**

**Docket No.: 19971-03ER**

**ORDER**

The board has made a further review of the file in this equalized valuation appeal brought under RSA 71-B:5, II (Supp. 2003) and has considered the representations made at a noticed hearing on August 23, 2004 by attorneys for the “Town” and the Department of Revenue Administration (“DRA”). The hearing pertained to the parties’ joint “Objection” to the board’s July 19, 2004 Order (the “Prior Order”). The board rules as follows:

- 1) the board’s Prior Order is withdrawn since it is clear the parties entered into a “Settlement Agreement” dated July 26, 2004, which was submitted as Exhibit 1 to the Objection of the same date filed by the parties;<sup>1</sup>
- 2) as reflected by its settlement with the DRA, the Town no longer contests the total equalized valuation for the Town for 2003, which includes a value for the Seabrook Nuclear Power Station and was set by the DRA pursuant to its RSA 21-J:3, XIII (Supp. 2003) authority; and

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<sup>1</sup> The Settlement Agreement contains substantially the same provisions as a proposed “Order” dated July 8, 2004 signed by the parties, but not the board.

3) by reason thereof, this equalization appeal has been dismissed.

The board cannot, however, take the further step, requested in the Objection at paragraph 1, of somehow “insulating the Town from application of the value established by the DRA . . . in a tax abatement action relating to the value established by the Town for that property.” Although the parties to the Settlement Agreement clearly intend that it shall not be “binding” or have “any legal effect” on the Town in this regard, the board makes no ruling regarding the admissibility or effect of the Settlement Agreement on any future proceedings, such as, for example, an RSA 76:17 action filed in the superior court by one or more owners (none of whom were parties to this equalization appeal or the Settlement Agreement) who seek to challenge the Town’s separate RSA 72:8 authority to assess and tax the property.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Chairman

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Douglas S. Ricard, Member

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Albert F. Shamash, Esquire

**Certification**

I hereby certify copies of the foregoing Order has been mailed this date, postage prepaid, to: Chairman, Board of Selectmen, Town of Seabrook, Post Office Box 456, Seabrook, New Hampshire 03874; Robert D. Ciandella, Esq. and Robert M. Derosier, Esq., Donahue, Tucker & Ciandella, 225 Water Street, Exeter, New Hampshire 03833, counsel for the Town; and John F. Hayes, Esq. and Kathleen Sher, Esq., 45 Chenell Drive, Concord, NH 03301, counsel for the DRA.

Date: August 27, 2004

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Anne M. Stelmach, Deputy Clerk