Town of Lancaster Reassessment

Docket No.: 20386-04RA

ORDER

This order contains the board's rulings relative to the RSA 71-B:16, IV petition ("Petition") filed on September 1, 2004 with the board. After the board's RSA 71-B:14 review appraiser, Joan C. Gootee, filed an investigative report dated February 3, 2005 ("Report"), the board noticed a show cause hearing for May 20, 2005. Presenting testimony at the hearing were the lead petitioners, Paul Sepe and David A. Ezyk ("Petitioners"), and Robert Larson, a Lancaster realtor. Representing the "Town" were members of the Town's contract assessing firm, Commerford Nieder Perkins ("CNP"),[1] that performed the reassessment for 2003, Philip Bodwell and Mark Nieder, along with the Town's assessor, Jason Call, and the Town manager, Joyce McGee. Robert Boley of the department of revenue administration ("DRA") was also present and provided testimony, as did the board's review appraiser, Ms. Joan C. Gootee.

For the reasons that follow, the board finds there does not exist a basis, after review of the criteria of RSA 71-B:16-a, to order a municipal-wide revaluation as the Petition requested. Further, the board finds that whatever documentary shortcomings existed at the conclusion of the

[1] At the time of the 2003 reassessment, Earls Nieder Perkins ("ENP") was the legal entity that performed the reassessment. Subsequent to the reassessment but prior to the hearing, ENP was dissolved and its successor, CNP, represented the municipality and answered questions relative to the 2003 reassessment.

2003 reassessment have been substantially addressed to date and the board need not order any other remedial action.

The first two criteria of RSA 71-B:16-a, the need for periodic reassessment and the time elapsed since the last complete reassessment, have little bearing in this instance inasmuch as the Town conducted a full reassessment in 2003 and it is the result of that reassessment the Petitioners are challenging.

Criteria III requires the board to consider the current assessment-to-sale ratios and coefficients of dispersion ("COD") that, in this case, analyze the results of the 2003 reassessment. The DRA performed a ratio study as part of its 2003 equalization process which indicated a median ratio of 99.5% and a COD of 8.0%. CNP, at the completion of the reassessment, performed a ratio study which indicated the reassessment resulted in a median ratio of 1.03% and a COD of 15.27%. (Report at 3). A subsequent assessment-to-sale ratio study performed by the board's review appraiser indicated an overall median ratio of 1.01% and a COD of 18.81%. (Report at 11.) The Report also includes various analyses by property type strata which, in most cases, indicate reasonable and acceptable assessment equity statistics with the exception of land only sales and manufactured home sales factors, which the board will address in subsequent paragraphs. Presented at the hearing, as part of Municipality Exhibit A, was the summary results of the DRA's 2004 equalization study (Municipality Exhibit A, tab 11) which indicated for the one year subsequent to the reassessment a median ratio of 91.9% and an overall COD of 14.5%. All four ratio studies indicate reasonable assessment equity was achieved by the 2003 reassessment; conversely stated, all four ratio studies do not indicate any widespread, systemic assessment inequities to cause the board to order a reassessment under Criteria III.

Criteria IV and V address the quality of the Town's maintenance of assessment equity and future plans for reassessment. Mr. Call described the ongoing process of doing annual "pick ups" to address land subdivisions and new construction and renovations. He is present in the Town office two days a week and available if necessary for meetings with taxpayers. Mr. Call also stated the Town has access on-line to the Real Data Corporation program that provides assessment and sales information to the DRA to perform the annual equalization survey and is available to the Town to perform its own ratio studies to test the ongoing equity of the assessments. Mr. Call further stated the Town's next RSA 21-J:11-b assessment review by the DRA is scheduled for 2008. The Town is formulating a plan to do periodic assessment data review with a possible statistical update for 2008 to comply with the full value requirements of RSA 75:8-a.

Mr. Call, on two occasions subsequent to the filing of the Report, submitted information to the file (letters of April 29, 2005 and May 13, 2005) which provided the Town's observations as to several manufactured home and land only sales that were included in the Report's statistical analysis. The letters questioned the inclusion of the sales and argued that, for various reasons, they were not arm's-length transactions and, as a result, skewed the CODs, particularly those of the land only and the manufactured home strata. Mr. Call argued manufactured housing sales are often more variable than other types of properties and are more difficult to create assessment models that result in generally accepted assessment statistics. As noted during the hearing, the board recognizes low valued property, such as land only tracts and manufactured homes, often result in higher CODs because a relatively nominal absolute dollar difference between the sale price and assessment can result in significant percentage variations, whereas the same absolute

dollar variations for higher-priced properties result in a significantly lower percentage variation and thus a lower COD.

The board finds the Town has an adequate ongoing process to maintain the land subdivisions and building changes. Further, the Town outlined an anticipated process of instituting a periodic review of assessment data quality in addition to the review of any property during the "pick up" process. It is also currently monitoring whether any neighborhood or strata are significantly diverging from the overall level of assessment within the Town during its collection and qualification of sales for the DRA's annual equalization survey. The board would certainly encourage the Town to diligently review and analyze such sales (in particular, land only and manufactured home sales) during the next several years to determine if a revision of the assessment models or an update is necessary to improve the assessment equity between now and 2008 (see RSA 75:8). The board agrees with the Town that if it does some cyclical review of property data and maintains the "pick ups" adequately, it is reasonable to anticipate a statistical update could be performed in 2008 by reviewing the market data at that time so as to comply with the five year valuation requirements of RSA 75:8-a.

The focus of the Petitioners' testimony was that the reassessment failed to comply with a number of the DRA's 600 rule requirements, such as lack of appraiser notation on the assessment-record card, code abbreviations or explanations on or attached to the assessment-record cards, neighborhood maps not being available at the conclusion of the reassessment, appraisal manual not being available at completion of the reassessment and no building replacement cost data checked with local contractors. In short, the Petitioners argued that a number of the shortcomings the board found existed in the Town of Unity Reassessment, Docket No.: 19437-03RA, also existed at the completion of the 2003 reassessment in Lancaster.

The board agrees with the Petitioners that reassessments should comply materially with the DRA's 600 rules as the board ruled in Unity and as the board routinely requires in its reassessment orders. As the board did in Unity, where such documents are lacking, it requires they be provided to the town to assist it and its taxpayers in understanding the basis and analysis that went into creating the new assessments. In reassessments that the board orders pursuant to RSA 71-B:16, the board directs its review appraisers to ensure that such documents are in existence as part of their review process and their final report before the board removes its order pursuant to RSA 71-B:17. See for example, Milford Reassessment, Docket No.: 17330-97RA; New Durham Reassessment, Docket No.: 18755-01RA; Sanbornton Reassessment, Docket No.: 19517-03RA. The board would also observe that the DRA has the authority under RSA 21-J:11, to monitor reappraisals being performed to ensure that they are compliant "with all applicable statutes and rules" and "with the terms of the appraisal contract" between the reassessment firm and the municipality. (See RSA 21-J:11, II(a) and (b).) The board would certainly encourage the DRA to review whether the required DRA 600 rule documents have been provided to any town at the completion of a reassessment and so noted in their report to the governing body as provided in RSA 21-J:11-d, II.

After review of the Town's submission and testimony, the board concludes there are no remaining substantive issues for the board to order remedial actions which the Town has not undertaken on its own to cure since the reassessment. As the Town indicated, once it received the Unity decision, a number of the areas where the Lancaster reassessment was not compliant with the DRA 600 rules were addressed.

In particular, the board notes the Town has an abbreviation code sheet available at the Town office and the Town is encouraged to post it and make sure it is available to any taxpayer

that requests their own assessment-record card so as to assist taxpayers in understanding the assessment-record card. The appraisal manual, while late, is now in the hands of the Town and available for its assessor and taxpayers to review in understanding the reassessment. The board agrees with the Petitioners that it should have been in place at the conclusion of the reassessment but there is no retrospective remedy that the board could order other than what the Town has already performed.

The Town has also made available the tax maps that identify the sales utilized during the reassessment. The Town testified the listers and data collectors were noted on the assessment-record cards and that only two appraisers were involved in finalizing the values within the Town of Lancaster.

The Town has also supplied a description of the basis of the building replacement cost and noted the difficulty in obtaining local construction cost estimates to check national replacement cost estimates such as the Marshal and Swift Valuation Service. The board notes that certainly such national replacement cost estimates need to be localized and, if indeed they were not adequately localized, an indicator of such would be manifest in unacceptable CODs, either overall or by different strata, based on age of property or property type. The board finds none to exist in any of the ratio studies presented; thus, we conclude the replacement cost schedules and depreciations have been adequately market checked and localized through the model calibration performed by CNP at the time of the reassessment.

Last, the board finds the other inaccuracies the Petitioners assert, such as the listing of utilities or listing errors of floor coverings and fireplaces, either do not affect the assessment calculations or are so nominal that they have negligible effect on the assessments, and thus, the overall assessment equity within the Town. The DRA's sample review of the physical data only

noted one assessment-record card out of 35 had any errors that amounted to a 5% or greater effect on the overall assessed value.

In short, the board finds the initial shortcomings of the reassessment have been largely cured by the Town or its assessment contractor and there were no significant systemic inequities that cannot be addressed by diligent monitoring by the Town and rectified by annual market review. Thus, the board finds no basis to order any remedial action that hasn't already been undertaken and/or performed by the Town.[2]

Having determined no basis exists for the board to order a reassessment, the record in this file is closed.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Chairman

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Michele E. LeBrun, Member

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Douglas S. Ricard, Member

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Albert F. Shamash, Esq., Member

[2] Even if there remained any shortcomings that are not technically in compliance with the DRA's 600 rules, such "flawed" methodology is insufficient to establish a basis for a remedy if it does not result in disproportionate assessments. Porter v. Town of Sanbornton, 150 N.H. 363, 367-68 (2003).

Certification

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: David A. Ezyk, 143 Mount Prospect Road, Lancaster, New Hampshire 03584, Lead Petitioner; Paul Sepe, PMB 242, 75 Main Street, Suite 4, Plymouth, New Hampshire 03264, Lead Petitioner; Chairman, Board of Selectmen, Town of Lancaster, 25 Main Street, Lancaster, New Hampshire 03584; Commerford Nieder Perkins, LLC, 556 Pembroke Street, Suite #1 Pembroke, New Hampshire 03275, Contracted Assessing Firm; and Guy Petell, State of New Hampshire, Department of Revenue Administration, 57 Regional Drive, Concord, New Hampshire 03301, Interested Party.

Date: June 29, 2005

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Anne M. Stelmach, Clerk