

Town of Fitzwilliam

Docket No.: 21509-06RA

ORDER

Following a 2005 reassessment update performed for the “Town” by Vision Appraisal Technology (“Vision”), a petition of more than 50 taxpayers was filed with the board on January 12, 2006 raising a number of concerns with the assessment update. After an investigation by the board’s senior review appraiser in accordance with TAX 208.05 and the filing of her report (“Report”), the board held a hearing on June 23, 2006 to receive testimony and evidence from the Town, Vision, the “Lead Petitioners” and any Fitzwilliam taxpayers, as to the Report’s conclusions and the need for any reassessment remedy. The board issued a September 13, 2006 order where it found (at p. 5) that: 1) the RSA ch. 91-A issue raised by the Lead Petitioners was moot; 2) there was inconclusive evidence to order a reassessment but that some of the indications were troubling; and 3) the Town was required to obtain from Vision “improved documentation and sales analysis... to understand Vision’s valuation model conclusions....”

On December 11, 2006, the board of selectmen submitted a copy of the additional documentation received from Vision identified as “revised sections A, B, and C of the Vision Appraisal Manual that was supplied to the Town as part of the 2005 Update” (“Revised

Documentation”). Further, after leave was requested from the board and received, the Lead Petitioners filed a response to the Town’s submission in the form of two letters dated December 13, 2006 and January 2, 2007 addressed to the Fitzwilliam Selectmen from Mr. David J. Green, one of the petitioners (“Lead Petitioners’ Response”).

The Lead Petitioners’ Response addressed the Revised Documentation and contained an assertion the Town had removed the view factors from the 2006 assessments. Consequently the board initiated an investigation (see order dated January 22, 2007) to determine the bases and validity of that assertion. The board’s review appraisers filed a report on February 9, 2007 (“Supplemental Report”) that indicated the view factors had been removed by the selectmen for 2006 because of the selectmen’s determination that such factors had not been consistently applied during the 2005 update and would need to be reviewed before being reinstated in 2007.

As further detailed below, the board orders the Town to perform an assessment update for tax year 2007 because: 1) the Revised Documentation is insufficient, inconsistent with the original assessment manual and indicates the 2005 assessment update base land rates were not reasonably calculated; and 2) the removal of the view factors is contrary to the requirement that properties be assessed at market value (RSA 75:1 and RSA 21:21) and results in increased disproportionality that needs to be rectified.

REVISED DOCUMENTATION:

The Revised Documentation, while having some areas of improvement, does not adequately and clearly describe and establish how the 2005 assessment update base rates and major adjustment factors were derived from the market. The board has extensively reviewed the Revised Documentation and will provide some examples as to the concerns and inconsistencies it notes. In general, however, the inability to create retrospective transparent documentation is

indicative of the problem of relying on reiterative ratio studies, such as those utilized by Vision during the 2005 assessment update. Those reiterative ratio studies produced, at first glance, acceptable median ratios and low coefficients of dispersion (“COD”) which, in fact, are not accurate as indicated by the subsequent ratio study in the Report of sales immediately after the assessment update and upon a close review of the retrospectively created extraction analysis submitted in the Revised Documentation.

At the time of the 2005 assessment update, the original assessment manual indicated a median ratio of 99% and a COD of 7.06%, based on a total of 65 sales that transacted during the year prior to April 1, 2005 and were utilized in the reiterative ratio studies (see Summary by Land Neighborhood in the original manual). The Report, utilizing 81 sales that occurred subsequent to the reassessment between April 1, 2005 and February 10, 2006, indicates the assessment update actually achieved a median ratio of 90% and a COD overall of 16.28%. Notable also is the lower median ratio of 74% and a high COD of 32.10% for nine of the 81 sales that were land only transactions. These findings in the Report’s subsequent sales analysis shows the assessment update did not achieve either market value assessments or tight assessment equity.

As part of the board’s September 13, 2006 order, Vision was to document its conclusion that no market appreciation occurred during the sales period analyzed (4/1/04 – 3/31/05) and further to document the “primary base lot value, waterfront base lot values, major neighborhood base rates (e.g., Woodbrook Development), and “antique appeal” rating factors.”

Vision utilized 65 sales in its 2005 assessment update sales analysis period. In the Revised Documentation, Vision’s time adjustment analysis is a plotting of the sales to assessment ratios of single family dwelling sales against the date of sale. Because the plotted line is essentially flat, Vision argues no market appreciation was occurring. The board finds such market appreciation

analysis is circular in nature and not conclusive evidence of the rate of market change. Because the assessed value component of the ratios are derived by Vision from the reiterative ratio studies that produce the lowest variability, any market appreciation is not isolated and is likely accounted for in the various land and building variables in the assessment models.

Other evidence exists indicating market appreciation was occurring during this time period. First, the Report estimated a 12% annual market appreciation was occurring during the 10 months immediately following the assessment date. This estimate was based on: 1) considering changes in equalization ratios for surrounding towns; 2) an analysis of 11 re-sales in the Town; and 3) a multiple regression analysis of the 81 sales in the 10 month sample period.

Second, one way to estimate market appreciation on a town-wide basis is to compare the equalization ratios or equalized valuations determined by the department of revenue administration (“DRA”) as part of its equalization duties (See RSA 21-J:3, XIII and RSA 21-J:9-a). For example, comparing DRA’s 2003 and 2004 weighted mean ratios of 76.5 and 71.5 indicates approximately 6.5% market appreciation. A similar calculation utilizing DRA’s 2003 and 2004 median ratios of 81.6 and 71.5 indicates market appreciation of 12.4%. Comparison of equalization ratios cannot be meaningfully done from 2004 to 2005 since the Town performed the assessment update in 2005. However a comparison of the 2004 and 2005 equalized valuations can be performed to give an estimate of value increase due both to market appreciation and new construction. The equalized valuation in 2004 was \$213,853,177 and in 2005 was \$253,911,312 for an increase of 18.7%. Since some of that increase is due to new construction and perhaps missed property picked up during the 2005 update, a reduction of an estimated 5% is deducted to provide an indicated 13.7%

market appreciation occurring in 2004 to 2005.¹ All these calculations are strong indications of substantial market appreciation during Vision's sales sample period and are contrary to Vision's assertion of no market change.

Thus, the board concludes that by not applying any market appreciation to the sales utilized by Vision prior to the assessment date, the actual level of assessment was likely less than the 99% indicated by Vision in its assessment manual. This conclusion is further supported by the DRA's median ratio for 2005 being 94.9% and the Report's median ratio estimate of 90% as of the date of assessment. These two median ratio indications can be reconciled by the fact that the Report's 90% is derived from a sample of sales that were not analyzed by Vision at the time of the assessment update while DRA's 2005 sample includes sales from the later half of the sample period utilized by Vision. For all these reasons, the board finds the lack of any market appreciation adjustment resulted in assessed values generally being below market value.

While the Revised Documentation retrospectively attempts to show land base rate calculations and factor derivations for different neighborhoods and antique factors, it is inconsistent with the original assessment manual and contains very little discussion of the analyses and logic as to the choice of sales and correlation of indicated values or factors.

The largest inconsistency is in the calculation of the \$48,000 one acre base rate in the A-10 neighborhood. This base rate extraction is the foundation to all other land valuation factor derivations and thus it is critical that it be done properly. In the original assessment manual, the "Summary by Land Neighborhood" indicates there were 30 sales in the A-10 neighborhood.

¹ One way to estimate the increase in assessed value due to construction is to compare the unequalized grand list before exemptions ("modified local assessed value without utilities") that DRA provides on its website. Comparing Fitzwilliam's increase each year from 2002 through 2004 indicates a range of 1.7% to 4.2% annual increase due to new construction. The board's estimate of 5% from 2004 to 2005 is higher than the two prior years calculations to recognize that some properties may have been picked up during the 2005 assessment update that were "missed."

However, also in the original assessment manual, the “Land Residual” calculations for the A-10 neighborhood only utilizes 21 sales. In the Revised Documentation, the extraction analysis for neighborhood A-10 uses even less (10 sales) to support the \$48,000 one acre base rate. The board compared the detailed neighborhood analysis in the Revised Documentation and the Land Residual analysis in the original assessment manual and analyzed the 11 sales not utilized in the Revised Documentation that had been in the Land Residual analysis. The median and mean value indicators of those 11 sales are notably higher (\$57,800 and \$55,564 respectively) than the indicated median price of \$47,700 contained in the A-10 neighborhood analysis in the Revised Documentation. The board’s conclusion that the established A-10 base rate of \$48,000 was lower than what all the sales data indicate is further supported by the Report’s median ratio for land only stratum being 74%, significantly less than the “all sales” median ratio of 90% (with or without outliers included).

No explanation is contained in the Revised Documentation as to why only certain sales were utilized; nor was the board able to discern any logical choice or stratification of the 10 sales out of the 30 or 21 sales contained in the original assessment manual. For example, the 21 sales in the Land Residual section of the original assessment manual are arrayed based on lot size and yet the choice of the 10 sales to be analyzed in the Revised Documentation does not appear to be related to lot size. If indeed the base lot value in neighborhood A-10 was higher than that used, it is difficult to understand how the original assessment manual had such a low overall COD of 7.06%.

Furthermore, the board notes in several of the other neighborhood strata analyses, some sales were included in the original assessment manual but not in the Revised Documentation and vice-versa. The Revised Documentation also contains some sales that occurred subsequent to its

original sample period with no explanation (except for the subsequent sales used in the Laurel Lake waterfront analysis where some discussion occurs). The Revised Documentation contains no sales analysis for the Woodbrook neighborhood despite there being 8 sales shown in the land residual portion of the original assessment manual and 16 summarized in the “Summary by Land Neighborhood” section. The Revised Documentation has an extraction analysis for the antique appeal factor, but the analysis contains no correlation of the indicated factor to the antique appeal ratings described in either the original assessment manual or the Revised Documentation. Without some discussion of what antique features the sale properties included and how they correlate to the factors used and described in the Revised Documentation, it is difficult to determine the accuracy and consistency of the application of the antique appeal ratings.

In conclusion, while the Revised Documentation provides some improvement over the original assessment manual, it raises additional questions as to the methodology and choice of the sales utilized in the extraction analysis and whether the choice of sales is selective to justify the base rates utilized during the 2005 assessment update. Also, for documentation to be understandable and useful, significantly more discussion as to the basis for stratifying sales, the choice of sales and the correlation of results needs to occur.

Based on the shortcomings in the Revised Documentation and the Report’s lower level of assessment (median ratio) and higher COD (particularly the “land only” stratification COD of 32.10%), the board concludes the base rates and adjustment factors utilized by Vision during the 2005 assessment update were not properly derived. This coupled with the 2006 removal of the view factors (as discussed in the next section), warrants the Town to perform an assessment update for 2007.

VIEW FACTORS:

The Supplemental Report confirmed the assertion in the Lead Petitioners' Response that the Town removed the view factors in 2006, reducing the land assessments in aggregate by \$949,045 (or approximately one-third the land value of the properties that contained view factors). The Supplemental Report indicates the selectmen removed the view factors after they determined the factors had been inconsistently applied in 2005, but the selectmen intend to reinstitute them for 2007 after further review and investigation by the selectmen and possible assessing consultants.

While no documentation was submitted in Vision's original manual or its Revised Documentation as to how its four view factors LC1 through LC4 (view factors ranging from 1.1 to 1.9) were derived, the few assessment-record cards the board has available from the subsequent sales analyzed in the Report indicate the view factors generally resulted in the assessments being more proportional. The board understands the selectmen's concern of inconsistent view factor application (as confirmed by the board's review appraisers' random review outlined in the Supplemental Report) and the selectmen's desire to improve the application of this market locational factor, but we question their removal until an improved study and application occurs. This is the second reason an assessment update in 2007 is imperative.

ASSESSMENT UPDATE FOR 2007

The board orders the Town to perform an assessment update effective for tax year 2007. Both the shortcomings identified herein of the 2005 update and the need to reinstitute the view factors in a consistent and market based manner warrant this order. The selectmen are to be commended in perceiving the need to improve the assessment equity as evidenced in their "measures being considered" (Supplemental Report at p. 3) and their request for proposal ("RFP") for assessing services (Supplemental Report at Addendum B). The board finds an update, as

opposed to a full reassessment (which includes measuring and listing of property), is reasonable as the Town will be completing its final year of a three year assessment data “verification project” in 2007, and its physical assessment data should be reasonably accurate on which to base the assessment update.

The assessment update should include a market analysis of sales that transacted shortly before the assessment date, and extraction, where sales data exists, of land and building base rates and any major adjustments to those rates (e.g., neighborhoods, waterfront, views, antique factors, etc.). The board would encourage the Town to work closely with DRA pursuant to RSA 21-J:11 in crafting its contract and reviewing the update’s market analysis and documentation so that the Town would receive a favorable review under the USPAP Standard 6 (2005 ed.). See RSA 21-J:14-b, I(c) and findings and intent of 2006 amendments. Ch. 193:1, 2006 session.

The board will retain jurisdiction to review whether the assessment update is performed satisfactorily. RSA 71-B:17. The Town shall file periodic reports with the board every three months beginning April 2007 as to its progress in complying with this order.

The board is cognizant of the short time frame to appropriate adequate funds and carry out the assessment update. However, given the groundwork the selectmen have laid (anticipated warrant article and RFP), the board believes the need to improve the assessment equity warrants proceeding as quickly as feasible.

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: Ashley Fletcher, 34 Thunderbird Circle, Pinehurst, NC 28374, Lead Petitioner; Margaret Wittenborg, 31 Temple Turnpike, PO Box 240, Fitzwilliam, NH 03447, Lead Petitioner; James P. Bassett, Esq. & James E. Morris, Esq., Orr & Reno, P.A., One Eagle Square, PO Box 3550, Concord, NH 03302, counsel for the Municipality; Vision Appraisal Technology, 44 Barefoot Road, 2nd Floor, Northborough, MA 01532; Town of Fitzwilliam, Chairman, Board of Selectmen, PO Box 725, Fitzwilliam, NH 03447; and Guy Petell, State of New Hampshire Department of Revenue Administration, 57 Regional Drive, Concord, NH 03301, Interested Party.

Date: February 23, 2007

Anne M. Stelmach, Clerk