In Re: Boston and Maine Corporation and City of Manchester

Docket No.: 21567-06OS

ORDER

During a condemnation hearing, (Docket No.: 20016-04ED State of New Hampshire v. Boston and Maine Corporation), appraisals submitted as evidence by both parties ("State" and "B&M Corp.") noted the B&M Corp. property in question had not been assigned a tax map and lot number by the City of Manchester "(City"), nor had it been assessed or taxed. See Condemnor Exhibit No. 2 and Condemnee Exhibit A. The City tax map (TPK4 contained in Condemnee Exhibit A at 16) while not numbering the lot, identified B&M Corp's property as containing 17,140 square feet and described it as a "side track right-of-way" (the "Property").

This evidence raises a concern as to whether real estate owned by B&M Corp. has escaped taxation in the City. Consequently, under the board of tax and land appeal's ("board") authority contained in RSA 71-B:16, II[1] the board opens an investigation as to the status of the assessment and taxation of this parcel by the City pursuant to RSA 72:12 or by the New Hampshire Department of Revenue Administration ("DRA") pursuant to

[1] RSA 71-B:16 **Order for Reassessment.** "The board may order a reassessment of taxes previously assessed or a new assessment to be used in the current year or in a subsequent tax year of any taxable property in the state:…

II. When it comes to the attention of the board from any source, … that a particular parcel of real estate… has not been assessed, or that it has been fraudulently, improperly, unequally, or illegally assessed;"

RSA Ch. 82. RSA 71-B:5, I ("[T]he board may institute its own investigation, or hold hearings, or take such other actions as it shall deem necessary.") The board directs its RSA 71-B:14 review appraisers to investigate and submit a report of their findings, copying B&M Corp., the City and DRA. B&M Corp., the City and DRA shall have thirty (30) days from the date of the report to file any response as to its findings. After receiving the responses, the board shall issue an order under its general RSA 71-B:16 authority or hold a hearing, if appropriate, to further investigate this matter.

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, Esq., Member

Certification

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Stephen G. LaBonte, Esq., State of New Hampshire, Department of Justice, 33 Capitol Street, Concord, NH 03301-6397, counsel for the State of New Hampshire in Docket No. 20016-04ED; Arthur G. Greene, Esq., Greene Perlow, PLLC, 4 Bell Hill Road, Bedford, NH 03110, counsel for Boston and Maine Corporation in Docket No. 20016-04ED; Boston & Maine Corporation, Iron Horse Park, North Billerica, MA 01862; Chairman, Manchester Board of Assessors, One City Hall Plaza – West Wing, Manchester, New Hampshire 03101; and Guy Petell, Manager, State of New Hampshire, Department of Revenue Administration, 57 Regional Drive, Concord, New Hampshire 03301.

Date: June 30, 2006

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Anne M. Stelmach, Clerk