

In Re: Town of Moultonborough

Docket No.: 25450-11RA

ORDER

On September 26, 2011, the board held a duly noticed show cause hearing on a Petition for Reassessment (“Petition”), pursuant to RSA 71-B:16, IV, filed with the board on February 25, 2011 by Janet B. Cramer and Richard Heath (the “Lead Petitioners”). The Petition concerns the 2010 Valuation Update (“Update”) performed by Vision Appraisal Technology (“Vision”) for the “Town.”

Both of the Lead Petitioners testified and presented documents (Petitioner Exhibit Nos. 1 – 5); also testifying with them were: Fredric N. Cramer, the husband of one of the Lead Petitioners; and Don McGillicuddy, a retired homeowner in the Town. Testifying at the hearing on the Town’s behalf were: Paul McKenney and Kevin Leen of Vision; Gary Karp, the Town Assessor; Carter Terenzini, the Town Administrator; and Betsey Patten, one of the members of the Town Board of Selectmen.

As noted in the board’s prior order scheduling this hearing, an investigation was undertaken and a “Report” prepared by the board’s senior review appraiser (Cynthia L. Brown, CNHA) discussing the assessment practices and documentation for the Update. The Report, filed on July 12, 2011 and mailed to the parties, investigated claims by the Lead Petitioners the Town’s 2010 Update “resulted in unpredictable and unclearly defined assessments in our town”

and “inequitable and disproportionate assessments between waterfront and non-waterfront properties.” (See Petition, p. 1; and Report, p. 1.) To evaluate these assertions, and as stated in the Report (pp. 7-8), Ms. Brown performed an assessment-to-sale ratio analysis of sales that occurred between April 1, 2010 and March 15, 2011, subsequent to the Update.

At the hearing, the Lead Petitioners did not dispute any of the Report’s conclusions. The Town’s representatives also did not question the quality and conclusions in the Report.

BTLA’s Rulings

RSA 71-B:16 authorizes the board to order a reassessment when it determines assessments have been “fraudulently, improperly, unequally, or illegally assessed”¹ and RSA 71-B:16-a contains the criteria for the board to consider before ordering any reassessment or other remedial action.² The board has considered all of the testimony and other evidence presented,

¹ RSA 71-B:16 in part provides:

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, except as provided in paragraph I, that a particular parcel of real estate or item of personal property has not been assessed, or that it has been fraudulently, improperly, unequally, or illegally assessed; or

III. When in the judgment of the board, determined in accordance with RSA 71-B:16-a, any or all of the property in a taxing district should be reassessed or newly assessed; or

IV. When a complaint is filed with the board alleging that all of the taxable real estate or taxable property in a taxing district should be reassessed or newly assessed for any reason, provided that such complaint must be signed by at least 50 property taxpayers or 1/3 of the property taxpayers in the taxing district, whichever is less; or

V. When the commissioner of revenue administration files a petition with it pursuant to RSA 21-J:3, XXV.

² RSA 71-B:16-a states: Prior to making any determination to order a reassessment or a new assessment under RSA 71-B:16, III, the board shall give notice to the selectmen or assessors of the taxing district and, if requested, hold a hearing on the matter at which the selectmen or assessors shall have the opportunity to be heard. The board shall not order any such reassessment or new assessment unless it determines a need therefore utilizing the following criteria:

- I. The need for periodic reassessment to maintain current equity.
- II. The time elapsed since the last complete reassessment in the taxing district.
- III. The ratio of sales prices to assessed valuation in the taxing district and the dispersion thereof.
- IV. The quality of the taxing district's program for maintenance of assessment equity.
- V. The taxing district's plans for reassessment.

including the Report, in light of its statutory authority and the stated criteria. For the reasons explained below, the board finds there is no basis for ordering a reassessment or taking other remedial action at this time with respect to the 2010 Update.

As summarized in the Report (at pages 14-15), the Update achieved an overall median ratio of 0.97 (97%) with a coefficient-of-dispersion (“COD”) of 13.52. These measures are well within the guidelines for measuring and analyzing municipal assessments established by the Assessing Standards Board (“ASB”). The ASB guidelines state the median ratio should be between 0.90 and 1.10 with a 90% confidence level and the COD should not be greater than 20.0 and both were met by the Town. The Report concluded: “The Update was performed and completed in an equitable manner” and “did attain market value,” with no evidence of selective reappraisal or sales chasing and no inconsistencies in the neighborhood designations or the adjustments made to them. (Id.)

The board finds there is no evidence to conclude the assessment was not performed equitably with respect to any particular group of property owners, such as those having waterfront properties. It is not uncommon for properties having different locations and other characteristics recognized by the market to appreciate and depreciate at different rates over time and the purpose of any update or other form of reassessment is to recognize such changes, rather than maintain the status quo and keep assessments at the same relative or absolute levels. Thus, even if some waterfront property assessments changed in a non-uniform manner (increased at a different rate) compared to other waterfront properties and other property types in the Town, this alone is not sufficient evidence the reassessment was flawed or a remedy is appropriate to achieve proportionality.

The board has noted the Lead Petitioners' other concerns (summarized in Petitioner Exhibit No. 1) regarding the lack of "understandability" and length of the Town's assessment manual ("385 pages"). Vision used a CAMA (Computer Assisted Mass Appraisal) system that generates this level of detail. Neither Vision nor the Town can be faulted for trying to provide more rather than less information, even if some of it is somewhat technical in nature and may not be readily understood by all. To the extent feasible, of course, the Town and its assessing contractor should strive for transparency and have personnel available who are knowledgeable regarding the reassessment work performed and able to answer questions taxpayers may have regarding the process and outcome of the reassessment.

As stated in the Report (p. 12), the Town has a contract with Vision through 2012 "that calls for annual updates utilizing statistical studies to update the land and cost tables, field review and inspect all the sales, and perform digital imaging and data processing functions for the building permit properties." The Town also plans a "complete valuation update in 2013 to include physical inspections if required." (Id.)

The board finds these plans are adequate to maintain assessment equity provided the Town follows through on its intention of reexamining the number of "sub-neighborhoods" that have been delineated. (Id., p. 13.) This was a source of complaint for the Lead Petitioners. See Petitioner Exhibit No. 1, p. 35 ("there are too many (n)ighborhoods and too many factors").

According to the Affidavit of Brownie L. Jones, the Town's retired assessor, the delineations were originally done by the department of revenue administration and were adjusted in the prior 2004 revaluation, with very few changes between 2004 and 2009. Having as many as 125 separate neighborhood delineations appears to be unduly large, given that a number of neighborhoods consist of less than five parcels. According to Paul McKenney of Vision, the

Town's assessing contractor, the Town's goal is to reduce the amount of neighborhoods in 2013. The board finds this goal can and should be achieved, which will simplify the understandability of the process while still maintaining assessment equity.

The Report (p. 15) further noted documentation in the form of a "detailed explanation and analyses of the various base rates and adjustments, was not available until approximately one year after the completion of the Update" and the "Town's cyclical inspection program only includes drive by inspections" and, at the rate of 500 parcels inspected annually, it will take the Town "over 10 years to complete the review of every property." The Town should address both of these issues in the planned 2013 valuation update. The Town should plan to have complete documentation in the assessment manual available for review by property owners in a more timely manner. Further, the Town should review the sufficiency of its current property inspection program and accelerate the pace so the inspections can provide more up-to-date information.

In summary, the board finds no basis in the evidence presented to conclude the board should order the Town to perform any reassessment or other remedial action at this time other than what has already been planned and noted in the Report and this Order. As a consequence, the board dismisses the Petition and closes the record in this docket.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Michele E. LeBrun, Chair

Albert F. Shamash, Esq., Member

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Certification

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Janet B. Cramer, PO Box 1164, Center Harbor; NH 03226; Richard Heath, 4 Orchard Drive, Moultonborough, NH 03254, Lead Petitioners; Chairman, Board of Selectmen, Town of Moultonborough, PO Box 139, Moultonborough, NH 03254; and Stephan W. Hamilton, Director, Property Appraisal Division, Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301.

Date: 11/8/11

Anne M. Stelmach, Clerk