In Re: Town of Andover

Docket No.: 26057-11RA

ORDER

As a result of questions arising at the August 30, 2011 scheduled hearings for four tax year 2009 appeals involving a jointly-owned waterfront lot (Map 17, Lot 13) on Highland Lake (see Rayner, BTLA Docket No. 24818-09PT, Ratzki, BTLA Docket No. 24819-09PT, Ressler, BTLA Docket No. 24821-09PT and Julie P. Mayo Revocable Trust, BTLA Docket No. 24796-09PT), the board, pursuant to its authority contained in RSA 71-B:16, II[1], opens an investigation into the "Town's" assessment practices.

This investigation concerns the consistency and proportionality of waterfront assessments in light of the Town selectmen's vote, at a December 6, 2010 public meeting with respect to this waterfront lot, to "*limit the amount of increase . . . to 150% of the 2008 value until the next revaluation or the settlement of the case at the Board of Tax and Land Appeals.*" The selectmen intended this to be only "an adjustment on the actual taxes paid" but not on the assessment itself because, as stated in the same document describing what transpired, "the Board (selectmen) did

[1] This statute 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 . . . that a parcel of real estate . . . has been fraudulently, improperly, unequally, or illegally assessed."

not change the assessment for the property." The Town's representatives confirmed to the board (on August 30, 2011, the scheduled hearing date) the Town recently issued checks to each of the above taxpayers (refunding part of the taxes paid, reflective of a $13,100 assessed value), but the Town's assessment-record cards still reflect the higher $40,000 individual assessments for the waterfront lot.

The facts giving rise to this investigation are explained more fully in the September 23, 2011 Order in those appeals issued concurrently herewith (copy attached hereto), which references the key document from the selectmen quoted above (the "Excerpt from December 6, 2010-Selectmen's Meeting," italics in the original, copy attached hereto).

Under RSA 71-B:16, the board "has broad authority to remedy the inequities of improper and illegal taxation." Appeal of Wood Flour, Inc., 121 N.H. 991, 994 (1981). This authority extends to tax abatements, as well as to the original assessments of property. Id. ("The legislature obviously intended the board to scrutinize the legality of abatements as rigorously as it reviews the lawfulness of assessments."). The board will therefore investigate whether the Town has "fraudulently, improperly, unequally, or illegally assessed" property in violation of RSA 71-B:16, II, quoted in fn. 1.

The board directs its RSA 71-B:14 appraisers to review any relevant assessment and other Town documents, including the reassessment manual prepared during the 2009 reassessment, the department of revenue administration's monitoring documents of the reassessment (see RSA 21-J:11, II), assessment-record cards, tax bills and rebates, and file a report of their findings to the board, copying the Town. After review of the appraisers' report,

the board will make a determination as to whether further proceedings under RSA 71-B:16-a and Part Tax 208 are appropriate.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Michele E. LeBrun, Chair

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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: Chairman, Board of Selectmen, Town of Andover, PO Box 61, Andover, NH 03216; Mark Stetson, Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, NH 03258, Contracted Assessing Firm; Mr. Stephan Hamilton, Director, Property Appraisal, State of New Hampshire, Department of Revenue Administration, 109 Pleasant Street, Concord, N.H. 03301; Lynda Rayner, 21 Third Lane, East Andover, NH 03231; Caroline and Mario Ratzki, PO Box 213, East Andover, NH 03231; Ralph and Connie Ressler, 18 Third Lane, East Andover, NH 03231; and Julie P. Mayo Rev. Trust, Donald and Julie Mayo, Trustees, 65 Maple Street, East Andover, NH 03231; Interested Parties.

Date: 9/23/11

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Anne M. Stelmach, Clerk