

In Re: Town of Randolph Reassessment

Docket No.: 26074-11RA

ORDER

This Order addresses the “Town’s” September 27, 2012 “Motion for Extension of Time And/Or Reconsideration” (“Motion”) and the October 5, 2012 “Lead Petitioner’s Response” to the Motion. The Motion questions one aspect of the board’s August 31, 2012 Order (the “August Order”). The suspension Order entered on October 3, 2012 (to give the board sufficient time to review and rule upon the Motion) is hereby dissolved. As detailed below, the requested three month extension of time is granted. The board will also provide additional clarification so that the Town, with the aid of its assessing contractor, can comply with the August Order by the extended deadline of January 15, 2012.

I. Issues Presented

In the August Order, the board denied the petitioners’ request for a Town-wide reassessment prior to 2014 (the year in which the Town already planned to complete another reassessment in accord with the 5-year cycle prescribed in RSA 75:8-a.) The August Order also addressed two key concerns regarding “Contributory View Values” and “Building Base Rates” insofar as they impact the “quality” (including the understandability and transparency) of the 2009 Town-wide reassessment; the board concluded additional documentation is necessary. Prior to issuance of the August Order,

the Town, through its attorney, represented to the board that the Town was willing to do so.¹

As stated on page 15 of the August Order:

In summary, the board must be guided by its statutory authority under RSA 71-B:16, IV and RSA 71-B:16-a. Applying the five criteria specified by the legislature² to the evidence presented results in a determination that there is no need to order a Town-wide reassessment prior to 2014, the year the Town has already planned to complete one.

The evidence presented did cause the board to consider in detail concerns expressed by the petitioners regarding how information on Contributory View Values and Building [Base] Rates were presented in the Manual. As noted above, the Town has formally acknowledged its willingness to undertake remedial measures. The board finds the Town can and should recognize and address the concerns reviewed and discussed in this Order through additional documentation, as prescribed above [on pages 5 through 14 of this Order], using information that should already be available to Avitar, the Town's contract assessor. Not later than October 15, 2012, the Town, through Avitar, shall supplement the documentation pertaining to the 2009 reassessment in the manner the board has indicated, copying DRA and the board with all revised documentation (including changes to the Manual and any ARCs) and making a copy of this information also available for inspection at the Town office.

Consistent with its practice in prior reassessment orders (see, e.g., *Fitzwilliam*, p. 11), the board will retain jurisdiction in this docket until receiving and reviewing a copy of the additional documentation and will then issue an appropriate order.

The Motion does not request either a clarification or a reconsideration of the board's findings regarding Building Base Rates, discussed at pages 12 through 14 of the

¹ See the Town's "Brief Memorandum of Law" (received by the board on July 18, 2012, prior to issuance of the August Order), where the Town's attorney stated (at p. 8):

The Town acknowledges that in cases such as *Unity* case, the *Nottingham* case and the *Orford* case (all supra), this [b]oard – while determining that no town-wide reassessment order was justified – nevertheless ordered alternative remedial measures to improve information available to taxpayer[s] for purposes of the "audit" function -- such as requiring improved information to be placed on the [assessment-record] cards. The Town is not averse to similar orders or recommendations in this case. . . .
[Italics in original.]

See also August Order, p. 3.

² See RSA 71-B:16-a, discussed in the August Order at pp. 3-5. The "[q]uality" of the Town's "program for maintenance of assessment equity" is one of the five enumerated factors in this statute.

August Order. With respect to the 2009 reassessment, Avitar presumably has sufficient information to “supplement the information in the Manual with an analysis showing how it determined the \$56 base rate and what factors governed the rate applied by the Town.” (August Order, p. 14.)

The concerns presented in the Motion, and the accompanying Affidavit of Loren Martin signed on September 21, 2012, focus instead on the board’s findings regarding the need for further documentation pertaining to Contributory View Values, discussed on pages 5-12 of the August Order. Specifically, the Town asks the board to “reconsider that portion of its order requiring supplementation of the contributory view information on the 2009 tax cards [sic] . . .” and, “[i]n any event . . . to permit the Town an additional 90 days within which to complete the tasks set forth in the [August] Order.” (Motion, p. 3.)

Contrary to the Motion, the August Order made no findings on “the type and quality of view descriptions which will be required on the tax cards produced for the 2014 assessment (emphasis added)” and the board therefore denies the Town’s request for reconsideration of “that portion of the order.” (Id.) The Town cannot set values and complete the necessary documentation and other tasks for the 2014 Town-wide reassessment any sooner than April 1, 2014, because that reassessment will establish values as of that date.

The Lead Petitioner’s Response argues the Town should not need any additional time to comply and asks the board to deny the Motion. Further, it asks the board, if it grants a “reconsideration,” to order the Town to complete an earlier reassessment -- “for tax year 2012.” (See Lead Petitioner’s Response, p. 11.) The board denies this request

for many reasons, not the least of which is the impracticality and cost of advancing the date of the 2014 reassessment which the Town has already begun working on.

To place its rulings in context, the board will first summarize the relevant chronology and key testimony resulting in the August Order. The August Order considered all of the evidence and arguments presented, including the May 4, 2012 “Report” prepared by the board’s review appraiser (Cynthia L. Brown, CNHA), her testimony and the testimony of a number of witnesses at the July 12, 2012 hearing on the merits.

The witnesses at the July 12 hearing included Ms. Brown, the lead petitioners and other petitioners and property owners in the Town and, Gary Roberge and Loren Martin of Avitar Associates of New England, Inc. (“Avitar”), the Town’s assessing contractor. Mr. Roberge is Avitar’s owner and “CEO” (Chief Executive Officer), with over 30 years of assessing experience in New Hampshire; and Ms. Martin is Avitar’s “Senior Assessor and President, Assessing Operations.” (See the Affidavit attached to the Motion.)

II. Extension of Time (Until January 15, 2013)

The extension of time the Town is now seeking is for “an additional 90 days [from October 15, 2012] within which to complete the tasks set forth in the [August] Order.” The chief impetus for this extension request is Mr. Roberge’s absence from the state (in September, when the Motion was filed). The Town officials regret having to ask the board for the extension, but represent “they are in essence 100% dependent upon Avitar for compliance with the [August Order].” (See Motion, ¶6.)

In response to board questions, Ms. Martin testified, in the event Mr. Roberge was not available to respond to an abatement request or other inquiry regarding the reassessment, either Dave Woodward or Connie Jackson could do so competently. Both

Mr. Woodward and Ms. Jackson are DRA-certified assessing supervisors. For all of these reasons, the board finds Mr. Roberge's temporary absence from the state should not determine Avitar's ability to comply with the August Order. (Cf. paragraph 5 of the Affidavit attached to the Motion.)

However, after review of the testimony and other evidence presented, the parties' concerns, and the additional considerations discussed below, the board finds the Town's request for a limited extension of time should be granted. Consequently, the Town shall have until January 15, 2013 to comply with the August Order.

III. Limited Clarification of the August Order

In this section, the board will clarify the August Order to facilitate a better understanding by the Town and Avitar of its meaning and effect. The board did not intend for Avitar to do "further field review" in order to comply with the requirements of the August Order. See page 11:

The board does not envision Avitar having to re-inspect each property to which a contributory view value was assigned during the 2009 reassessment. From Mr. Roberge's testimony at the hearing, as well as the photographs and other information Avitar has already compiled, both in the Manual and perhaps in its own unpublished database, Avitar should be able to provide expanded descriptions aimed at eliminating this source of potential confusion.

Mr. Roberge "testified he personally inspected each property in the Town associated with a view and set its contributory value." (August Order, p. 5.) Further,

Mr. Roberge concluded there was a range of contributory view values in the Town (from \$0 to \$100,000 in 2009). To document and support his conclusions, he took one photograph of each property and placed this picture, along with the indicated contributory value, in the "view report" included in section 10 of the Manual. (This view report is discussed in the Report at pp. 10-11; portions are also included in Tab 5 of the June 25, 2012 Memorandum filed by Mr. Mudge.)

(Id., p. 6.)

Mr. Roberge explained Mr. Woodward was present and assisted him during the “field reviews” of all of the properties. He further testified he and Mr. Woodward noted the names of the mountains viewed from each property and, “more importantly,” noted what Mr. Roberge described as the ‘subject matter, depth and width’ of each view. They took at least one picture of the view at each property to create the view manual in order to consistently and accurately depict ‘what the eye sees.’

Mr. Roberge, perhaps with Mr. Woodward’s or Ms. Jackson’s assistance, should be able to produce more descriptive information to eliminate the ‘confusion’ evident on page 11 of the Report prepared by Ms. Brown. On that page, she shows how properties with different Contributory View Values have virtually identical descriptions on their assessment-record cards (see Chart 2 on that page of her Report) and also how other properties with the same \$35,000 value (Chart 1) have different descriptions. To the extent the Motion claims the August Order was based on a ‘false premise’ (Motion, ¶4), the board does not agree.

While the Motion (p. 3) asks for further specific guidance as to the “type and quality of view descriptions,” the board has already addressed this issue in some detail. (See, e.g., Town of Orford, BTLA Docket No. 21473-05RA (November 3, 2005) at pp. 10-16.) Avitar has assessing professionals, certified by the department of revenue administration (“DRA”), who have the technical knowledge and experience necessary to comply with applicable statutes and regulations, as well as professional standards. See, e.g., RSA 21-J:11, et seq., the rules promulgated by the DRA (Rev 600) and the Assessing Standards Board (AsB), the Uniform Standards of Professional Appraisal Practice (“USPAP”), especially Standard 6, promulgated by The Appraisal Foundation’s

Appraisal Standards Board, and IAAO (International Association of Assessing Officers) standards.³

For all of these reasons, the board has provided a clarification of the August Order, as well as an extension of time (until January 15, 2013) to comply with its provisions.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Michele E. LeBrun, Chair

Albert F. Shamash, Esq., Member

Theresa M. Walker, Member

Certification

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: John T.B. Mudge, 25 Lamphire Hill, Lyme, NH 03768 and Elizabeth Breunig, 80 Lyme Road #320, Hanover, NH 03755, Lead Petitioners; H. Bernard Waugh, Jr., Gardner, Fulton & Waugh, PLLC, 78 Bank Street, Lebanon, NH 03766-1727, counsel for the Town; Chairman, Board of Selectmen, 130 Durand Road, Randolph, NH 03593; Stephan W. Hamilton, Director, Property Appraisal, Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301; and a courtesy copy to Gary Roberge and Loren J. Martin, Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, NH 03258, Contracted Assessing Firm

Date: November 19, 2012

Anne M. Stelmach, Clerk

³ Avitar can, if it chooses to do so, utilize a grading system for assessing Contributory View Values in a manner similar to how other property characteristics, such as waterfront or construction quality, are evaluated and their resulting contributory values are assessed. For example, various attributes can contribute to or detract from how water frontage impacts market value (such as sandy or rocky beach, deep or shallow water, or lake or river frontage).