David T. Brady
v.
Town of Derry

Docket No. 4591-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of $89,500.00 (land, $15,500.00; buildings, $74,000.00) on a mixed residential-commercial building on Railroad Avenue (the Property). For the reasons stated below, the appeal for abatement is denied.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry his burden and prove any disproportionality.

The Taxpayer argued the assessment was excessive because:

(1) the location within the Town is poor (mixed neighborhood);

(2) the building's location on the street is poor (between two bars across the street from an abandoned building);

(3) the difficulty with renting units at reasonable rates;

(4) the lack of parking; and

(5) the property record card had an error in lot size.

The Town argued the assessment was proper because:

(1) the Property was bought in May 1986 for $189,500 and its value increased between May 1986 and April 1, 1988;

(2) the assessment was arrived at using the replacement-cost methodology used on other similar properties; and

(3) the assessment was supported by a comparable property's assessment.

We find the Taxpayer failed to prove his assessment was disproportional. We also find the Town supported the Property's assessment. Furthermore, the board's inspector inspected the Property and reviewed the assessment, and he concluded the assessment was proper.

Concerning the error of the lot size, we note the market values the Property as a whole, not separately as land and building. However, given the existing assessment practices, an allocation is made between land and building. The board reviewed the error, but we find the lot-size error does not require any adjustment to the assessment as a whole. See Winniposeogee Lake Cotton and Woolen Manufacturing Co. v. Laconia, 74 N.H. 82, 85 (1906).

SO ORDERED.

January 31, 1991

BOARD OF TAX AND LAND APPEALS

Peter J. Donahue

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the within Decision have been mailed this date, postage prepaid, to David T. Brady, the Taxpayer, and to the Chairman, Board of Assessors, Town of Derry.

Michele E. LeBrun, Clerk

January 31, 1991

1002