Fred M. and Jean M. Stiles

v.

Town of Hampton

Docket No.: 6037-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of $252,300 (land, $152,500; buildings, $99,800) on 4 Shaw Street, a 5,453 square foot lot with a 1/2 story house (the Property). For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers 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 Taxpayers failed to carry this burden.

The Taxpayers argued the assessment was excessive because:

(1) his land is valued at a higher amount per square foot than other lots in the area;

(2) "all lots should be assessed at the same price per square foot "; and

(3) the Property was flooded during an ocean storm in October of 1991.

The Town argued the assessment was proper because:

(1) the market indicates that the price per square foot for land is higher on smaller lots and lower for larger lots;

(2) land values are affected by other factors such as topography, location, shape and frontage;

(3) the Town has through the abatement process reduced the lot to be comparable with those across the street and lowered the grade of the building; the result is that the Property is, if anything, underassessed;

(4) sales of comparable property in the area indicated values of $150,000 for lots with limited view of the ocean; and

(5) all the properties in this area are affected similarly by flooding conditions after a storm.

Board's Rulings

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

Averaging land values, as done by the taxpayer, does not necessarily prove "disproportionality"; it only proves that the taxpayer's land is assessed more than the average property. Appraisals are not averages; rather they are the correlation of general sales data to the unique characteristics of a specific property.

Differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for assessments on a per-square-foot basis to differ to reflect this market phenomenon.

The Taxpayer did not present any credible evidence of the Property's

fair market value. To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Fred M. and Jean M. Stiles, Taxpayers; and Chairman, Selectmen of Hampton.

Dated: December 17, 1992

Valerie B. Lanigan, Clerk

Fred M. and Jean M. Stiles

v.

Town of Hampton

Docket No.: 6037-89

Order

In a letter to this Board, dated December, 28, 1992, the Taxpayers file a motion for rehearing in the above captioned matter.

The Taxpayers repeat the arguments presented during their hearing and refer to properties previously used to support their appeal, in addition to adjustments to the original assessment by the town assessor, Mr. Robert Estey.

The Board finds no basis for granting a rehearing; therefore the motion is denied.

The Board does note a typographical error on the first page, line three in it's decision. The building referred to should read...."with a 1 1/2 story house (the Property)."

The Taxpayers have the right to appeal to the Supreme Court within 30 days from the date on this decision (RSA-541:6).

SO ORDERED

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing order has been mailed this date, postage prepaid, to Fred M. and Jean M. Stiles, Taxpayers; and Chairman, Selectmen of Hampton.

Dated:

_____
Valerie B. Lanigan, Clerk