Kevin J. Holland
v.
Town of Epping

Docket No. 7583-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of $186,400 (land, $69,400, buildings, $117,000) on his real estate at 21 Harvey Lane, consisting of a dwelling and garage on a 2.19 acre lot (the Property). The Town and the Taxpayer failed to appear, but consistent with our Rule, TAX 102.03(g), the Town and the Taxpayer were not defaulted. This decision is based on the evidence presented to the board. 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 in his written submittals to the board argued the assessment was excessive because:

(1)the land assessed value increased $6,600 from 1988 and is not consistent with other property values in the Rum Brook development;

(2)the lot is one third wet and contains a drainage easement; and

(3)the lot was purchased in May of 1987 for $55,000.

The Town submitted no evidence other than a copy of the assessment record card.

We find the Taxpayer failed to prove his assessment was disproportional.

The Taxpayer stated the lot was purchased in 1987 for $55,000 and the house was built in 1988 to 1989 for $118,000, totalling $173,000. This total cost is within nine percent of the Town's assessment, even without an adjustment in the land value for any appreciation of the lot from May 1987 to April 1, 1989, the date of assessment.

The focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one perfect assessment of a property. Rather, there is a range of acceptable assessments for each property. The question is thus whether the assessment falls within a reasonable range from a median ratio as indicated by an acceptable coefficient of dispersion following a good reassessment, considering the property involved and other assessments in the municipality. See Wise Shoe Co. v. Town of Exeter, 1991 N.H. 700, 702 (1979); Brickman v. City of Manchester, 119 N.H. 919.

In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. We note that in making a judgment of the proper assessment, the value of the entire property, i.e., land and building, must be established.

Lastly, the increase in the land assessment from 1988 to 1989 properly accounts for the value added to the land to take it from a vacant lot to a developed lot (e.g. clearing, excavation, backfill, grading, driveway, well, septic, etc.). The Town did recognize the wet conditions of the undeveloped portion of the lot by its 40 percent adjustment for the rear land.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Kevin J. Holland, taxpayer; and Chairman, Selectmen of Epping.

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Valerie B. Lanigan, Clerk

Date: April 2, 1992

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