

Wood Family Trust

v.

Town of Merrimack

Docket No.: 7739-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$132,700 (land \$46,800; buildings \$85,900) on a .361-acre lot with a ranch house (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 this burden.

The Taxpayer argued the assessment was excessive because:

- (1) there are errors on the assessment-record card, i.e., the frame garage footage is wrong, and the building does not have 3 bedrooms and 2 bathrooms;
- (2) the Town's comparable is not similar to the Property, i.e., acreage and square footage are larger and it is listed for sale for \$126,700;
- (3) the Property would never sell for the assessed value; and
- (4) a comparable property sold for \$121,400.

The Town argued the assessment was proper because:

- (1) the Property was graded below-grade quality;
- (2) comparable properties have sold for \$121,000 to \$125,000 in 1988;
- (3) the Taxpayer's comparable is larger than the Property, and therefore appears to be underassessed;
- (4) the Town used 604 known sales from 1987, 1988 and 1989 and time adjusted the sales to January 1, 1989 and, using multiple-regression analysis, arrived at models to be used in assessing the properties in Town; and
- (5) the same methodology was used throughout the Town.

Based on the evidence, we find the correct assessment should be \$132,700 as assessed. The board finds the Taxpayer's Property was not overassessed. However, there was evidence indicating certain surrounding properties may have been underassessed. The underassessment of other properties does not prove the overassessment of the Taxpayer's Property. See Appeal of Michael D. Canata, Jr., 129 N.H. 399, 401 (1987). For the board to reduce the Taxpayer's assessment because of underassessment on other properties would be analogous to a weights and measure inspector sawing off the yardstick of one tailor to conform with the shortness of the yardsticks of the other two tailors in town rather than having them all conform to the standard yardstick. The courts have held that in measuring tax burden, market value is the proper standard yardstick to determine proportionality, not just comparison to a few other similar properties. E.g., Id.

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

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Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3. The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

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 Francis W. Wood, Trustee, Representative for the Taxpayer; and Office of the Assessor of Merrimack.

Dated: February 11, 1993

Valerie B. Lanigan, Clerk

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