

Mark G. and Barbara J. Savoie

v.

Town of Loudon

Docket Nos.: 10009-90 and 11802-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 and 1991 assessments of \$58,600 on a mobile home in the Pine Ridge Estates mobile-home park (the Property). The assessment was lowered to \$48,500 for tax year 1992. For the reasons stated below, the appeal for abatement is granted.

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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers carried this burden.

The Taxpayers argued the assessments were excessive because:

- (1) the assessment history showed the assessments were excessive;
- (2) other homes in the park were assessed at lower square-foot values and with higher depreciation;
- (3) the home is located in a lower-quality section and is surrounded by single-wide homes;
- (4) the screen porch was assessed too high;

- (5) a June 1992 realtor's letter suggested a \$49,000 listing price, and
- (6) the assessment should be \$35,100.

The Taxpayers submitted several exhibits to support their arguments.

The Taxpayers also requested an award of costs.

The Town argued the assessments were proper because:

- (1) there were some explanations for the assessment chronology;
- (2) the home was purchased in 1987 for \$65,900; and
- (3) there are differences in the quality of the homes in the park.

Board's Rulings

Based on the evidence, we find the correct assessment should be 1990 -- \$52,640 and 1991 -- \$53,700.

The Taxpayer's evidence comparing the Property's assessment to other assessments within the park was insufficient to carry the Taxpayers' burden. We will admit the Taxpayers' analysis raises questions about whether the park was properly assessed. However, the board must review whether the Property was disproportionately assessed relative to the general level of assessment within the Town. It might be the Property was correctly assessed relative to market value and the other homes in the park were underassessed. The underassessment of other properties does not prove the overassessment of the Taxpayers' Property. See Appeal of Michael D. Canata, Jr., 129 N.H. 399, 401 (1987).

The Taxpayers' assessment analysis was insufficient because it did not make any adjustments for the age, quality or condition of the other homes.

Page 3

Savoie v. Town of Loudon

Docket No.: 10009-90PT

Therefore, no conclusions can be drawn from the analysis. Finally, the Taxpayers did not submit any property-record cards for the properties used in the analysis.

Under RSA 75:1, assessments must relate to market value. The only market data submitted by the Taxpayers was: 1) the Taxpayers' 1987 \$65,000 purchase price; 2) the June 1992 realtor's letter; and 3) the sales information accompanying the realtor's letter. While the Taxpayer's purchase price demonstrates the home has significant value, it cannot be relied upon because it is too remote in time given the market change between 1987-1990. The realtor's letter did not include sufficient analysis to be relied upon. This leaves only number 3. However, the Taxpayers did not supply any analysis involving those sales. For example, the Taxpayers did not compare the sale properties to the Property. Moreover, the Taxpayers did not submit the property-record cards.

The board, on its own reviewed the sales within Pine Ridge. Of the fifteen sales, only six sales could even be examined as to the market. Nine sales could not be used at all because they were bank foreclosures where the bank took back the properties. Of the remaining six sales, none were fair market sales because they were either foreclosure sales or bank sales following foreclosures.

Of those six sales, the board received from the Taxpayers only limited information on three sales. However, to use these sales adjustments require time and type of sale.

Savoie v. Town of Loudon

Docket No.: 10009-90PT

Adjusted Sales

The sales must be adjusted for time to the April 1, 1990 and 1991 assessment dates, using -.05% per month. For example, if adjusting the sale from March 1991 to April 1990, the sales price must be increased by 6.5%.

The sales must also be adjusted because they were not market sales but rather were bank or foreclosure sales. The board's experience shows these sales are approximately 30% below market sales.

Sales Submitted by the Taxpayers

<u>comparables</u>	<u>lot</u>	<u>price</u>	<u>sale date</u>	<u>deed</u>	<u>s.f</u>
1)	69-206	\$51,238	3/1/91 foreclosure	1,248	
2)	69-23	\$40,851	4/8/91 bank/warranty	944	
3)	69-417	\$50,000	7/10/91	bank/warranty	1,352

Note: None have extra features

Adjusted Sales

<u>1990</u>	<u>time</u>	<u>type of sale</u>	<u>adjusted sale</u>	<u>\$/s.f</u>
1) \$51,238 x 1.055 x	1.30 (11months)	=	\$70,270	\$56.30
2) \$40,851 x 1.06 x	1.30 (12months)	=	\$56,300	\$59.65
3) \$50,000 x 1.075 x	1.30 (15months)	=	\$69,875	\$51.70

1991

1) \$51,238 x .995 x	1.30 (1month)	=	\$66,275	\$53.10
2) \$40,857 x 1.0 x	1.30 (0months)	=	\$53,115	\$56.25

Page 5

Savoie v. Town of Loudon

Docket No.: 10009-90PT

$$3) \$50,000 \times 1.015 \times \frac{1.30}{(3\text{months})} = \$65,975 \quad \$48.80$$

Median & Mean \$/s.f (excluding comparable 2, due to size difference)

1990 \$54/s.f.

1991 \$50.95/s.f.

1990

$$\$54 \times 1,296 = \$69,984 + \$2,125^* = \$72,110$$

$$\$72,110 \times .73^{**} = \$52,640 \text{ assessment}$$

* Equalized value of porches, etc

** Equalization ratio

1991

$$\$50.95 \times 1,296 = \$66,030 + \$1,960^* = \$67,990$$

$$\$67,990 \times .79^{**} = \$53,710$$

* Equalized value of porches, etc

** Equalization ratio

Based on the above, the board finds the proper assessments should be as follows.

1990 - \$52,640

1991 - \$53,710

If the taxes have been paid, the amount paid on the value in excess of \$52,640 for 1990 and \$53,710 for 1992 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, the Town shall also refund any overpayment for 1992 and 1993. Until the Town undergoes a general reassessment, the Town shall use the

Page 6

Savoie v. Town of Loudon

Docket No.: 10009-90PT

ordered assessment for subsequent years with good-faith adjustments under RSA
75:8. RSA 76:17-c I.

Page 7

Savoie v. Town of Loudon

Docket No.: 10009-90PT

We deny the Taxpayer's request for fees, finding the assessment was not significantly out of line and concluding the Taxpayer's analysis was not relied on in reaching this decision.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Mark G. and Barbara J. Savoie, Taxpayers; and Chairman, Selectmen of Loudon.

Dated: January 24, 1994

0008

Valerie B. Lanigan, Clerk

Page 8

Savoie v. Town of Loudon

Docket No.: 10009-90PT

Mark G. and Barbara J. Savoie

v.

Town of Loudon

Docket Nos.: 10009-90 and 11802-91PT

ORDER

This order responds to the "Town's" clarification request.

The board agrees that page five of the decision incorrectly stated the 1992 value should be \$53,710. The correct year was 1991.

Concerning the assessments for 1992 and 1993, the board states that under RSA 76:17-c I, the Town is required to use the \$53,710 assessment figure "until such time as the [Town], in good faith, reappraise the property pursuant to RSA 75:8 due to changes in value, or until there is a general reassessment in the [Town]." Thus, generally, the Town should use the board's ordered assessment, and the equalization ratio would be the factor that would reflect the change in the market and the correlation of the assessment to the market. In this case, however, the Town actually reduced the 1992 assessment to \$48,500, and under RSA 76:17-c I, the Town should use that figure for 1992. Further, to the extent the \$48,500 figure was considered appropriate for 1992, the Town should probably use that figure again in

Page 9

Savoie v. Town of Loudon

Docket No.: 10009-90PT

1993 unless the Town, pursuant to RSA 75:8, determined a different value would be appropriate or unless the Town has undergone a general revaluation.

The motion also raised the question of whether the board acted in hindsight when the Town was only able to act as of the assessment dates. The board notes the central question in all assessing is what is the relative (i.e., relative to the market and the assessments on properties throughout the Town) value of the property as of April 1 of the assessing year. Obviously, in setting assessments, the selectmen should review market information to arrive at proper assessments. It is also true that sometimes sales after April 1 will be available and used either by the Town or by the board, but in all cases those sales must be trended back to the April 1 date. The board did this in its decision. The bottom line is that the board attempts to ascertain the appealed property's market value, using the evidence presented to it, and then relating value to the general level of assessment in the municipality. This is exactly what the board did in this case.

Concerning the use of the equalization ratio to convert the market conclusion to an assessment, the board notes that it is essential that all market value conclusions be adjusted to the general level of assessment. The only evidence submitted to the board concerning the general level of assessment was the equalization ratio. To the extent the Town claims the board used hindsight by employing the ratio because the ratio was not available to the assessors or selectmen, the board states that the Town had a requirement to know the general level of assessment in the Town. This was the holding in the recent case of Appeal of the City of Nashua, __ N.H. __ (March 3, 1994) (copy attached). Despite the

Page 10

Savoie v. Town of Loudon

Docket No.: 10009-90 and 11802-91PT

discussion above, the board understands the Town's questions concerning hindsight.

The board can only state it is attempting to apply the statutes to individual appeals, and this is the board's duty. It is also the board's duty to make a decision based on the best evidence presented to it, and

sometimes this may involve what appears to be hindsight. The board's focus, however, was on the April 1 assessment date and how the evidence related to that date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that the foregoing order has been sent this date, postage prepaid, to Mark G. and Barbara J. Savoie, Taxpayers; and Chairman, Selectmen of Loudon.

Dated:

0008

Valerie B. Lanigan, Clerk