

John P. Zerba

v.

City of Claremont

Docket No.: 10254-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1990 assessment of \$106,900 (land \$18,700; buildings \$88,200) on a 2-family home with a workshop (the Property). (The Property was a 3-family house but was modified to a 2-family.) The Taxpayer and the City waived a hearing and agreed to allow the board to decide the appeal on written submittals. The board has reviewed the written submittals and issues the following decision. 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 and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) the land is steep and banked;
- 2) neighboring multi-family homes with vinyl siding, aluminum windows, 2-car garages, larger lots and level lots were assessed much lower; and

3) a neighboring home was listed for \$110,000.

The City argued the assessment was proper because:

- 1) adjustments were already made for topography and excess living-space footage;
- 2) the square-foot values are lower than comparable properties;
- 3) the Taxpayer's Property is much larger than the comparables; and
- 4) it was consistent with other assessments on nearby similar properties.

Board's Rulings

The board denies this appeal because the City supported the assessment by comparing the Property's assessment to other properties. We note, however, that the City failed to submit any sales to support the assessment. Since the City was recently revalued, the City should have submitted sales for the board's consideration. RSA 75:1 requires that assessments be in line with market value. Therefore, providing sales is essential for the board to compare the Property's assessment with fair market value and the general level of assessment in the municipality. See Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986). Finally, the City demonstrated that it had made adjustments for the problems raised by the Taxpayer such as the lot's topographical problem.

In addition to the above reasons, the appeal is denied because 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 City.

See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986);  
Page 3  
Zerba v. City of Claremont  
Docket No.: 10254-90

Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal  
of Town of Sunapee, 126 N.H. at 217-18.

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

\_\_\_\_\_  
Ignatius MacLellan, Esq., Member

\_\_\_\_\_  
Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been  
mailed this date, postage prepaid, to John P. Zerba, Taxpayer; and Office of  
the Assessor, City of Claremont.

Dated: March 17, 1993

\_\_\_\_\_  
Melanie J. Ekstrom, Deputy Clerk