

H.M.B. Inc.

v.

City of Concord

Docket No.: 10270-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1990 assessment of \$141,700 (land \$85,400; buildings \$56,300) on 6,975, square-foot lot with a store known as Toni's Korner Kupboard (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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry its burden.

The Taxpayer argued the assessment was excessive because:

- (1) the land assessment was excessive based on what the lot was worth and based on comparisons with three other comparables;
- (2) the lot is zoned RB and the present commercial use is grandfathered;
- (3) the lot is totally developed, limiting building expansion to an additional 10%;
- (4) the assessment should have been \$125,000; and

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(5) the City's analysis, which was presented at the hearing, was flawed because the City's comparables were located at Thirty Pines, which is not comparable to the Property, and the City's deduction for business/goodwill value was insufficient.

The Taxpayer did not come prepared to provide the board with an opinion of the Property's total market value because the Taxpayer had focused on the land assessment only, not on the total assessment.

The City argued the assessment was proper because:

- (1) the Property was worth \$154,000 on April 1, 1990, and the equalization ratio was 100%;
- (2) it was supported by an income analysis; and
- (3) it was consistent with the Property's sales history and improvements history.

Board's Rulings

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

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. Moreover, the supreme court has held the board must consider a taxpayer's entire estate to determine if an abatement is warranted.

See Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). The Taxpayer failed to make a supported case for the Property's total value.

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

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fair market value. To carry its 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); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

Despite this decision, the board agrees with the Taxpayer that the City's comparables at Thirty Pines were not comparable to the Property and that the City's methodology on assessing the land at 74 Fisherville Road was questionable. Unfortunately, this does not help the Taxpayer carry its burden of showing the Property was disproportionality assessed when viewed as an entire estate. Such can only be done: (i) by providing the board with market data, which would show the assessment was disproportional to the general level of assessment; or (ii) by providing the board with sufficient data to raise questions about the City's overall methodology.

The final point concerns the Property's adjusted purchase price and what amount should have been deducted for the business\goodwill value -- City \$17,000; Taxpayer \$40,000. Even using the Taxpayer's asserted \$40,000 business value, would not show disproportionality because the assessment would still be within approximately \$6,000 of the adjusted purchase price.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to H.M.B. Inc., Taxpayer; and Chairman, Board of Assessors, City of Concord.

Dated: January 11, 1994

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Valerie B. Lanigan, Clerk