Michael A. and Ann-Marie Peters

v.

Town of Weare

Docket No.: 10873-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of $147,800 (land $32,500; buildings $115,300) on a 2.41-acre lot with a house (the Property). The Taxpayer and the Town 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 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 failed to carry this burden and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

(1) the purchase price, including the land, was $128,900 in January, 1990;

(2) the bank's September 9, 1989 appraisal estimated a $132,000 market value and the insurance company estimated an $86,000 replacement cost;

(3) comparable homes did not have the same assessment increase as the

Property;

(4) the Property is listed for sale for $147,800, yet realtors have indicated that it is overpriced and will not sell for the asking price; and

(5) properties are consistently assessed higher than their true values.

The Town argued the assessment was proper because:

(1) 367 sales between April 1, 1988 and April 1, 1990 were used as a benchmark to set the values for the 1990 revaluation;

(2) the Taxpayers' $128,900 purchase price in January, 1990, was low considering the building's quality, design, location and desirability, and similar properties sold for much more than the Taxpayers' purchase price;

(3) the comparables in the Taxpayers' appraisal are inferior to the Property in design, quality and market appeal, and the appraiser failed to adjust for these differences;

(4) the Town's comparables are located closer to the Property and are one and three-quarter story contemporary capes of similar quality to the Property; and

(5) the Taxpayers' January, 1990 purchase price does not reflect the April 1, 1990 value.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the Property was disproportionately assessed. The Taxpayers stated the Property's purchase price was $128,900. While this is some evidence of the Property's market value, it is not conclusive evidence. See Appeal of Town of Peterborough, 120 N.H. 325, 329 (1980). The Town argued the sale was atypically low when compared to homes of similar quality, design, location and

market appeal, and further argued the Taxpayers' mortgage appraisal based its

values on sales of average homes and a plus 10% adjustment should have been made to compare the sales to the Property.

The Town submitted assessment cards that indicated consistent assessment methodology and that the values were based on sales between July, 1989 and May, 1990. Consistent analysis and methodology is some evidence of proportionality; see Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

The Taxpayers submitted several sheets of single-family sales in the Town of Weare and Henniker and listings of Weare values as of April 1, 1990. The Taxpayers may have intended to use the other properties as comparables. If so, the Taxpayers offered no evidence of the arm's length nature of the sales and their comparability, nor did they present any charts or photographs to allow the board to draw any conclusions.

The Taxpayers argued that some properties in the Town 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).

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 a copy of the foregoing decision has been mailed this date, postage prepaid, to Michael A. and Ann-Marie Peters, Taxpayers; and Chairman, Selectmen of Weare.

Dated: November 4, 1993

Lynn M. Wheeler, Deputy Clerk