Leisure Village Estates

v.

Town of Raymond

Docket No.: 8487-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of $33,000 on a mobile home (the Property). The Taxpayer also owns, but did not appeal, two other properties in the Town with a combined $709,050 assessment. 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 meet the burden of proof.

The Taxpayer argued the assessment was improper because:

(1) the Property was a brand new Oxford home purchased from the manufacturer for the sole purpose of selling it;

(2) the home was placed on a brand new lot created and exposed for sale i.e. listed by a broker with a for sale sign on the unit;

(3) RSA 72:7-a I does not apply to manufactured housing held for sale or

storage by an agent or dealer; and

(4) the Taxpayer qualifies as a dealer and the home was sold on January 2, 1991.

The Town argued the assessment was proper because:

(1) the Taxpayer and the Town are not disputing the value of the home, the only dispute is whether or not it is taxable as real estate.;

(2) the Taxpayer owns the mobile home park and is not a dealer or an agent whose primary business is selling mobile homes nor was the unit displayed on a retail/commercial lot; and

(3) the home was not in a display area visible from the road by the general public but was on a rental site in a developed area where units on contiguous 'pads' were occupied by tenants of the Park and the subject mobile home was connected to utilities and therefore clearly real estate ready for occupancy.

Board's Rulings

Based on the evidence, we find the Oxford unit, hooked up to water, septic/sewer and utilities was located on a destination site as opposed to a retail display area where a unit, once sold, would be moved to either a permanent site within the park or an off premises location.

The subject unit was subsequently sold on January 2, 1991 and occupied with no relocation required. The unit under appeal fails to meet the stock in trade criteria.

We find the Taxpayer failed to prove the Property's assessment was improper or illegal. We also find the Town supported the Property's assessment as real estate.

A motion for rehearing, reconsideration or clarification (collectively

"rehearing motion") of this decision must be filed within twenty (20) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

_____
George Twigg, III, Chairman

_____
Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Emile R. Bussiere, Esq., Attorney for Leisure Village Estates, Taxpayer; and Chairman, Town of Raymond.

Dated: August 5, 1994

_____
Valerie B. Lanigan, Clerk

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v.

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ORDER

This order relates to the "Taxpayer's" rehearing motion. The motion fails to state any "good reason" or any issue of law or fact for granting a rehearing not previously considered or addressed in the BTLA's decision. See RSA 541:3.

Motion denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

_____
George Twigg, III, Chairman

_____
Michele E. LeBrun, Member

CERTIFICATION

I certify that copies of the within Order have this date been mailed, postage prepaid, to Emile R. Bussiere, Esq., counsel for Leisure Village Estates, Taxpayer; and the Chairman, Selectmen of Raymond.

Date:

_____
Valerie B. Lanigan, Clerk

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