

Ruth A. Curran Aluffi

v.

Town of Warren

Docket No.: 8535-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$164,050 (land \$57,000, buildings \$107,050) on a house and two rental cottages on 2.9 acres on South Main Street (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 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, however, we order an abatement based on the Town's submittal.

The Taxpayer argued the assessment was excessive because:

- 1) the tax bill increased 60% in one year;
- 2) the property was under contract for sale for \$149,000, but the price was reduced to \$120,700-\$127,000; and
- 3) the comparables provided indicate a \$90,000-\$120,000 value.

The Town recommended reducing the assessment to \$148,000 to account

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for the shared driveway and the seasonal utility and small size of the rental cottages.

The Town argued the revised assessment was proper because:

- 1) a revaluation was done in 1989;
- 2) the Taxpayer's contract for sale was originally for \$165,000 and was reduced to \$149,000; and
- 3) the Property is on Main Street and has rentable cottages; and
- 4) the Taxpayer's comparables are all from different towns and no evidence was given as to how their location and condition may affect value.

#### Board's Rulings

The Board finds the Town's recommended adjustments are reasonable. The Taxpayer did not submit adequate evidence to justify any further abatement for the following reasons:

A) The Taxpayer did not provide probative evidence of comparable sales. The comparables submitted were in other towns, and the Taxpayer had no evidence as to how their location, size, condition or quality may have been different from the Taxpayer's property.

B) The Taxpayer complained about the high amount of taxes she must

pay and the increased assessment. Neither argument is relevant. The amount of property taxes paid by the Taxpayer was determined by two factors: 1) the Property's assessment; and 2) the municipality's budget. See gen., International Association of Assessing Officers, Property Assessment Valuation 4-6 (1977). The board's jurisdiction is limited to the first factor i.e., the board will decide if the Property was overassessed, resulting in the Taxpayer paying a disproportionate share of taxes. Appeal of Town of Sunapee, 126 N.H. at 217. The board, however, has no jurisdiction over the second factor, i.e., the municipality's budget. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's jurisdiction limited to those stated in statute).

C) Concerning the assessment increase, a greater percentage increase in an assessment following a town-wide reassessment is not a ground

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for an abatement, since unequal percentage increases are inevitable following a reassessment. Reassessments are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property.

D) Averaging sales, as done by the Taxpayer, is not an acceptable method of establishing market value since averaging ignores the unique characteristics of properties. Rather, analyzing, comparing, and weighing sales data and then correlating the most pertinent aspects of the sales to the subject property arrives at the best indication of market value. We must determine whether the assessment has resulted in the Taxpayer paying an unfair share of taxes. Appeal of Public Service Company of New Hampshire, 120 N.H. 830, 833 (1980). Arriving at a proper assessment is not a science but is a

matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 N.H. 919, 921 (1979). This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975). Based on the evidence, we find the Taxpayer failed to prove overassessment beyond the Town's recommended reduction.

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

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

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I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Ruth A. Curran Aluffi, Taxpayer, and Warren Selectman.

Dated: October 1, 1992

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Melanie J. Ekstrom, Deputy Clerk