

Scott D. Cote
v.
Town of Bristol

Docket No. 8538-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$169,900 (land, \$102,000; buildings, \$67,900) on a condominium unit at Manor Estates (the Property). For the reasons stated below, the appeal for abatement is granted.

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.

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 201.4(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer carried this burden and proved he was disproportionally taxed.

The Taxpayer argued the assessment was excessive because, among other things:

- (1) the Property was purchased October 1, 1990 with furniture for \$132,000;
- (2) the assessment, when equalized using the equalization ratio is above fair market value; and

(3) other sales show the assessment is excessive.

The Town argued, among other things: The \$169,000 assessment was excessive and should be adjusted to \$150,000 (land, \$82,100 and building \$67,900). This assessment is ordered because:

The Taxpayer's evidence, as accepted by the Town, established the assessment needed adjustment. However, the Board has not adopted the Taxpayer's lower figure because of lack of proof of the market value. One or two sales does not make a market.

As stated above, the focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one perfect assessment of a property. Rather, there is a range of acceptable assessments for each property. The question is thus whether the assessment falls within a reasonable range from a median ration, as indicated by an acceptable coefficient of dispersion following a good reassessment, considering the property involved and other assessments in the municipality. See Wise She Co. v. Town of Exeter, 1991 N.H. 700, 702 (1979); Brickman v. City of Manchester, 115N.H. 63, 68 (1975).

If the taxes have been paid, the amount paid on the value in excess of \$150,000 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

(s) Ignatius MacLellan, Member

(s) Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Scott D. Cote, Taxpayer; and the Chairman, Selectmen of Bristol.

Date: November 26, 1991

(s) Melanie J. Ekstrom, Deputy Clerk

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RE: MOTION FOR CLARIFICATION

On December 9, 1991, the Board of Tax and Land Appeals (Board) received a request from the Town of Bristol (Town) for clarification. The Town inquired whether the abatement from the Board's order of November 20, 1991 should be refunded fully to the taxpayer as he was not the owner of the Property until October 2, 1990.

For an individual to have standing to appeal an assessment, such person must be "aggrieved" (RSA 76:16 and 16-a) by the assessment of the tax. The taxpayer in this case was an "aggrieved person" due to the fact that he was liable for the final tax bill in 1990. While there theoretically could have been another aggrieved party (the seller/owner of the property, as of April 1, 1990), that party did not appeal separately or file an appearance in this case.

Once an appeal is properly before the Board, the Board decides whether the assessment of the property as a whole is reasonable and proportional and not necessarily what an individual's taxable interest in the property is. Thus, an abatement is refunded to the individual who appealed, and any allocation or pro-ration between that person and any other individual, that could have had standing but didn't, would be controlled by any pro-ration conditions in the purchase and sales agreement.

Therefore, the Town should refund the full abatement to the taxpayer,

Scott D. Cote, and if any pro-ration agreement of taxes or abatements exists, that is a separate matter and action between the seller and buyer.

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Motion for Reclarification

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

I certify that copies of the within have this date been mailed, postage prepaid, to Chairman, Selectmen of Bristol.

Brenda L. Tibbetts, Clerk

Date: December 31, 1991

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