

E. Leslie Hall

v.

Town of Epping

Docket No.: 8591-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$274,000 (land \$77,900; buildings \$196,100) on a 6.42-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 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 and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

1) on April 1, 1990, the Property had no lawn, grading, or landscaping; the house had no inside wood panelling or window trim; and the garage was uninsulated with open studs and no wiring;

- 2) the house does not have architectural roof shingles as does the Town's comparables, and the siding is stained-vertical siding, not clapboard;
- 3) the Property is on a private road that is not maintained by the Town;
- 4) the proximity to two racetracks has a negative impact on the Property's value;
- 5) a bank appraisal estimated a February 2, 1992 value of \$214,000, and the insurance company will only insure for \$214,000; and
- 6) it was disproportionate based on a comparison of assessments on five comparables.

The Taxpayer also questioned whether the Town was correct when the Town had never inspected the Property.

The Town argued the assessment was proper because:

- 1) the Property was the developer's home;
- 2) the racetracks are not a detriment to value;
- 3) the Town's comparables, which are all similar in grading, quality, and square-foot value with the Property, support the assessment;
- 4) the building's assessed value was less than the insurance company's value estimate; and
- 5) and the Taxpayer's comparables are all inferior to the Property, including inferior in location.

Board's Rulings

The board denies this appeal for the following reasons:

- 1) while the Taxpayer presented several comparables, she did not make adjustments to the assessments on the comparables, which is required to show how the comparables' assessments relate to the Property's assessment;

- 2) the board reviewed the Taxpayer's comparables and based on the comparables with adjustments for differences in lot size, location, building size and quality, the assessment is not disproportionate;
- 3) the Taxpayer did not submit any market data to support her argument, except a February, 1992 appraisal, which is discussed below;
- 4) the insured value supports the building's assessment; and
- 5) the Taxpayer failed to show that the proximity to the racetracks has a negative impact on the Property's value.

Concerning the February, 1992 appraisal, the board finds that appraisal supports the assessment. First, the appraisal failed to document the land adjustment used in the comparison grid. The board concludes the appraiser failed to adequately adjust the comparables that had smaller and inferior lots. Second, the appraisal's 1992 cost approach was \$252,000. Finally, the February 2, 1992 appraisal was not time adjusted to April 1, 1990, the assessment date. The appraiser stated the market had been declining by -1% per month, and thus, the time-adjusted value would be \$261,000 ($\$214,000 \times 1.22 = \$261,000$). The Town's equalization ratios -- 1990 100%, 1991 121%, and 1992 127% -- indicate property values were dropping at a rate of 1.125% per month, resulting in a -25% drop and a \$267,500 time-adjusted value. Another way to look at this is to examine the Property's 1992 equalized value and to compare that value to the 1992 appraisal. The 1992 equalized value was \$215,750 ($\$274,000 \text{ divided by } 1.27 = \$215,750$). Based on the above, the appraisal when time adjusted actually supports the 1990 assessment.

Note: After reviewing the file, the board noted the Property was built in 1990. Certainly, the construction costs are relevant, and the Taxpayer should have supplied this information. The board's paralegal called the Taxpayer and specifically requested all information concerning construction costs. The Taxpayer promised to send the information but did not, submitting other appraisal information. We have found, independent of the Taxpayer's failure, that the Taxpayer failed to show overassessment. The Taxpayer's failure to supply the very relevant information concerning building costs makes the board wonder whether the Taxpayer had a good-faith basis for her appeal.

While we have concluded the Taxpayer failed to meet her burden, we must comment on the Town's information. The Town failed to submit any sales to support the assessment. Since the Town was recently revalued, the Town should have submitted sales for the board's consideration. RSA 75:1 requires that assessments be in line with market value. Therefore, providing sales is essential for the board to compare the Property's assessment with fair market value and the general level of assessment in the municipality. See Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986).

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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to E. Leslie Hall, Taxpayer, and Chairman, Selectmen of Epping.

Dated: March 25, 1993

Melanie J. Ekstrom, Deputy Clerk

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ORDER

This order relates to the "Taxpayer's" April 12, 1993, reconsideration motion. The motion fails to state any "good reason" or any issue of law or fact for granting a rehearing. See RSA 541:3. Motion denied.

Concerning the Taxpayer's comparison chart that was submitted with the motion, it did not show any error for the following reasons.

- a) It should have been submitted with the expedited brief -- arguments should be organized in the brief, not organized for the first time in the rehearing motion.
- b) It did not show over assessment because it only focused on one factor -- building size -- It did not address other factors such as location, lot size, grade and the like. The size of a building is only one relevant factor. Additionally, the chart again ignores the value of the properties as a whole, i.e., land and building.

SO ORDERED.

BOARD OF TAX AND LAND

APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

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I certify that copies of the within Order have this date been mailed, postage prepaid, to E. Leslie Hall, Taxpayer ; and the Chairman, Selectmen of Epping.

Valerie B. Lanigan, Clerk

Date: April 26, 1993
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