Thomas R. Sahrmann and Claudia H. Sahrmann

v.

Town of Hopkinton

Docket No.: 8860-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of $105,250 (land $27,950; buildings $77,300) on Lot 16, a 10.8-acre lot with a house (the Property). 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 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to carry this burden.

The Taxpayers' Exhibit 1 fully presented the Taxpayers' position, and reference is made to that document for the Taxpayers' arguments.

The Town argued the assessment was proper because:

(1) the Taxpayers' sale comparables are not comparable to the Property and some of the sales would require adjustments for various factors such as property location and quality building;

(2) the Property is on one of the better roads in Town; and

(3) the home was beautifully restored.

We find the Taxpayers failed to prove the Property's assessment was disproportional. Given the Property's uniqueness, the Taxpayers' evidence could not carry the Taxpayers' burden because of the need for a professional opinion, i.e., an appraisal, concerning the Property's value and the adjustments that should have been made to the Taxpayers' comparables for differences in style, age, condition and location. Specifically, a professional opinion was required for location adjustments (given the Town's testimony on the Property's superior location) and for the type of buildings (the Property being an updated, reconstructed antique with comparables generally being newer reproductions). Concerning the Chesapeake land sales, they support the assessment. Even without any adjustment for location or lot-size (10.8 acres versus 2.84 acres), the Chesapeake lot sales, when time adjusted and adjusted for site costs, demonstrate a developed lot of 3 acres was worth approximately $58,250. Finally the Dinan comparable, when adjusted by time (+7%) and quality of building (+10%--the Property being superior), results in a $200,000 price without any location adjustment, which the Town stated should be made.

The focus of this decision is on the lack of an appraiser's opinion and data necessary to support the Taxpayers' presentation.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Thomas R. and Claudia H. Sahrmann, Taxpayers; and Chairman, Selectmen of Hopkinton.

Dated: August 26, 1993

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Valerie B. Lanigan, Clerk

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Town of Hopkinton

Docket No.: 8860-90

ORDER

This order responds to the "Taxpayers'" rehearing motion. The board denies the motion because the Taxpayers have not presented any "good reason" to find the board erred as a matter of fact or law. See RSA 541:3, 4.

The Taxpayers raised two issues: (1) the board's decision was contrary to the volume of evidence and the analysis presented by the Taxpayers; and (2) the board did not provide the Taxpayers with an opportunity to fully present all comparables. The board disagrees that either ground warrants a rehearing.

The thrust of the board's decision was that the Taxpayers' evidence could not carry the Taxpayers' burden because of the uniqueness of the property. The

Taxpayers' evidence was insufficient to establish the property's value or correct assessment. Specifically, the Taxpayers' methodology was flawed for the following reasons. First, the Taxpayers' analysis treated both land and building as if they were fungible, i.e., each lot was the same as every other lot and each building was the same as every other building. A correct appraising and assessing methodology must take into consideration the property-specific factors

and qualities of the property being appraised and the properties being used as comparables. This analysis must include appropriate adjustments for such factors as building quality and condition and lot location and topography. This was not done by the Taxpayers, and the Taxpayers' averaging analysis cannot be relied upon. Second, in their square-foot analysis, the Taxpayers deducted the square footage of their chimney but did not do so for the comparables. Such an inconsistency raises questions about the accuracy of the Taxpayers' entire analysis. Third, the Taxpayers' argument on page 2, tab B was flawed because their analysis separated building and land values rather than looking at the value <u>as a whole</u>, which is how the market views value. Interestingly, the <u>total</u> assessment on comparable number eight, which the Taxpayers stated was the most comparable building, was $104,000. (Compare this to the Taxpayers' $105,250 assessment.) Fourth, the Taxpayers did

not make any time adjustments in their analysis.

We also note the Taxpayers testified their total investment in the property was $190,000, which did not include the value attributable to the Taxpayers' work (sweat equity) on the property. Finally, the Town underwent a revaluation in 1991, and the property was reassessed at $312,300.

In addition to the lack of this evidence, the "Town" refuted the Taxpayers' arguments and supported the assessment. Most importantly, the Town's argument concerning the Taxpayers' failure to make locational adjustments was persuasive to show the Taxpayers' flawed methodology. The Town testified the appealed assessment and the 1991 assessment were warranted given the uniqueness of this property, especially the property's immaculate condition and excellent location.

Concerning the Taxpayers' argument that they did not receive a full opportunity to present their comparables, this is not so. Under New Hampshire law, the Taxpayers were entitled to a full and fair opportunity to present their arguments and evidence. See RSA 76:16-a III, IV; RSA 541-A:16 IV, 18; see also Petition of Sprague, 132 N.H. 250, 257-60 (1989). The hearing requirements do not mean that parties are entitled to make limitless presentations and submit limitless evidence.

Specifically, RSA 541-A:18 II authorizes the board to exclude unduly repetitious evidence.

Given these standards as a background, the board concludes the Taxpayers were given a full and fair hearing. First, the Taxpayers' entire packet of comparables and analysis was admitted and generally reviewed by the board. The fact that the Taxpayers did not discuss each comparable during the hearing did not impede the Taxpayers' presentation. Secondly, the hearing lasted over an hour, and the board, to avoid repetitious evidence, advised the Taxpayers to focus on the most comparable properties as that was the best way for Taxpayers to make their case. Third, having been given a full and fair opportunity to present its case, the Taxpayers were unable to carry their burden of proof for the reasons stated in the decision and stated above. As stated above, the problem with the evidence was not the volume but the methodology used to analyze the comparables.

For the reasons stated above, the board denies the rehearing motion.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing order has been mailed this date, postage prepaid, to Thomas R. and Claudia H. Sahrmann, Taxpayers; and Chairman, Selectmen of Hopkinton.

Date:

Valerie B. Lanigan, Clerk