

David J. Smith

v.

Town of Hudson

Docket No.: 9014-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$53,230 (land, \$10,640; building, \$42,590) on Map 58, Lot 51 consisting of .59 acres and \$50,710 (land, \$11,060; building \$39,650 on Map 58, Lot 50, consisting of .63 acres (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.

The Taxpayer argued the assessment was excessive because:

(1) an appraisal dated October 19, 1989 indicated the value of the Property

had not changed since April 24, 1987, and is worth \$270,00 for both two-family dwelling units;

(2) an appraisal dated October 19, 1989 indicated the economic value for each of the two-family dwelling units, if sold separately, would be \$280,000 to \$290,000; (3) a fair assessment would be \$55,799; and

(4) Taxpayer's lawyer indicated a fair market value would be \$180,000 in the current market, as properties continue to decline since October, 1989.

The Town argued the assessment was proper because:

(1) Taxpayer's Property is not disproportionately taxed;

(2) Taxpayer's appraisal lacks pertinent information necessary for an appraisal; and

(3) comparables submitted by the Town indicate Taxpayer's assessment is fair and equitable compared with similar properties in Hudson.

The board finds the Taxpayer's appraisal report lacked comparable similar properties in the Town of Hudson necessary to show disproportionality.

The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982). The Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18. The Taxpayer argued the assessment should be reduced because the market for the property has been declining. Evidence of a

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declining market alone is not a basis for reducing an assessment no more than evidence of an appreciating market is a valid basis of increasing an assessment. The issue is proportionality. The Taxpayer needs to make a showing that the Property has changed in value to a greater extent than that indicated by the change in the general level of assessment in the Town as a whole to prove his property is disproportionately assessed.

We find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.]

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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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to David J. Smith, Taxpayer; and Chairman, Hudson Board of Assessors.

Dated: April 26, 1993

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Melanie J. Ekstrom, Deputy Clerk

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