

Patricia Crete Hewitt

v.

Town of Henniker

Docket No.: 9252-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$173,700 (land, \$53,800; buildings, \$119,900) on a 5.24-acre lot with 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.

The Taxpayer argued the assessment was excessive because:

(1) the Property has the worst land conditions, e.g., no view, wetness and swamp, and only 2.5 acres are usable;

(2) comparable adjoining properties (Whitty, Montray and Amick), at higher elevations and clearly better views, are appraised at \$31,000; and

(3) 5.0 acres of land in the area is appropriately valued at approximately \$30,000.

The Town argued the assessment was proper because:

(1) the original \$185,400 assessment was reduced to \$173,700 giving full consideration to the wet and swampy frontage and having the developed home site at the rear of the lot;

(2) the Property was purchased in April, 1989, for \$180,000, and the Taxpayer realized a discount in not having to pay a real estate commission because she was a broker;

(3) the assessment is eleven percent higher than the equalized sales price (assuming a 3% broker commission fee);

4) an inspection was done of the land and buildings, as well as a thorough review of the information on the property-assessment card and no further adjustments are warranted;

(5) the Taxpayer's comparables have "volume discounts" on the assessment because they were all contiguous lots owned by one company, and therefore, are not comparable -- further the assessments are in error for 1991 due to a change to individual ownership; and

(6) based on an April 18, 1991 sale by JMD Associates to Eldrige for \$37,500, it is clear that land values in this neighborhood would not be appropriately valued at \$30,000.

The board's inspector reviewed the assessment-record card, and filed a report with the board. This report recommended no change to the 1990 adjusted assessment.

Board's Findings

We find the Taxpayer failed to prove the Property's assessment was disproportional. The board finds the assessment is proper for the following reasons:

- (1) adequate adjustments were made to reflect the land conditions;
- (2) the three lots in the Taxpayer's subdivision were contiguous lots owned by JMD Associates and the assessment on each lot did not reflect the assessment for a single and separate lot; and
- (3) while the April, 1990 purchase of the Property is not conclusive evidence of the Property's fair market value, it is some evidence of its value. See Appeal of Town of Peterborough, 120 N.H. 325, 329 (1980); and the Town's argument that the Taxpayers realized a discount on the purchase of the Property by not paying a broker's commission was not disputed by the Taxpayer.

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

Paul B. Franklin, Member

#9252-90, Hewitt v. Henniker

Page 4

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Patricia Crete Hewitt, taxpayer; and the Chairman, Selectmen of Henniker.

Dated: May 7, 1993

Melanie J. Ekstrom, Deputy Clerk

0009