Wallace Chevrolet, Inc.

v.

Town of Hampton

Docket No.: 9303-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of $524,800 (land, $228,900; buildings, $295,900) on a 37,897 square foot lot improved with an auto sale building and an auto body shop (the Property). The Taxpayers 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 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 argued the assessment was excessive because:

(1) in May of 1991, a fire destroyed the body shop; and

(2) the insurance company agreed the building value was $105,000, resulting in a final settlement of $90,000.

The Town argued the assessment was proper because:

(1) on April 1, 1990 the Town established the values for the 1990 tax year;

(2) on May 19, 1991, the body shop was partially destroyed by fire;

(3) the request for abatement was turned down because the building burned after April 1, 1990;

(4) the Town had a replacement value on the building of $98,428 and a taxable value of $68,900 both of which are lower than the figures submitted by the Taxpayers; and

(5) for the tax year 1991, the value of the body shop was reduced as a result of the fire.

Board's Rulings

Based on the evidence, we find the Taxpayers failed to prove the Property's assessment was disproportional. The Taxpayers argued that the board should grant an abatement on the Property because the body shop was destroyed by fire in May, 1990. The board lacks jurisdiction over this appeal. See Appeal of Gillin, 132 N.H. 311 (1989) (boards powers limited to those statutorily granted). RSA 76:2 states:

> The property tax year shall be April 1 to March 31 and all property taxes shall be assessed on the inventory taken in April of that year.

On April 1, 1990, the entire property, including the body shop, was assessed by the Town pursuant to RSA 75:1 (...the selectmen shall appraise all taxable property at its full and true value...). The Town denied the Taxpayers' appeal

because the auto shop burned after April 1, 1993. Although the board is sympathetic with the Taxpayers' plight, it has no authority to grant an appeal in this matter.

The Town correctly made an adjustment to the 1991 tax year, in accordance with RSA 75:8 which states:

> The assessors and selectmen shall, in the month of April in each year, examine all the real estate in their respective cities and towns, shall reappraise all such real estate as has changed in value in the year next preceding, and shall correct all errors that they find in the then existing appraisal; and such corrected appraisal shall be made a part of the inventory in such cities and towns; and the inventory thus revised shall be sworn to, as provided in RSA 75:7.

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, <u>not the date received</u>. RSA 541:3. The motion must state with specificity the reasons supporting the request, but generally new evidence will <u>not</u> 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

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Wallace Chevrolet, Inc., Taxpayers; and Chairman, Selectmen of Town of Hampton.

Dated:July 16, 1993

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Melanie J. Ekstrom, Deputy Clerk