

Elliot W. Parsons

v.

Town of Amherst

Docket No.: 9501-90-PX

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 adjusted assessment of \$112,500 on a .9-acre lot with a house (the Property).

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 203.09(a); 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 well water is contaminated by a high level of nitrates (Test results were submitted.);

(2) the remedy for the water problem is expensive, impractical and would only correct the drinking water problem and would require a separate faucet for the drinking water, which would still reduce the Property's value;

(3) he must use bottled water for cooking and drinking and for brushing his teeth, which is expensive and inconvenient, but he still uses the contaminated water for bathing and flushing;

(4) the water contamination adversely affected the Property's value;

(5) with a clean well, the Property would have been worth about \$159,000-\$160,000 based on discussions with realtors this summer (The Taxpayer stated he did not think the 1990 value would have exceeded \$170,000.); and

(5) the assessment should be approximately 25% less than the \$159,000-\$160,000 or \$120,000 ($\$160,000 \times .75$).

The Taxpayer asserted other abutters also had the water problem.

The Town argued the adjusted assessment was proper because:

(1) the assessment included a 10% reduction for the contamination;

(2) the reduction calculates to a \$19,800 full-value reduction;

(3) at least one abutter did not have the problem; and

(4) the reduction would cover a reasonable cost to cure or address the inconvenience.

Board's Rulings

We find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town made an adjustment to the assessment to address the water problem.

The Taxpayer demonstrated the Property had a water contamination problem due to the nitrate levels. The Taxpayer, however, did not show what the Property's

1990 value was (with or without the water problem). To carry his burden, the Taxpayer should have made a showing of the Property's fair market

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value and a showing of how the water problem affected the value. He did neither; he only showed a problem existed.

The Town's -10% adjustment calculates to a \$19,840 full-value adjustment, which appears reasonable. Perhaps the adjustment was too small, but the Taxpayer did not show us what the adjustment should have been. Perhaps a professional appraiser would help the Taxpayer in the future.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within twenty (20) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

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 Elliot W. Parsons, Taxpayers; and Chairman, Selectmen of Amherst.

Dated: September 12, 1994
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Valerie B. Lanigan, Clerk