

Mareld Co., Inc.

v.

Town of Hollis

Docket No.: 9731-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of: \$851,900 (land \$170,800; building \$681,100) on Map 4, Lot 72, a 2.1-acre lot with a warehouse and office; and \$1,005,800 (land \$181,600; building \$824,200) on Map 4, Lot 75, a 2.5-acre lot with a warehouse and office (the Properties). The Taxpayer and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. Because of the issues involved, the board scheduled this appeal for hearing. The board has reviewed the written submittals and the hearing evidence 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 Properties were purchased in 1989 for \$1,000,000 each;
- 2) both Properties have a 25,400 square-foot warehouse and office with class "C" construction;
- 3) between both Properties, the Taxpayer lost \$78,076 in rental leases (total lease potential was \$183,846);
- 4) based on the actual income and expenses and using the income approach to value, the assessments would be \$423,000 for Lot 75, and \$565,000 for Lot 72;
- 5) comparable properties show a \$31 per-square-foot assessments would result in appropriate assessments; and
- 6) the assessments should be \$790,000 for each property.

The Town argued the assessment was proper because:

- 1) the Taxpayer did not provide a rental history of the Properties to determine the rents/expenses for prior years, nor did the Taxpayer provide leases to substantiate the per-square-foot rental prices;
- 2) the sales to Taxpayer were not market sales but were made under duress as part of a bankruptcy, having passed through a realty trust of some sort; and
- 3) the Taxpayer's capitalization rate, management fee, equity-to-debt ratio and reserve were questionable.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to carry its burden.

The Taxpayer's purchase prices were suspect due to insufficient information about them. The Taxpayer asserted they were fair-market-value

sales, but the Town testified they were duress sales as part of a bankruptcy.

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Additionally, the transfer to the trust on the same day as the sale to the Taxpayer raised questions about the reliability of the purchase price. The Taxpayer's income analysis depended on the sales price, and thus, since the sales were suspect, the income approach could not be relied upon.

Furthermore, the Town raised sufficient issues about the Taxpayer's approach such as the lack of market data on rents, expenses or management fees.

The assessment comparisons also did not show overassessment.

Rather, the Properties' assessments appear to be within a reasonable range of other properties.

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

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, Robert K. McDonald, Taxpayer's Representative; and the Chairman, Selectmen of Hollis.

Dated: November 4, 1993

Melanie J. Ekstrom, Deputy Clerk

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ORDER

The board of tax and land appeals received a motion for rehearing dated November 19, 1993 filed on behalf of the above captioned taxpayer, by its agent or representative, Coopers and Lybrand of Boston, Massachusetts.

The board did not, as the motion claims, indicate in its decision, "that the taxpayer did not provide a rental history."

The board did note that, "the town raised sufficient issues about the taxpayer's approach to value, such as the lack of market data on rents, expenses or management fees."

Finally, the taxpayer provided no information concerning the purchase price of the subject property and the relationship to market value.

The fact that the taxpayer addressed the two purchase prices at the local selectmen's review and "were under the impression that this was not at issue," is not sufficient reason for this board to open the record for further evidence which existed, but was not included in the briefs submitted on behalf of the taxpayers.

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The taxpayer's motion for rehearing is therefore denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing order has been mailed this date, postage prepaid, Robert K. McDonald, Taxpayer's Representative; and the Chairman, Selectmen of Hollis.

Date:

Valerie B. Lanigan, Clerk

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