

Thomas W. Kirby

v.

Town of North Hampton

Docket No.: 9842-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$233,900 (land, \$76,600; buildings, \$157,300) on 2.12 acres with building (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 was constructed 6 years ago for a total cost of \$250,000, which indicates the Property has appreciated 110% in 3 years;

- (2) an opinion of value prepared by Hampton Village Realty dated April 19, 1991 indicated a fair market value of \$350,000 to \$375,000;
- (3) an opinion of value prepared by Global Appraisal & Financial Services Corp. indicated a fair market value of \$400,000;
- (4) the Property is currently involved in Chapter 11; and
- (5) the assessment was unfair.

The Town argued the assessment was proper because:

- (1) the Taxpayer did not provide any supporting documentation as to the comparables used to determine the \$350,000 to \$375,000 fair market value;
- (2) the two properties cited as having come under agreement were bank foreclosures and not arms length transactions; and
- (3) the Taxpayer has been assessed fairly and equally in comparison to similar properties.

Board Findings

The board denies this appeal because of the deficiencies in the Taxpayer's 1991 appraisal. First, the appraiser used two nonmarket sales - - comparable one, a mortgagee sale and comparable two, a relocation sale - - without even noting this on the appraisal or making any adjustment for this fact. Such a deficiency raises serious doubts in the board's mind about the validity of the entire report because it is essential that nonmarket sales be noted and properly adjusted. Secondly, the appraisal was dated as of June 1, 1991, and the assessment date is April 1, 1990. Despite this, no adjustment was made to the appraisal to reflect the declining market from 1990 to 1991. Based on the equalization ratios for the Town, the market declined

deficiencies, the board was unable to rely upon the Taxpayer's appraisal. Concerning the other appraisals mentioned in the Taxpayer's rebuttal, because the board was not provided with copies of those appraisals and therefore, we cannot rely upon them. Finally, we find the Town submitted an adequate response to the Taxpayer's arguments and had demonstrated that the assessment was proportional.

We find the Taxpayer failed to prove the Property's assessment was disproportional.

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 a copy of the foregoing decision has been mailed this date, postage prepaid, to Thomas W. Kirby, Taxpayer; and Chairman, Selectmen of North Hampton.

Dated: May 7, 1993
