Robert Kee and Joanne Kee

v.

Town of Francestown

Docket No.: 9895-90

DECISION

The "Taxpayers" appeal pursuant to RSA 76:16-a, the "Town's" 1990 assessment of $208,100 (land $86,500; buildings $121,600) on a 2.3-acre lot with a single-family dwelling and garage with 2, 1-bedroom apartments (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 granted to the Town's recommended $186,500 adjusted assessment.

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).

The Taxpayers argued the assessment was excessive because:

1) an April 1, 1990 appraisal estimates a $130,000 value;

2) similar properties with superior lots have lower assessments than the Property;

3) the Property has no water rights or access to Pleasant Pond; and

4) the steep slope to the house makes year-round occupancy difficult.

The Town found another property that was assessed inconsistently with the Taxpayers' Property, and recommended adjusting the Taxpayers' assessment to $186,500. The Town argued this adjusted assessment was proper because:

1) the appraiser's comparables are not similar to the Property, i.e., 2 are not located in Francestown, and the other 2 only have 1 rental apartment; and

2) the garage is not a 1-car garage but rather a 2-story converted garage with 2 rental apartments.

The board's inspector reviewed the property tax card and filed a report with the board (copy attached). This report concluded the revised assessment was proper.

Board's Rulings

Based on the evidence, the board finds the Town's $186,500 adjusted assessment to be proper. No further adjustment is warranted because the Town raised sufficient concerns about the Taxpayers' appraisal, and thus, the board concluded it could not rely on the Taxpayers' appraisal. The main concern was

whether the Taxpayers' appraiser had used good comparables and whether adequate adjustments were made to the comparables to reflect the superiority of the Property's configuration of having a main house with a separate building with two apartments. Additionally, the Town demonstrated that the assessment was arrived at in a manner consistent with that use throughout the Town and specifically consistent with the most comparable property that the Town could find.

If the taxes have been paid, the amount paid on the value in excess of $186,500 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert and Joanne Kee, Taxpayers; and Chairman, Selectmen of Francestown.

Dated: May 13, 1993

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Melanie J. Ekstrom, Deputy Clerk