

Anthony J. Cincotta

v.

Town of Milton

Docket No.: 10929-91PT

DECISION

The "Taxpayer" appeals pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$113,100 (land, \$87,100; building, \$26,000) on .2 acres with cottage (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 prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) a November 1991 market analysis estimated a \$99,900 value; and
- 2) a March 1992 appraisal estimated a \$90,000 market value.

Cincotta v. Town of Milton

Docket No.: 10929-91PT

The Town argued the assessment was proper because:

- 1) the same standards used throughout the Town were applied to the Property;
- 2) the Taxpayer's 1991 market analysis supported the Taxpayer's assessment if the analysis is adjusted by the Town's equalization ratio;
- 3) the Taxpayer's 1992 appraisal should not be considered because of the time frame; and
- 4) the Taxpayer's assessment was proper.

The board's inspector reviewed the assessment-record card, the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report concluded the assessment is proper. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation.

Board Findings

We find the Taxpayer failed to prove the assessment was disproportional for the following reasons.

The Taxpayer argued that his opinion of value dated November 1991 established that the assessment was in excess of market value. The fact that the opinion of value indicates that the assessment was in excess of market value does not itself establish that the assessment is disproportional. The Town of Milton in 1991 had an equalization ratio as determined by the

Page 3

Cincotta v. Town of Milton

Docket No.: 10929-91PT

department of revenue administration of 112%. This ratio indicates that on an average, properties were assessed at 12% above market value. Therefore, to equate the Taxpayer's \$99,900 opinion of value to an assessment equivalent in a Town that is assessing at 112%, the market value needs to be multiplied by 1.12. This calculation results in an indicated assessment of \$111,900 (\$99,900 x 1.12) which supports the assessment of \$113,100.

A motion for rehearing, reconsideration or clarification (collectively "reconsideration 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 reconsideration motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A reconsideration 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 in 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 reconsideration motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the reconsideration motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Page 4

Cincotta v. Town of Milton

Docket No.: 10929-91PT

Ignatius MacLellan, Esq., Member

Page 5

Cincotta v. Town of Milton

Docket No.: 10929-91PT

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Anthony J. Cincotta, Taxpayer; and Chairman, Selectmen of Milton.

Dated: June 30, 1994

Melanie J. Ekstrom, Deputy Clerk

0008