

Eleanor L. Lange (Bucci)

v.

Town of Weare

Docket No.: 10978-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$37,200 on a manufactured home (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 granted.

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 carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) the mobile home was purchased in October, 1990 for \$23,541.21;
- 2) the mobile home was sold in July, 1992 for \$24,500;
- 3) three sales which occurred between May, 1991 and May, 1992 sold for \$17,000, \$24,000, and \$33,000; and

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4) sales used by the Town were between the period of 1988 and 1990 and property values have deteriorated since then.

The Town argued the assessment was proper because:

1) the Property was appraised properly and consistent during the 1990, town-wide revaluation;

2) 12 mobile-home sales in the mobile-home park between April, 1988 and June, 1990 were used to establish value parameters for the park;

3) three of the 12 sales used demonstrate Taxpayer's assessment is proportional;

4) while property values have declined, this trend was incorporated into the assessments, and the assessed values are as of April 1, 1990;

5) the sale to the Taxpayer was a "noncontractual transfer as a gift" from the Taxpayer's former husband, most likely as the result of a divorce; and

6) due to new information received in April, 1992, the Property's assessment-record card was corrected to reflect two bedrooms, one bath, and the mobile-home's age, resulting in a reduction in the assessed value from \$37,200 to \$36,700.

The board's inspector reviewed the assessment-record card, reviewed 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 proper assessment should be \$33,200. The inspector added physical depreciation to address the mobile home's age.

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.

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Board Findings

The board finds the 1991 sales data submitted by the Taxpayer and the sale of the Property in July, 1992 for \$24,500 are probative evidence to be considered. The Town's sales in 1988 and 1989 are given less weight due to the changes in the market from 1988 to 1991. While the Town is correct that real estate values have generally declined during this time period as reflected in the Town's equalization ratios, sales closer to the April 1, 1991 assessment date are given more weight because they indicate the change of mobile-home property relative to all other real estate within the Town.

The board finds the following equalization ratios for the Town of Weare, as determined by the department of revenue administration, reasonably reflect the general level of assessment in Weare: 1990 = 1.01%; 1991 = 1.09%; and 1992 = 1.24%.

The board gives equal weight to: 1) the indicated assessment derived from time adjusting the Taxpayer's 1992 sale; 2) Coulter Realty's listing comparison; and 3) the board's inspector's report. A discussion of these three items follows.

1) The Taxpayer's purchase of the Property in October, 1990 is given no weight as it does not qualify as an arm's length transaction. However, the sale in July, 1992 appears to be an arm's length transaction. If time adjusted to April 1, 1991, the indicated 1991 market value is \$28,812 ($24,500 \times 15$

months @ 1.17% per-month). Applying the 1991 equalization ratio of 1.09% provides an indicated assessment of \$31,400 (28,812 x 1.09).

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2) The Coulter Realty listing comparison supplied with the Taxpayer's May 21, 1992 submittal compares three 1991 comparable sales to the Taxpayer's Property and results in a market value range (time adjusted to April 1, 1991) of \$28,269 to \$35,696 and an assessment range of \$30,813 to \$38,090 (\$28,269 x 1.09 and \$35,696 x 1.09).

3) The board's inspector's report concluded the proper assessment was \$33,200 based on the physical depreciation being increased to more properly reflect the age of the mobile home. This adjustment is supported by the marketing history of the Property and the 1991 sales data of other mobile homes.

Based on these three findings, the board rules the proper 1991 assessment is \$32,000.

If the taxes have been paid, the amount paid on the value in excess of \$32,000 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule Tax 203.05, the Town shall also refund any overpayment for 1992 and 1993. Until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Eleanor L. Lange (Bucci), Taxpayer; and Chairman, Selectmen of Weare.

Dated:

Melanie J. Ekstrom, Deputy Clerk