

Robert S. and Tallulah M. Liscar

v.

Town of Hudson

Docket No.: 11018-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$144,700 (land, \$55,300; building, \$89,400) on 1.08 acres with building and attached garage (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.

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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers carried this burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) the Property was purchased in June, 1991, for \$120,500;
- 2) a May, 1991 appraisal estimated a \$122,000 value;
- 3) town utilities are not available and town services are 3 to 4 miles away;

and

4) as a rebuttal to the Town's submission, the Town's comparables were superior, i.e., have clapboard, woodshingles, and vinyl siding versus plywood siding.

The Town argued the assessment was proper because:

- 1) the Taxpayers' appraiser underestimated the land value;
- 2) whether town utilities are available does not make it more desirable or more expensive; and
- 2) comparables submitted demonstrated Taxpayers' assessment was proportional.

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 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

Based on the evidence, the board finds the proper assessment to be \$129,050. This conclusion is based on the following.

- 1) The Taxpayers purchased the Property in June, 1991, for \$120,500, which when time adjusted to April 1, 1991, results in a \$122,910 value. This value is consistent with the Taxpayers' appraisal and with the two other sales submitted by the Town. While the Taxpayers' purchase price is some evidence of the Property's market value, it is not necessarily conclusive evidence. See Appeal of Town of Peterborough, 120 N.H. 325, 329 (1980). However, where it is demonstrated that the sale was an arms-length market sale, the sales price is one of the "best indicators of the property's value." Appeal of Lake Shore

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Estates, 130 N.H. 504, 508 (1988). The Town did not present any information showing the sale was non-arms-length. The time-adjusted sales price then was adjusted by 1.05 so the market price would be consistent with assessments in the Town, which were 105% of market value.

2) Given the Property's quality, the assessment appeared excessive. For example, there was no adjustment made for the T-111 siding.

If the taxes have been paid, the amount paid on the value in excess of \$129,050 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert S. and Tallulah M. Liscar, Taxpayers; and Chairman, Hudson Board of Assessors.

Dated: February 8, 1994

0008/0009

Melanie J. Ekstrom, Deputy Clerk