

**Evelyn B. Beaubien
(Formerly Evelyn B. Musumeci)**

v.

City of Concord

Docket No.: 11131-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1991 assessment of \$139,600 (land \$36,900; buildings \$102,700) on a garrison-style colonial home on a 21,450 square-foot lot (the Property). 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 203.09(a); 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) an opinion of value by Jordan Realty as of November 1991 estimated a market value of \$127,500; and
- (2) an appraisal by Capron Appraisal as of December 1992 estimated a market value of \$115,000.

The City argued the assessment was proper because:

- (1) an appraisal prepared by the City estimated the market value of the Property as of April 1, 1991 of \$129,000; and
- (2) the Taxpayer's two estimates of value if corrected for the houses actual square footage and adjusted by the applicable equalization ratios supports the City's estimate of market value and resulting assessment.

Board's Rulings

Based on the evidence, we find the Taxpayer failed to prove overassessment.

The Taxpayer's 1991 appraisal by Ken Jordan of \$127,500 is consistent with the assessment when equalized by the 1991 ratio of 1.08 ($\$139,600 \div 1.08 = \$129,259$). The Taxpayer's 1992 appraisal by Capron Services of \$115,000 is consistent with the assessment when equalized by the 1992 ratio of 1.20 ($\$139,600 \div 1.20 = \$116,333$).

If the Taxpayer had understood the significance of the equalized ratio perhaps she would have recognized that her 1991 and 1992 appraisals when adjusted by the respective ratios actually proved the proportionality as well as the consistency of the assessment under appeal.

The board has at the Taxpayer's request reviewed the following docket numbers:

- 1990 - 10690-90 (two rental properties)
both names, \$40 application fee
paid with check #2116
- 1991 - 11131-91 (East Side Drive residence)
both names, \$40 application fee paid
with check #710

1991 - 14979-91 (East Side Drive residence)
in name of Beaubien, no application
fee received

At the hearing, the board ordered the Taxpayer to submit documentation to support her claim that she paid two application fees for the same property in the same tax year. The Taxpayer has not submitted cancelled checks or any other documentation to support a claim of duplication of application fees, therefore, the board denies the Taxpayer's request for refund.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within thirty (30) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing 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 rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Evelyn B. Beaubien, Taxpayer; and Chairman, Board of Assessors of Concord.

Dated: May 2, 1995

Valerie B. Lanigan, Clerk

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