

Allan C. Morrison

v.

Town of Milford

Docket No.: 11141-91PT

DECISION

The "Taxpayer" appeals pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$273,000 (land \$188,000; building \$85,000) on a 13.20-acre lot with an auto garage, mobile home, and cape-cod house (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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry this burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because it was unfair and should have been only \$194,000.

The Town argued the assessment was proper because:

- 1) the Town assessed the Taxpayer's Property as directed by the board's July 26, 1990 decision;
- 2) there were no changes to the Property to warrant adjusting the board's ordered assessment; and
- 3) the Taxpayer submitted no evidence to prove that an adjustment was warranted.

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 was 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. In this case, the board did not rely on the inspector's report.

Board Findings

Based on the evidence, the board finds the Taxpayer failed to prove the Property was disproportionately assessed. The Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container

Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

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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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Allan C. Morrison, Taxpayer; and the Chairman, Selectmen of Milford.

Dated: January 18, 1994

Melanie J. Ekstrom, Deputy Clerk

Allan C. Morrison

v.

Town of Milford

Docket No.: 11141-91PT

ORDER

This order relates to the Taxpayer's rehearing motion which is denied. The motion fails to state any "good reason" or any issue of law or fact for granting a rehearing. See RSA 541:3.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer paying an unfair or disproportionate share of taxes. The board employs one inspector who reviews the files and makes on-site inspections when warranted. In this case, the inspector reviewed all documentation in the file and made his report to the board. The report concluded the assessment was proper. The Taxpayer failed to present any credible evidence of the Property's fair market value to prove the Property was disproportionately assessed.

Further, the Taxpayer stated Whitney Appraisal estimated the value of the Property to be \$180,000 as of January 25, 1994. If the appraisal is for \$180,000, the value would then have to be time adjusted to the date of assessment and further adjusted by the Department of Revenue Administration's (DRA) equalization ratio. The equalization ratio for the Town of Milford for

the 1992 tax year was 139%. The \$180,000 estimated value equalizes to \$250,200 (\$180,000 x 139%) without making necessary time adjustments and is in line with the assessment.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Allan C. Morrison, Taxpayer; and the Chairman, Selectmen of Milford.

Dated: March 3, 1994

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Melanie J. Ekstrom, Deputy Clerk