

Leonard and Deborah Turcotte

v.

Town of Barrington

Docket No.: 11165-91 PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$157,400 (land \$33,950; building \$123,450) on a 33-acre lot with a house (the Property). The Town apparently adjusted the assessment to \$145,800 (land \$33,950; building \$111,850). 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) based on 50 sales in 1990, the average sale-price-to-assessment ratio was only 59% and the Property's ratio was 81%; the average purchase price was only

\$104,867; the Property's purchase price was \$195,000 and the average assessment was \$59,933; the Property's assessment was \$157,400; and

2) the taxes were excessive compared to other properties in the Town.

The Town argued the assessment was proper because:

1) the Taxpayers did not prove the assessment was disproportional; and

2) the same methodology was used throughout the Town.

Board's Rulings

Based on the evidence the board finds the proper assessment should be \$98,400.

In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. Moreover, the supreme court has held the board must consider a taxpayer's entire estate to determine if an abatement is warranted.

See Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the municipality shall make this allocation in accordance with its assessing practices.)

The Taxpayers testified the Property's purchase price was \$195,000 on June 4, 1990. While this 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

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"best indicators of the property's value." Appeal of Lake Shore Estates, 130 N.H. 504, 508 (1988).

Based on the change in the Town's equalization ratio from 1990 (50%) to 1991 (58%) the board concludes the Taxpayers June, 1990 purchase price must be reduced to fairly reflect the Property's market value on the April 1, 1991 assessment date, resulting in a \$169,650 value ($\$195,000 \times .87$ - - to reflect the 13% drop over 10 months). To this value, we applied the 58% equalization ratio, arriving at the \$98,400 ordered assessment. The Town failed to refute the Taxpayers' evidence concerning the Property's value. Specifically, the Town did not show that the Taxpayers' purchase was anything other than a market value sale. Finally, while consistent methodology throughout a Town is normally evidence of proportionality, the Taxpayers here showed disproportionality, which requires an abatement.

If the taxes have been paid, the amount paid on the value in excess of \$98,400 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

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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 Leonard and Deborah Turcotte, Taxpayers,
and Chairman, Selectmen of Barrington.

Dated: November 30, 1993

Melanie J. Ekstrom, Deputy Clerk

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