

Richard Zelonis

v.

Town of Hudson

Docket No.: 11170-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$102,000 (land \$42,900; buildings \$59,100) on a .6-acre lot with a 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:

- (1) the Property is across the street from an industrial park and concrete plant, which detracted from the value;
- (2) a neighboring lot recently sold for only \$79,000;

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(3) if a .6-acre lot is worth \$42,900, a 1-acre lot would be worth \$84,000, which is unrealistic in today's market;

(4) comparable properties are being listed for sale for less than the Property's assessment;

(5) the Town's comparables are not comparable because they are not located across the street from an industrial park, and they are all larger homes with more land; and

(6) the Property was constructed before the industrial park was, and the view then consisted of woods, meadowlands, and a pond.

The Town argued the assessment was proper because:

(1) the assessment was already reduced to address the Taxpayer's concerns;

(2) the Taxpayer failed to provide evidence that the industrial park had a negative impact on the Property, and newer homes have been constructed near the park since the park was built in the 1960's;

(3) the Taxpayer did not provide any evidence to support the \$79,000 comparable sale, and the Town has been unable to locate this sale; and

(4) the assessment is equitable compared to other ranch-style homes in the Town.

The board's inspector reviewed the assessment-record card and 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

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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's Rulings

We find the Taxpayer failed to prove the Property's assessment was disproportional. The Taxpayer's primary argument was that the industrial park across the street has a negative effect on the Property's value. The Town acknowledged this locational effect by a 10% reduction to both the land and building value. The Taxpayer did not submit any evidence to show the adjustment was not reasonable. The Taxpayer only submitted general market data without any documentation or description of the property sold. In short, 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.

The Taxpayer stated the \$42,900 value for a .6-acre lot was excessive because it indicates an \$84,000, per-acre value. This conclusion is not correct because a house site is being assessed and there is not a straight-

line relationship between lot size and price. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since

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the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for assessments on a per-square-foot basis to differ to reflect this market phenomenon.

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

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Richard Zelonis, Taxpayer; and Chairman, Selectmen of Hudson.

Dated: January 17, 1994

Lynn M. Wheeler, Deputy Clerk

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ORDER

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

Motion denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

I certify that copies of the within Order have this date been mailed, postage prepaid, to Richard Zelonis; and the Hudson Board of Assessors.

Valerie B. Lanigan, Clerk

Date: February 11, 1994

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