Deborah S. McNally

v.

Town of Bow

Docket No.: 11317-91PT

DECISION

The "Taxpayer" appeals pursuant to RSA 76:16-a, the "Town's" 1991 adjusted assessment of $143,150 (land, $50,200; building, $92,950) on 1.41-acres with building (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 granted.

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 carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

1) larger lots were selling for less;

2) all but one-third of an acre is unusable, i.e., front and right side of lot is a gully, left side is a high ledgy hill;

3) the house is 15 years old with improvements needed;

4) similar capes have sold in the $110,000 to $120,000 range in the past 1 1/2 years; and

5) larger homes were assessed lower.

The Town failed to submit any arguments to support the assessment and was finally defaulted.

At the time of the submittal, the board's inspector, J. Philip Estey, 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 was proper. During deliberations, the board's inspector, at that time Scott Bartlett, reviewed the file and Property and filed a report recommending an adjustment (copy enclosed). 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.

In this case, the board accepts Mr. Bartlett's report and finds the recommended range of value to be reasonable based on the issues discussed in his report.

Board's Findings

Based on the Taxpayers descriptions of the house, depreciation of 15% is warranted. By using a 15% depreciation, the building value would be

$87,900.

By comparing the size and topography of the subject lot with Wheeler, Freeman and Mecum, the board finds a 70% adjustment would be appropriate. The land value therefore becomes $45,000.

The Board rules the correct 1991 assessment is $132,900 (land $45,000; building $87,900).

If the taxes have been paid, the amount paid on the value in excess of $132,900 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

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George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Deborah S. McNally, Taxpayer; and Chairman, Selectmen of Bow.

Dated: January 31, 1994

Melanie J. Ekstrom, Deputy Clerk

BOARD OF TAX AND LAND APPEALS
REVIEW APPRAISER'S WORKSHEET

Town Name: Bow **Docket #**: 11317-91PT

Owner's Name: Deborah S. McNally

Property Address: 9 Tonga Drive

Property Type: Single-Family Residence

Total Assessment: $143,150

Building Assessment: $92,950 **Land Assessment**: $50,200

DRA's Ratio: 1.02 **COD**: 7.65%

Equalized Total Assessment: $140,343

Eq. Building Assessment: $91,127 **Eq. Land Assessment**: $49,216

Gross Building Area(GBA): 2,022 sf **Total Land Area(TLA)**: 1.41 acres

Type of Review: Exterior **Date of review**: October 28, 1993

Report Submitted: November 4, 1993

Comments: The subject property is located at 9 Tonga Drive in Bow, New Hampshire. It is a single-family residence. The house is a cape cod, with 2,022 square feet of living space and 2 full bathrooms. The lot contains 1.41 acres of land with 228 feet of road frontage. The majority of the topography is rough and sloped.

The Taxpayer argued the assessment was excessive because:

1) larger lots are selling for less;
2) all but one-third of an acre is unusable, i.e., front and right side of lot is a gully, left side being a high ledgy hill;
3) the house is 15 years old with improvements needed;
4) similar capes have sold in the $110,000 to $120,000 range in the past 1 1/2 years; and
5) larger homes are assessed lower.

The Town failed to submit any arguments to support the assessment and was finally defaulted.

The total assessed value of the land represents the value of vacant land plus paving and utilities. The value of the vacant land is $41,700,

which is only slightly higher than the prices quoted by the taxpayer. When you consider that property values have been on the decline for the last three years, it would be expected that 1991 value's would be higher than more recent values.

As stated by the taxpayer, a gully runs along the front of the property and along the right side of the house. The topography of the lot is very rough and sloped. A review of the three neighboring properties revealed the following:

Owner	Acres	Topography in Comparison to Subject	Topo Adj	Assessed Land Value	Land Value per Acre
McNally	1.41	---	x 80%	$50,200	$35,603
Freeman	1.87	Superior +	x 85%	$53,650	$28,670
Wheeler	1.50	Similar	x 70%	$52,300	$34,867
Mecum	1.06	Superior	x 80%	$44,500	$41,981

Based on the above topography adjustments, it appears that the subject property should be receiving an adjustment of x 70%, the same as the Wheeler property and less than the two others. This adjustment would produce a total land value of $45,000 and a land value per acre of $31,915. It should be noted that because of the formula that was used, the total value and land value per acre of the Wheeler property support the value of the subject property; however, it is the opinion of this appraiser that the above adjustment is warranted.

The house has received 10% normal depreciation. Depreciation on the three neighboring houses ranges from 0% to 10% with ages ranging from 4 to 15 years. The Marshall & Swift Cost Manual recommends 10% to 17% for residences of this quality, age and condition. The majority of the problems noted by the taxpayer are examples of deferred maintenance and do not indicate a need for additional depreciation. The rotten clapboards and the tiny bathrooms may indicate a need for additional depreciation or functional obsolescence. I do not feel that enough information has been provided to determine if an adjustment is warranted and/or the amount of an adjustment; however, since no information to the contrary has been provided by the Town, I feel that based on the taxpayers descriptions, depreciation of 15% may be warranted. If 15% depreciation was used, the building value would be $87,900.

The taxpayer did not submit detailed information, i.e. lot size, building size, sales date, conditions, etc., on any of the sales that were mentioned in her report. Without this information it is not possible to base an opinion of market value using these sales.

The Mecum property, located at 11 Tonga Drive, sold for $122,000 on July 12, 1990. The Mecum property is a 960 square foot raised ranch, with a

576 square foot detached garage and 1.06 acres of land. The assessment on this property was $107,050, which seems to indicate that the property was underassessed. While this property is not a direct comparable, the sale would seem to indicate that a cape cod with 2,000± square feet would sell for more than $122,000.

As with the sale properties, the taxpayer did not submit detailed information on the two colonials on her street. A review of the three neighboring properties does not indicate any overassessment of the subject's improvements.

Conclusion: Based on the information that has been provided by the taxpayer and based on my experience as a real estate appraiser, it is my opinion that the fair assessed value of the subject property as of April 1, 1991 is between $132,900 and $137,950.

Very truly yours,

Scott W. Bartlett
Board of Tax and Land Appeals
Review Appraiser