

Nancy N. Ballantyne

v.

Town of North Hampton

Docket No.: 11319-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$186,100 (land \$51,550; buildings \$134,550) on a 2.32-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 prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the Property's value at 100% would be \$395,000, which is excessive;
- (2) an October, 1990 appraisal estimated a \$316,000 value and a January, 1992 appraisal estimated a \$250,000 value;

- (3) the Town's comparable sales included properties with carriage houses, yet the Property has no carriage house; and
- (4) two houses in the Property's neighborhood sold for \$179,000 and \$225,000.

The Town argued the assessment was proper because:

- (1) the Property is in a desirable neighborhood and close to the ocean;
- (2) neighboring homes sold for \$540,000 in October, 1991, \$487,500 in April, 1992, and \$325,000 in June, 1992;
- (3) the 1992 appraisal was flawed because the comparables were not in the same value range as the Property, one comparable home was smaller, and the appraiser incorrectly stated the Property's square footage;
- (4) the 1990 appraisal was flawed because the building's square footage was wrong and the calculations were based on erroneous information and not supported by fact;
- (5) the Taxpayer erroneously used a 47% equalization ratio when the 1991 ratio was 55%, equating to a 1991, \$338,350 fair market value; and
- (6) the Taxpayer's comparables had not closed by the April 1, 1991 assessment date and, therefore, were not used by 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 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

Based on the evidence, the board finds the Taxpayer did not prove the assessment was disproportional. The Taxpayer's primary evidence was two appraisals. Unfortunately, the Taxpayer did not provide the board with the full appraisals, and therefore, the board was unable to review and evaluate the appraisals in total. For example, given the significant location adjustments made by both appraisers, it was essential that the board be able to see the location maps in the appraisals. Additionally, photographs of the comparables should have been provided.

Specifically, the appraisals raised the following concerns.

January 17, 1992 Appraisal

- comparables one and three, three miles from the Property
- comparable two, only .75 acres while the Property was 2.32 acres yet no adjustment
- the \$10 gross living area adjustments seemed too low
- the locational adjustment to comparables one and three were significant without any backup text
- the house was listed as 2,975 square feet as compared to the 3,159 square feet shown on the assessment-record card
- the value of the comparables were dramatically different from the Property's equalized value and the values of the comparables in the October 1990 appraisal

October 25, 1990 Appraisal

° the location and site adjustments were significant (\$30,000, \$20,000, and \$35,000) without any backup

° the building size was listed as 3,114 square feet as compared to the 3,159 square feet on the assessment-record card

° the room count differs from the January 17, 1992 appraisal

Based on the above questions, the board was unable to rely on the Taxpayer's main evidence. Since we have been unable to rely on that evidence, we find the Taxpayer has not proved the assessment was excessive

We find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

A motion for rehearing, reconsideration or clarification (collectively "reconsideration motion") of this decision must be filed within twenty (20) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The reconsideration motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A reconsideration 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 reconsideration motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the reconsideration motion. RSA 541:6.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Nancy N. Ballantyne, Taxpayer; and Chairman, Selectmen of North Hampton.

Dated: June 30, 1994

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Lynn M. Wheeler, Deputy Clerk