Raymond A. and Judith Paquin

v.

Town of Hopkinton

Docket No.: 11321-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of $166,050 (land $83,950; buildings $82,100) on a .47-acre lot with a house (the Property). The Town also stated the assessment was reduced to $161,450 based on an adjustment to the land assessment ($83,950 reduced to $79,350). For the reasons stated below, the appeal for abatement is denied, except the board adopts the Town's adjusted assessment.

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 failed to carry their burden.

The Taxpayers argued the assessment was excessive because:

(1) the lot is small and larger lots were assessed relatively less than the Property;

(2) there are several deficiencies in the house, including the location, configuration, age and low posting;

(3) the assessment should have been $151,000.

The Taxpayer submitted a packet of information that was reviewed.

The Town argued the assessment was proper because:

(1) it was based on an analysis of sales that occurred during the revaluation and was consistent with other assessments in the Town;

(2) the land assessments included several factors in addition to size, e.g., frontage, topography and paving;

(3) the Town's attempt was to find a site value that was then used in assessing lots;

(4) the Town reinspected the Property, adjusted the assessment card and reduced the assessment, including adjustments for the building's deficiencies, i.e., reduced the grade and increased the depreciation; and

(5) the land assessment was approximately equal to the land value calculated by Compton French.

Board's Rulings

Based on the evidence, we find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment. We do, however, order an abatement to $161,450 recommended by the Town.

The Town has shown that it made an effort, both in the revaluation and in reviews, to arrive at and adjust assessments so assessments would be fair and proportional.

The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This

testimony is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982).

Moreover, the Town revisited, reviewed and lowered the assessment, and these adjustment reflected some of the Taxpayers' arguments. Given these factors, the Taxpayers have the burden to show error. The Taxpayers have not done so.

The Taxpayers did not present any credible evidence of the Property's fair market value. To carry their burden, the Taxpayers 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.

Finally, the Compton French information was apparently an assessment review, not a market value report.

If the taxes have been paid, the amount paid on the value in excess of $161,450 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.

A motion for rehearing, reconsideration or clarification (collectively "rehearing 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 rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing 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 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 rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Raymond A. and Judith Paquin, Taxpayers; Mary E. Pinkham-Langer, Agent for the Town of Hopkinton; and Chairman, Selectmen of Hopkinton.

Dated:December 13, 1994

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Valerie B. Lanigan, Clerk

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