

Barbara Sanborn

v.

Town of Danville

Docket No.: 11337-91 PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$84,900 on a mobile home (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 had been on the market for four years and had received no offers to purchase;
- 2) three real estate agents performed market analyses and suggested a value in the \$50,000 range;

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3) the house is on rented land which has a negative impact on the salability, as well as the mobile home park's 55 and over age requirement; and

4) the park owner operates a commercial loam and gravel plant in the park, which detracts from the value.

The Town argued the assessment was proper because:

1) the assessment was based on 1987 sales used to set the benchmark for the 1988 revaluation;

2) a sales analysis indicated that homes in the park sold at 45% more than their replacement costs; and

3) the Town used the same methodology in assessing all the homes in the mobile home park.

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 failed to prove the Property was disproportionately assessed. 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

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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 that they received market analyses from local realtors yet failed to submit these analyses or any documented evidence to support a \$50,000 value. Concerning the Taxpayer's arguments that detract from the value, i.e. on rented land, over 55 age requirement, commercial land and gravel plant operated in the park, the Taxpayer offered no evidence of value to support the contentions. It is the Taxpayer's burden to prove that the Property is disproportionately assessed and the Taxpayer has not sustained that burden.

The board must comment on the Town's brief. The Town failed to submit any sales to support the assessment. Since the Town was recently revalued, the Town should have submitted sales for the board's consideration.

RSA 75:1 requires that assessments be in line with market value. Therefore, providing sales is essential for the board to compare the Property's assessment with fair market value and the general level of assessment in the municipality. See Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986).

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,

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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

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Barbara Sanborn, Taxpayer; and Chairman, Selectmen of Danville.

Dated: December 29, 1993

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 Barbara Sanborn; and Chairman, Selectmen of Danville.

Valerie B.

Lanigan, Clerk

Date: March 16, 1994

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