James H. Karmeris

v.

Town of Brentwood

Docket No.: 11352-91PT

DECISION

The "Taxpayer" appeals pursuant to RSA 76:16-a, the "Town's" 1991 assessment of $83,100 (land only) on 5.420-acres (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).

The Taxpayer argued the assessment was excessive because:

1) the Property has been reassessed from $18,000 to $83,100;

2) the taxes have increased from $709.00 to $1,849.00;

3) a realtor estimated the Property's value to be approximately $50,000;

4) smaller lots are assessed more per acre than larger lots;

5) "land spec" available to others with less than 10 acres, but not to him;

6) the Property's highest and best use should be residential; and

7) an appraisal by Michael S. Marconi estimated the Property's fair market value to be $40,000 as of March 8, 1993.

The Town argued the assessment was proper because:

1) smaller lots are assessed higher per acre than larger lots;

2) Taxpayer's calculations are incorrect as he used square-foot figures as acreage units of size;

3) Taxpayer's argument that individuals with less than 10-acres are receiving current use is incorrect;

4) Taxpayer's Property consists of 5.42 acres and zoned commercial\industrial\professional\multi-family -- (the most allowable uses);

5) comparable sales used by the Town indicated the Taxpayer's Property is well within the value range; and

6) Taxpayer's appraiser's sales are not valid, i.e., could not be verified as grantors, grantees were not given, and four out of the seven sales were located in other jurisdictions.

Board's Findings

The Board rules the Taxpayer failed to meet his burden of proof.

The Board notes that the Taxpayer in his analysis has indeed confused square feet with acres (Example: Gigante's total acreage referred to as 150.176 acres was really 3.460 acres, or 150, 176 square feet).

Furthermore, it is clear that the Taxpayer does not understand contiguous unimproved parcels of land in the same ownership, when added together and total more than 10 acres would qualify for current-use assessment, or as the Taxpayer refers to it, "land spec." Current-use properties were improperly included in the Taxpayer's comparable land analysis.

The Taxpayer's appraiser, Mr. Marconi, uses sales of properties in four other towns, contrary to good appraisal practice for property tax equity. Comparables used in a property tax appraisal analysis should be in the same jurisdiction as the subject property. No grantors or grantees were identified so verification was impossible. Mr. Marconi failed to make any time adjustment of his 1993 valuation of $40,000 to arrive at an opinion of value as of April 1, 1991, the tax year under appeal.

Increases from past assessments are not evidence that a taxpayer's property is disproportionally assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985).

A greater percentage increase in an assessment than others following a town-wide reassessment is not a basis for an abatement, since unequal percentage increases are inevitable following a reassessment. Reassessments

are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property.

Differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since 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

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George Twigg, III, Chairman

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Paul B. Franklin, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to James H. Karmeris, Taxpayer; and

Chairman, Selectmen of Brentwood.

Dated:

Melanie J. Ekstrom, Deputy Clerk