

Helen F. Kendall

v.

Town of Candia

Docket No.: 11468-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$136,550 (land, \$47,500; building, \$89,050) on a house with 2.65 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 failed to carry this burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) two realtors suggested an asking price of \$100,000, but would accept \$90,000;
- 2) several improvements are needed, i.e., plumbing, painting, beams in cellar, insulation; and
- 3) the cellar has a dirt floor and is always damp.

The Town argued the assessment was proper because:

- 1) physical and functional depreciations were given to address the Taxpayer's concerns listed in her appeal;
- 2) comparable properties indicated the Taxpayer's Property was assessed equally; and
- 3) the Taxpayer had failed to prove the assessment was improper, inequitable or disproportionate.

Board's Finding

Based on the evidence, the board denies the appeal. The Taxpayer's information was insufficient because:

- 1) while she indicated that the Property was being listed, the Taxpayer failed to state when the Property was listed and what steps were taken to determine the listing price, leaving the board with inadequate information to draw any conclusions;
- 2) the Town adequately responded to the Taxpayer's arguments; and
- 3) the Taxpayer did not provide the board with any fair market value information.

Concerning the latter, 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 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.

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To the extent the Taxpayer complained about the high taxes, the board does not have jurisdiction over the amount of the taxes. Rather, the board only has jurisdiction over the assessment. The Taxpayer may qualify for relief under RSA 72:38-a (copy attached). By providing a copy of this statute, the board is in no way asserting that the Taxpayer is entitled to any relief under RSA 72:38-a.

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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Helen F. Kendall, Taxpayer; and Chairman, Selectmen of Candia.

Dated: November 16, 1993

Melanie J. Ekstrom, Deputy Clerk