Carl and Linda Woodbury

v.

Town of Hopkinton

Docket No.: 11516-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of $224,750 (land $112,550; buildings $112,200) on a 15.7-acre lot with a single-family home (the Property). The Taxpayers 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 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 prove the assessment was disproportional.

The Taxpayers argued the assessment was excessive because:
(1) the basic value of the homesite was computed on a front-foot basis and the house sits 1,200 feet from the road; therefore, the front-foot price should

not be used;

(2) the topography, elevation, soil types and vegetation of the subject are consistent with the end of the road assessed $150 per-front-foot, yet $300 per-front-foot was assigned; and

(3) there were errors on the assessment-record card.

The Town argued the assessment was proper because:

(1) the Property's land assessment was based on a homesite value with a -10% adjustment due to its long access;

(2) the Town consistently assessed front-foot values based on location (neighborhood) -- soil types have no impact on front-foot values;

(3) the Property is in a desirable neighborhood with class 4 to 5 homes and has a very private setting and the other end of Broad Cove Road has class 2½ to 3 homes;

(4) the Taxpayers provided no market data to prove disproportionality; and

(5) the Property's assessment was well within the range of comparable properties, and comparable sales supported the assessment.

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 <u>not</u> 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. In this case, the board did not rely on the inspector's report.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

The Taxpayers argued the land should not be assessed based on a front-foot analysis. The board finds the Town properly assessed the value of the homesite with an adjustment made for its long driveway access. Further, the Town supported its front-foot allocation based on comparable sales and on evidence of consistent methodology used in assessing other properties. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

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

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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, 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 Carl and Linda Woodbury, Taxpayers; and Chairman, Selectmen of Hopkinton.

Dated:

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Lynn M. Wheeler, Deputy Clerk