Carol H. and Barbara C. Mullins

v.

Town of Durham

Docket No.: 12338-91PT

DECISION

The "Taxpayers" appeal pursuant to RSA 76:16-a, the "Town's" 1991 assessment of $158,500 (land, $64,300; building, $94,200) on .39 acres with building (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 carry this burden and prove disproportionality.

The Taxpayers argued the assessment was excessive because the Young Drive student housing has imposed an economic obsolescence on the Property.

The Town argued the assessment was proper because:

1) two sales reflected an assessment\sales ratio within a reasonable variance of the Town's equalization ratio; and

2) the Taxpayers' assessment is similar to other properties in the area.

Board's Findings

Based on the evidence, the board finds the Taxpayers failed to show a disproportional assessment. The board does not doubt the Taxpayers' concerns regarding the problems in the neighborhood with the student housing. However, the Taxpayer did not introduce any market evidence to establish what effect, if any, such housing had on property values. Without such market data, the board is unable to make any adjustment. 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.

Furthermore, the Town submitted two neighborhood sales. The sales demonstrated that assessments were in line with the market in this neighborhood despite the student housing.

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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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Carol H. and Barbara C. Mullins, Taxpayers; and Chairman, Board of Selectmen.

Dated: December 16, 1993

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Melanie J. Ekstrom, Deputy Clerk