Peter J. Kramarich

v.

Town of Northfield

Docket No.: 12402-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of $30,000 (land only) on 60 acres (the Property). The Taxpayer did not appear but was granted leave consistent with our Rule, TAX 202.06. This decision is based on the evidence presented to the board. 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.

The Taxpayer argued the assessment was excessive because:

(1) in December 1991, realtors estimated vacant land values depreciated approximately 50% over the last several years;

(2) a 1,500 foot road would have to be constructed at a cost of approximately $100,000 to develop the Property;

(3) there is little to no demand for land accessible by a Class VI road;

(4) the trees were harvested in the mid 1980's and no replanting was done; and

(5) the assessment should be no more than $15,000.

The Town argued the assessment was proper because:

(1) a Town-wide revaluation was done in 1989 and land values were established at that time;

(2) the entire acreage was treated as backland with topography considerations (depreciated land value at 75% from norm);

(3) the Town permits building on Class VI roads but the owner must bring the road up to passable standards;

(4) the assessment was done properly; and

(5) the Taxpayer has not provided any evidence of market value and has not met the burden of proof.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove disproportionality. Neither party challenged the Department of Revenue Administration's equalization ratio of 124% for the 1991 tax year for the Town of Northfield. The Property's equalized value is $24,193 ($30,000 ÷ 1.24). 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. The Taxpayer argued that

realtors had indicated that vacant land sales had declined 50%. The Taxpayer asked the board to base its decision on that information. The board, however, was unable to rely upon the information because it did not include the basis for any value conclusion. Specifically, no information was offered to indicate what sales were used or what adjustments were made to the sales to arrive at the value conclusion. Without such information, the board and the Town are unable to review the soundness of the value conclusion.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within thirty (30) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing 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 rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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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 Peter J Kramarich, Taxpayer; and Chairman, Selectmen of Northfield.

Dated: August 3, 1995

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Valerie B. Lanigan, Clerk

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