

Peter J. Skentzos

v.

Town of Litchfield

Docket No.: 12403-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 adjusted assessment of \$169,300 (land, \$55,100; building, \$114,200) on 1.030 acres with building (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). We find the Taxpayer failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

- 1) the Property was purchased in November 1991, for \$100,000; and
- 2) an "appraisal" dated March 2, 1993, estimated a fair market value of \$106,000.

The Town argued the assessment was proper because:

- 1) Taxpayer's appraisal failed to use the most comparable properties available, resulting in a low appraisal;
- 2) based on a review of three comparable properties and applying the equalized ratio of 1.30 indicated a fair assessment of \$171,200; and
- 3) Taxpayer's Property is comparable with properties of similar site, size, improvements and was not disproportionately assessed.

Board Findings

The board will first address the Taxpayer's misapprehension that the Town's default was handled in a manner different from that which would result from a Taxpayer's default. The board's rule TAX 201.05 (b) clearly states, "If a Party timely complies with a Default order, the Board shall, without order, continue the proceeding."

The board notes that the RE/MAX "Broker price opinion," lacked the specificity of an actual appraisal which uses comparable properties in the same neighborhood or similar locations and makes adjustments to the comparable sales for differences in age, size, condition, desirability and lot size. Taxpayer's graphs showed listing prices, no land (parcel) sizes, pending sales and location of pending sales. Also included were average price per-square foot of active listings, expired listings, pending sales and sold listings. This so-called "Summary of Comparative Market Analysis," while a novel statistical exercise does little to assist the board in determining the fair market value of this subject Property as of April 1, 1991, the tax year under appeal.

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The Town submitted property assessment-record cards and color photos of all three comparable properties as well as a color photo of the Skentzos residence.

The Town time adjusted the sale prices to the date of assessment (April 1, 1991). Lot sizes were all one acre and not more that two miles from the subject Property. Gross living space, age, condition, basements and garages were also compared.

The board's review appraiser spoke with the listing agent and one of the grantors and learned that the Property was listed in early 1991 for \$139,900 and described by its listing agent as a "quick sale price."

The owners were divorced in September 1990 and agreed to absorb a \$25,000 loss to avoid foreclosure.

The Town appraiser found an April 1, 1991 value of \$131,700 based on time-adjusted comparable sales and when the Department of Revenue Administration's equalized ratio of 1.30 was applied to the most comparable sale, the fair assessment figure became \$171,200. The corrected assessment by the Town of \$169,300 is therefore, by comparison, reasonable, fair and equitable.

As stated above, the focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one exact, precise or perfect assessment; rather,

there is an acceptable range of values which, when adjusted to the Municipality's general level of assessment, represents a reasonable measure of

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one's tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979).

The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

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.

Averaging property values, as done by the Taxpayer, does not necessarily prove "disproportionality"; it only proves that the Taxpayer's Property is assessed more than the average property. Appraisals are not averages; rather they are the correlation of general sales data to the unique characteristics of a specific Property.

Averaging sales, as done by the Taxpayer, is not a conclusive method of establishing market value since averaging ignores the unique characteristics of properties. Rather, analyzing, comparing, and weighing sales data and then correlating the most pertinent aspects of the sales to the subject Property arrives at the best indication of market value.

The Taxpayer submitted a value opinion. The Taxpayer asked the board to base its decision on the value opinion. The board, however, was unable to rely upon the value opinion because it did not include the basis

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for the value conclusion. Specifically, the value opinion did not 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 municipality are unable to review the soundness of the value conclusions.

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

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

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Certification

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Peter J. Skentzos, Taxpayer; and Chairman, Selectmen of Litchfield.

Dated: December 16, 1994

Melanie J. Ekstrom, Deputy Clerk

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Board dated March 12, 1993, he states, "...the purchase price of \$100,000 on 15 Nov 91 was not a bargain basement price arrived at by means of a distressed sale because of foreclosure or bankruptcy. This price of \$100,000 represents a fair market price arrived at by a willing buyer and a willing seller brought together by a reputable realtor in the traditional real estate market." Also in this letter, Mr. Skentzos requests that the Board, "rule in my favor and order the Town of Litchfield to assess my property at its true market value of \$100,000."

"Market value is the cash price a property would bring in a competitive and open market. In such a market, sufficient time has been allowed for a sale, the buyer and seller are not subject to undue pressures, and both are well informed."¹ For a sale to be representative of fair market value, it must meet the above conditions. Recently, I spoke with Cindy Surette, the listing agent and Susana Cronin, one of the grantors. From my conversations, I learned the following:

- 1) the property was originally listed in early 1991 for \$139,900, which was indicated by the listing agent as a "quick sale price";
- 2)the Cronins had been divorced in September 1990;
- 3)the property was in risk of imminent foreclosure;
- 4)the grantors took a \$25,000 loss to avoid foreclosure; and
- 5)the grantee was aware of the owner's situation.

Both Cindy Surette and Susana Cronin felt that the property sold for less than market value. This information indicates that the sale of the subject property does not meet the criteria of a market sale as the sellers were subject to undue pressure due to imminent foreclosure.

"The assessed value of property for tax purposes must represent either the full fair market, or cash, value of the property or a specified percentage of such value."² In New Hampshire, the assessed value of a property is its' market value multiplied by the equalization ratio. Since, neither the Town nor the taxpayer stipulated an equalization ratio, I will assume that the DRA's ratio of 1.30 is representative of the level of assessment. Therefore, **if** the fair market value of the subject property was \$100,000 as of April 1, 1991, the fair assessed value would be \$130,000.³

The "Property Profile and Market Analysis" submitted by the Taxpayer and prepared by Linda and Ron Peters "indicates a probable current market value of \$106,000." It should be noted that: 1) while this report is a bona fide opinion of value, it is not an appraisal, as indicated by the Taxpayer, which uses the three accepted approaches to value; Cost Approach, Comparable Sales

¹ Property Appraisal and Assessment Administration. The International Association of Assessing Officers, Chicago, Illinois, 1990. page 35.

² Ibid, page 15.

³ \$100,000 x 1.30 = \$130,000.

Approach, and Income Approach; and 2) the opinion of value is as of March 2, 1993, while the date of the assessment under appeal is April 1, 1991.

As inferred in the Taxpayers letter to the Board, dated July 2, 1993, market value has declined over the last few years. If the opinion of value is to be used, it must first be adjusted for time. The Town's report, dated June 17, 1993, indicates that the market declined by 9% from April 1991 to April 1992 and remained stable from April 1992 to October 1992. The preliminary equalization ratio from the DRA for 1993 is 1.44, which indicates a decline of 10.8% from April 1, 1991 to April 1, 1993. Adjusting the value of \$106,000 by +10% for time would be \$116,600.

The Town's report uses three comparable sales which occurred from October 1991 to October 1992. The sales prices, which range from \$111,000 to \$129,600 are adjusted for time and gross living space. All other property elements are considered to be comparable. The appraiser felt that comparable sale #1 was the most comparable; this sale indicated a value of \$131,700. Comparable sales #2 and #3 indicate a value of \$125,600 and \$125,100 respectively. Both of these sales occurred within 7 months of the assessment date, while comparable #1 occurred 1½ years after the assessment date. When choosing a "most comparable" sale, it is desirable to choose the sale that is most similar to the subject in its physical aspects, such as comparable #1, and its time frame such as comparable #2 and #3. It is my opinion that some weight should be given to comparable sale #2.

Conclusion:

Based on my conversations with the listing agent and the grantor of the subject property, it is my opinion that the sale of \$100,000 was not representative of market value.

Based on my review of the file and furthermore, based on my experience as a real estate appraiser, it is my opinion that the fair market value of the fee simple rights in the subject property as of April 1, 1991 was between \$120,000 and \$130,000. Adjusting these by the DRA's equalization ratio of 1.30 indicates a fair assessed value of between \$156,000 and \$169,000.

Very truly yours,

Scott W. Bartlett
Board of Tax and Land Appeals
Review Appraiser

SCOTT W. BARTLETT

CURRENT POSITION:

06/93 - Present: BOARD OF TAX AND LAND APPEALS
CONCORD, NH

Review Appraiser

Responsible for preliminary and final reports for reassessment petitions, appraisal reports on consolidated appeals and special requests from the Board.

MASS APPRAISAL EXPERIENCE:

07/86 - 05/93:M.M.C., INC.
CHELMSFORD, MA

07/86 - 10/86:Residential Data Collector

11/86 - 11/87:Commercial Data Collector

12/87 - 05/89:Commercial Staff Appraiser

06/89 - 05/93:Senior Commercial Appraiser -Responsible for Commercial, Industrial and Utility Appraisals in the New Hampshire, Maine and Vermont.

OTHER EMPLOYMENT:

01/85 - 06/86:Boghosian Contracting - Painter/Carpenter Trainee.

02/83 - 12/84:Massachusetts Casualty Insurance Company - Claims Adjustor.

APPRAISAL EDUCATION:

International Association of Assessing Officers:

- Course I: Fundamentals of Real Property Appraisal
- Course II: The Income Approach to Valuation
- Course 301: Mass Appraisal of Residential Property
- Course 302: Mass Appraisal of Income Producing Property
- Course 3: Development & Writing of Narrative Appraisal Reports

Valuation of Railroad and Utility Properties Workshop

SPECIAL QUALIFICATIONS:

State of New Hampshire: Real Estate Appraiser Supervisor

State of Vermont: Certified Project Supervisor

State of Massachusetts: Registered Real Estate Salesperson

State of Maine: Certified Maine Assessor

IAAO - Subscribing Member, CAE Candidate

EDUCATION:

Hamilton College, Clinton, New York - Bachelor of Arts: Economics/Mathematics

University of Massachusetts, Roxbury, MA - Intro to COBOL, Computer Science

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ORDER

This order relates to the "Taxpayer's" rehearing motion. The motion fails to state any "good reason" or any issue of law or fact for granting a rehearing. See RSA 541:3.

Motion denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

Certification

I certify that copies of the foregoing Order have this date been mailed, postage prepaid, to Peter J. Skentzos, Taxpayer; and Chairman, Selectmen of Litchfield.

Dated: February 2, 1995

Valerie B. Lanigan, Clerk

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