

Alfred J. and Irene N. Guillette

v.

Town of Candia

Docket No.: 12412-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$155,000 (land, \$53,050; building, \$101,950) on 3.30 acres and a house (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 Property was disproportionately assessed.

The Taxpayers argued the assessment was excessive because:

- 1) the Property was purchased in July, 1989 for \$156,000;
- 2) a state culvert drains onto the Property causing excessive water;
- 3) the house was unfinished;

- 4) a June, 1989 bank appraisal estimated a fair market value of \$176,500; and
- 5) a November, 1991 appraisal estimated a fair market value of \$141,000.

The Town argued the assessment was proper because:

- 1) an adjustment was made for the unfinished areas;
- 2) a topography adjustment was made to address the wet land due to the culvert;
- 3) the comparables used in the 1991 appraisal were sales that were priced to sell quickly and two were not located in the same town;
- 4) the 1991 appraisal's cost approach (the method utilized by the Town) supports the assessed value;
- 5) the seller originally listed the Property in the high \$170,000 range, but was motivated to sell due to financial difficulties; and
- 6) a neighborhood sale and neighborhood comparables indicated the Property was proportionately assessed.

Board's Finding

Based on the evidence, the board finds the Taxpayers failed to prove the Property was disproportionately assessed. The Taxpayers stated the Property's sale price was \$156,000 in July, 1989. While this is some evidence of the Property's market value, it is not conclusive evidence. See Appeal of Town of Peterborough, 120 N.H. 325, 329 (1980). However, the purchase took place two years prior to the date of the assessment, April 1, 1991, and the Taxpayers stated that the house was not completely finished, therefore, adjustments for time and any improvements made during that two year period must be addressed in order for the board to arrive at a proper conclusion.

The Taxpayers submitted an appraisal report which estimated a market value of \$141,000 as of November, 1991. The appraiser stated that a .5% per month downward market trend had been used and the Property was appraised "as is." Time adjusting the appraisal, using the appraiser's time adjustments, to April 1, 1991, indicates a market value as of April, 1991 of \$145,950 ($\$141,000 \times 1.035$).

Neither party challenged the Department of Revenue Administration's (DRA) equalization ratio of 1.04 for the 1991 tax year. That ratio indicates that all real estate was assessed 4% above market value in 1991. The Property's equalized value is \$149,000 ($\$155,000 \div 1.04$). The Department of Revenue Administration's (DRA's) equalization ratio for the 1992 tax year is 1.16. That ratio indicates that the market has declined by 12% (1% per month) from April 1, 1991 to April 1, 1992. By time adjusting the Taxpayers November, 1991 appraisal to April, 1991 using the DRA's ratios indicates a fair market value of \$149,460 ($\$141,000 \times 1.06$). Therefore, the range of indicated market value in this case is \$145,950 to \$149,460.

Town assessment \$155,000 Equalized (market) value - \$149,000

Taxpayers' appraisal time adjusted by .5% per month - \$145,950

Taxpayers' appraisal time adjusted by 1% per month (per DRA ratio) - \$149,460

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,

Page 4

Guillette v. Town of Candia
Docket No.: 12412-91PT

there is an acceptable range of values which, when adjusted to the Municipality's general level of assessment, represents a reasonable measure of one's tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979).

The board finds the Taxpayers' appraisal supports the Town's assessment on the Property. The board also finds that the Town reasonably adjusted for the unfinished portion of the house and the culvert.

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 Alfred and Irene Guillette, Taxpayers; and Chairman, Selectmen of Candia.

Dated: January 5, 1994

Melanie J. Ekstrom, Deputy Clerk