Donald G. and Geraldine A. White, Sr.

v.

City of Claremont

Docket No.: 12447-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1991 assessment of $115,900 (land $58,500; buildings $57,400) on a 2.30-acre lot with a printing store and an upstairs apartment (the Property). The Taxpayers and the City 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:

(1) most of the Property is wetlands;

(2) the Property has been listed for sale for over six months for $75,000 with no interested buyers;

(3) a September, 1991 appraisal estimated an $85,000 value; and

(4) the assessment should be $75,000.

The City argued the assessment was proper because:

(1) the Taxpayers' appraiser provided no documentation to substantiate his figures;

(2) the appraisal was prepared for a collateral valuation and market value, which has nothing to do with assessment practices;

(3) the appraisal states the taxes appear to be proper for a property assessed at $126,600, and therefore, the Property's assessment must be proper as well;

(4) the appraiser's comparable-sales approach is flawed because he did not adjust for age, condition, location or land; and

(5) comparable sales support the Property's assessment.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the Property was disproportionately assessed. The board did not find the Taxpayers' appraisal to be credible for the following reasons:

1) it was prepared to assist in collateral valuation and/or portfolio management; and

2) the appraiser stated the most reliable approach to value was the sales-comparison approach, yet he failed to detail any adjustments made to the comparables utilized (i.e., size, age, condition, location, or land area).

The Taxpayers further argued (by letter dated February 25, 1993) that the Property had been listed for $75,000 through Moody Real Estate for six months. The date of assessment is April 1, 1991, and the evidence of listing prices in 1993 is not indicative of the market in 1991.

The Town submitted evidence of four comparable sales, adjusted for size, land area and use, which support the assessment.

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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George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Donald G. and Geraldine A. White, Sr., Taxpayers; and Office of the Assessor, City of Claremont.

Dated: April 12, 1994

Lynn M. Wheeler, Deputy Clerk