

**Julie A. and Edward L. Belbin, Jr.**

**v.**

**City of Manchester**

**Docket No.: 12620-91-PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "City's" 1991 assessment of \$86,000 (land, \$33,100; buildings, \$52,900) on a 5,000 square-foot lot with a single-family house (the Property). The City proffered an adjusted assessment of \$84,500 (land, \$33,100; building, \$51,400), which reflected a reduction due to a shed being removed from the assessment card. The Taxpayers own two other parcels that were not appealed. While not appealed, the board is required to review the assessments thereon, because we must review the Taxpayers' entire estate to determine if the total estate was overassessed. Appeal of Sunapee, 126 N.H. 214, 217 (1985). For the reasons stated below, the appeal for abatement is denied, but the assessment is reduced as recommended by the City.

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. at 217. We find the Taxpayers failed to carry this burden and prove disproportionality.

The Taxpayers argued the Property's assessment was excessive because:

(1) the Property had some physical defects, including problems with the roof, bulkhead; and

(2) the City adjusted the assessments on Lot 114 but at the same time added the reduction to Lot 113, which the Taxpayers thought was a mishandling.

The Taxpayers submitted a report and a summary of their argument, which included an appraisal of \$81,000 on the Property.

The Taxpayers testified they bought the Property and the two other lots on March 1, 1991, for \$92,000. They also had \$4,000 of work done before the closing date.

The City argued the assessment was proper because:

(1) it was supported by the sales price;

(2) lots 112 and 114 add value to the Property; and

(3) the process may have appeared to have faults, but the assessment was proportional.

#### Board's Rulings

We find the Taxpayers failed to prove the Property's assessment was disproportional. The Taxpayers major argument concerned the process whereby Property Systems decreased the assessment of Lot 114, but then increased the value of Lot 113. The board's focus, however, is not on the process but on the resulting assessments and their proportionality, and the Taxpayers did not show the process resulted in disproportionality. "Justice does not require the correction of errors of valuation whose joint effect is not injurious to

the appellants." Appeal of Town of Sunapee, 126 N.H. at 217, quoting Amoskeag Manufacturing Co. v. Manchester, 70 N.H. 200, 205 (1899).

RSA 75:1 requires assessments must be based on market value. This is one of our focuses when deciding whether disproportionality exists. Here, the parcels all sold for \$92,001 with \$4,000 of work that was done before the closing and paid for by the Taxpayers. Thus, the total price was \$96,001. The Taxpayers stated the sales were through a realtor. Where it is demonstrated that the sale was an arms-length market sale, the sales price is one of the "best indicators of the property's value." Appeal of Lake Shore Estates, 130 N.H. 504, 508 (1988). Thus, given a \$96,001 price and a \$94,500 assessment, we cannot find disproportionality.

The appraisal for only the Property was \$81,000. When the \$10,000 (based on the assessments) for the other lots and \$4,000 for the work on the Property are added, the resulting total value is \$95,000 for the package (without time adjustment to the April 1991 date).

The City did, however, agree to reduce the Property's assessment to \$84,500, reflecting the deduction of a shed. Thus, an abatement shall be made on that basis. If the taxes have been paid, the amount paid on the value in excess of \$94,500 (Lot 113 - \$84,500, Lot 113 - \$5,000 and Lot 114 - \$5,000) shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, the City shall also refund any overpayment for 1992, 1993 and 1994. Until the City undergoes a general reassessment, the City shall use the

ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

A motion for rehearing, reconsideration or clarification (collectively "rehearing 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 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 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

\_\_\_\_\_  
George Twigg, III, Chairman

\_\_\_\_\_  
Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Julie A. and Edward L. Belbin, Jr., Taxpayers; and the Chairman, Board of Assessors of Manchester.

Dated: December 8, 1994  
0009

\_\_\_\_\_  
Valerie B. Lanigan, Clerk