John Scruton

v.

Town of Farmington

Docket No.: 12730-92PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1992 adjusted assessment of $109,700 (land, $10,850; building, $98,850) on 14+\- acres (13+\- in current use) (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. (Note: The board has assumed the assessment was $109,700. If abatements for 1992, 1993 and 1994 based on $109,700 have not been made, they shall be with 6% interest from date paid to refund date.)

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) comparable sales data indicated the market value on the Property was substantially below the equalized value;

2) a November 1992 market analysis, based upon comparable sales, indicated a market value of $119,900;

3) larger homes of recent construction or renovation, and commercial property, did not share the same increase in value;

4) the 1983 state manual of building cost is not an accurate way to assess the Property because of differential changes since 1983;

5) a reduction in the barn is warranted because it is old, and in poor repair;

6) comparable properties with more square footage and better locations were assessed lower; and

7) a proper reduction would be $46,994.

The Taxpayer in his rebuttal stated the following:

1) the cost approach was not used because new houses are not worth as much as it costs to construct;

2) the Meaderboro Road comparable should be used as the in-law apartment makes it more desirable;

3) the level which banks were selling was significant;

4) there was no evidence of market change from April 1, 1992, to November, 1992; and

5) Durham property should not be used in comparing property in Farmington as Durham property sells at a higher value.

The Town argued the assessment was proper because:

1) the Taxpayer indicated the equalized ratio was 52%, however, the equalized ratio was 58%;

2) the Taxpayer's appraisal was invalid because it did not comply with established uniform standards of professional practice;

3) the Taxpayer's comparable sale #2 was a family transaction and comparable #3 was a bank sale and thus they should not have been used as comparables;

4) the Town was revalued in 1983 by the DRA using the property appraisal manual and to institute a different type of building construction appraising would create inequities; and

5) comparable sales and cost approach analysis ranged from $197,500 to $234,000, indicated the assessment should be reduced by $2,900 for the tax year 1992 to $109,700.

Board Findings

Based on the board's review of the evidence, the board finds the Taxpayer failed to prove overassessment. This appeal is the classic example of poor information from both sides. Unfortunately for the Taxpayer, the Taxpayer has the burden of proof. The Taxpayer, while raising several questions, did not provide an adequate indication of what the Property's market value was in 1992. That market value, if it had been established, would then have been compared to the general level of assessment in the Town.

The Taxpayer's major piece of evidence was the R-W Real Estate "Comparative Market Analysis." This analysis was certainly not an appraisal. Generally, as the board reviewed the analysis, it became obvious that this was not an in-depth appraisal. Moreover, the analysis had the following

flaws:

1) it did not include a cost approach analysis;

2) the comparable properties were not viewed or inspected; and

3) it was apparently done for this assessment appeal.

(Interestingly, the Taxpayer in his March 1, 1993 letter, indicated that he was the one that provided the comparables to the person who prepared the analysis. We have, however, not relied on this because we were unable to determine this with certainty.);

4) the appraisal missed adjustments, e.g., comparable #1 and the subject have patios but comparable #2 does not yet no adjustment was made; and

5) the comparables used were not fair market, arms-length transactions, e.g., one was a family sale and one was a bank sale.

In addition to the specific problems with the appraisal, the board was not confident that the $119,900 figure was a reasonable reflection of the Property's value. For instance, if the $119,900 is divided by the number of square feet in the house itself, the result is a $48.00 per-square-foot figure. In this figure would have to be, however, the land costs, the site costs, the building costs and the costs for additional features such as the barn. Based on the board's experience this figure is inadequate. Further on this point, the board notes that this is a new home, and the Taxpayer failed to provide any information about actual construction costs.

While the burden is not on the Town to defend the assessment, the Town should be able to support the assessment. The Town was unable to do so in this case other than showing that the same department of revenue

administration manual had been used in assessing this Property as had been used since 1983 in assessing other properties. As the Taxpayer pointed out,

the Town's reliance on sales outside of the Town raises a question, especially when two of the sales occurred in Durham.

The board notes that the Town should consider whether a complete revaluation is warranted. Based on the information received in this appeal and based on the department of revenue's coefficient of dispersion calculations (1992 20.9 and 1993 18.28) and the general level of assessment 58% for 1992, the Town may need a revaluation.

Note: The board did not consider the Taxpayer's March 26, 1993 or September 14, 1994 letters because they were filed after the deadline for filing rebuttal information.

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

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Ignatius MacLellan, Esq., Member

Certification

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to John Scruton, Taxpayer; and Chairman, Selectmen of Farmington.

Dated: January 13, 1995

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Melanie J. Ekstrom, Deputy Clerk