William and Betsy Little

v.

Town of Lisbon

Docket No.: 12751-92-PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of $119,400 (land, $22,500; building, $96,900) (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 carry this burden and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

1) surrounding properties and the location of the Property would deter any potential purchasers;

2) a bank appraisal estimated a fair market value of $84,300 in March 1992;

3) two comparables are assessed lower;

4) in today's market the Property may sell for $75,000; and

5) a proper assessment should be $90,000.

The Town argued the assessment was proper because:

1) two comparables, one being a little smaller, indicated the Property was assessed equally;

2) the Taxpayers' assessment was reviewed in 1991 and adjusted for building calculations and depreciation, decreasing the assessment from $129,100 to $119,100;

3) many of the homes in the area have been converted to multi-family units, in need of repair, however other homes are still single family and duplexes which are well maintained; and

4) it is fair and equitable.

Board Findings

We find the Taxpayers failed to prove the Property's assessment was disproportional.

By applying Lisbon's 1992 equalization ratio of 128% (as determined by the Department of Revenue Administration), the Town's assessment of $119,400 indicates a market value of $93,280 for 1992 ($119,400 ÷ 1.28). The Taxpayers failed to prove this estimate of market value was excessive for the following reasons:

1) the Taxpayers' appraisal indicated a market approach range from $82,446 to

$117,320 and a cost approach indication of $148,743 with a final correlated estimate of $84,300; the board finds the three comparables differed enough by

location (two were from other towns with no adjustment) and the actual selling price that the adjustments needed to attempt to make them similar to the Property are questionable; and

2) while the Taxpayers' description of the immediate neighborhood raises the question of economic depreciation, the Taxpayers did not convincingly show their neighborhood was markedly worse than the other mixed neighborhoods in Lisbon; neither the Town's nor the Taxpayers' appraiser mentioned the neighborhood as a negative factor - nor was any economic depreciation applied by either of them.

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, <u>not the date this decision is received</u>. 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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Paul B. Franklin, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Betsy and William Little, Taxpayers; and the Chairman, Selectmen of Lisbon.

Dated: January 13, 1995

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Melanie J. Ekstrom, Deputy Clerk

William & Betsy Little

v.

Town of Lisbon

Docket No. 12751-92PT

ORDER

This order relates to the "Taxpayers'" 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. The Taxpayers state in their motion, "you base your case on all the new ratios you use, which I think don't really show the value based on location." The equalization ratio of 1.28 is representative of the relationship between assessed value and market value for the tax year under appeal and has nothing to do with the issue of location, which if warranted would be adjusted for separately.

The Taxpayers also express legitimate concern over a higher than average town tax rate which impacts taxes directly. The board however has no jurisdiction over town tax rates, which are the result of municipal spending.

Motion denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

Certification

I certify that copies of the within Order have this date been mailed, postage prepaid, to William & Betsy Little, Taxpayers; and the Chairman, Selectmen of Lisbon.

Date: February 22, 1995

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Valerie B. Lanigan, Clerk