

Robert and Patricia Barnard

v.

Town of Hopkinton

Docket No.: 12823-92-PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of \$243,200 (land, \$100,900; building, \$142,300) on 2.2 acres with a building (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.

The Taxpayers argued the assessment was excessive because:

- 1) the Property was sold for \$200,000 in July 1993, indicating the assessment was too high;
- 2) four properties located in the same neighborhood were assessed between \$172,000 and \$193,600;

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- 3) two of the Town's comparables, having more square footage and larger lots, are not comparable;
- 4) a similar property (Kosowicz) was assessed \$27,550 lower; and
- 5) errors existed on the property-record card, i.e., two fireplaces and central air.

The Town stated the property-record card has been corrected to reflect central air in only two rooms reducing the assessment to \$238,200.

The Town argued the revised assessment was proper because:

- 1) the property-record card correctly listed one fireplace with two openings;
- 2) three nearby comparables all being similar in class, sold close to their equalized value;
- 3) the Taxpayers' selling price was less than the equalized value and this may have been because the Taxpayers sold to a close neighbor; and
- 4) the Taxpayers have failed to show the Property was inequitable or disproportionate and the recent correction and adjustment was appropriate and no further reduction is warranted.

Board Findings

The board finds the proper assessment to the Town's revised assessment of \$238,200.

No further abatement is warranted because the Taxpayers failed to prove the revised assessment of \$238,200 was disproportionate for the following reasons:

1) the 1992 indicated market value by equalizing the assessment of \$238,200 by the Town's 1992 equalized ratio of 1.06 is \$224,700 ($\$238,200 \div 1.06$);

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2) the Property sold sixteen months after the April 1, 1992 assessment date for \$200,000;

3) a comparison of the 1992 and 1993 equalization ratios, 1.06 and 1.13 respectively, indicates the market was declining at approximately .5% per month ($[(1.13 - 1.06) \div 1.13 = .062 \div 12 \text{ months} = .5\%]$);

4) the indicated market value, as of April 1, 1992, by trending the Taxpayers' sale is \$216,000 ($16 \text{ months} \times .005 = .08$; $1.08 \times 200,000 = 216,000$);

5) the trended sale price (\$216,000) and the equalized market value (\$224,700) are within 4%;¹ and

6) the sales submitted by the Town, if adjusted for size, finished basement area, etc., support the assessment.

If the taxes have been paid, the amount paid on the value in excess of \$238,200 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 Town shall also refund any overpayment for 1993 and 1994.

Until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

¹There is never one exact, precise or perfect assessment; rather, 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).

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

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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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Patricia and Robert Barnard, Taxpayers; and the Chairman, Selectmen of Hopkinton.

Dated: December 23, 1994

Melanie J. Ekstrom, Deputy Clerk