

Raphael and Renee Aho

v.

Town of New Ipswich

Docket No.: 12825-92PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of \$155,300 (land, \$37,800; building, \$117,500) on 7.70 acres with 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) improper class of the building was applied;
- 2) three comparable properties are assessed lower;
- 3) a December, 1992 letter suggested a listing price of \$129,900;

- 4) an October, 1991 property analysis report estimated a fair market value of \$130,000;
- 5) a March, 1993 appraisal estimated a fair market value of \$105,000; and
- 6) the Property is listed for \$119,000 without any potential buyers;

The Town argued the assessment was proper because:

- 1) the lot was purchased in June, 1989 for \$75,000 and the home was built in 1991;
- 2) comparable average +10 grade properties indicate the Taxpayers' Property (which is far superior) has been assessed appropriately; and
- 3) the assessment is fair and equitable.

Board Findings

Based on the evidence, the board finds the Taxpayers failed to prove the Property was disproportionately assessed.

The Taxpayers submitted two appraisal reports for the board to review. The board placed little weight on the March 1993 appraisal because the appraiser failed to make any adjustments for differences in size, quality of construction and functional utility. Further, the date of assessment was April 1, 1992 and the appraisal would need to be adjusted to the date of assessment to determine a fair market value as of that date.

The board placed most weight on the October 1991 appraisal because it was performed six months prior to the date of assessment. However, the board could not place full weight on this appraisal because the appraiser:

- 1) used an incorrect gross living area (1,288 square feet versus actual 1,356 square feet) resulting in inaccurate adjustments to the comparables; and
- 2) failed to explain how location, age and garage adjustments were arrived at.

To determine a range of values based on the correct size of the Property, the board recalculated the appraiser's adjustments for gross living area as follows:

Item	Subject	Comparable #1		Comparable #2		Comparable#3	
Gross Living Area	1,356 sq.ft.	1,008 sq. ft.	Adj.	1,545 sq. ft.	Adj.	1,750 sq. ft.	Adj.
			10,440		-5,670		-11,820
Net Adj. (total)			4,440		10,330		3,180
Indicated Value of Subject			134,440		133,330		133,180

Neither party challenged the department of revenue administration's equalization ratio of 115% for the 1992 tax year for the Town of New Ipswich. The Property's 1992 equalized value was \$135,000. Applying the correct gross living area to the Taxpayers' appraisal results in revised market value indications of the three comparables ranging from \$130,300 to \$134,400.

The board concludes the assessment was not shown to be excessive. The Property's equalized value of \$135,000 is just slightly higher than the upper end of value of the appraiser's comparable sales approach. There 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).

While the board admits that the 1993 asking price causes us some concern, there is insufficient information provided for us to determine whether the

asking price is appropriate. The board does not know for instance what motivated the Taxpayers to set the asking price, i.e. pressures to sell because of financial

hardship, job relocation, etc.

Page 4

Aho v. Town of New Ipswich

Docket No.: 12825-92PT

The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982).

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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

Page 5
Aho v. Town of New Ipswich
Docket No.: 12825-92PT

Certification

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Renee and Raphael Aho, Taxpayers; and Chairman, Selectmen of New Ipswich.

Dated: February 2, 1995

Melanie J. Ekstrom, Deputy Clerk

0006