Doris R. Entwisle

v.

Town of Northwood

Docket No.: 12829-92PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of $319,000 (land, $214,400; building, $104,600) on 3.19 acres with a single-family residence and a separate summer cottage (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.

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) the assessment was based on incorrect physical data, including actual acreage, figured frontage and average depth;

2) not enough consideration was given to the topography and physical depreciations;

3) an April 1, 1989 value opinion estimated a $228,000 market value;

4) comparable properties with better and more lake frontage were assessed lower; and

5) Mr. Cutting estimated a value between $240,000 and $250,000.

The Town argued the assessment was proper because:

1) based on the board's previous decision, the correct assessment should have been $319,000; and

2) as a result of the 1989 valuation, the assessment was revised correctly to $319,000 and has remained unchanged for tax years 1990, 1991, 1992 and 1993.

Board Findings

Based on the evidence, the board finds the Taxpayer did not prove overassessment.

While the assessment was $319,000, the equalized value of the Property was only $249,220. (This calculation is made by dividing the assessment by the equalization ratio as calculated by the department of revenue.) This equalized value provides a rough estimation of how the assessment compares to market value. Thus, the $249,220 equalized value is in line with Mr. Cutting's 1992 market valuation of $240,000 to $250,000. Additionally, the assessment was based on the board's 1989 decision. Although the board is not bound by the earlier decision, the board's earlier decision has some evidentiary value.

Finally, the Taxpayer argued the land area was incorrectly shown as 4.75 acres, but the property record card submitted by the Town shows the acreage as 3.19 acres.

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 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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Paul B. Franklin, Member

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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 Ralph Cutting, representing Taxpayer; and Chairman, Selectmen of Northwood.

Dated: December 23, 1994

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Melanie J. Ekstrom, Deputy Clerk