

Harold J. Tate

v.

Town of Boscawen

Docket No.: 12843-92-PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of \$196,400 (land, \$47,900; building, \$148,500) on 1.540 acres with a building (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 and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) the Property was purchased in August 1992 for \$155,000;
- 2) an appraisal dated July 23, 1992 estimated a fair market value to be \$157,000;
- 3) the ratio of assessed value to true value is greater;

- 4) the Town's assertion that the assessment was equitable due to the 1988 revaluation, cannot be supported as the market has declined since then;
- 5) based on 20 sales, the ratio of assessed value to market value ranges from 86% to 156%; and
- 6) it is in excess of the median assessment ratio and the State determined equalization ratio.

The Town argued the assessment was proper because:

- 1) the assessed values within the Town are still proportionate and equitable as determined from the 1988 revaluation; and
- 2) an adjustment was made to the land value resulting in a \$600 decrease.

Board Findings

Based on the evidence, the board finds the Taxpayer failed to prove the Property was disproportionately assessed. The Taxpayer stated the Property's purchase price was \$155,000 in August of 1992. While this is some evidence of the Property's market value, it is not necessarily conclusive evidence. See Appeal of Town of Peterborough, 120 N.H. 325, 329 (1988). The Taxpayer provided a July 1992 appraisal report, prepared for Concord Savings Bank, to assist the bank in evaluating the Property for lending purposes. The appraiser estimated a fair market value of \$157,000, based on three comparable sales and on the contracted purchase price. The appraiser further arrived at an indicated value of \$186,000 by the cost approach.

The Department of Revenue Administration's equalization ratio for the 1992 tax year for the Town of Boscawen was 120%. The Property's equalized

value is \$163,650. The Taxpayer's appraiser used a -5% per year time

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adjustment in arriving at an indicated value of the subject. In order to determine the appraiser's value, as of April 1, 1992, the estimate of market value must be time adjusted to that date. The board has applied the appraiser's time adjustment to the appraisal to arrive at an indicated value as of April 1, 1992 of \$159,600, which is a difference of 2 1/2% from the Town's equalized value of \$163,650.

As stated above, the focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the Property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). 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). This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975); see also Petition of Grimm, 138 N.H. 42, 53 (1993) (administrative board may use expertise and experience to evaluate evidence). The board finds the assessment has not resulted in the Taxpayer paying an unfair share of taxes.

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

George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Harold J. Tate, Taxpayer; and the Chairman, Selectmen of Boscawen.

Dated: December 21, 1994

Melanie J. Ekstrom, Deputy Clerk