

Daniel W. Fletcher

v.

Town of Northwood

Docket No.: 12846-92PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of \$81,150 (land, \$51,450; building, \$29,700) on 5 acres with a mobile home (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) an error exists on the property-record card, i.e., the card stated the lot was level and rolling, however, it is actually hilly and ledgy and poor for building a home;
- 2) comparable properties were assessed lower; and

3) a proper land assessment would be \$5,000 per acre, considering the topography and being on a class 6 road.

The Town argued the assessment was proper because:

- 1) a subsequent sales study ratio was calculated by the Department of Revenue Administration following the 1989 revaluation using those sales that occurred after the values were established and this study resulted in a 1.01 ratio, indicating an acceptable revaluation with good equity; and
- 2) the Taxpayer has received a 50% topography for both frontage and backland, which was proper.

Board Findings

Based on the evidence, the board finds the Taxpayer failed to prove overassessment. Moreover, the Town demonstrated its land assessment calculation took into consideration many of the factors discussed by the Taxpayer.

While the board has some concerns about whether the Taxpayer's land assessment was too high, the Taxpayer did not present sufficient evidence to carry his burden of proof. Specifically, the Taxpayer did not present sufficient information concerning the Property's location and surroundings. Moreover, the Taxpayer's presentation had two other flaws: 1) the Taxpayer only argued about the land assessment, not the Property's value as a whole; and 2) the Taxpayer did not present any market value to support lowering the assessment.

The board is required to look at the Taxpayer's property as a whole.

The Taxpayer, however, only made argument concerning the land assessment. Thus, the board was unable to consider whether the Taxpayer was overassessed

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because we only were provided information regarding one component of the assessment. In other words, the Taxpayer may have been overassessed on the land, but he may have been underassessed on the building. In such a situation, the Taxpayer would not be entitled to an abatement. This is why it is essential that the board review a property's value as a whole.

The Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

Finally, we note that while the Property was assessed at \$81,150, the Property's equalized value was only \$64,400 (that is the Property's assessment adjusted by the Department of Revenue's equalization ratio).

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
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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 Daniel W. Fletcher, Taxpayer; and
Chairman, Selectmen of Northwood.

Dated: December 23, 1994

Melanie J. Ekstrom, Deputy Clerk