

Barry J. and Janet E. McGonigle

v.

Town of Northfield

Docket No.: 12991-92PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of \$113,900 (land \$39,100; buildings \$74,800) on a 29,868 square-foot lot with a house (the Property). 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) a February 1992 appraisal estimated a \$98,000 value;
- (2) the Town reduced other assessments from the preliminary assessment book by 15-22%; and
- (3) the Property was assessed higher than other comparables.

The Town argued the assessment was proper because:

- (1) based on the revenue department's equalization ratio, the Property's equalized value was \$91,850 (\$113,900 assessment divided by 1.24 equalization ratio); and
- (2) the assessment book assessments were only preliminary numbers and they did not show the adjustments made during the revaluation review.

Board's Rulings

Based on the evidence, we find the Taxpayers failed to show overassessment.

The question in an assessment hearing is whether the assessment is disproportional to other assessments. An assessment is not per se disproportional simply because the assessment exceeds the Property's market value. Market values tend to fluctuate more often than towns revise assessments. Therefore, to show over assessment, a taxpayer must first establish the property's fair market value. This value would then be compared to the property's assessment and the level of assessment 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.

This comparison (market value to assessment) is performed using the revenue department's equalization ratio, which is based on a yearly study to determine how assessments compare to market values. For example, if a property sold for \$100,000 and its assessment was \$125,000, the ratio for this sale would be 1.25. The department reviews numerous sales, establishes a ratio for each qualified sale and then selects the median ratio for the overall equalization ratio.

In 1992, the Town's ratio was 1.24. This means properties in the Town were overassessed relative to market value. It does not mean properties were overassessed relative to other properties.

Here, the Taxpayers established a \$98,000 1992 market value. But the Property's equalized value (assessment divided by the ratio) was \$91,850. This comparison does not prove overassessment. Another way to look at this would be to multiply the Taxpayers' \$98,000 value by the 1.24 ratio, which equals \$121,520. This factoring is required because the ratio showed properties were assessed higher than their market values. The \$113,900 assessment is less than the \$121,520 adjusted appraisal figure. Again, this does not show overassessment.

While the Taxpayers failed to show overassessment, the board is disappointed the Town did not make a better effort to explain the assessment to the Taxpayers. Once the Town received the Taxpayers' appraisal, the Town should have called the Taxpayers to explain the effect of the ratio. Such a discussion would have benefited the Taxpayers (by educating them) and would have benefited the board (by avoiding an unnecessary hearing).

A motion for rehearing, reconsideration or clarification (collectively "rehearing 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 rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing 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

Page 4

McGonigle v. Town of Northfield

Docket No.: 12991-92PT

are only allowed in very limited circumstances as stated in board rule TAX 201.37(e).

Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Barry J. and Janet E. McGonigle, Taxpayers; and Chairman, Selectmen of Northfield.

Dated: December 14, 1995

Valerie B. Lanigan, Clerk

0006