

John and Michelle Drewniak

v.

Town of Candia

Docket No.: 13121-92-PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of \$235,600 (land, \$58,800; building, \$176,800) on 5.098 acres with a single family dwelling (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 and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) an appraisal dated March 4, 1992 indicated a fair market value of \$225,500;
- 2) comparable properties were assessed lower by the Town; and
- 3) the Property had a fair market value of \$211,100 as of April 1, 1992.

Page 2

Drewniak v. Town of Candia

Docket No.: 13121-92-PT

The Town argued the assessment was proper because:

- 1) comparable properties support the assessment;
- 2) two of the Taxpayers' comparables are not the same style of dwelling;
- 3) the Taxpayers' appraisal indicated a value by the cost approach of \$286,061 and the Town's cost approach was \$50,461 less; and
- 4) the Taxpayers failed to prove their assessment was disproportionate and no adjustments are warranted.

Board Findings

Based on the evidence the board finds the Taxpayers failed to prove the Property was disproportionately assessed. The Taxpayers submitted an appraisal report dated March 4, 1992 and asked the board to base its decision on the report. The board finds the appraisal report supports the Town's assessment on the Property. Neither party challenged the Department of Revenue Administration's equalization ratio of 116% for the 1992 tax year for the Town of Candia. The Property's equalized value is \$203,100, which is in fact lower than the appraiser's estimate of value of \$225,500 and lower than the Taxpayers' stated opinion of value of \$211,100 as of April 1, 1992.

Further, 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

twenty (30) days of the clerk's date below, not the date this decision is

Page 3

Drewniak v. Town of Candia

Docket No.: 13121-92-PT

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

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 John and Michelle Drewniak, Taxpayers; and the Chairman, Selectmen of Candia.

Dated: April 26, 1995

Melanie J. Ekstrom, Deputy Clerk