

**Brian and Leslie Laszakovits**

**v.**

**Town of Milford**

**Docket No.: 13206-92PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of \$152,000 (land, \$50,000; buildings, \$102,000) on a 16,552 square-foot lot with a house (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) a November 1991 appraisal estimated the 1991 value, not 1992;
- (2) an August 1993 appraisal estimated a \$102,000 value;

Page 2

Laszakovits v. Town of Milford

Docket No.: 13206-92PT

- (3) the 1991 value estimate multiplied by the 1992 equalization ratio equals \$101,700, which supports comparable sale prices;
- (4) the Town's comparables were not comparable in size, foundation, features or proportions;
- (5) the Taxpayers' comparables were not foreclosure sales and represented the Property's true value; and
- (6) the assessment should be \$141,567.

The Town argued the assessment was proper because:

- (1) the Taxpayers' November 1991 appraisal estimated a \$114,000 value, which when equalized, is higher than the actual assessment;
- (2) comparable sales prices, when equalized, equate the assessed values; and
- (3) the Taxpayers' five comparables were foreclosure sales.

#### Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the Property's assessment was disproportional. The Taxpayers submitted five properties as comparable sales to support their claim that the Property was overassessed. The Town asserted that all five properties were bank sales, which sold after foreclosure; therefore, they were not arm's-length transactions. The sales made by an owner to satisfy delinquent loans are not "arm's length" due to the pressure of the owner to sell; consequently, while these accelerated sales will affect the market value of those who choose not to sell, they alone do not define the market.

Two appraisals were submitted to the board for its review. The Town

submitted a November 25, 1991 appraisal of the subject prepared for the Taxpayers. The Taxpayers submitted an August 26, 1993 appraisal of the

Page 3

Laszakovits v. Town of Milford  
Docket No.: 13206-92PT

Property. The date of the assessment under appeal was April 1, 1992. The board finds the 1991 appraisal to be most indicative of the Property's value as of April, 1992 because it only requires a time adjustment of four months.

Neither party challenged the department of revenue administration's (DRA) equalization ratios for the 1991 and 1992 tax years. The ratios were 124% in 1991 and 139% in 1992. To calculate the market change using the DRA equalization ratio, the difference in the ratio is divided by the later year's ratio  $(1.24 - 1.39) \div 1.39 = -.107$ . The ratios indicated that the market declined at the rate of 11% during that period or .92 per month. The date of appraisal was November 25, 1991; the date of assessment was April 1, 1992. Therefore, a time adjustment of -3.68% (.92 x 4 months) needs to be applied. The result is \$109,800, which must then be equalized by the 1992 DRA ratio of 139%. This indicates an assessed value of \$152,600. The board finds, based on the evidence, that an assessment of \$152,000 is proper.

A motion for rehearing, reconsideration or clarification (collectively "reconsideration 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 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

Page 4  
Laszakovits v. Town of Milford  
Docket No.: 13206-92PT

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 a copy of the foregoing decision has been mailed this date, postage prepaid, to Brian and Leslie Laszakovits, Taxpayers; and Chairman, Selectmen of Milford.

Dated: March 23, 1995

---

Lynn M. Wheeler, Deputy Clerk

0005