

Richard C. Woolsey

v.

Town of Bethlehem

Docket No.: 13539-92PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1992 assessment of \$29,450 (land \$18,300; buildings \$11,150) on a .22-acre lot with a house (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 house was not livable on the April 1 assessment date, i.e., there was no water, heat, or electricity and the floors were rotten;
- (2) the Property was purchased on January 3, 1992, for \$10,000;

- (3) the assessment was three times the purchase price;
- (4) a larger lot was assessed at \$32,000 and sold for \$15,000; and
- (5) the assessment should be \$15,000.

The Town argued the assessment was proper because:

- (1) the land value was well within the range of similar-sized lots;
- (2) the building value was within the range of comparable buildings adjusted for poor condition;
- (3) the Property was purchased at bankruptcy and, therefore, not an arm's-length transaction; and
- (4) the Taxpayer provided no comparable sales to support overassessment.

Board's Rulings

Based on the evidence, the board finds the Taxpayer did not prove overassessment.

First, the board finds the Taxpayer's purchase of the Property was not representative of market value because it was a bank sale. Other than that sale, 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.

Second, the Town reviewed the assessment and the Property and made substantial adjustments to the Property for its condition. These adjustments

and the resulting assessment appear reasonable.

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The Taxpayer also raised the question of whether he should be required to pay the filing fee. If the Taxpayer claims he is financially unable to pay the fee, he may request a waiver/reimbursement of the fee. However, the board cannot rule on such a request unless the Taxpayer files a detailed financial statement, outlining monthly income, expenses and assets. If the Taxpayer intends to make a claim for a waiver, he shall file such a request within ten (10) days of the clerk's date below or the board will assume the Taxpayer no longer wants a waiver.

We find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

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 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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Richard C. Woolsey, Taxpayer; and Chairman, Selectmen of Bethlehem.

Dated: February 22, 1995

Lynn M. Wheeler, Deputy Clerk

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