

Robert H. and Mary L. Dragon

v.

Town of Campton

Docket No.: 13852-93PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$67,000 (land \$23,600; buildings \$43,400) on a 1.02-acre lot with a double-wide manufactured home (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 their burden of proof.

The Taxpayers argued the assessment was excessive because:

- (1) on April 1, 1993 the mobile home was owned by Chestnut Hill Sales, Inc. and the Taxpayers did not acquire title until July 1993;
- (2) no utilities were connected until July 1993; and
- (3) the assessment is inequitable and the home should not have been assessed.

The Town argued the assessment was proper because:

- (1) the record shows that in 1992 utilities were connected;
- (2) the mobile home was in place, on a lot in a manner not significantly different from other homes and should be taxed; and
- (3) Chestnut Hill Sales and Robert and Mary Dragon are one and the same and the Taxpayers included the home on the 1992 inventory of taxable property.

Board's Rulings

The primary issue in this case is whether the double-wide manufactured house (unit) located on the Taxpayers' lot was taxable as real estate on April 1, 1993 or whether it was exempt from taxation as a unit held for sale by a dealer pursuant to RSA 72:7-a.

On April 1 the unit had been set up on a concrete pad (the two halves of the unit fitted together and finished), skirted and electricity connected for display and sales purposes. Water and sewer were present at the site but not connected to the unit. Plumbing underneath the unit tying together the plumbing fixtures to the sewer and water had not occurred. The driveway and site work (lawn, etc.) had been completed. The Taxpayers were owners of the lot; however, the unit was owned by their company's name of Chestnut Hill Sales, Inc.. Title of the unit did not transfer to the Taxpayers until July of 1993.

The applicable portion of RSA 72:7-a reads: "I. Manufactured housing suitable for use for domestic, commercial or industrial purposes is taxable in the town in which it is located on April 1 of any year... This paragraph shall not apply to manufactured housing held for sale or storage by an agent or dealer."

The board rules that the facts in this case do not support the conclusion that the unit should not be taxable as a unit held for sale or storage by a dealer. Because the unit has had significant set up work done (fitting of the two double-wide portions) and the site was essentially complete as of April 1, 1993, the unit is, in essence, no different than a stick built house which is fully taxable as of April 1. RSA 72:7-a is intended to treat as personalty manufactured housing that is the dealer's inventory at the sales lot. This unit was not located next to the Chestnut Hill Sales, Inc.'s parcel or even an adjoining subdivision of the dealer's parcel. The unit was purposely located on the lot which was intended to be its final destination. The final utility hook-ups are insignificant items relative to the Property's value and ability to be occupied.

While the Town should have technically assessed the unit to Chestnut Hill Sales, Inc. as of April 1, 1993, the net effect of ordering a change at this time would be meaningless inasmuch as the Taxpayers are the owners of Chestnut Hill Sales, Inc..

Therefore, the board finds that the unit was taxable and the Property was reasonably assessed as of April 1, 1993.

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
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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 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

Michele E. LeBrun, Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert H. and Mary L. Dragon, Taxpayers; and Chairman, Selectmen of Campton.

Dated: April 11, 1996

Valerie B. Lanigan, Clerk

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