

James C. Rogier

v.

Town of Epping

Docket No.: 13866-93PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$98,800 consisting of a three family residence at 17 Water Street identified as Map 12, Lot 349 (the Property). The Taxpayer also owns but did not appeal a dwelling at 14 Water Street assessed at \$195,000. 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.

The Taxpayer argued the assessment was excessive because:

- 1) it exceeds the value of the Property; and
- 2) an appraisal dated 10/8/93 estimated a fair market value of \$55,000 based on the sales comparison approach.

The Town argued the assessment was proper because:

- 1) there appears to only be an overassessment of \$3,400 between the Taxpayer's two properties (not including errors);
- 2) a total tax burden must be considered;
- 3) there appears to be mathematical errors in Taxpayer's adjustments;
- 4) Taxpayer's sales one and two are not comparable (exceed all parameters of comparison) and the vacancy allowance seems unreasonable; and
- 5) the current assessments are not disproportionate.

**BOARD FINDINGS**

To determine if a taxpayer is assessed for and paying their proportionate share of the tax burden, the entire estate of the taxpayer within the taxing jurisdiction must be considered. If the overassessment of one parcel is offset by the underassessment of another and, thus, the total value proportionate, no abatement is warranted for the underassessed parcel. "Justice does not require the correction of errors of valuation whose joint effect is not injurious to the appellants." Appeal of Town of Sunapee, 126 N.H. at 217, quoting Amoskeag Manufacturing Co. v. Manchester, 70 N.H. 200, 205 (1899).

Assessments must be based on market value. See RSA 75:1. Due to market fluctuations, assessments may not always be at market value. The assessment on a specific property, however, must be proportional to the general level of assessment in the municipality. In Epping the 1993 level of assessment was

as determined by the revenue department's equalization ratio. This means assessments generally were higher than market value. In this case, the Taxpayer owns two properties with a total assessment of \$294,000. The equalized assessment of the Taxpayer's entire estate is \$211,511 ( $\$294,000 \text{ assessment} \div 1.39 \text{ equalization ratio}$ ). This equalized assessment should provide an approximation of market value. To prove overassessment, the Taxpayer would have to show his entire estate in town was worth less than the \$211,511 equalized value. Such a showing would indicate the Property was assessed higher than the general level of assessment.

The Taxpayer submitted a 1993 appraisal for each of the properties. The total of the two appraisals is \$209,000 (\$154,000 - 14 Water Street and \$55,000 - 17 Water Street). As this was the extent of the market evidence submitted by the Taxpayer and because it substantially supports the Town's \$211,511 equalized assessment, no further analysis of the appraisals is necessary.

Consequently, the board finds the Taxpayer failed to show that the total assessment of all his property in Epping is excessive.

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. This, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule Page 4  
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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. 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

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Paul B. Franklin, Member

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Michele E. LeBrun, Member

**Certification**

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to James C. Rogier, Taxpayer; and Chairman, Board of Selectmen.

Dated: January 24, 1996

Clerk

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Melanie J. Ekstrom, Deputy