

Patricia Anne Corey

v.

Town of Hudson

Docket No.: 14003-93PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$83,100 (land, \$20,000; building, \$63,100) consisting of a townhouse condominium (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 granted.

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 Taxpayers carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) the Property was purchased in 1987 for \$98,000;
- 2) the real estate market has dropped drastically since 1987, especially the condo/townhouse market;

3) comparable properties sold for less than the assessed values;

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4) an appraisal dated September 1994 estimated a fair market value of \$50,000;

and

5) the Property had a fair market value of \$50,000 as of April 1, 1993 based on comparable properties and an appraisal.

The Town argued the assessment was proper because:

1) the sales used by the Taxpayer were distressed sales (two were bank foreclosures and one was a forced sale); and

2) three sales support the assessment.

BOARD FINDINGS

Based on the evidence, the board finds the proper assessment should be \$72,000.

The board reviewed the parties' material and concluded the sale at 111 Fox Hollow Drive in July 1994 for \$62,000 was the most comparable property submitted. This sale indicated a square-foot price of \$49, resulting in an estimate of the Property's value of \$61,000 rounded ($\$49 \times 1,237$ sf). This value was then increased by 1.18, which was the Town's 1993 equalization ratio as determined by the department of revenue administration. The board concluded that while the Taxpayers' appraisal certainly provided some information concerning the Property's value, the use of bank sales and distressed sales without any adjustment was not supported by the evidence. Finally, the board concludes that the Town's two sales at Quail Run Drive were superior to the Property.

If the taxes have been paid, the amount paid on the value in excess of \$72,000 shall be refunded with interest at six percent per annum from date paid

to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, the Town shall also refund any overpayment for 1994. Until the Town

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undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

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 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

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

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Certification

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Patricia Anne Corey, Taxpayer; and Chairman, Hudson Board of Selectmen.

Dated: May 11, 1995

Clerk

Melanie J. Ekstrom, Deputy

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