

John W. and Linda L. Ford

v.

Town of Weare

Docket No.: 14053-93PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$160,600 (land, \$35,500; building, \$125,100) on 2.2 acres with building (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.

The Taxpayers argued the assessment was excessive because:

- 1) an April 5, 1994 appraisal estimated a \$130,000 fair market value; and
- 2) a proper assessment would be \$130,000 based on a sales comparison, comparable property evaluations and an opinion of a certified appraiser.

The Town argued the assessment was proper because:

- 1) the Taxpayers' purchase price was \$162,500 in November of 1988;
- 2) assuming Taxpayers' conclusion that the Property was worth \$130,000 then applying the department of revenue's administration's equalization ratio of 130% indicated a fair market value of \$169,000; and
- 3) the Taxpayers' assessment was not disproportional or inequitable and therefore, the request for an abatement should be denied.

BOARD FINDINGS

Based on the evidence, the board finds the Taxpayers failed to prove overassessment. The Taxpayers' appraisal estimated a fair market value of \$130,000. The Property's equalized value was \$123,550 rounded ($\$160,600 \div 1.30$). The equalization ratio is calculated by the department of revenue administration, and is based on a study that compares the assessments on property's that have sold. In Weare, the 1.30 equalization ratio means that in 1993 this study demonstrated that the assessments exceeded market value by approximately 30%. Therefore, to correlate an assessment to a market value, one is required to divide the assessment by the equalization ratio. If the taxpayer's assessment is proportional to other assessments, even if the assessment is above the market value, there is no disproportional. This is the case here.

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 Page 3
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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

Certification

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to John W. and Linda L. Ford; Taxpayers; and Chairman, Weare Board of Selectmen.

Dated: May 2, 1995

Clerk

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Melanie J. Ekstrom, Deputy