

Sharon & Arthur Pierce

v.

Town of Barrington

Docket No.: 14248-93-PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$342,100 (land \$61,700; 2 buildings, \$122,400 and \$158,000) on a .83-acre lot with a 15-unit apartment 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) the Property's value should have been calculated on a square-foot basis, not on a per-unit basis;

- 2) the Property was purchased in August 1992, along with 12 units in Lee, for \$400,000;
- 3) comparable land and buildings were assessed lower than the Property; and
- 4) the assessment should be \$253,750 based upon an average of a sales approach and an income approach from a 1994 bank appraisal.

The Town argued the assessment was proper because:

- 1) a calculation on a per-unit basis and using the income approach accounted for differentials in sizes of apartments;
- 2) an income approach yielded a value of \$358,844;
- 3) the Taxpayers' purchase of Property was not an arm's-length transaction;
- 4) the Taxpayers' appraisal included bank sales, foreclosures, and auction sales;
- 5) the Property was given considerable depreciation due to layout, an outdated heating system, and its converted nature; and
- 6) most of the Town's and the Taxpayers' comparables were assessed higher using the per-unit analysis.

The board, after reviewing the parties' briefs, asked the board's inspector to review the parties' income analyses and to file a report. Based on the inspector's review of the parties' analyses, the inspector concluded: "The actual assessed value of \$342,100 falls within [a proper range of value]."

BOARD FINDINGS

Based on the evidence, the board finds the Taxpayers did not show overassessment.

The Taxpayers' purchase was not a market-value sale because a bank was the seller.

The income approach is the best indicator of value for this multi-unit property. Any prospective purchaser would want to know about the Property's income and expenses, which is the basis of the income approach to value.

The board reviewed the parties' income analyses and the inspector's analysis, and we find the assessment was not disproportional. In this case, we accept the inspector's report as the best indication of the Property's value.

Below is information about the Property's equalized value, the appraisal and an estimate of the Property's market value.

Equalized value

$\$342,100$ assessment \div 1.05 equalization ratio = $\$325,800$ equalized value

Appraisal

July 1994 $\$900,000$ for 48 units or $\$18,750$ a unit

15 units \times $\$18,750$ = $\$281,250$ value of Property in July 1994

$\$281,250 \times 1.095$ (time adjustment) = $\$307,970$ value of Property in 1992

Time adjustment

$(1.05 \text{ 1993 ratio} - 1.16 \text{ 1994 ratio}) \div 1.16 = 9.5\%$ drop from 1993 to 1994.

To show overassessment, the Taxpayers were required to show that the

Property was worth less than the \$325,800 equalized value. As demonstrated above, the value allocable to the Property based on the appraisal with a time adjustment back to 1993 was \$307,970. This represents a difference of

Page 4

Pierce v. Town of Barrington

Docket No.: 14248-93-PT

approximately five percent, which indicates the assessment was within a reasonable range of the allocated appraised value. We also note the appraisal was not a property-specific appraisal but rather was an appraisal of several different properties in two different municipalities. Therefore, even though the appraisal was well done, it did not provide a value estimate specifically for the Property. For instance, the above \$307,970 allocable value was based on using the appraisal's per-unit value, but the appraisal did not draw distinctions between the locations of the different properties, the differences for the condition and desirability of the different properties or the security of the income of the different properties.

Based on the above, we find the Taxpayers did not show overassessment.

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.

Page 5
Pierce v. Town of Barrington
Docket No.: 14248-93-PT

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 Sharon & Arthur Pierce, the Taxpayers; and Chairman, Board of Selectmen of Barrington.

Dated: November 13, 1995

Valerie B. Lanigan, Clerk