

Robert Gallagher

v.

Town of Goffstown

Docket No.: 14258-93PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$125,900 (land, \$36,000; building, \$89,900) consisting of a residential three-family home (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 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) the Property was purchased in July 1990 for \$130,000;
- 2) based on comparable sales, a realistic selling price for the Property would be between \$84,900 and \$64,900 with an average price of \$77,075; and

3) a proper assessment, after applying the equalized ratio, would be \$100,197.50.

The Town argued the assessment was proper because:

- 1) Taxpayer's comparables are similar physically, however, two sales were a result of foreclosures, and one sale was an asking price only;
- 2) Taxpayer's fourth comparable was an arms-length transaction; however, the condition of the Property was questionable at the time of the sale;
- 3) Taxpayer's method of averaging the comparables is not an appropriate appraisal computation;
- 4) Taxpayer's assessment was \$152,800 in 1991 but subsequently reduced due to the purchase price and again abated by the Town in 1993; and
- 5) five comparables submitted, along with the assessment-to-sale ratio analysis supports the present assessment of \$125,900.

Board Findings

The board finds the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

In their briefs the parties agreed the 1993 equalization ratio for the Town was 130%.

The board finds the four sales submitted by the Taxpayer were not generally representative of market value. The Taxpayer did not rebut the Town's statements that two of the sales were as result of foreclosure and a third was an asking price. The Town stated the fourth property was of questionable condition at the time of the transfer. Further, even if the prices submitted by the Taxpayer were reflective of market value, the Taxpayer

did not indicate how the comparables were similar or dissimilar to the subject property both in location and physical features. The Taxpayer is a realtor and should be familiar with the comparable sales approach and the adjustments that are necessary to arrive at a finding of market value.

The Town supported its assessment by submitting sales of two-family houses which were arm's-length transactions. These sales produced an assessment-to-sales ratio that supports the general level of assessment within the community and provides an indication that the Property is reasonably assessed. Further, the board would note that the Property was purchased by the Taxpayer in 1990 for \$130,000. While no doubt the Property has continued to decline in value, based on the board's general knowledge and experience of the market from 1990 to 1993, the Town's equalized assessment of \$96,846 ($\$125,900 \div 1.3$) is not unreasonable.

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. Thus, 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

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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

Paul B. Franklin, Member

Certification

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert Gallagher, Taxpayer; and Chairman, Selectmen of Goffstown.

Dated: August 9, 1995

Melanie J. Ekstrom, Deputy Clerk

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