

Michael Marquis

v.

Town of Hudson

Docket No.: 14260-93-PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$116,700 on a condominium unit (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 assessment-record card has the incorrect square footage;
- 2) the Town failed to provide the Taxpayer with an explanation of the \$30,000 amenities charge on the assessment card;
- 3) comparable properties were assessed much lower;

- 4) the Property was purchased in March 1991 for \$108,500; and
- 5) an April 1993 market analysis yielded a recommended sales price of \$89,000 to \$95,000.

The Town argued the assessment was proper because:

- 1) the Taxpayer failed to request an amenities description in writing;
- 2) no request was made to meet with the Board of Selectmen; and
- 3) the Taxpayer's comparables were not similar to the subject property.

The Town asserted the Taxpayer did not file an RSA 76:16 abatement application. The Town stated the Taxpayer submitted a November 5, 1993 letter to the Town, asking for the form, but the Taxpayer never returned a completed form. The Taxpayer, however, stated he filed the abatement application, which the Taxpayer provided the board. Additionally, the Taxpayer asserted the Town, which only now claims an abatement application was not filed, answered the Taxpayer's abatement application. Given this information, the board finds an abatement application was filed.

BOARD FINDINGS

Based on the evidence, the board finds the Taxpayer did not show overassessment. The Taxpayer raised four basic issues:

- 1) correct square footage;
- 2) comparable properties;
- 3) amenities; and
- 4) fair market value.

We will address each of these in order.

Square Footage

The Taxpayer did not show the square footage on the assessment-record card was in error. The board, along with its inspector, reviewed the assessment-record card sketch and the Taxpayer's building sketch and concluded the assessment-record card sketch was accurate. The board's inspector's sketch is attached. Apparently the Taxpayer did not include the square footage of the entryway, which is consistent with the Taxpayer's building sketch that indicates only "living space" was calculated.

Comparable Properties

The board finds the Taxpayer's comparison does not show overassessment. The Taxpayer's analysis had two major flaws: 1) the Taxpayer apparently performed the analysis using only the first-floor living space, ignoring other space such as decks, porches and garages; and 2) the Taxpayer's analysis, despite the heading "Structure Only [,]" divided the total assessment (land and building) by the living space. A corrected comparison shows consistent assessment.

	Effective Area	Building Assess.	Assessment/sf
Subject Property	1,699 sf	\$85,200	\$50.15
49 Highland	1,450 sf	\$74,000	\$51.05
20 Scottsdale	1,617 sf	\$95,900	\$59.30

Amenities

The Taxpayer did not understand the amenities line on the assessment-record card. The Taxpayer's misunderstanding frequently occurs. Unfortunately, the Town's assessor failed to explain the amenities value to the

Taxpayer or to the board in the Town's brief. In the future, we hope the

Town's assessor will use Page 4

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the brief as an opportunity to explain to the board and to the taxpayer how the assessment was calculated.

As the board understands the amenities assessment, the Town performed an analysis of condominium sales by subtracting from the price the estimated depreciated building cost and then by treating the remaining value as an amenity value. This amenity value reflects that value held by the unit owner that is in addition to the building cost, and the amenity value includes such things as land, infrastructure (roads and utilities) and other amenities if any. For example, 20 Scottsdale Drive sold for \$90,285. The equalized building value for 20 Scottsdale Drive was \$73,545 (depreciated building assessment divided by 1.10, which was the revenue department's equalization ratio). Thus the \$16,740 difference between the building value and the sales price would be called the amenity value. However, to determine the appropriate amenity value, several sales would need to be analyzed.

Market Value

The Taxpayer's only market value evidence was a Prudential comparative market analysis that indicated a recommended price range of \$89,000 to \$95,000.

The Taxpayer did not submit any of the backup information necessary to compare the sale properties with the appealed Property. The market analysis indicated the average sale price for similar properties was \$93,145, but the analysis did not make any adjustment for differences between the sale properties and the appealed Property. For example, 20 Scottsdale Drive, which the Taxpayer conceded was a good comparable, sold for \$90,285. However, 20 Scottsdale is 82

square feet smaller than the Property and does not have a fireplace.

Therefore, the

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following adjustment could be made to 20 Scottsdale Drive to make it comparable

to the Property.

\$90,180	20 Scottsdale sale price
\$ 4,100	(size adjustment -- 82 square feet x \$50.15/sf)
<u>\$ 1,500</u>	fireplace
\$95,780	Total

To compare this adjusted \$95,780 to the Property's assessment requires either increasing the adjusted sales price by the equalization ratio ($\$95,780 \times 1.18 = \$113,020$) or decreasing the Property's assessment by the equalization ratio ($\$116,700 \div 1.18 = \$98,900$). Either way, the sale at 20 Scottsdale supports the assessment, and without additional market evidence, the board cannot find 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.

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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 Michael Marquis, Taxpayer; and Chairman, Board of Selectmen.

Dated: September 15, 1995

Melanie J. Ekstrom, Deputy

Clerk

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