Estate of James Harriman and Katherine Harriman

v.

Town of Ashland

Docket No.: 14386-93PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of $22,300 (land $19,500; buildings $2,800) on a .04-acre lot with a boathouse (the Property). The Taxpayers also owned, but did not appeal, another lot in the Town assessed at $67,900. 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 prove the Property was disproportionately assessed.

The Taxpayers argued the assessment was excessive because:

(1) the boathouse is at least 100 years old;

(2) the land has had to be built up with tires in order to park cars on the lot;

(3) there is only 25 feet of river frontage and the river is too shallow in the fall to use a boat;

(4) the assessment is disproportionate when compared to an abutter (Dupuis) who has a larger boathouse with second floor storage; and

(5) the fair market value as of April 1993 was $15,000.

The Town argued the assessment was proper because:

(1) a 50% market adjustment was applied to the land value to account for its location on the river and distance from Little Squam Lake and a 20% topography adjustment was applied to account for the lot's steepness and slope and for the fact that the lot is undeveloped (no water or sewer);

(3) sales on the riverfront subsequent to the revaluation indicate that the front foot value of $750 may have been conservative;

(4) a minimal contributory value was placed on the boathouse because of its age and shaky condition; and

(5) the Taxpayers have not submitted any conclusive evidence of the Property's market value.

Board's Rulings

Based on the evidence, we find the Taxpayers failed to prove the Property was disproportionately assessed. The Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessment generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18. The Taxpayers argued that the abutter (Dupuis) had a better boathouse. The Dupuis assessment acknowledges the fact that the boathouse is

larger and the depreciation applied was less than the subject boathouse's depreciation resulting in a greater assessment for the Dupuis boathouse of $7,900 versus the subject boathouse's assessment of $2,800. The board finds that the Town's assessment of a contributory value for the subject boathouse was proper.

The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982). The board finds the Property has value in that it provides access to the lake. Further, the evidence of sales of riverfront property supported the Town's assessed value.

A motion for rehearing, reconsideration or clarification (collectively "rehearing 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 rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing 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 rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing 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.

Harriman v. Town of Ashland
Docket No.: 14386-93PT

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

_____
George Twigg, III, Chairman

_____
Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Katherine Harriman, Taxpayer; Mary E. Pinkham-Langer, Agent for the Town of Ashland; and Chairman, Selectmen of Ashland.

Dated:March 12, 1996

_____
Valerie B. Lanigan, Clerk

0001