

Robert G. Butler

v.

Town of Milford

Docket No.: 14697-93PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$114,100 (land \$48,800; buildings \$65,300) on a 12,500 square-foot lot with a house (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 his burden.

The Taxpayer argued the assessment was excessive because:

- (1) the Property was purchased in May 1993 for \$85,650;
- (2) an April 1993 appraisal estimated an \$87,000 value;

(3) identical properties in the neighborhood had lower assessments;

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(4) the Town's comparables were not comparable in size, living space or improvements;

(5) a neighboring property declined \$20,000 in value in two years' time; and

(6) the assessment should be \$87,000.

The Town argued the assessment was proper because:

(1) the assessment, when equalized by the 1993 equalization ratio of 1.39%, equates to \$82,100, which is less than the Taxpayer's 1993 purchase price and appraisal; and

(2) comparable properties in the neighborhood support the Property's assessment.

#### **Board's Rulings**

Based on the evidence, the board finds the Taxpayer failed to show overassessment.

Assessments must be based on market value, see RSA 75:1, and must be proportional to the general level of assessment in the municipality. Here the 1993 level of assessment was 139% as determined by the department of revenue's equalization ratio. This means assessments generally exceeded market value by 39%. Thus, the Property's equalized assessment was \$82,090 ( $\$114,100$  assessment  $\div$  1.39 equalization ratio). This equalized assessment should provide an approximation of market value. The Property was purchased in April 1993 for \$85,650. See Appeal of Lake Shore Estates, 130 N.H. 504, 508 (1988) (an arm's-length sale is one of the "best indicators of the property's value."). The 1993 purchase price (\$85,650) exceeded the 1993 equalized

assessment (\$82,086). Alternatively, we could compare the \$114,100 assessment to the sales price multiplied by the 139% ratio -- \$114,100 versus \$119,100.

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Additionally, the Taxpayer's appraiser estimated an \$87,000 April 1993 value.

The above analysis and evidence demonstrates the Taxpayer was not overassessed.

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 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

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

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**Certification**

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

Dated: August 9, 1995

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Lynn M. Wheeler, Deputy Clerk

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