

Thomas A. Sullivan Jr.

v.

Town of Sunapee

Docket No.: 14713-93-PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 adjusted assessment of \$131,800 on a .92-acre lot and building (the Property).

This assessment represents an adjustment from the original \$154,300 assessment. 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 land is sloping with little flat area;
- 2) the building has many physical flaws, including poor windows, and incomplete insulation;

- 3) the land area was incorrectly measured; and
- 4) comparable properties sold for less in the same tax year.

The Town argued the assessment was proper because:

- 1) an abatement given in June 1994 accounted for the incorrect land measurements;
- 2) poor window quality and limited insulation were also included in June 1994 abatement;
- 3) 8% depreciation was given for the physical flaws, including the wet basement, etc.;
- 4) the Taxpayer's comparables were either in severe disrepair or of different size and style; and
- 5) the Town's comparables were assessed similarly to the subject property.

BOARD FINDINGS

Based on the evidence, the board finds the Taxpayer did not show overassessment for the following reasons:

- 1) the Town reviewed the assessment card and the Property and corrected errors on the card;
- 2) the Taxpayer did not show what errors still were uncorrected and how these errors resulted in overassessment;
- 3) the Taxpayer submitted comparables but did not show what adjustments were needed to correlate the comparables' values to the Property's value;
- 4) the Taxpayer's \$112,000 value estimate was only supported by a statement that the estimate was based on "selling prices in the area of my house"; and
- 5) the Town performed an analysis that showed the Property was not

overassessed.

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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.

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 Thomas A. Sullivan Jr., the Taxpayer; and Chairman, the Board of Selectmen.

Dated: August 9, 1995

Clerk

0006

Melanie J. Ekstrom, Deputy

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ORDER

This order responds to the "Taxpayer's" rehearing motion, which is granted. The Taxpayer asserted the "Town" had failed to correct measurement errors on the assessment-record card. After receiving the motion, the board asked the Town to submit a corrected assessment-record card, which showed the assessment should have been \$125,300. Therefore, the board grants the rehearing motion and orders the Town to use the corrected assessment-record card and the \$125,300 assessment.

If the taxes have been paid, the amount paid on the value in excess of \$125,300 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, unless the Town has undergone a general reassessment, the Town shall also refund any overpayment for 1994. Until the Town undergoes a general

reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

If the Town disagrees with this decision, it must file a rehearing motion within thirty (30) days of the clerk's date below. See RSA 541:3. If the Taxpayer still disagrees with the board's decision, he should consult an

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about what procedural steps to take next. Any step, however, must be performed within thirty (30) days of the clerk's date below. See RSA 541:6 (appeal to supreme court).

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 Thomas A. Sullivan Jr., the Taxpayer; and Chairman, the Board of Selectmen.

Date: November 20, 1995

Valerie B. Lanigan, Clerk