Conrad Laquere

v.

Town of Richmond

Docket No.: 14735-93PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessments on the following "Properties."

Lot No.	Assessment	Description
5	$ 33,500	vacant, 4.49-acre lot
5A	$ 24,100	vacant, 3.03-acre lot
5B	$ 28,150	vacant, 3.04-acre lot
5C	$ 24,400	vacant, 3.22-acre lot
5D	$ 24,935	vacant, 3.10-acre lot
5E	$ 28,300	vacant, 4.65-acre lot

For the reasons stated below, the appeal for abatements are granted.

The Taxpayer has the burden of showing the assessments were 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 carried this burden and proved disproportionality.

The Taxpayer argued the assessments were excessive because:

(1) the Property was purchased in 1992 for $70,000 and was then subdivided and marketed for $20,000 to $25,000 in mid-1993 with no sales;

(2) lot 5A sold for $16,900 in September 1995, and lot 5E sold for $12,500 in July 1995;

(3) the market was better in 1995 than in 1993;

(4) the location is a little too far from the Troy-Marlboro area; and

(5) the equalized values exceeded the market values, which the Taxpayer supported by describing his marketing effects and some other sales in the Town.

The Town did not appear but consistent with our Rule, TAX 202.06(h), the Town was not defaulted. This decision is based on the evidence presented to the board.

Board's Rulings

Based on the evidence, the Taxpayer showed overassessment, and the board orders the assessments shown in Table 1 below.

Table 1

Lot No.	Ordered Assessment
5	$ 18,000
5A	$ 16,900
5B	$ 15,900
5C	$ 15,900
5D	$ 15,900
5E	$ 15,900

The Town did not appear and did not file any documents with the board, and therefore, the board had the Taxpayer's unrefuted testimony concerning the Properties' values.

Table 2 below states the assessments, the equalized assessments and the Taxpayer's requested assessments. The two sales are stated at the end of the table.

Table 2

Lot No.	Assessment	* Equalized Assessment	Taxpayer's Value Opinion
5	$ 33,500	$ 27,920	$ 18,000
5A	$ 24,100	$ 20,090	$ 16,900 **
5B	$28,150	$ 23,460	$ 15,900
5C	$ 24,400	$ 20,340	$ 15,900
5D	$ 24,935	$ 20,780	$ 15,900
5E	$ 28,300	$ 23,590	$ 15,900 **

* Equalized assessment = assessment ´ 1.20 equalized ratio.
** Sales
- 5A $16,900 September 29, 1995
- 5E $12,500 July 3, 1995

The Taxpayer explained his involvement in the development, marketing and sales of the Properties. The board found the Taxpayer to be a credible and informed witness. His testimony supported an abatement as did the sales that subsequently occurred in the development. Additionally, the three other sales submitted by the Taxpayer, shown on Table 3 below supported at least the Taxpayer's judgment that land was generally overassessed in the Town and his opinion of the Properties' values. The board did not, however, rely on these other sales because the Taxpayer

did not provide information about the circumstances of those sales, e.g., names of

buyers and sellers and extent of

marketing. Nonetheless, the Town was aware of the Taxpayer's proffered sales, and it did not file any information either.

Table 3
Taxpayer's Other Sales

Property	Sale Price	Sale Date	Size
Monument Road (4C/17)	$ 17,500	3/19/93	2.0 acres
Greenwoods Road (1C/5I)	$ 13,000	10/30/92	10.29 acres
Whipple Hill (3D/2B)	$ 16,000	11/27/92	3.5 acres

If the taxes have been paid, the amount paid on the value in excess of $98,500 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 and 1995. 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.

Whenever the board grants an appeal because of clerical error or plain and clear error of fact, and not interpretation, RSA 76:7-a authorizes the board to order the Town to reimburse the Taxpayer's filing fee. The board finds such an order is appropriate, and the Town is ordered to reimburse, within ten (10) days of the clerk's date, the Taxpayer's $65.00 filing fee.

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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Conrad Laquere, Taxpayer; and Chairman, Selectmen of Richmond.

Dated: March 11, 1996

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Valerie B. Lanigan, Clerk

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