

Steven J. Gervais

v.

Town of Allenstown

Docket No.: 15062-94PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1994 assessment of \$17,100 on a mobile-home 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 granted.

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 carried his burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the Property needs extensive repairs;
- (2) the Property was purchased in June 1993 for only \$8,000 and no renovations have been made;

(3) an insurance company will only insure the Property for up to \$10,000;

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(4) another mobile home, which was completely renovated, had a \$12,000 assessment; and

(5) Epsom Trailer Sales estimated a \$5,000 market value.

The Town argued the assessment was proper because:

(1) the Taxpayer's comparable unit is located in Epsom;

(2) the mobile-home park's previous owner filed for bankruptcy, which attributed to the Taxpayer's low purchase price;

(3) the Town took several trailers for nonpayment of taxes and later resold them at below market prices, which had a negative impact on the marketability of mobile homes; and

(4) the units on either side of the Property were assessed at \$17,700 and \$20,500, both of which support the Property's assessment.

BOARD'S RULINGS

Based on the evidence, the board finds the proper assessment to be \$10,900. This assessment is based on a market value finding of \$8,000 multiplied by the Town of Allenstown's 1993 equalization ratio of 1.36.

The board finds the purchase of the Property by the Taxpayer in June 1993 for \$8,000 is an indication of market value that should be given considerable weight. Generally, the sale of the subject property, if there is no evidence submitted to disqualify it as an arm's-length transfer and if generally conforming to other general market data, is given considerable weight by the board in its deliberations. Appeal of Lakeshore Estates, 130 N.H. 504 (1988).

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In this case, we find that the Town's description of the factors that could affect the Taxpayer's purchase price were in most cases general market conditions (general downturn in the market and high taxes in Allenstown), and are reflected in the Town's equalization ratio. Also the Town's argument that the Property's location in a bankrupt mobile home park is a general market factor that could be reflected in the assessment. See Paras v. City of Portsmouth, 115 N.H. 63 (1975) (In arriving at the proper assessment, the municipality should consider all factors affecting value.)

Given the paucity of other market evidence, the board also reviewed the 1994 stratified ratios performed by the department of revenue administration (DRA). Prior to 1994 the DRA had not performed any stratified ratios for Allenstown. In the 1994 stratification, however, DRA determined, based on 24 sales of manufactured housing (which comprised 36% of the sales used to determine the townwide 1994 equalization ratio), that manufactured housing had a median ratio of 2.35. During the same time period the townwide equalization ratio was 1.46. This general market evidence indicates that, as a class, in 1994 manufactured housing appears to be assessed at a significantly higher level than all other properties in Town.

Further, the board reviewed the photographs submitted and the description of the Property at the time of purchase by the Taxpayer. Both indicate the unit was not in good condition and the sales price of \$8,000 most likely reflects both the general market and the physical condition of the

unit.

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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.

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

Paul B. Franklin, Member

Michele E. LeBrun, Member

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Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Steven J. Gervais, Taxpayer; and Chairman, Selectmen of Allenstown.

Date: May 10, 1996

Valerie B. Lanigan, Clerk

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