

Timothy and Jean Aiken

v.

Town of New Ipswich

Docket No.: 15067-94PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1994 assessment of \$355,800 (land \$37,800; buildings \$318,000) on an 8.8-acre lot with a single-family home (the Property). The Taxpayers 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 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 carry this burden.

The Taxpayers argued the assessment was excessive because:

(1) the home has many expensive looking features that are deceptive, e.g., the stone fireplace is only routed and painted particle board, and the "cherry

wood" is really a low-quality imitation;

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- (2) an appraisal estimated a \$251,000 value on April 1, 1994, and the Property was built in 1990 for \$250,000;
- (3) the Town used the cost approach to value the Property when RSA 75:1 requires assessments be based on market value;
- (4) the Town rated the Property as excellent when it is only average;
- (5) abatement requests resulted in assessment increases;
- (6) the Property's ratio was 1.42 when the average ratio in Town, based on the Taxpayers' analysis, was 107.6; and
- (7) the Property's view was reduced to that of trailer homes when an abutter cut trees and constructed a driveway.

The Town argued the assessment was proper because:

- (1) the Property is one of seven excellent-grade homes in the Town and one of only two contemporary homes;
- (2) the only comparable property in the Town supports the Property's assessment;
- (3) the Property has a 4,058 square-foot home when the average home has only 1,500 square feet;
- (4) the Taxpayers' appraiser's \$258,000 cost approach value, when equalized by the Town's 1.36 equalization ratio, equals \$387,600 -- \$31,800 more than the Property's actual assessment;
- (5) the Taxpayers' comparables are not comparable in quality, size or per-square-foot price;
- (6) the house measurements were corrected, resulting in the assessment

increase; and

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(7) the Taxpayers' appraisal was flawed because the appraiser did not include the basement area and graded the house only average.

Board's Rulings

Based on the evidence, the board finds the Taxpayers did not show overassessment.

The Taxpayers' appraiser estimated a \$251,000 value. The Property's equalized value was \$261,700 ($\$355,800 \text{ assessment} \div 1.36 \text{ equalization ratio}$).

Thus, the difference between the Taxpayers' and the Town's value estimates was only 4%. The Town, adequately responded to the Taxpayers' appraisal. See Town's brief, section II, paragraph 3. Additionally, the board notes that the Town stated (and the photographs showed) the Property's view, but the Taxpayers' appraiser did not address the view.

The Town also demonstrated that it had reviewed the assessment and found it to be reasonable. The excellent rating on the Property's house was rated consistently with other properties, and the Town supported this with other comparables that were also graded as excellent. The Property may not be an excellent-grade property, but the Town has apparently applied an internal grading of excellent even if other cost manuals might use a lower grade. Moreover, the Taxpayers did not show how the excellent grade resulted in overassessment.

Finally, the equalized assessment, based on the board's general valuation knowledge, does not seem unreasonable for the Property, and it was arrived at consistently with other assessments in the Town. Therefore, the

Taxpayers have not carried their burden of proof.

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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, Chairman

Ignatius MacLellan, Esq., Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Timothy and Jean Aiken, Taxpayers; and Chairman, Selectmen of New Ipswich.

Date: June 17, 1996

Valerie B. Lanigan, Clerk

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