

Charles B. Converse

v.

Town of Allenstown

Docket No.: 15128-94PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1994 assessment of \$41,450 a vacant, 27.95-acre lot (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 and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) all the valuable timber was removed from the Property, reducing its value;
- (2) the Property lacks the frontage necessary to subdivide;
- (3) the Property receives no Town services;

(4) the Property was purchased on July 13, 1994 for \$25,000;

(5) the Property's fair market value is \$25,000 based on its physical condition and location; and

(6) the Property would never sell for its assessed value, and an investor offered to purchase the Property for \$10,000.

The Town argued the assessment was proper because:

(1) the assessment, when equalized by the 1.46 ratio, equals \$28,400, well within range of the Taxpayer's purchase price; and

(2) the Property was not marketed by a realtor and a newspaper only ran an ad listing the Property for sale for 5 weeks, and therefore, the Property was not exposed to the open market.

BOARD'S RULINGS

The Taxpayer argued that the Property was purchased for \$25,000, it was an arms'-length transaction and therefore, the assessment should be \$25,000.

We find that while the Property was not marketed through a realtor and may not have been exposed to the market for the normal length of time, the sale is not significantly under market and is generally reflective of the Property's value.

Normally if a sale indicates the market value of a property, the assessment should be quite similar to it provided the general level of assessment within the municipality is approximately 100% of market value. However, in this case the level of assessment within Allenstown exceeds market value on an average by 46%. The 1994 equalization ratio for the Town as determined by the department of revenue administration was 1.46. Therefore, to equate the Town's assessment of \$41,450 to an indicated market value, the assessment needs to be divided by the Town's ratio. The assessment in this

case equates to an indicated market value of approximately \$28,400 ($\$41,450 \div 1.46$). The board finds this indicated market value is within the range of the market value indicated by the Taxpayer's purchase of the Property. Therefore, we find the assessment is reasonable and proportional.

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.

Page 4
Converse v. Town of Allenstown
Docket No.: 15128-94PT

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

Certification

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

Dated: April 26, 1996

Valerie B. Lanigan, Clerk

0006