

Gilbert W. & Helen P. Cox

v.

Town of Weare

Docket No.: 15446-94PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1994 assessment of \$140,500 on a single-family home on a 1.91-acre lot (the Property). 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 their burden to prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the June 1993 purchase price plus the money spent before April 1, 1994, on the garage was approximately \$103,000, and the \$103,000 should have been the April 1994 market value; and
- (2) the equalization ratio should be 1.14 or 1.15 not 1.29 as used by the Town.

The Town argued the assessment was proper because:

- (1) the Taxpayers used improper methodology in calculating the 1.14/1.15 ratios, including errors in the verification of sales, in the time frame used and in the verification of some assessment information; and
- (2) the Taxpayers are incorrect in asserting a \$103,000 market value.

The Town submitted a substantial report to support its position.

Board's Rulings

Based on the evidence, the board finds the Taxpayers did not show the Property was overassessed. Additionally, the Town submitted evidence supporting the assessment.

At the hearing, the board ruled: 1) that the Taxpayers did not prove that the department of revenue administration's (DRA) equalization ratio was in error; and 2) the Taxpayers did not prove their equalization ratio was reflective of the Town's general level of assessment. The board rejected the Taxpayers' ratios because: 1) the DRA's ratio study covered October 1993 to September 1994 while the Taxpayers' sales occurred outside of that time period; 2) the Taxpayers did not properly verify the sales in their ratio study because all the Taxpayers did was to verify that the grantor and grantee were not related names; and 3) the Taxpayers failed to verify whether the proper assessment was used in their ratio study, especially for houses under construction. Because the Taxpayers failed to prove an alternate ratio, the board will use the DRA's 1.29 equalization ratio. See Appeal of City of Nashua, 138 N.H. 261, 265-67 (1994).

While the assessment was \$140,500, the equalized assessment was \$108,900 (\$140,500 assessment ÷ 1.29 equalization ratio). Therefore, the Taxpayers were required to show that the Property was worth less than \$108,900. See id. at 265. The Taxpayers failed to do this. The Taxpayers purchased the Property in June 1993 for \$87,900, and they had expended approximately \$15,000 by April 1, 1994 for the garage and breezeway. Thus, as of April 1, 1994, the Taxpayers had approximately \$102,900 invested in the Property. This is within 6% of the equalized assessment. However, the Taxpayers purchased the Property through a relocation company, and the Property had been vacant for six months. These factors raise a question about whether the Taxpayers' purchase was fully indicative of market value. Additionally, the Taxpayers' June 1993 appraisal estimated a \$95,000 value for the Property before the \$15,000 of improvements were done. Adding the \$15,000 to the \$95,000 equates to \$110,000, which exceeds the equalized value. The Taxpayers did not supply any other information to support the Property's market value, and the board concludes the Taxpayers did not show the Property was overassessed. Rather, the Taxpayers own evidence demonstrated the Property was reasonably assessed.

Furthermore, the Town performed an extensive review and analysis of the Property's value and proportionality, and that evidence also demonstrated the Property was properly assessed.

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 Page 4
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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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

Douglas S. Ricard, Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Gilbert W. & Helen P. Cox, Taxpayers; George Hildum, Representative for the Town of Weare; and Chairman, Board of Selectmen of Weare.

Date: October 28, 1996

Valerie B. Lanigan, Clerk

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