

Robert J. and Jeanne W. Bradley

v.

Town of Sutton

Docket No.: 15485-94PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1994 assessment of \$197,900 (land \$34,200; buildings \$163,700) on a .54-acre lot with a church converted to a single-family house (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 this burden and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the main portion of the former church edifice is actually still a large open area with only the front balcony area finished with two stories of living space;
- (2) if the assessment was revised by treating the open area as one story, the building assessment would be reduced from \$151,300 to \$115,605;

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- (3) an appraisal done for loan purposes in 1991 estimated a \$175,000 market value;
- (4) the Property is adjacent to a cemetery, and the Property is close to the town highway garage, both of which affect the Property's marketability; and
- (5) the Property has relatively high maintenance due to its size.

The Town argued the assessment was proper because:

- (1) the village of Sutton Mills has become a desirable area; and
- (2) the framing of the church is at least a two story, and thus, the methodology of valuing it as two stories was appropriate with functional depreciation for the lack of the second floor in the main edifice area and for the utility and desirability of such a unique property.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to show overassessment.

Assessing a unique property is always challenging. The Town, however, demonstrated the assessment was reasonable and was calculated by giving due consideration to all relevant factors. The board finds the Town's methodology concerning the number of stories to be correct as applied here. The dominant framing is two stories with functional depreciation adjustment for the one-story useable areas. The Town also adequately responded to the Taxpayers' concerns about the cemetery and town garage. Neither factor warranted any adjustment.

The board reviewed the Taxpayers' appraisal but gave it little weight because:

- 1) it was performed for a bank for a loan, which can affect the value estimate;
- 2) it did not include any special analysis about how to value this unique property; and
- 3) it was insufficient to meet the Taxpayers' burden, especially considering the reasonableness of the Town's methodology.

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

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 Robert J. and Jeanne W. Bradley, Taxpayers; and Chairman, Selectmen of Sutton.

Date: September 16, 1996

Valerie B. Lanigan, Clerk

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