

Philip Somers

v.

Town of Strafford

Docket No.: 15616-94PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1994 adjusted assessment of \$93,400 (land \$30,800; buildings \$62,600) on a 1.60-acre lot with a single-family house (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 was unlawful, resulting in the Taxpayer paying a disproportionate share of taxes. See RSA 76:16-a; TAX 203.09(a); Appeal of City of Nashua, 138 N.H. 261, 265 (1994). To establish disproportionality, the Taxpayer must show that the Property's assessment was higher than the general level of assessment in the municipality. Id. The Taxpayer failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

- (1) the Property is located in a FEMA flood zone, and most of the lot is unusable;
- (2) the Property lacks deeded access to Bow Lake;

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- (3) the Property was purchased in October 1992 for \$72,000;
- (4) an appraisal estimated an \$82,000 value as of April 1, 1994;
- (5) the assessment was excessive when compared to the sales prices on comparable properties; and
- (6) comparable homes' selling prices ranged from \$60,000 to \$90,000, and vacant lots' selling prices ranged from \$11,000 to \$19,900.

The Town argued the adjusted assessment was proper because:

- (1) the assessment was adjusted to address the Taxpayer's concerns;
- (2) the Taxpayer's comparables were not comparable in size, style or construction quality; two were prior foreclosure sales and one was under construction; and
- (3) two properties comparable in size and style supported the Property's assessment.

BOARD'S RULINGS

Based on the evidence, the board finds the Taxpayer failed to show overassessment for the following reasons.

- 1) The Taxpayer's 1992 purchase was from a bank, and therefore, is not considered a market-value sale.
- 2) Concerning the report filed by Kathleen Collins, the board finds the report did not provide a supportable estimate of the Property's market value.

Ms. Collins did not perform any sales analysis. Rather, she simply listed certain comparables and their attributes, but she did not present any supported adjustments for differences between the comparables and the Property. Without this analysis, the board cannot rely on the report.

3) Concerning the appraisal, the board did not have confidence in its market-value conclusion for the following reasons:

a) the appraisal, due to the limited market activity, required that large adjustments (both the number and the quantity) be made to the comparables;

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b) the appraiser did not adequately explain how the specific adjustments were calculated;

c) the board did not receive photographs or property-record cards of the comparables, preventing the board from reviewing the comparability of the comparables; and

d) the board had a specific question about the sufficiency of the location adjustment. (The Property is located almost across from the lake while the comparables, especially comparable 1, may or may not have the same substantial lake influence.)

4) The Town reviewed the assessment and made adjustments for certain issues.

Based on the above factors, the board finds the Taxpayer did not carry his burden.

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 5/41:3; 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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Douglas S. Ricard, Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Kathleen Collins, Agent for Philip Somers, Taxpayer; and Chairman, Selectmen of Strafford.

Date: April 10, 1997

Valerie B. Lanigan, Clerk

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