Barbara McDowell

v.

Town of Northfield

Docket No.: 15746-94PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1994 assessment of $105,539 (buildings $71,400; land $47,300) on a 19.5-acre lot with 18.5 acres in current use and a 1-acre lot with a house not in current use (the Property). The Taxpayer also owns, but did not appeal, 5 other properties in the Town (all in current use) with a combined, $1,239 current-use assessment. 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 this burden.

The Taxpayer argued the assessment was excessive because:

(1) the Property is in poor condition;

(2) the Property had a $65,000 to $70,000 value as of April 1, 1994 based on comparable sales;

(3) a May, 1995 appraisal estimated an $89,000 value, including the current-use land; this estimate is high because restored antique capes were used for comparables when the Property is not restored;

(4) comparable homes on 1± acres sold between $59,000 and $71,125 from April, 1993 to April, 1994; and

(5) land sales indicate a 1 acre lot's value is between $14,000 and $16,000.

The Town argued the assessment was proper because:

(1) the Property was assessed according to criteria established during the 1993 revaluation and the same methodology was used throughout the Town;

(2) the building value was depreciated for age and condition;

(3) the Property is located in an above-average neighborhood, which is reflected in the 1 acre site value;

(4) the equalized assessment (not including the current-use value) is within range of the Taxpayer's appraisal;

(5) the appraisal is flawed because the comparables are not comparable in land size and the appraiser failed to support his adjustments with market data;

(6) the appraiser's adjustments for land size equate to less per acre than the Property's actual assessment, even in current use and the appraiser failed to recognize the Property's subdivision potential;

(7) the Taxpayer must use the entire Property to set its value, not just one

component; and

(8) vacant land sales cannot support the value of a 1-acre improved site.

BOARD'S RULINGS

The Taxpayer submitted evidence in two fashions to show overassessment. First, the Taxpayer submitted an appraisal (Shea appraisal) which valued the Property as if not in current use (NICU). Second, Kathleen Collins, the Taxpayer's agent (Agent), submitted in her report an estimate of value for the 1-acre site NICU. The board finds both arguments fail for the following reasons.

The Property, if not partially assessed in current use, would have been assessed at $118,700 or a market value of $107,900 ($118,700 ÷ 1.10) by applying the department of revenue's (DRA) 1994 ratio of 1.10. The Shea appraisal estimated the Property's market value without any consideration for current use at $89,000. The board was unable to give the Shea appraisal any weight because it was very cursory in nature and did not include adequate explanation and documentation of its adjustments. Further, verification of data concerning comparable sales should be through contact with either the grantor, grantee or the selling broker if one is involved. Sales or financing concessions are difficult to determine without this level of verification. Some of the adjustments were illogical and were without explanation such as for acreage, age/condition, room count and functional utility differences. If adjustments are made they should be supported wherever possible with market

data[1]. It is not sufficient to just state the size of the adjustment as the appraiser did for the site adjustment in the addendum. Further, the appraiser did not address the subdivision potential of the parcel. While the sketch of the parcel submitted was rough, the general dimensions of the lot indicate it has subdivision potential that the Shea appraisal did not address.

The second manner in which the Taxpayer argued the Property was overassessed was in submitting arguments relative to the value of the 1-acre site NICU and buildings. The assessed value of the 1 acre NICU and the buildings total $101,100 or market value of $91,900 ($101,100 ÷ 1.10) by applying the DRA's 1994 equalization ratio of 1.10. Therefore, for the Taxpayer to be successful in her appeal, she needed to present credible evidence that the Property's market value for that portion of the Property was less than $91,900.

First, for the reasons stated above, the board finds the Shea appraisal again is not adequate evidence on which to grant an abatement even if narrowly viewed as 1-acre NICU with buildings.

Second, the Agent provided lists of sales of unimproved properties to support her argument that the Town's site value for the 1 acre of $29,700 was excessive. Based on these sales, the Agent argued the site should be valued

[1] For example, the board notes that the Shea appraisal's comparable #4 contained 12 acres with a building. It is possible from the assessment-record card information and from general market data, for the appraiser to extract a value on a per-acre basis for the excess acreage. Based on the assessment-record card information and building valuations, the board has estimated that the rear land contributed over $800 per acre to that sale. While certainly one sale does not provide a good indication upon which to base such an assumption, this type of market extraction should have been performed in the Shea appraisal rather than undocumented assumptions for rear land value.

between $14,000 and $16,000. The board finds these sales are of undeveloped land versus the Taxpayer's developed site. Thus, for there to be an appropriate comparison, an adjustment would need to be made for the site development (driveway, septic, well, etc.) that supports the dwelling. Further, the land and building sales submitted by the Agent and their assessment-record cards generally support a higher site value for developed property. The Shea appraisal's comparables and the four additional land and buildings sales submitted by the Agent all were assessed proportionately (considering the Town's 110% equalization ratio) to their sales prices. All these improved properties had site values that were comparably assessed as the Property. Thus, if the board were to agree that developed site values were worth approximately $15,000 and then applied to all these comparables, all those properties would result in being underassessed compared to their sale prices. This exercise shows that the Town's methodology is reasonable and market related for improved sites.

Third, the Agent submitted four additional land and buildings sales but made no adjustments to account for dissimilarities between the Property and the sales. If no adjustments were necessary, these sales would truly be the most comparable and should have been used in the Shea appraisal. However, the appraiser states in the appraisal that "Due to a relatively slow market it was necessary to use sales that required large and numerous adjustments". This statement leads the board to believe the Agent's lists require adjustments to arrive at a value indication for the Property. Simply submitting sales with no adjustments does not carry the Taxpayer's 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 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

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Paul B. Franklin, Chairman

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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 Barbara McDowell, Taxpayer; and Chairman, Selectmen of Northfield.

Date: May 20, 1997

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Valerie B. Lanigan, Clerk