

Anne Krantz

v.

Town of Amherst

Docket No.: 15830-94PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1994 assessment of \$306,200 (land \$100,100; buildings \$206,100) on a 2.10-acre lot with a single-family home (the Property). For the reasons stated below, the appeal for abatement is granted.

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 carried this burden.

The Taxpayer argued the assessment was excessive because:

- (1) the size of the house is incorrect on the Property's assessment card and should be reduced;
- (2) there has been a disproportionate change in assessed valuation for the

Property when compared to similar neighborhood properties;

(3) a comparison of the absolute assessments of neighborhood properties shows an inequity in assessments;

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(4) the land value segment of the assessment is too high when compared to other properties in the neighborhood; and

(5) the proper assessment should be \$280,000.

The Town argued the assessment was proper because:

(1) there are some small differences between the Property and 29 Storybook Lane that would necessitate adjustments, including the number of bathrooms and some finished basement area;

(2) there may be an error of fact concerning the number of bathrooms at 29 Storybook Lane; and

(3) the adjustment for power lines near 29 Storybook Lane is approximately \$10,000.

Board's Rulings

Based on the evidence, the board finds the proper assessment to be \$295,000. The equalization ratio for Amherst in 1994 was 1.00, therefore, the assessment value is also equal to the market value in this instance. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. Moreover, the supreme court has held the board must consider a taxpayer's entire estate to determine if an abatement is warranted. See Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). However, the existing

assessment process allocates the total value between land value and building value. The board has not allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.

The board recognizes this abatement is within less than 4% of the Town's assessed valuation. However, after reviewing the sales evidence submitted by the parties and the descriptions of the properties contained on the assessment-record cards, the board concludes the Town's assessment slightly exceeds a reasonable valuation range for the Property. Further, in reviewing

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the various features of the Property and the comparable sales, we find the \$295,000 assessed valuation results in the Property being more proportional to market value and the attributes of the sales comparables.

The board arrived at the \$295,000 estimate of value by revising the Taxpayer's appraisal performed by Judith Parker (Parker Appraisal). The board revised the Parker Appraisal by adjusting the sales by the valuation differences for each of the property components as estimated on the Town's assessment-record card. For example in comparable #1, the board added \$10,000 for the approximate difference in site value; \$10,000 for the property being located near a power line right-of-way; and differing amounts for decks, bathrooms, finished basement, garage, porches and fireplaces. The board performed similar adjustments to the other two comparables. The indicated value range by making those adjustments was approximately \$290,000 to \$300,000. From that, the board estimated the reasonable market value of \$295,000.

While not determinative of the board's conclusion, the board did note by

reviewing the photographs of the Property and the comparables that the Property lacked some of the architectural appeal that the comparables had. While this is indeed a subjective observation, the board notes the general saltbox design of the Property is detracted from by the shed dormer on the rear of the saltbox and the shed-roof portion of the one-story addition. While these features are at the rear of the Property and not generally visible from the street, they detract from the pure lines of the saltbox design. Again, the board made no adjustment for these architectural features in its revision of the Parker Appraisal but notes that this could possibly be a factor in the marketing of the Property.

If the taxes have been paid, the amount paid on the value in excess of \$295,000 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, unless the Town has undergone a general reassessment, the Town shall also refund any overpayment for 1995. Until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

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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

Douglas S. Ricard, Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Anne Krantz, Taxpayer; and Chairman, Selectmen of Amherst.

Date: December 27, 1996

Valerie B. Lanigan, Clerk