

M. Patricia Hilsinger

v.

City of Laconia

Docket No.: 16062-95PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 1995 assessment of \$304,000 (land \$225,300; buildings \$78,700) on a 1.21-acre lot with a single-family home (the Property). 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 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) in 1994 (Docket #9257-90), the board of tax and land appeals granted a 10% reduction to the land value of the Property because it abutted a

commercial property;

(2) the City has applied only a 10% adjustment to the first acre of value, not the entire land value; and

(3) the 10% reduction should be applied to the entire Property, not just the first acre.

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The City argued the assessment was proper because:

(1) the City did carry forward the 10% reduction on the site value as ordered in Docket #9257-90PT;

(2) sales of three comparables support the assessment, and in fact, indicate that the Property may be underassessed.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to show the assessment was disproportionate or excessive for the following reasons:

1) the Taxpayer submitted no evidence that the assessment was disproportionate to market value; in fact, the Taxpayer was of the opinion the assessment reasonably estimated the Property's market value;

2) the City applied a 10% reduction to the assessment's site value in keeping with this board's ruling in an earlier case (Docket #9257-90PT); a review of the board's earlier decision clearly confirms that the 10% was relative only to the site portion of the land assessment and not the balance of the land assessment or the building assessment;

3) even if the municipality had not carried forward the board's reduction ordered in Docket #9257-90PT, the court's ruling in Appeal of Net Realty Holdings Trust, 128 N.H. 795, 799 (1986) limits the effect of any

earlier ruling on subsequent year assessments ("... [T]he ideal of fair and proportionate taxation can be approached only through a constant process of correction and adjustment of assessments. RSA 75:8 indeed requires selectmen and assessors to engage in such continual revision by examining appraisals for errors each year.")

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

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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

Michele E. LeBrun, Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to M. Patricia Hilsinger, Taxpayer; and Chairman, Board of Assessors, City of Laconia.

Date: August 20, 1997

Valerie B. Lanigan, Clerk

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