

Hedy Carleu

v.

Town of Peterborough

Docket No.: 16142-95PT

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1995 assessment of \$152,200 (land \$34,600; buildings \$117,600) on a 3.34-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 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 house was purchased in 1993 for \$145,000;
- (2) an identical house in Town sold in November 1995 for \$115,000;

- (3) comparable sales and assessments indicated the Property was overassessed;
- (4) approximately \$20,000 in repairs had to be made due to wood rot in back of the house and problems around front door (repairs during 1995);
- (5) the bedroom size is 13' X 20' not 18' X 20'; and
- (6) the market value as of April 1995 was between \$120,000 and \$125,000.

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The Town argued the assessment was proper because:

- (1) the Property was purchased in an arm's-length transaction and was included in the sales analysis for the revaluation;
- (2) the sale of the Property supported the assessment;
- (3) the High Street property had been on the market for many years, was being rented and sold as a lease/purchase;
- (4) a comparison of the properties submitted by the Taxpayer indicated the Property was proportionately assessed; and
- (5) exterior measurements are taken for all homes to determine gross living area.

#### **Board's Rulings**

Based on the evidence, the board finds the proper assessment to be \$141,900, which is based on a \$137,750 market finding multiplied by the 1.03 equalization ratio.

The board makes this finding after reviewing the Taxpayer's comparable sales and the Taxpayer's June 1993 purchase of the Property.

While the Taxpayer's purchase of the Property occurred in 1993, the board found the purchase to be competent evidence for 1995 with a time adjustment. An arm's-length market sale is one of the best indicators of a

property's value. Appeal of Lakeshore Estates, 130 N.H. 504, 508 (1988).

While the change in equalization ratio between 1993 and 1994 indicated an approximate 9% decline in values, the Town testified that the actual drop was approximately 5%. The Town stated that the ratio drop was skewed by a number of condominium and commercial sales. Therefore, the Taxpayer's \$145,000 purchase price multiplied by .95 (5% reduction) results in a market value of \$137,750.

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The board then reviewed the Taxpayer's comparables. The Taxpayer submitted some very comparable properties, and the \$137,750 market finding for the Property is in excess of most of those comparables and only slightly below some of those comparables. Therefore, we find that the \$137,750 is supported by the Taxpayer's comparables.

The board also reviewed the building assessment on the 341 High Street property. This High Street property has almost an identical building, but the assessment on the High Street building was less than the assessment on the Property's building.

Finally, the Town went through a revaluation in 1995. However, the Town failed to submit any sales to support the assessment. Since the Town was recently revalued, the Town should have submitted sales for the board's consideration. RSA 75:1 requires that assessments be in line with market value. Therefore, providing sales is essential for the board to compare the

Property's assessment with fair market value and the general level of assessment in the municipality. See Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986).

If the taxes have been paid, the amount paid on the value in excess of \$141,900 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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

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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

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

**Certification**

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

Date: April 3, 1997

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Valerie B. Lanigan, Clerk

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