

Lee D. Woodworth

v.

Town of Moultonborough

Docket No.: 16767-96PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1996 assessment of \$327,600 (land \$240,000; buildings \$87,600) on a .40-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) the department of revenue administration ("DRA") formula used to calculate land values is skewed for lots of one-half acre or less, and there is no value

difference for lot sizes between one-half acre and one acre;

(2) the market value for the Property was \$300,000 on April 1, 1996; and

(3) five sales of properties on Black Cat Island indicate the pre-1996

assessments were equitable.

Page 2

Woodworth v. Town of Moultonborough

Docket No.: 16767-96PT

The Town argued the assessment was proper because:

(1) the town was completely revalued with an effective date of April 1, 1996;

(2) the Property's assessment is within 10% of the Taxpayer's estimate of market value; and

(3) the Property is currently listed for sale at a significantly higher price than the equalized assessed value.

Board's Rulings

The Taxpayer's opinion of value was based on the board's 1994 decision (docket no. 15082-94PT) that concluded a market value of \$300,000. The board finds the less than 10% increase in value from 1994 to 1996 as indicated by the Town's 1996 assessment of \$327,600 is not unreasonable.

The board does not find the Taxpayer's comparison of the five sales in Taxpayer Exhibit #1 to the old assessment convincing, nor do we find the one comparison of the sale of Map 27, lot 45 to its assessment convincing evidence of overassessment. Three of the five sales occurred in 1993 and should either be time adjusted or given less weight (as the Town indicated it did during the reassessment) in determining a 1996 value. The other two sales, a 1994 sale and 1996 resale of Map 27, lot 34, both for \$265,000, actually support the new

assessment of \$264,800. And finally, the sale of Map 27, lot 45, is only 7% less than the 1996 assessment. One sale is some evidence of value, however, alone, it is insufficient evidence to make an adjustment.

Likewise, the Town indicated the assessment of the Property was within 10% of the Taxpayer's \$300,000 estimate of value and that this is a reasonable range given the nature of assessments in general. As stated above, the focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. 214, 219 (1985); Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one exact, precise or perfect assessment; rather, there is an acceptable range of values which, when adjusted to the Municipality's general level of assessment,

Page 3

Woodworth v. Town of Moultonborough

Docket No.: 16767-96PT

represents a reasonable measure of one's tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979).

The 1996 assessment also does not appear to be unreasonable given the Taxpayer's testimony about the 1998 listing of the Property. The Taxpayer testified the Property was currently for sale at an asking price of \$478,000.

Although no offers had been made on the Property at this asking price, the Taxpayer also testified that no offer under \$400,000 would be considered as of the date of the hearing. This asking price or bottom-line price is significantly higher than the equalized value of the current assessment. Even taking into account any time adjustment warranted from the date of the hearing back to the effective date of the assessment under appeal of April 1, 1996, it is the finding of the board that the Property is not overassessed.

The Taxpayer also stated there were some inequities in the Town's

assessing practices that resulted in waterfront properties significantly larger than hers being assessed only slightly more. First, the board need not rule on the Town's methodology relative to other parcels because we have found the Taxpayer's Property to be reasonably assessed and the other properties are not before the board. To the extent the methodology results in any possible underassessment of other properties, the underassessment of other properties does not prove the overassessment of the Taxpayer's Property. See Appeal of Michael D. Canata, Jr., 129 N.H. 399, 401 (1987). For the board to reduce the Taxpayer's assessment because of underassessment on other properties would be analogous to a weights and measures inspector sawing off the yardstick of one tailor to conform with the shortness of the yardsticks of the other two tailors in town rather than having them all conform to the standard yardstick.

The courts have held that in measuring tax burden, market value is the proper standard yardstick to determine proportionality, not just comparison to a few other similar properties. E.g., id. Further, the comparable sales analyzed by the Town during the reassessment (Municipality Exhibit A) did not clearly

Page 4
Woodworth v. Town of Moultonborough
Docket No.: 16767-96PT

indicate any significant difference in value between a one-half acre and an acre site.¹ Nonetheless, the Taxpayer's property is .45 acre in size; therefore, even if the Town's lack of size adjustment in the one-half to one acre lot size range is in error, it does not apply to the Property.

For all the above reasons, the Taxpayer's appeal is denied.

¹ The Town used a land residual method to estimate a site value by subtracting any improvement value, excess frontage value and rear acre value. The resulting unadjusted site values are inconclusive as to the need for a size adjustment in the one-half to one acre site size range.

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

Page 5
Woodworth v. Town of Moultonborough
Docket No.: 16767-96PT

Certification

I hereby certify a copy of the foregoing decision has been mailed this

date, postage prepaid, to Steward Woodworth, Agent for Lee D. Woodworth, Taxpayer; Mary E. Pinkham-Langer, Agent for the Town of Moultonborough; and Chairman, Selectmen of Moultonborough.

Date: October 23, 1998

Valerie B. Lanigan, Clerk

0006