

Sophie P. Rohrer

v.

Town of Amherst

Docket No.: 17048-96PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1996 assessment of \$194,600 (land \$50,200; buildings \$144,400) on a 2.15-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 Property was purchased in February 1996 for \$185,500;
- (2) comparable sales show the Property was overassessed by 10-15% and an

assessment to sales ratio of 94%;

(3) the lot is hilly (6-7% grade); although part of the Jasper Valley development, the house is separated by a road and line of sight of the development; and

(4) the assessment should be \$176,000.

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The Town argued the assessment was proper because:

(1) the home is part of the Jasper Valley development but because of its location, the land value is assessed a base value of \$50,000 compared to a \$100,000 base value inside the development;

(2) the Taxpayer's comparables were of lesser value homes, the subject assessed as a grade 4 +15%;

(3) a review of comparable sales indicates the price paid per square foot is in the low range of the comparables; and

(4) a slight adjustment (reducing the grade to 4 +10%) was recommended but denied by the Town's board of selectmen.

Board's Rulings

Based on the evidence, the board finds an assessed value of \$178,100 based on an indicated market value of \$185,500 and the Town's 1996 equalization ratio of 96% ($\$185,500 \times .96$). This finding is based primarily on the Taxpayer's purchase of the Property in February of 1996 for \$185,500 and the lack of any convincing evidence of the Town that the sale was not arm's-length or an anomaly. "The sale price of a piece of property is evidence of its value unless the court finds on evidence that there was not a fair market. ...The price paid by the owner is one of the best indicators of that property's value." Appeal of Lakeshore Estates, 130 N.H. 504, 508

(1998). The only evidence the board heard relative to the purchase price that raises a question as to its reflection of market value was that no conventional financing was involved in the purchase. However, the board also notes that the listing price was \$190,000, only \$4,500 more than the final sales price. The board does not find any convincing evidence that the purchase by the grantor six years prior from a bank following foreclosure had any affect on the sale price in 1996. The grantor sold the Property for approximately \$35,000 less than they had purchased it in 1990, a phenomenon that was not unusual for this time frame.

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The board reviewed the sales and comparable assessments submitted by both parties to try to determine whether the sales price was an anomaly. Quite frankly, without an interior view of the Property and comparable properties, it is difficult to definitively determine whether the Property is properly graded for quality. However, the sale price does not appear to be significantly out of line with the general market range indicated by the comparables. Consequently, the board places most weight on the sale of the Property as an indication of its market value.

If the taxes have been paid for the tax year 1996, the amount paid on the value in excess of \$178,100 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 1997. 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.

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.

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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 Sophie P. Rohrer, Taxpayer; and Chairman, Board of Selectmen, Town of Amherst.

Date: June 8, 1998

Valerie B. Lanigan, Clerk

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