

Kathleen C. Mann

v.

Town of Unity

Docket No.: 17212-96PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1996 assessment of \$106,200 on a single-family residence on a 1.2-acre lot (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 Property was purchased in July 1995 for \$100,000; however the Taxpayer stated she would not have paid that price if she had known of the flooding issues with the Property;

(2) the water frontage is quite swampy, and the Property floods frequently when the dam is not properly regulated;

(3) other properties in the inlet received more adjustments for their swampy frontage than the Property; and

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(4) the Property's current listing price is not realistic as it is a price to deter offers so she would not be moved by her employer.

The Town argued the assessment was proper because:

(1) adjustments were made both for the inlet setting and the swampy frontage;
(2) sales that occurred in 1995 and 1996 were used as guide to apply additional adjustments for properties in this area to recognize their unique features; and

(3) the Property is currently listed at \$149,000, which does not correspond with the Taxpayer's assertion that the Property had a value of \$82,900 in 1996 and \$90,000 in 1997.

Board's Rulings

Based on the evidence, the board finds the Taxpayer did not show the assessment was excessive.

The Taxpayer made several arguments, but the Taxpayer did not present any credible evidence of the Property's fair market value. To carry her burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessment generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes

Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. 214, 217-18 (1985). The assessment was \$106,200, which equates to a \$101,150 equalized value ($\$106,200 \div 1.05$ ratio). To prevail the Taxpayer was required to show that the Property was worth less than \$101,150. Failing to provide any market evidence, the Taxpayer did not do this.

The evidence showed that in July 1995, the Taxpayer purchased the Property for \$100,000. Where it is demonstrated that the sale was an arm's-length market sale, the sale price is one of the "best indicators of the property's value." Appeal of Lake Shore Estates, 130 N.H. 504, 508 (1988).

The Taxpayer did not introduce any evidence to show that the Property's purchase price was not a market purchase. The Taxpayer did state that when

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she purchased the Property she did not know about the water problem on the lot and in the basement. The board has two views on this testimony. First, it is hard to believe that a realtor such as the Taxpayer would not make adequate inquiry concerning the water issue given the location of the Property near the waterway. Second, the Taxpayer did not demonstrate how the purchase price would have been affected if she had known of the water problem, especially whether the seller would have been willing to reduce the price. In other words, the Taxpayer's statements alone are inadequate to overcome her burden on this issue.

Finally, the Town did make a market adjustment for the Property's location on the lake inlet. The Taxpayer asserted a further adjustment was required, but the Taxpayer did not support that with any market evidence. Moreover, the Town demonstrated that the assessments on the comparables used by the Taxpayer to argue for an additional adjustment demonstrated that

properties in this area had significant value and that the assessments fairly reflected that value.

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

Ignatius MacLellan, Esq., Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Kathleen C. Mann, Taxpayer; Norman LeBlond, Representative for the Town of Unity; and Chairman, Board of Selectmen of Unity.

Date: November 19, 1998

Valerie B. Lanigan, Clerk

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