

Gerard and Beverly Laurendeau

v.

Town of Deerfield

Docket No.: 17621-97PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1997 assessment of \$176,700 (land \$49,100; buildings \$127,600) on a ranch-style home on a 5-acre lot (the "Property"). For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers 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 Taxpayers must show that the Property's assessment was higher than the general level of assessment in the municipality. Id. The Taxpayers failed to carry this burden.

The Taxpayers argued the assessment was excessive because:

- (1) the house has only two bedrooms which impacts its market value; the beams in the house are solely decorative which add no value to the Property;
- (2) two comparable sales show the Property is overassessed;

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- (3) larger (more square footage) homes in the neighborhood are assessed lower per square foot than the Property;
- (4) the Property was built in 1996 for \$120,000 (\$80,000 for labor and materials and \$40,000 for the land); the Taxpayers did their own finish work; and
- (5) if on the market in April 1996, the Property would probably sell for \$130,000 to \$135,000.

The Town argued the assessment was proper because:

- (1) there are three distinct areas in Town; the Taxpayers live in "South Deerfield" which is traditionally fine valued homes;
- (2) an April 1998 appraisal estimated the value to be \$155,000; when trended to April 1997 (-10% adjustment), the estimated market value was \$139,500;
- (3) the Taxpayers submitted a 1996 bank appraisal to the Town with an estimated value of \$134,000; trending this value to 1997 supports a value of \$147,000;
- (4) the assessment, when adjusted by the department of revenue administration's equalization ratio of 126% for 1997, indicates a value of \$140,000; and
- (5) the evidence supports the indicated value of the Property.

Board's Rulings

Based on the evidence, the board finds the Taxpayers did not prove their Property was disproportionately assessed relative to its market value and the Town's 1997 126% level of assessment. The Taxpayers assessed value of \$176,700, when equalized by 126%, provides an indicated market value of \$140,250 ($\$176,700 \div 1.26$). To carry their burden, the Taxpayers needed to show that the Property's market value was less than the indicated market value of

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\$140,250. 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).

Between both parties, three distinct estimates of market value were submitted:

- 1) the Taxpayers' 1994 land acquisition and 1996 construction costs;
- 2) the Town's appraisal; and
- 3) the Taxpayers' 1996 appraisal done for financing.

The Taxpayers testified that they spent a total of approximately \$120,000 purchasing the land and paying for contracted construction work. The Taxpayers testified that they performed most of the finish work and would likely have been able to sell the Property for \$130,000 to \$135,000. Given the increase in market of approximately 10% per year that the Town testified to, the Taxpayers construction costs and sweat equity, when trended to 1997, support the assessed value.

The Town's appraisal estimated a 1998 market value of \$155,000. The board reviewed the appraisal's basic assumptions and agrees with the Town that the house was correctly classified. Adjusting the Town's 1998 market value estimate by 10% for time results in an indicated 1997 market value of \$139,500.

While not presented at the hearing, the Town testified that it had reviewed the Taxpayers' 1996 appraisal which had estimated a market value of \$134,000. Again, adjusting this estimate

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of market value for the 10% annual adjustment the Town testified to, would indicate a market value of \$147,400 for 1997.

The Taxpayers submitted two sales comparables and six assessment comparables. The board has analyzed these properties (after making adjustments for unfinished construction and

effective floor area for one and one-half and one and three-quarter story buildings) on a price per square foot of the equalized assessment. The prices do indicate that the comparables are generally assessed less than the Taxpayers' Property, as argued by the Taxpayers. However, the board finds that the assessment comparables are likely underassessed and, in some cases, do not include a garage and are of cape style (which is less expensive on a price per square foot). As noted at the hearing, these underassessments do not prove the Taxpayers' case but do serve as a red flag that the Town needs to perform the assessment update it testified it was currently undertaking. The two sales comparables submitted by the Taxpayers indicated sales prices per square foot closer but still lower than the Taxpayers' equalized assessed value. However, after adjustments are made for the lack of a garage in the Kilgore sale and the fact that both of the properties are one and one-half story cape style houses, the sales also support the other market evidence noted above.

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

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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 that a copy of the foregoing decision has this date been mailed, postage prepaid, to Gerard and Beverly Laurendeau, Taxpayers; and Chairman, Board of Selectmen of Deerfield.

Date: July 21, 1999

Lynn M. Wheeler, Clerk

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