

Donald and Barbara Sisson

v.

Town of Epping

Docket No.: 18598-00PT

DECISION

The “Taxpayers” appeal, pursuant to RSA 76:16-a, the “Town’s” tax year 2000 assessment of \$78,700 (land \$24,000; buildings \$54,700) on a residential condominium (the “Property”). For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing, by a preponderance of the evidence, the assessment was disproportionately high or unlawful, resulting in the Taxpayers paying a disproportionate share of taxes. See RSA 76:16-a; TAX 201.27(f); TAX 203.09(a); Appeal of City of Nashua, 138 N.H. 261, 265 (1994). To establish disproportionality, the Taxpayers must show the Property's assessment was higher than the general level of assessment in the municipality. Id. We find the Taxpayers failed to prove disproportionality.

The Taxpayers argued the assessment was excessive because:

(1) condominiums were unfairly singled out in tax year 2000 by the Town for a ‘revaluation’;

and

(2) until there is a full revaluation of all classes of property, the assessment of the Taxpayer’s condominium should not be changed from what it was in tax year 1999.

The Town argued the assessment was proper because:

(1) the Town’s contract assessor reviewed and reported (the “Town Report,” Municipality Exhibit B) on the assessments for various classes of property for tax year 2000 and

recommended adjustments to the values for certain condominium properties;

(2) the Taxpayers did not provide evidence of the Property’s market value as of the assessment date; and

(3) the Taxpayers failed to meet their burden of proof.

Board’s Rulings

The single issue in this case is the Taxpayers’ belief that condominiums were unfairly singled out by the Town for an assessment review in tax year 2000. The board finds this is not an accurate portrayal of the Town’s assessment activities.

The Taxpayer submitted a real estate appraisal report prepared by Francis X. Chapman, of Chapman Appraisal Co. (the “Chapman Report”) (Taxpayer Exhibit #1), outlining the Taxpayers’ arguments. The Chapman Report outlined several trends and statistics detailing the general level of assessment as well as the rise of property values in general, and condominiums in particular, in the Town.

The Town Report, entitled “Recommendations Regarding Sales Analysis for the Town of Epping, New Hampshire” and prepared by Municipal Resources, Inc., the Town’s contract

assessor, was a review of several property strata, including vacant residential land, manufactured housing and residential condominium categories. The board finds the Town Report's review of the questionable assessments of some of the property strata is part of the Town fulfilling its RSA 75:8 responsibility to annually review assessments and to adjust those that require it. The Taxpayers' assertion that condominiums were singled out for review is inaccurate. As the Town Report demonstrates, other classes of property were reviewed as well, but only residential condominiums were found to require adjustments. The board finds the Taxpayers' request to set aside the revised condominium assessments is unwarranted and would be inappropriate.

The Town testified it is scheduled for certification by the department of revenue administration in 2005 and plans a revaluation for that year; however, in tax year 2000, a partial update was necessary to correct inequities in the condominium strata of property. Had the Town not adjusted the condominium class of property, the rest of the taxpayers in the Town would have paid a disproportionate share of taxes.

Further, one of the Taxpayers stated he was aware of the remedy available to them to petition for a town-wide revaluation under RSA 71-B:16, IV, but chose not to proceed with this remedy.

For all the reasons previously discussed, the board finds no abatement is warranted for the Property.

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

Douglas S. Ricard, Member

Albert F. Shamash, Esq., Member

Certification

I hereby certify that a copy of the foregoing decision has this date been mailed, postage prepaid, to: Donald and Barbara Sisson, Taxpayers; Francis X. Chapman, representative for the Taxpayers; and Chairman, Selectmen of Epping.

Date: November 27, 2002

Anne M. Bourque, Deputy Clerk