

**Edward J. Latulippe Trust**

**v.**

**Town of Rumney**

**Docket No.: 19743-02PT**

**DECISION**

The “Taxpayer” appeals, pursuant to RSA 76:16-a, the “Town’s” 2002 assessment of \$207,150 (land \$56,350 and buildings \$150,800) on Lot 12-05-04-01, a 2.37 acre parcel at 66-68 Quincy Road (the “Property”). For the reasons stated below, the appeal for abatement is denied.

The Taxpayer has the burden of showing, by a preponderance of the evidence, the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer must show the Property’s assessment was higher than the general level of assessment in the municipality. Id. We find the Taxpayer failed to prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the house was built over a three-year period and was almost finished as of the tax date (April 1, 2002);

- (2) three realtors advised the Taxpayer that the Property was overassessed;
- (3) an independent appraisal estimated the Property's market value at \$225,000 on January 28, 2005; and
- (4) the Property's market value may have increased between April 1, 2002 and January 28, 2005, but the Taxpayer does not know by how much or at what rate.

The Town argued the assessment was proper because:

- (1) the Town performed a revaluation for tax year 2002 and the level of assessment for that year is 100%;
- (2) the Town repeatedly communicated with the Taxpayer in 2004 and requested an appraisal and other information that might support the Taxpayer's position, but none was provided;
- (3) the Property is surrounded by a larger parcel (approximately 30 acres) owned by the Taxpayer which is in current use and that parcel creates additional privacy for the Property not enjoyed by other "village" lots, and this amenity enhances the value of the Property;
- (4) the Property contains a barn which could be used for possible future development of a second house on the lot;
- (5) the dwelling constructed is a superior quality log home with an attached garage, which makes it more valuable than the comparables included in the Taxpayer's appraisal; and
- (6) the Taxpayer did not sustain its burden of proof.

The Taxpayer owns another property in the Town; the parties stipulated that assessment was not in dispute.

### **Board's Rulings**

Based on the evidence and testimony presented, the board finds the Taxpayer did not carry its burden to prove the Property was disproportionately assessed.

In Taxpayer Exhibit 1, the Taxpayer states that when it sold a previous house, the three realtors involved looked at the Property and said it was “assessed too high.” For this reason, the Taxpayer decided to hire an independent appraiser to appraise the Property and to file an abatement application. The appraisal, performed by SG Page & Associates is the basis for the Taxpayer’s appeal. The appraisal was signed by Susan Page, apprentice appraiser, and by Stephen J. Page as the supervisory appraiser. The board notes the date the appraisers signed the appraisal was January 28, 2005; Stephen J. Page’s appraisal license, issued by the New Hampshire Real Estate Appraiser Board, expired on December 31, 2004, according to the appraiser’s certification contained in the appraisal.

For several reasons the board finds the appraisal to be of little help in its deliberations to determine whether or not the Property was disproportionately assessed. First, the appraisal has an effective date of January 28, 2005. The valuation date in question in this appeal is April 1, 2002. The appraisers involved were well aware the purpose of the appraisal, as stated in the cover letter, “is to estimate the market value of this property for decisions regarding tax appeal.” Further, in the FIRREA/USPAP addendum under the heading “Intended Use”: “[t]he function of the appraisal is to assist the client or assignee in value determination for tax abatement purposes.” The appraisers were knowledgeable of the purpose, function and intended use of the appraisal. To better serve the Taxpayer, the appraisers should have appraised the Property and estimated its market value as of April 1, 2002. A value conclusion effective on January 28, 2005, with no discussion of appreciation or depreciation rates during the relevant time period, between April 1, 2002 and January 28, 2005, is of little value to the Taxpayer or the board. The date of valuation is a key factor in any appraisal performed for tax abatement purposes. At the hearing, the Taxpayer admitted it had no idea of what rate or rates of

appreciation or depreciation, if any, should have been applied to the appraiser's market value estimate to arrive at an estimate of value for April 1, 2002.

In addition to the selection of the wrong date for the appraisal, the appraisers selected some questionable comparable sales. On the sales comparison grid in the Uniform Residential Appraisal Report, the verification source for the data used for the comparables sales was listed as "Real Data, MLS, Town Offices." Verification of sales is a fundamental element in the process of selecting good comparables. "To verify sales data an appraiser confirms statements of fact with the principals to the transaction, if possible, or with the brokers, closing agents, or lenders involved."<sup>1</sup> Not one of the sales, apparently, was verified with anyone involved in the transactions. Further, as the Town pointed out and the appraiser noted in the supplemental addendum, Comparable Sale #2 was part of a multi-parcel transaction. The appraisers write in the appraisal that "[m]arket data and conversations with involved parties were used to determine contributory values for the separate parcels." It is unclear who the parties contacted were and what exactly was the market data used to determine the allocation of the value to the various lots involved in the transaction. While the appraisers noted that "[o]ne of the other lots was improved, and removed from the sales price at a contributory value (to the sale) of \$119,000," no basis was given for the determination of that allocated value. The appraisers further wrote that the contributory value of \$10,000 for the third lot in this transaction was removed as a line item under the "site" heading on the grid. This is an example of some inconsistent methodology where one lot was taken out at the sale price line and another lot was taken out at the site line with no explanation. If percentage adjustments are made to a time-adjusted selling price of a

<sup>1</sup> Appraisal Institute, The Appraisal of Real Estate, 423 (12<sup>th</sup> ed. 2001).

comparable sale, all the value for any lots not considered part of the “comparable’s” selling price should have been removed.

Additionally, the appraisers write in the supplemental addendum that “[a]n analysis of sales records for the past 36 months was undertaken by the appraiser regarding the subject and comparable properties.” This analysis, most likely, should have produced sales that could have been used to determine an April 1, 2002 value.

Under the “COMMENTS ON SALES COMPARISON” section of the appraisal’s Supplemental Addendum, the appraisers make some statements regarding the adjustments made in the sales comparison approach grid. Many of the appraisers’ comments regarding adjustments indicate the obvious: that is, adjustments were made, but no market data or basis is presented to support the magnitude or direction of the adjustments. For example, the appraisers’ adjustment for age at \$500 per year is not explained. Typically, age and condition are considered together and a single adjustment is made. There is no indication from the appraisers as to whether age means “effective” age or “actual” age. As previously stated and for all the reasons discussed, the board finds the appraisal submitted by the Taxpayer to be of little use in determining the Property’s market value as of April 1, 2002.

The Town further noted that two of the comparables were located in other towns. Values in the Town, according to its assessor, are higher than in Wentworth and similar properties in Plymouth have lower values because of a higher tax rate. The assessor also presented four comparables in the Town to support the assessment.

Given the lack of credible evidence of the Property’s market value on April 1, 2002, the board concurs with the Town that the Taxpayer has not met its burden of proof to show the Property was disproportionately assessed and, therefore, the appeal is denied.

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(f). 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

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Douglas S. Ricard, Member

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Albert F. Shamash, Esq., Member

**Certification**

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Edward J. Latulippe, Trustee of the Edward J. Latulippe Trust, 536 School Street, Rumney, New Hampshire 03266, representative for the Taxpayer; and Chairman, Board of Selectmen, Town of Rumney, Post Office Box 220, Rumney, New Hampshire 03266.

Date: April 11, 2005

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Anne M. Stelmach, Clerk