

**Merrill McGuire**

**v.**

**City of Claremont**

**Docket No.: 20275-03PT**

**DECISION**

The “Taxpayer” appeals, pursuant to RSA 76:16-a, the “City’s” 2003 assessments of \$107,600 (land \$23,700; buildings \$83,900) on Map 129, Lot 92, a single-family residence on a 1.09 acre lot, \$57,200 (land \$12,400; buildings \$44,800) on Map 141, Lot 24, a single-family residence on a 0.10 acre lot and \$85,900 (land \$15,100; buildings \$70,800) on Map 73, Lot 13, a single-family residence on a 0.56 acre lot (collectively the “Property”). For the reasons stated below, the appeal for further abatement<sup>1</sup> is denied.

The Taxpayer has the burden of showing, by a preponderance of the evidence, the assessments were 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 assessments were higher than the general level of assessment in the municipality. Id. We find the Taxpayer failed to prove disproportionality.

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<sup>1</sup> Lot 73/13 was originally assessed at \$90,100, the amount stated in the Taxpayer’s appeal document. The City’s Assessor testified the assessment was abated to \$85,900.

The Taxpayer requested leave not to attend the hearing and this request was granted. In his appeal documents, the Taxpayer argued the assessments were excessive because:

- (1) “No work was done” on the Property since the City’s last revaluation; and
- (2) the assessments were “not fair.”

The City argued the assessments were proper because:

- (1) the Taxpayer submitted no market value evidence to support an abatement on any of the three lots that comprise the Property;
- (2) the City made an exterior and interior inspection of all three lots on May 21, 2004 in response to the abatement application;
- (3) the City made corrections to its assessment-record card for Map 73, Lot 13 and granted an abatement from \$90,100 to \$85,900 (see footnote 1) and no further abatement is warranted;
- (4) after the inspection, the City denied abatements on Map 129, Lot 92 and Map 141, Lot 24 and increased slightly the assessments in subsequent tax years to reflect physical data corrections;
- (5) the sales evidence reviewed by the City support the assessments (Municipality Exhibit D); and
- (6) the Taxpayer did not meet his burden of proof.

At the hearing, the City asserted that the level of assessment for 2003 for the City was 94.2% based on a weighted mean ratio determined by the department of revenue administration (“DRA”).

### **Board’s Rulings**

Based on the evidence, the board finds the Taxpayer failed to prove that the assessments were disproportionate.

The Taxpayer submitted no market evidence to support his assertion that an abatement should be granted. Rather the Taxpayer's main argument appears to be that the City made adjustments to the Property after the Taxpayer filed an abatement, which resulted in an abatement for Map 73, Lot 13 and a slight increase in the assessments of Map 129, Lot 92 and Map 141, Lot 24 for subsequent years. The board finds the City's review and adjustments are appropriate based on the evidence submitted. The changes made by the City are due to errors that existed at the time of the 2003 reassessment and not any improvements the Taxpayer has made to the Property. The City has the responsibility pursuant to RSA 75:8 to revise the assessment for errors and corrections. The City is correct that any increases that result from such revisions cannot be applied to the year for which the abatement is sought, but must be applied only in subsequent years, as the City did. See LSP Association v. Town of Gilford, 142 N.H. 369 (1997).

Further, the City presented market evidence that is generally supportive of the assessed value, including the sale of one of the Taxpayer's lots, Map 73, Lot 13, in October of 2004 for \$96,000. The City's other sales were also of small dwellings on small lots which generally sold in the \$50,000 to \$100,000 range and provide adequate market evidence to indicate that the Taxpayer's assessments are not excessive.

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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Paul B. Franklin, Chairman

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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: Merrill McGuire, 13 Lonsdale Avenue, Claremont, NH 03743-2125, Taxpayer; and City of Claremont, Guy Santagate, City Manager, 58 Opera House Square, Claremont, NH 03743.

Date: 4/7/06

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Anne M. Stelmach, Clerk