Maurice R. Wright

v.

City of Laconia

Docket No.: 20313-03PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 2003 assessment of $111,500 (land $33,000; buildings $78,500) on a single-family home on a 0.08-acre lot (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 land portion of the assessment is disproportionate, on a per square foot basis, compared to other properties in the neighborhood;

(2) the lot, although listed as being level, slopes steeply away from the house; and

(3) real estate values are decreasing in the neighborhood, not increasing.

The City argued the assessment was proper because:

1) the Property has been assessed consistently with other improved lots in the neighborhood using a land curve schedule of pricing; and

2) there is no market evidence to indicate property values are decreasing in the neighborhood.

Board's Rulings

The board finds the Property is not disproportionately assessed.

The Taxpayer testified he was only contesting the portion of the Property's assessment relating to the land value. Assessments, however, must be based on market value. RSA 75:1. In making a decision on value, the board looks at the property's value as a whole, i.e., as land and buildings together, because this is how the market views value. The Supreme Court has held the board must consider a Taxpayer's entire estate to determine if an abatement is warranted. See Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). The Taxpayer did not present any credible evidence of the Property's market value. To carry his burden, the Taxpayer should have made a showing of the Property's market value. This value would than have been compared to the Property's assessment and the general level of assessment in the City. See, e.g., Appeal of Net Realty Holding Trust, 128 N.H. 795, 803 (1986) and; Appeal of Great Lakes Container Corp., 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. 214, 217-18 (1985). Further, properties are not bought and sold on a fragmented basis. Potential purchasers of real estate do not purchase a property by making an offer on the land and then making a separate offer on the building, rather, they would offer a price for a property in its entirety.

The Taxpayer described the Property as having severely sloping terrain on three sides, with the only level portion being the driveway and parking area. The Taxpayer testified the lot's topography caused the City to deny his variance request to allow him to construct an additional

dwelling unit in his house. In rebuttal, the City stated the variance was denied because the lot was substandard in area and that even if the lot had been completely level, it did not contain the necessary minimum square footage required by the City's zoning regulations to allow for a second dwelling unit. The decision to deny the variance was made independent of the lot's topography.

In further support of his position, the Taxpayer testified the City had inconsistently assessed several neighborhood properties relative to their land valuations. In particular, a lot on nearby Jameson Street, identified on the City's tax maps as lot 442-117-25 and included in Sections C and F of the Taxpayer's appeal form, had an area of 3,125 square feet, very similar in size to the Property's 3,652 square feet, yet was assessed at $5,700 compared to the Property's $33,000 land value. The Taxpayer testified this was evidence of the City's inconsistent assessment methodology. In response, the City testified the lot in question was valued at a significantly lower amount due to the fact that it was a vacant, unbuildable lot. The Property, although having a lot which, if vacant, would not be buildable under the current zoning ordinance, does in fact have improvements on it and therefore the lot adds contributory value to the overall market value of the Property. In support of the Property's land assessment, the City submitted its Land Table for improved residential lots (Municipality Exhibit F) which indicates the varying assessments for lots of fractional sizes less than a standard one-acre building lot. The board finds, after reviewing the assessment-record cards provided for similar neighborhood properties, the City has consistently applied its land value schedule.

The Taxpayer testified the residential real estate values in the neighborhood were decreasing due to the transition in the mix of inhabitants in the neighborhood. The board finds the Taxpayer's testimony that the police visited the neighborhood regularly and, therefore, the neighborhood's desirability was reduced, was not supported by any market value evidence.

Further, the City testified the sales in the neighborhood near the Taxpayer do not indicate a reduction in market values for residential property.

For all the previously mentioned reasons, the board finds the Taxpayer has not carried his burden of proof to show the Property was disproportionately assessed and the appeal for abatement 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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Michele E. LeBrun, Member

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Douglas S. Ricard, Member

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Maurice R. Wright, 27 Locust Street, Laconia, New Hampshire 03246, Taxpayer; and Chairman, Board of Assessors, City of Laconia, 45 Beacon Street East, Laconia, New Hampshire 03246.

Date: November 14, 2005

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Anne M. Stelmach, Clerk