

Rosemary Gauthier

v.

Town of Sanbornton

Docket No.: 20543-03PT

DECISION

The “Taxpayer” appeals, pursuant to RSA 76:16-a, the “Town’s” 2003 assessment of \$345,300 (land \$29,500; buildings \$315,800) on Map 26/Lot 35, a single-family home on a 0.80-acre lot (the “Property”). For the reasons stated below, the appeal for abatement is granted.

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. The Taxpayer carried this burden.

The Taxpayer argued the assessment was excessive because:

- (1) the Property does not have a full basement under the dwelling;
- (2) a realtor’s proposal suggests marketing the Property at a listing price of between \$264,000 and \$280,000; and

(3) a 2005 appraisal estimated the Property's value at \$345,000.

The Town argued the assessment was proper because:

(1) the building value is the main issue in this appeal and the Property has an uncommonly large building area; and

(2) no interior inspection of the building was made during the revaluation despite multiple attempts.

At the close of the hearing the board left the record open to provide the Town an opportunity to make arrangements with the Taxpayer for an interior inspection of the Property. The board notes the indication on the assessment-record card that during the revaluation at least two attempts were made to inspect the Property, apparently to no avail. The Town inspected the Property on June 6, 2006 and submitted a proposed revised assessment in a June 14, 2006 "Letter", copying the Taxpayer.

Board's Rulings

Based on the evidence, the board finds the proper assessment to be \$277,300 based on the Town's revised assessment-record card with some modifications.

In the Letter, Mr. Robert McCarthy of Vision Appraisal Technologies, the assessing firm that performed the 2003 revaluation in the Town, listed certain changes that were made as a result of the interior inspection. Some of these were made to correct listing errors such as the fact the house has 1 and ½ bathrooms not 2, and 3 bedrooms not 4. Further, Mr. McCarthy noted some of the features of the house that necessitated some adjustments in the building's assessment including: 1) the home's room layout was atypical for a house of its size; 2) the house had small rooms; 3) some rooms had exposed ceiling rafters rather than plastered ceilings; 4) the

unfinished basement does not extend under the entire center section of the building; and 5) the foundation was in fair condition.

As a result of the interior inspection, the Town revised the assessment-record card to show the smaller basement and change the number of bathrooms and bedrooms to more accurately reflect the building's configuration.

Subsequent to the inspection of the Property, the Town reduced the grade of construction of the dwelling from "05" to "04" resulting in a drop of approximately 10%, or \$30,000, in value. The change in grade accounted for the exposed ceilings and smaller room sizes. Mr. McCarthy wrote that he applied approximately \$12,000 as a value for the cost to cure some of the room layout and design issues as well as the foundation problems. This change is reflected in an additional 5% functional obsolescence factor being applied to the building assessment.

In the Letter, the Town stated the value change was approximately \$47,700 to the dwelling. The board finds that in actuality the difference between the revised building value on the assessment-record card submitted subsequent to the inspection and the initial building value offered at the hearing to be \$67,700 not the \$47,700 stated in the Letter.

To determine the Property's total revised assessment, the board has added the revised building value of \$243,200 shown on the new assessment-record card to the revised extra feature values of \$1,000 for the lean-to, \$2,900 for the two-story chimney, and \$700 for the hearth. These extra feature values are approximately \$300 less than the value listed on the initial assessment-record card. The slight drop in value may be attributed to the increase in total depreciation, now being applied to the dwelling, and appropriately applied subsequently to the extra features. To these revised values must be added the \$29,500 value of the land in 2003. Combining these values results in a \$277,300 revised assessment for 2003. No equalization ratio

needs to be applied to this indicated assessed value, as Mr. McCarthy suggests in the Letter, because as an assessed value it is at the same level of assessment as other assessments. The board finds this to be the appropriate assessment for the year under appeal.

If the taxes have been paid, the amount paid on the value in excess of \$277,300 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Until the Town undergoes a general reassessment or in good faith reappraises the property pursuant to RSA 75:8, the Town shall use the ordered assessment for subsequent years. RSA 76:17-c, I and II.

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

Paul B. Franklin, Chairman

Douglas S. Ricard, Member

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Rosemary Gauthier, Post Office Box 73, Sanbornton, NH 03269, Taxpayer; and Chairman, Board of Selectmen, Town of Sanbornton, Post Office Box 124, Sanbornton, NH 03269.

Date: July 31, 2006

Anne M. Stelmach, Clerk