

Alvah Niemela

v.

Town of Rindge

Docket No.: 21939-05PT

DECISION

The “Taxpayer” appeals, pursuant to RSA 76:16-a, the “Town’s” 2005 assessment of \$297,000 (land \$226,100; building \$70,900) on Map 40/Lot 16, a single family home on a .38 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) it increased four-fold from the 2004 assessment of \$72,000;
- (2) assessments on a connected water body, Contoocook Lake, are \$75,000 to \$100,000 less on the land portion;

- (3) the five sales of properties on Pool Pond are lower than the Town's assessed value;
- (4) the lot has a steep slope down to the water from the cottage; and
- (5) the overall assessment should be approximately \$200,000.

The Town argued the assessment was proper because:

- (1) the land assessment adjustment factors for Pool Pond were derived from an analysis of sales during the 2005 reassessment and indicated a 4.75 factor was appropriate;
- (2) the Taxpayer's sales are either too old to be of much merit or, if time adjusted, actually support the assessed value;
- (3) the waterfront value on Pool Pond was not \$600,000 per acre as asserted by the Taxpayer but was actually under \$300,000 per acre based on the assessment models employed during the 2005 revaluation; and
- (4) the sales on Contoocook Lake indicated the land values were lower than Pool Pond and thus the assessment land calculation factors were lower for Contoocook Lake.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to present evidence to show that the assessment was not disproportionate to market value. See RSA 75:1.

The Taxpayer argued his assessment and taxes had increased significantly as a result of the reassessment. However, increases from past assessments are not evidence that a taxpayer's property is disproportionately assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Town of Sunapee, 126 N.H.214 (1985). Further, increases in the magnitude of one's taxes as a result of a reassessment also in and of itself is not evidence of disproportionality. Reassessments are performed to realign assessments to market value and if certain types of property have appreciated at a greater rate than others, the resulting

assessments will usually result in a greater share of the tax burden. This is one of the stark realities of the property tax given the constitutional requirements of Part 1, Article 12 and Part 2, Article 5 that each taxpayer must pay their portion of the public expense based on the reasonable and proportional market values of their properties.

The board reviewed the limited information of the sales submitted by the Taxpayer and the Town's rebuttal of those sales and agrees with the Town the sales are either too old to be indicative of the 2005 market value or those of more recent time, if adjusted for market conditions, generally support the Town's assessment. Specifically, the two sales at 43 and 71 Pine Eden Road in the general neighborhood of the Taxpayer indicate the Town's assessment is not unreasonable.

The board understands the Taxpayer's concern when comparing his Property's assessment with those on Contoocook Lake and observing the Contoocook Lake assessments are \$75,000 to \$100,000 less than his. However, based on the limited sales information contained in the "land use" spreadsheet of sales analyzed during the 2005 reassessment (Municipality Exhibit No. D), the Town's waterfront calculation factors of 2.50 for Contoocook Lake and 4.75 for Pool Pond "fit" the sales analyzed by the Town. The board need not rule on whether the Contoocook Lake factors and assessments are proper but rather must determine whether the Taxpayer's individual assessment is supported by market data. It is entirely possible in any reassessment, given the limited number of sales that occur, that some neighborhoods or types of properties could be under assessed and thus any comparison to them to gauge proportionality would be inappropriate. As the Town is aware, part of its responsibility under RSA 75:8 and 8-a is to annually and periodically review the proportionality of assessments and revise them, if necessary, to be proportional to market value.

The Taxpayer testified the slope from the cottage site to the water was steep, albeit improved with steps. However, the Taxpayer presented no photographs or market evidence to show the slope of the lot would be a factor distinguished by the market. In general, it is the board's experience that the market for lots on waterfront is less impacted by topography issues than year round residential property.

Based on the above, the board finds the evidence submitted by the Taxpayer did not tip the scales of the Taxpayer's burden of proof and thus no abatement is warranted.

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(g). 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

Michele E. LeBrun, Member

Douglas S. Ricard, Member

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Alvah Niemela, 712 E. Keller Court, Hernando, FL 34442, Taxpayer; Chairman, Board of Selectmen, Town of Rindge, PO Box 163, Rindge, NH 03461; and Vision Appraisal Technology, Attn: Dick Romano, 44 Barefoot Road, 2nd Floor, Northborough, MA 01532, Contracted Assessing Firm.

Date: June 3, 2008

Anne M. Stelmach, Clerk