

Barry and Debra Sack

v.

City of Nashua

Docket No.: 21960-05PT

DECISION

The “Taxpayers” appeal, pursuant to RSA 76:16-a, the “City’s” 2005 assessment of \$319,000 (land \$91,600; building \$227,400) on Map 107/Lot 20, a single family home on a 0.25-acre lot (the “Property”). For the reasons stated below, the appeal for abatement is granted to the City’s proposed revised assessment.

The Taxpayers have the burden of showing, by a preponderance of the evidence, the assessment was disproportionately high or unlawful, resulting in the Taxpayers 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 Taxpayers must show the Property’s assessment was higher than the general level of assessment in the municipality.

Id. The Taxpayers carried this burden.

The Taxpayers argued the assessment was excessive because:

(1) a list of eight raised-ranch style homes (Taxpayer Exhibit No. 1) shows this style home, including the Property, is generally overassessed in the City; and

(2) the Property's assessment should be approximately \$260,000.

The City argued the assessment should be revised to \$287,600 and the revised assessment was proper because the City recalibrated its assessment tables after receiving and reviewing the 2005 abatement requests for this style home.

Board's Rulings

Based on the evidence, the board finds the proper assessment to be \$287,600 as proposed by the City at the hearing.

The Taxpayers submitted a list of eight comparable sales of similar raised-ranch style homes that sold near the assessment date of April 1, 2005. The Taxpayers indicated this list was evidence raised-ranch style homes were generally overassessed compared to their selling prices. The Taxpayers testified the appropriate assessment for the Property should be \$260,000. They did not however, submit any market data, calculations or exhibits to support that specific value. Without considering any differences between the Property and the eight sales and making any appropriate adjustments to the sales to reflect those differences, the board is unable to conclude the Taxpayers' proposed assessment is proportional from the data and testimony received.

At the hearing, the City proposed a revised assessment of \$287,600 for the Property. The City testified it received several abatement requests for similar style homes in 2005. During the review of those requests, the City acknowledged some adjustment and recalibration of the assessment tables for this style home was warranted. The City revised its tables and adjusted the assessments in 2006 for these style homes and offered the revised assessment based on the recalibrated tables for the Property in 2005. Further, the City provided a brief market analysis in Municipality Exhibit No. A which indicated a revision to the assessment was appropriate. The board finds the evidence and testimony provided by the City substantiates a revision to the

assessment was reasonable and thus, an abatement to the City's revised assessment for 2005 is appropriate.

The board finds the City's attempt to recognize the need to recalibrate its assessment tables is in keeping with its RSA 75:8 statutory responsibility to review assessments on an annual basis and adjust those as warranted.

For these reasons, the board grants the Taxpayers an abatement to the City's revised assessment of \$287,600.

If the taxes have been paid, the amount paid on the value in excess of \$287,600 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

Until the City undergoes a general reassessment or in good faith reappraises the property pursuant to RSA 75:8, the City 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(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.

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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: Barry and Debra Sack, 6 Boggs Circle, Nashua, NH 03060, Taxpayers; and Chairman, Board of Assessors, City of Nashua, PO Box 2019, Nashua, NH 03061.

Date: 7/18/08

Anne M. Stelmach, Clerk