

**Cecile Lamoureux**

**v.**

**Town of Pelham**

**Docket No.: 22971-06PT**

**DECISION**

The “Taxpayer” appeals, pursuant to RSA 76:16-a, the “Town’s” 2006 assessment of \$503,300 (land \$240,000; building \$263,300) on Map 37-11-86, 115 Dalton Road, consisting of a house on 8.05 acres (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, represented by her son, Robert Lamoureux, argued the assessment was excessive because:

(1) an appraisal prepared by Mark Standish of Mayflower Appraisal Services (the “Standish Appraisal,” Taxpayer Exhibit No. 2) estimates the Property’s market value was \$435,000 on April 1, 2006, the assessment date;

(2) Mr. Standish is a licensed residential appraiser (NHLR-59) with an office in the Town;

(3) the Standish Appraisal uses a comparable sales approach focusing on log built homes in the Town and in Hudson, New Hampshire and the Town failed to consider the market value impact of a log built home compared to a stick built home;

(4) when the Taxpayer attempted to get bank financing, the bank appraisals’ market value estimates were substantially below the value indicated by the Town’s assessment; and

(5) the assessment should be abated using a market value of \$435,000 as estimated in the Standish Appraisal.

The Town argued the assessment was proper because:

(1) the Town performed a full revaluation in 2006 and the prior revaluation was performed in 1996;

(2) while the construction costs of log built homes are generally higher than stick built homes and log built homes may lose more of their value (based on original cost) over time than stick built homes, the Town uses a ‘market driven, market modified’ cost approach and takes this factor into account by not using higher base rates for log built homes;

(3) the market for log built homes in the Town is “in balance” (neither excess supply nor excess demand);

(4) the Property is a ranch style home and the style of a home does influence its value (as shown on page 9 of Municipality Exhibit A);

(5) the land adjustment for excess land per acre should not be uniform but should depend on the characteristics of the excess land (such as its quality (wet or dry), location, etc.);

(6) a summary appraisal report (the "Town Appraisal," Municipality Exhibit A) estimates the market value of the Property to be \$507,300 on April 1, 2006, using four comparable sales of ranch style homes, and this appraisal supports the proportionality of the assessment;

(7) the assessments of the Taxpayer's comparable properties are consistent with the assessment on the Property, if appropriate adjustments are made for differences; and

(8) the Taxpayer did not meet its burden of proving disproportionality.

The parties agreed the level of assessment in the Town was 99.1% in tax year 2006, as measured by the median ratio computed by the department of revenue administration.

### **Board's Rulings**

Based on the evidence, the board finds the Taxpayer failed to prove the Property was disproportionately assessed. The appeal is therefore denied.

The Taxpayer argued there is a limited market for properties similar to the log built home she owns and contends the market value of the Property on April 1, 2006 was \$435,000 based on the Standish Appraisal and Mr. Standish's testimony. He testified the crux of the issue between the Town's assessment and the estimate of value in his appraisal is that he used sales of log built homes and the Town did not. He found a limited market for log built homes and values less than for stick built homes with similar features.

The Town Appraisal, performed by its contracted assessing firm, Corcoran Consulting Associates, Inc., did not agree with the Standish Appraisal's emphasis on this feature and how it

should affect the market value of the Property, which the Town estimated to be \$507,300 based on a comparison to four other ranch style homes in the Town. Mr. Standish, in contrast, compared the Property to three homes in the Town and three in the Town of Hudson that were log built, but none of which were ranch style homes.

The only significant material difference between the positions of the parties is whether it is inappropriate to value a log built home using comparable sales that are not log built but of a similar style to the Property, as the Town did, or whether only log built homes (including, if necessary, some located in another town) should be used. The Taxpayer contends not using log built homes to compare to the Property misrepresents how the market would view and value it. The Town, however, asserts that while it is always preferable to use sales of similarly constructed properties when doing a comparative analysis, other factors, most importantly the style of the home (single story ranch, for example), must be accounted for as it would be inappropriate to not consider that factor in such an analysis.

To demonstrate this factor's influence on market value, page 9 of the Town's Appraisal presents an analysis of the average sale prices per square foot of various style properties. The Town contends that its study, based on more than 350 sales of different styles of properties that occurred in the Town including log built and stick built homes, as well as qualified and unqualified sales, indicates the style of a home is a significant factor that must be accounted for when estimating any property's market value.

Relevant to this appeal is the fact the Property is a one story ranch and the Standish Appraisal makes no adjustment for the various styles of the comparable sales Mr. Standish uses in his analysis. The Standish Appraisal does not contain any comparable sales of log built ranch homes similar to the Property. The Town asserts not making any style adjustment to the

comparable sales is a significant flaw in the Standish Appraisal and diminishes its reliability significantly.

The board finds, on balance, the Town's argument to be persuasive that some adjustment should have been made for the different styles of homes in the Standish Appraisal. The board noted Mr. Standish's explanations regarding the unique nature and the limited amount of data available for log built homes and the very substantial adjustments made in his appraisal to compensate for these factors. Five of the six comparable homes in the Standish Appraisal are cape style homes and the sixth is a gambrel, all two-story rather than single-story ranch homes. The Town Appraisal found, on average, cape style homes sold for 16% less on a per square foot basis than single-story, ranch homes and two-story, colonial homes were selling for about 24% less than ranches. See Municipality Exhibit A, p. 9. Adjusting the Standish Appraisal value estimate by (say) 16% yields an estimated value of \$505,000, rounded ( $\$435,000 \times 1.16$ ). This adjusted estimate factored by the Town's equalization ratio of 99.1% is reasonably close to the Town's assessment.

In summary, the board finds it was proper for the Town to consider the style of a home in making assessments because all factors affecting market value must be considered. Paras v. Portsmouth, 115 N.H. 63, 67-68 (1975). In other words, the board is persuaded the Standish Appraisal's concentration on log built homes, without considering and adjusting values for style differences, is not reasonable given the evidence in the Town Appraisal regarding the substantial effect of style of home on market value.

For these reasons, the board finds the Taxpayer failed to prove the Property was disproportionately assessed and the appeal 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(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

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Douglas S. Ricard, Member

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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: Mr. Mark A. Standish, P.O. Box 411, Pelham, NH 03076, Taxpayer representative; Chairman, Board of Selectmen, 6 Village Green, Pelham, NH 03076-3172; and Wil Corcoran, Corcoran Consulting Associates, Inc., P.O. Box 1175, Wolfeboro Falls, NH 03896, Contracted Assessing Firm

Date: May 21, 2009

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Anne M. Stelmach, Clerk