

Nancy Deslauriers

v.

Town of Auburn

Docket No.: 24203-08PT

DECISION

The “Taxpayer” appeals, pursuant to RSA 76:16-a, the “Town’s” 2008 assessment of \$222,500 (land \$135,000; building \$87,500) on Map 21/Lot 7, a single family home on 0.25 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 argued the assessment was excessive because:

(1) an appraisal prepared by Tricia B. Halliday of Model Appraisal Services (Taxpayer Exhibit No. 1, the “Halliday Appraisal”), obtained when the Property was refinanced in 2008, estimates a market value of \$200,000 (as of April 8, 2008);

(2) the Property was purchased in 2003 for \$172,000; and

(3) an abatement should be granted based on a \$200,000 market value.

The Town argued the assessment was proper because:

(1) the Town did a statistical update in tax year 2007, resulting in revised values;

(2) the Town's analysis (Municipality Exhibit A), based on six comparable sales and reasonable adjustments for differences with the Property, indicates the assessment is proportional and well supported;

(3) the Halliday Appraisal relied on by the Taxpayer includes one property also used in the Town's analysis (234 Chester Road), just one other property in the Town and one in the Town of Derry, and makes adjustments that are too low for living area and for the finished basement; and

(4) the Taxpayer did not meet her burden of proof.

The parties agreed the level of assessment in the Town was 104.7%, the median ratio calculated by the department of revenue administration for tax year 2008.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove the Property was disproportionately assessed in tax year 2008. The appeal is therefore denied.

Proportional assessments are based on market value, see RSA 75, adjusted by the level of assessment. In order to prove disproportionality and obtain a tax abatement, the Taxpayer had the burden of proving the market value of the Property was below \$212,500 rounded, the equalized value of the assessment (\$222,500 divided by 104.7% level of assessment).

The board considered the Taxpayer's evidence, consisting of the Halliday Appraisal, prepared for re-financing purposes, which estimated the market value to be \$200,000, just \$12,500 below this amount. Appraiser Halliday did not attend the hearing and therefore was not

available to answer questions regarding the assumptions and adjustments made. In addition, the Halliday Appraisal relies on just three comparable sales, one of which (256 Hampstead Road) is in another town (Derry) a much greater distance (8.5 miles) from the Property. If this sale is excluded, the average adjusted value from the two remaining sales presented in the Halliday Appraisal is \$212,000 (rounded), very close to the equalized value of the assessment on the Property. The Town further noted the Halliday Appraisal made an adjustment for differences in gross living area and for finished rooms below grade (with bathroom) that were overly conservative. The board agrees. Among other things, this appraiser attributed only \$8,000 of additional value for the two finished rooms with a bathroom in the basement (described as “Full Bed, Bath, Den”), but a likely purchaser of the Property, comparing it to others, would likely ascribe more value for these features.

The Town’s assessor presented a sales analysis (Municipality Exhibit A) using six comparable properties all located in the Town, showing an adjusted value range of \$189,140 to \$243,700. An equal weighting of these sales indicates an estimated market value of \$218,400 (rounded). Two of these sales were on the same road (Chester Road) as the Property and averaging the adjusted prices of these two sales yields a \$216,400 (rounded) estimate, which is also supportive of the assessment. In addition, the equalized value indication noted above (\$212,500) is consistent with the purchase price (\$172,000) paid by the Taxpayer in 2002 if a modest amount of simple appreciation (say 4% per year, on average, times six years) is considered ($\$172,000 \times 124\% = \$213,280$). The board finds these facts are also supportive of the proportionality of the assessment.

For all of these reasons, the board finds the Taxpayer failed to meet her burden of proving disproportionality 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 with a copy provided to the board in accordance with Supreme Court Rule 10(7).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Michele E. LeBrun, Member

Albert F. Shamash, Esq., Member

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Nancy Deslauriers, 220 Chester Road, Auburn, NH 03032, Taxpayer; Chairman, Board of Selectmen, Town of Auburn, PO Box 309, Auburn, NH 03032-0309; and Loren J. Martin, Avitar Associates of New England, Inc., 150 Suncook Valley Highway, Chichester, NH 03258, Contracted Assessing Firm.

Date: July 6, 2010

Anne M. Stelmach, Clerk