

Annelie Mullen

v.

Town of Wilton

Docket No. 25515-10PT

DECISION

Upon review of the “Town’s” August 18, 2011 “Motion for Dismissal” (the “Motion”) and the “Taxpayer’s” September 19, 2011 response, the board finds the Motion should be granted. The appeal is dismissed for the following reasons.

As stated in the Motion, the Taxpayer bases her claim of overassessment on an “Appraisal of Real Property” performed by Linda K. Gray of LKG Appraisal (the “Gray Appraisal”). The Gray Appraisal estimates the market value of the “Property” to be \$175,000 as of February 10, 2011. In her abatement request to the Town and appeal to the board, the Taxpayer states she purchased the Property, a condominium, for \$195,000 (on December 1, 2008) and “the value of my condo is \$175,000.” \$175,000 is the “Opinion of Market Value” stated in Section G of the appeal document for the Property as of the assessment date (April 1, 2010).

The Taxpayer has not disputed the Town’s position that the level of assessment in the Town for tax year 2010 was 121.9%, the median ratio calculated by the department of revenue

administration. This means the proportionality of an assessment in the Town can be decided by determining whether a property was assessed at approximately 121.9% of its market value. An estimated market value of \$175,000 indicates a proportional assessment of the Property for tax year 2010 is \$213,300, rounded. The assessment under appeal for tax year 2010 is \$214,000, just \$700 or 0.3% more than this number.

The board finds this very minor difference is well within the range of acceptable tolerance (or margin of error) and therefore there is no basis for obtaining a tax abatement. As the supreme court has recognized, there is never one exact, precise or perfect assessment; rather, there is an acceptable range of values which, when adjusted to the municipality's general level of assessment, represents a reasonable measure of one's tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979).

There is no evidence to indicate the Taxpayer is correct in her assumption that the Town simply multiplied the values of homes in existence in 2005 "by . . . 125%" to arrive at the tax year 2010 assessment (and that this is invalid because her Property was not built until December, 2008). Assessments must be arrived at based on market value and the level of assessment in the Town. See RSA 75:1; and Porter v. Town of Sanbornton, 150 N.H. 363, 367 (2003). Further, the fact the Town reduced the assessment on the Property in tax year 2011 is not a basis for granting an abatement in tax year 2010 without proof of disproportionality in that tax year.

For all of these reasons, the board finds the Taxpayer failed to meet her burden of proving the Property was disproportionately assessed in tax year 2010. The Motion is therefore granted and the appeal is dismissed.

Any party seeking a rehearing, reconsideration or clarification of this Decision must file a motion (collectively "rehearing motion") 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, Chair

Douglas S. Ricard, Member

Albert F. Shamash, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Annelie Mullen, 16 Maple Street, PO Box 747, Wilton, NH 03086, Taxpayer; Chairman, Board of Selectmen, Town of Wilton, PO Box 83, Wilton, NH 03086; and Granite Hill Municipal Services, Mr. Todd Haywood, PO Box 1484, Concord, NH 03302, Contracted Assessing Firm.

Date: 10/6/11

Anne M. Stelmach, Clerk