

Richard Hall

v.

City of Laconia

Docket No.: 25588-10PT

DECISION

The “Taxpayer” appeals, pursuant to RSA 76:16-a, the “City’s” 2010 assessment of \$585,500 (land \$490,200; building \$95,300) on Map 396/Lot 199/10, 364 Shore Drive, a single-family home on 0.78 acres with 177 feet of frontage on Lake Winnisquam (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. The board finds the Taxpayer failed to prove disproportionality.

The Taxpayer, represented by Robert M. Shepard, Esq., argued the assessment was excessive because:

(1) the Town decreased the building value and increased the land value in 2010;

(2) the Taxpayer does not dispute the building component of the assessed value (\$95,300) but feels the total market value of the Property was \$400,000; and

(3) the sales and assessed values of other properties discussed at the hearing support an abatement (see also Taxpayer Exhibit No. 1).

The City argued the assessment was proper because:

(1) the City performed a revaluation in 2010 and it is not uncommon during a revaluation for some property components (land and/or building) to increase in value and others to decrease;

(2) Municipality Exhibit A contains information supporting the proportionality of the assessment; and when asked at the hearing, the Taxpayer admitted he obtained an appraisal “last summer” which arrived at a ‘exactly the same value’ as the assessment; and

(3) the appeal should be denied.

The parties agreed the level of assessment was 98%, the median ratio calculated by the department of revenue administration.

Board’s Rulings

Based on the evidence, the board finds the Taxpayer did not meet his burden of proving disproportionality and the appeal is denied for the following reasons.

“In an abatement case, the Taxpayer has the burden of proving by a preponderance of the evidence that the Property at issue was assessed disproportionately to other property in the Town.” Appeal of Sokolow, 137 N.H. 642, 643 (1993). To prevail in this appeal, the Taxpayer had the burden of establishing the market value of the Property was below the equalized value reflected in the abated assessment. (\$585,500 assessment divided by 98% level of assessment = \$597,400, rounded, indicated market value as of April 1, 2010 assessment date.)

The Taxpayer presented copies of assessment-record cards and/or “listing sheets” for several properties that sold in the past several years (see Taxpayer Exhibit No. 1), but did not provide the board with any information regarding how those properties may be similar to or distinct from the Property or how any material differences should be accounted for. Additionally, the Taxpayer testified to the sale prices of several properties and how those sale prices compared to their assessed values, but did not correlate that information to the Property and its market value, which is a crucial step in proving disproportionality. To carry his burden, the Taxpayer should have made a showing of the Property’s market value, which would then have been compared to the Property’s assessment and the general level of assessment in the City. See, e.g., Appeal of Net Realty Holding Trust, 128 N.H. 795, 803 (1986); Appeal of Great Lakes Container Corp., 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. 214, 217-18 (1985).

The Taxpayer testified he “agreed” with the improvements component of the assessment, but disagreed with the land component. Even if a Taxpayer wishes to challenge only one component of the assessment, such as the land value or the building value, the Taxpayer still has the burden of proving the aggregate value of the Property as a whole is disproportional and the total assessment is excessive in order to obtain an abatement. Appeal of Walsh, 156 N.H. 347, 356 (2007).

The Taxpayer did not present a market analysis or an independent appraisal to provide an opinion of market value. However, upon questioning by the City’s assessor, the Taxpayer indicated he had an appraisal prepared “last summer” and the opinion of market value was “exactly the same as the assessed value.” He stated he did not think the appraisal was credible,

as it did not utilize sales of homes in the City, but from three surrounding communities, and this appraisal was not presented as evidence.

The Taxpayer indicated he did not understand why, during the 2010 revaluation, his land assessment increased substantially and his building assessment decreased. Further, he testified to a property located at 322 Shore Drive, where the land assessment decreased. When the Town undertakes a full revaluation, as it did in tax year 2010, it is not uncommon for assessments to rise on certain properties and fall on others or for values to increase or decrease at different rates, both in absolute numbers and in percentages, since the objective of this process is to correct for any prior discrepancies and to update values based on current market information. Cf. Appeal of Town of Sunapee, 126 N.H. at 217-19.

The City presented an analysis (in Municipality Exhibit A) which included the sales of six properties in the same neighborhood (“WS1”) as the Property that occurred after the 2010 revaluation. These sales have a median 1.01 assessment-to-sales ratio, which the City argued, is an indication the “model” established during the revaluation generally achieved market value. These six sales had a median sales price (\$793,750) well above the indicated market value of the Property.

In summary, there is no evidence before the board to allow it to conclude the Property’s assessment was disproportional in tax year 2010. Therefore, the appeal is denied.

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

Albert F. Shamash, Esq., Member

Theresa M. Walker, Member

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Robert H. Shepard, Esq., 47 Factory Street, P.O. Box 388, Nashua, NH 03061, counsel for the Taxpayer; and Chairman, Board of Assessors, City of Laconia, 45 Beacon Street East, Laconia, NH 03246.

Date: February 4, 2013

Anne M. Stelmach, Clerk