

**Nancy Rowley**

**v.**

**City of Laconia**

**Docket No.: 25854-10PT**

**DECISION**

The “Taxpayer” appeals, pursuant to RSA 76:16-a, the “City’s” 2010 assessment of \$133,700 (land \$85,800; building \$47,900) on Map 146/Lot 125/17, a single family home on 0.03 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, along with her husband Eric Rowley, argued the assessment was excessive because:

(1) the land portion of the assessment increased from \$28,600 in 2009 to \$85,800 (after abatement) following the 2010 city-wide revaluation, an increase of approximately 300%;

(2) it was reported in the local newspaper that residential property assessments declined by 9% while the Taxpayer's land value increased by 600%, then by 300% after an abatement request was made (see Taxpayer Exhibit No. 1);

(3) the lot is 0.03 acres in size and essentially is 100% developed with the house and has no driveway or other parking areas;

(4) while the Property is in close proximity to Lake Winnepesaukee, access to the lake is somewhat "ambiguous" and it has no views of the water;

(5) the comparable sales submitted show sale prices of similar single-family homes sold for prices ranging from \$35,000 to \$65,000 (see Taxpayer Exhibit No. 2), which is a good indication of the market value of the Property; and

(6) the market value of the Property was \$76,000 (see Appeal Document, Section G), based on a land value of \$28,600 and building value of \$47,900, rounded, and the assessed value should be reduced accordingly.

The City argued the assessment was proper because:

(1) the City completed a full revaluation in 2010, the first in approximately twenty (20) years;

(2) based on sales utilized during the revaluation and applying all factors consistently to all properties in the Methodist Grove neighborhood, the assessments "are a fair reflection of market value" (see Municipality Exhibit A);

(3) after the abatement request was filed, the City inspected the Property and reduced the land value to \$85,800 to reflect more accurate information regarding proximity to the lake and water access; and

(4) the Taxpayer did not carry her burden of proof and the appeal should be denied.

The parties agree the level of assessment in 2010 was 98% based on the median ratio calculated by the department of revenue administration.

### **Board's Rulings**

Based on the evidence, the board finds the Taxpayer did not carry her burden in proving the Property was disproportionately assessed. Therefore, the appeal is denied.

In order to be proportional, assessments must be based on market value. See RSA 75:1; and, e.g., Porter v. Town of Sanbornton, 150 N.H. 363, 368 (2003). In arriving at a proportionate assessment, all relevant factors affecting market value must be considered. Paras v. City of Portsmouth, 115 N.H. 63, 67-68 (1975). The Taxpayer argued she was only challenging the land component of the assessment. However, in making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. Moreover, the supreme court has held the board must consider a taxpayer's entire estate to determine if an abatement is warranted. See Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). In other words, 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 further argued the Property's assessment was disproportional because it increased at a greater percentage than other properties in the City. For instance, the land component of the assessment increased by 600%, which was subsequently reduced to roughly 300%, while other residential properties' assessments decreased by 9%. (See Taxpayer Exhibit No. 1 at Tab B.) The board finds such evidence does not conclusively prove the Property is

disproportionally assessed. See Appeal of Town of Sunapee, 126 N.H. 214 (1985). A greater percentage increase in an assessment following a municipal reassessment or update is not a basis for an abatement since unequal percentage increases are inevitable following such reassessments. RSA 75:8 requires municipalities to examine all real estate in the municipality on an annual basis and reappraise such real estate as has changed in value. The City's reassessment complies with RSA 75:8 and is intended to remedy past inequities and, thus, new assessments will vary between properties, both in absolute numbers and in percentages.

The Taxpayer presented four comparable sales and performed an analysis calculating the assessed value per square foot. However, based on the board's judgment and experience<sup>1</sup>, these sales do not provide a credible indication of the Property's market value as the Taxpayer did not provide enough information for the board to determine if they were in fact arm's-length sales and what adjustments, if any, should be made for physical differences between the Property and the sales. Further, the assessment-record cards for these comparable sales were not provided to the board as required in Tax 201.33. Information on those cards would have been helpful in providing information to the board regarding those properties.

The City provided information regarding two sales that were utilized in the establishment of assessed values during the 2010 revaluation. The board finds one of those sales (5 Baker Road sold for \$290,000 on June 29, 2009), provides some meaningful information of market value for the Property. 5 Baker Road is similar in size to the Property (0.03 acres), but has deeded water access. This factor is superior to the Property which the City recognized in its land assessment of \$178,200 compared to the Property's land assessment of \$85,800. Further, review

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<sup>1</sup> This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975); see also Petition of Grimm, 138 N.H. 42, 53 (1993) (administrative board may use expertise and experience to evaluate evidence).

of the assessment-record cards for those two sales and the Property indicate adjustment factors for water access and proximity to the lake were applied consistently. Consistent methodology has been found to be some evidence of proportionality. See Bedford Development Co. v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

For all these reasons, the appeal for abatement 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

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Michele E. LeBrun, Chair

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Theresa M. Walker, Member

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**Certification**

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Eric Rowley, 107 Oakcrest Lane, Gilmanton, NH 03237, Taxpayer's Representative; and Chairman, Board of Assessors, City of Laconia, 45 Beacon Street East, Laconia, NH 03246.

Date: 10/31/12

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Anne M. Stelmach, Clerk