

Alfred T. Columb 2011 Trust

v.

City of Laconia

Docket No.: 26167-11PT

DECISION

The “Taxpayer” appeals, pursuant to RSA 76:16-a, the “City’s” 2011 assessment of \$86,600 (land only) on Map 183/Lot 473/1/47, a 0.20 acre vacant lot (the “Property”). (The Taxpayer also owns, but did not appeal, a single-family home on a 0.07 acre lot assessed at \$379,500, which the parties agreed was proportionally assessed.) 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) the Property is a vacant lot in a development containing other similar vacant lots;
- (2) four other lots in the same development have much lower assessments, averaging \$20,300;

- (3) the Property is on a busier street than the other four lots and their location affords them more privacy;
- (4) the Property does not have water access and does not have the same water views as the Town's comparable sales;
- (5) there have been no improvements on the Property, but the City has nevertheless increased the assessed value (from \$61,900 in tax year 2010); and
- (6) the assessment should be abated to \$20,300.

The City argued the assessment was proper because:

- (1) the four lots cited by the Taxpayer are on "paper" roads that have not yet been developed and those lots, still owned by the developer, cannot be sold until the roads are built at some point in the future, which accounts for their lower assessed values;
- (2) the City completed an update of values in tax year 2011 and a sale of another undeveloped lot in the vicinity of the Property (Lot 44, which sold for \$100,000 in February, 2012) is supportive of the assessment on the Property;
- (3) the sales used in the City's 2011 update (in Municipality Exhibit A) are also supportive of the proportionality of the assessment; and
- (4) the appeal should be denied.

The parties did not dispute that the level of assessment in the City was 99.5% in tax year 2011, the median ratio calculated 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 in tax year 2011. The appeal is therefore denied for the following reasons.

The Taxpayer relied primarily on four other vacant lots with lower assessed values. The Taxpayer averaged these values to arrive at an indicated value of \$20,300 for the Property. Averaging assessments does not necessarily prove disproportionality; it only proves the Taxpayer's land is assessed more than the average of lots assumed to be comparable to the Property. The City pointed out, however, that these lots were not comparable: unlike the Property, all four are on "paper" roads; and they were still owned by the developer and cannot be sold until such time as the roads are constructed.

The Taxpayer did not provide assessment or sales information for any other lots in the vicinity of the Property that were more comparable and had road access. The City noted one lot, Lot 44 which is three lots from the Property, sold for \$100,000 in February, 2012, which is supportive of the assessment under appeal.

The board reviewed the sales used in the 2011 update presented by the City in Municipality Exhibit A and finds these sales are supportive of the proportionality of the assessment. Except for two of the sales, the remaining sales ranged from \$70,000 to \$174,700. (The two sales with lower prices involved transfers to abutters and one was bought solely for access to the water, lessening the comparability of these sales to the Property.)

The Taxpayer argued his assessment increased in tax year 2011, but this is not probative of whether the Property was disproportionately assessed. See Appeal of Town of Sunapee, 126 N.H. 214 (1985). The City performed an update in 2011 and explained this was the reason why some assessments increased. Assessments on properties are likely to change upwards or downwards when a municipal performs a full reassessment or an update. In addition, RSA 75:8 requires municipalities to adjust assessments annually to reflect changes. In the board's experience, it is unlikely that all properties within a municipality will change in value at the same rate and in the same direction.

For all of these reasons, 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

Michele E. LeBrun, Chair

Albert F. Shamash, Member

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Alfred T. Columb 2011 Trust, c/o Alfred T. Columb, Trustee, 114 Hickory Stick Lane, Laconia, NH 03246, Taxpayer; and Chairman, Board of Assessors, City of Laconia, 45 Beacon Street East, Laconia, NH 03246.

Date: March 25, 2014

Anne M. Stelmach, Clerk