

Albert and Aline Grimard

v.

Town of Pelham

Docket No.: 26218-11PT

DECISION

The “Taxpayers” appeal, pursuant to RSA 76:16-a, the “Town’s” 2011 assessment of \$327,300 (land \$130,100; building \$197,200) on Map 33/1 Lot 160/13, 13 Misty Lane, a single-family home on 1.30 acres (the “Property”). For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing, by a preponderance of the evidence, the assessment was disproportionately high or unlawful, resulting in the Taxpayers 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 Taxpayers must show the Property’s assessment was higher than the general level of assessment in the municipality. Id. The board finds the Taxpayers failed to prove disproportionality.

The Taxpayers argued the assessment was excessive because:

(1) the Property includes unfinished attic space (with pull down stairs) that is used only for storage, which, according to the Town, should not be assessed and was corrected (as shown in Taxpayer Exhibit No. 1);

- (2) as a result of the Town correcting this error, other elements of the assessment of the building value's replacement cost were improperly increased by \$1,349 (before taking into account the 20% depreciation);
- (3) the assessment should be abated by \$1,044; and
- (4) the appeal should be granted.

The Town argued the assessment was proper because:

- (1) the Town performed an update in tax year 2011;
- (2) the Town adjusted the attic space prior to arriving at the final assessed value of \$327,300 (reducing the initial preliminary value of \$344,400);
- (3) the Taxpayers have provided no market value evidence to demonstrate disproportionality and they, in fact, acknowledge the Property has a market value of \$325,000; and
- (4) the appeal should be denied.

The parties did not dispute the level of assessment in the Town was 97.6%, the median ratio calculated by the department of revenue administration.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to meet their burden of proving disproportionality. The appeal is therefore denied for the following reasons.

The board understands the Taxpayers' reasoning and calculations in Taxpayer Exhibit No. 1 regarding the unfinished attic space and how it affected the Property's building value. According to these calculations, the Taxpayers assert the assessment on the Property should be reduced by \$1,044. The board does not agree.

Assessments must be based on market value adjusted by the level of assessment. See RSA 75:1 and, e.g. Porter v. Sanbornton, 150 N.H. 363 (2003). As the Town noted, the

Taxpayers presented no market value evidence to establish the 2011 assessment of \$327,300 was disproportional. In their appeal document, they stated the market value of the Property was \$325,000 and the equalized value of the assessment is \$335,300 rounded, a difference of only 3.2% if the Taxpayers' unsupported claim regarding market value is accepted.

The Town provided a reasonable explanation of why several other elements of the building value increased slightly as a result of the change in effective living area caused by the reduction in the attic space subject to assessment. The Town employs a computer assisted mass appraisal ("CAMA") system and, all other things being equal, reducing the effective living area results in a slight increase in certain estimated building values. (See Taxpayer Exhibit No. 1 and Municipality Exhibit A.) The CAMA system is simply a means to the end of arriving at a proportional assessment based on market values. The board finds the Town did not err in applying this system to assess the Property in a proportional manner.

While the board understands the arithmetic issue argued by the Taxpayers, 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 the proportional tax burden. Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979). In making market value findings, the board looks at the Property's value as a whole because this is how the market views value.

Even if a taxpayer wishes to challenge only one component of the assessment, a 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; thus, the board must consider the taxpayer's entire estate. See Appeal of Walsh, 156 N.H. 347, 356 (2007); and Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). The reduction in assessed value

the Taxpayers are seeking (\$1,044) is 0.31% of the total assessment (\$1,044 divided by \$327,300). The evidence simply does not support a finding that the Property was overassessed in 2011.

For all these reasons, the appeal is therefore 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

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Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Albert and Aline Grimard, 13 Misty Lane, Pelham, NH 03076, Taxpayers; Chairman, Board of Selectmen, Town of Pelham, 6 Village Green, Pelham, NH 03076-3172; and Corcoran Consulting Associates, Inc., Bayside Village, PO Box 1175, Wolfeboro Falls, NH 03896, Contracted Assessing Firm.

Date: 4/15/14

Anne M. Stelmach, Clerk