

Linda A. Snyder Revocable Trust 2005

v.

City of Concord

Docket No.: 26226-11PT

DECISION

The “Taxpayer” appeals, pursuant to RSA 76:16-a, the “City’s” 2011 assessment of \$213,200 (land \$105,700; building \$107,500) on Map 9A/Lot 2/5, a single-family home on 0.23 acres (the “Property”). For the reasons stated below, the appeal for abatement is granted.

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 Taxpayer carried this burden.

The Taxpayer argued the assessment was excessive because:

(1) an April 1, 2011 appraisal prepared by Catherine Capron of Capron Appraisal Services (“Capron Appraisal”) estimated the market value of the Property to be \$170,000;

(2) Ms. Capron relied upon four critical factors in the selection of the comparable sales utilized in her appraisal and these included location, condition, style of house and market conditions as of April 1, 2011;

(3) Ms. Capron utilized sales of three “cape” style properties in the “south end” of the City whose sale prices ranged from \$192,000 to \$210,000 and, when appropriate adjustments were made, provided a range of market value indications for the Property from \$167,200 to \$173,900; and

(4) the Capron Appraisal is the best evidence of market value and the appeal should be granted.

The City argued the assessment was proper because:

(1) a “restricted report” completed by Dixie Lee Brown (the “Brown Report”; Municipality Exhibit C), a residential appraiser with the City of Concord, arrived at a market value estimate for the Property of \$207,000;

(2) Ms. Brown utilized three comparable properties that sold between June, 2010 and May, 2011 with sale prices ranging from \$186,000 to \$204,500, and after adjustments, provided a range of value indications from \$206,200 to \$208,000;

(3) two of the comparable properties in the Brown Report contained two-bedrooms, which is appropriate as the Property contains only two-bedrooms;

(4) the Brown Report arrives at a more credible estimate of market value for the Property than the Capron Appraisal as Ms. Capron made adjustments for “concessions”, which is improper and contrary to a prior board decision (F and A, LLC v. City of Concord, BTLA Docket No. 23454-07PT, (February 4, 2010)); and

(5) the Taxpayer failed to prove disproportionality and the assessment should be upheld.

Board's Rulings

Based on the evidence, the board finds the market value of the Property to be \$170,000, resulting in an assessment of \$170,200 for the reasons that follow.

The board finds that, based on a review of the entire record, the major area of dispute between the parties is the quality of construction and the physical condition of the Property. The board finds the record supports the description of the Property in the Capron Appraisal, and is accurately portrayed by the photographs submitted. (See Taxpayer Exhibit No. 1.)

The Brown Report, however, describes the Property as “[t]he quality of construction and material grade are considered to be avg/good and although the kitchen/baths are original the condition is considered good due to updated vinyl siding in the 90’s and an asphalt shingled roof in 2007. Additionally, the oil-fired forced warm air furnace was installed in 2009.” While the specific examples of “updates” may be accurate, the board finds that Ms. Brown overlooked many other physical characteristics that a typical buyer would consider in need of immediate replacement. For example, the Property has original, wood-framed, single-pane windows, original wiring and plumbing fixtures, 40 to 50 year old vinyl flooring, original metal kitchen cabinets, metal kitchen sink and an original, stained bathtub.

The board finds the Capron Appraisal to be the best evidence of market value and that, on balance, her adjustments were reasonable and well supported. Additionally, Ms. Capron’s testimony regarding the process she utilized in selecting the most appropriate comparable sales was credible. Ms. Capron testified with clarity regarding the information obtained from the individuals she confirmed the comparable sales with, as well as very specific information why she selected the comparable properties she utilized as well as ones she elected not to utilize.

The board could not place much weight on the market value opinion arrived at in the Brown Report. The adjustments made in the Brown Report did not adequately account for the differences between the Property and the comparable sales, specifically for age, quality of construction and condition. Further, Ms. Brown testified regarding several adjustments she made (or considered and ultimately did not make), but her reasons for doing so were because of “City policy”, and were not based on her own, unbiased opinions or market data.

If the taxes have been paid, the amount paid on the value in excess of \$170,200 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Until the City undergoes a general reassessment or in good faith reappraises the property pursuant to RSA 75:8, the City shall use the ordered assessment for subsequent years. RSA 76:17-c, I and II.

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

Theresa M. Walker, Member

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to Linda A. Snyder, Trustee of the Linda A. Snyder Rev. Trust 2005, 9 Jordan Avenue Concord, NH 03301, Taxpayer; Danielle L. Pacik, Esq., City Solicitor's Office, 41 Green Street, Concord, NH 03301; and Chairman, Board of Assessors, City of Concord, 41 Green Street, Concord, NH 03301.

Date: April 1, 2014

Anne M. Stelmach, Clerk