Susan Ashooh Lazos

v.

City of Manchester

Docket No.: 26440-11PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "City's" 2011 assessment of $329,700 (land $91,900; building $237,800) on Map 560/Lot 80, a single-family home on 0.46 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 argued the assessment was excessive because:

(1) the assessed value of the Property was decreased from $341,600, but is still excessive;

(2) a "comprehensive market analysis" completed by Lori Robertson-Stoudt (the "Stoudt CMA", Taxpayer Exhibit No. 1) concluded with a "recommended price range" of $265,000 to $274,000;

(3) the Stoudt CMA utilized sales of comparable properties to estimate a market value, which indicates the Property is disproportionately assessed;

(4) Ms. Stoudt also analyzed a list of comparable properties on a per square foot basis and arrived at a per square foot price for the Property of $102.28, which equates to an indicated value of $268,280 (see Taxpayer Exhibit No. 1 at Exhibit C);

(5) further, Ms. Stoudt analyzed five assessed values on a per square foot basis, which indicated a per square foot assessed value of $107.03 to $118.70, and the Property is assessed for $130.23 per square foot, which is additional evidence of disproportionality (see Taxpayer Exhibit No. 1, at Exhibit D);

(6) some of the comparable properties utilized in the Stoudt CMA as well as in the City's appraisal were in "updated" condition and the Property has not been updated and has original flooring, cabinets, countertops, etc. (see Taxpayer Exhibit No. 2);

(7) a number of additional comparable sales and assessments were provided by the Taxpayer which also support the disproportionality of the Property's assessment (see Taxpayer Exhibit Nos. 3 and 4); and

(8) the assessment should be reduced to $273,000.

The City argued the assessment was proper because:

(1) several of the comparable sales utilized by the Taxpayer were "short sales" or resales after foreclosure, which are not generally considered arm's-length in nature and should be excluded;

(2) the board should place limited weight on the Stoudt CMA as it does not adequately address differences between the Property and the comparable sales, how any differences should be adjusted and there was no confirmation of the terms of the sales;

(3) an appraisal prepared by Lee Ann Provencher (the "Provencher Appraisal", Municipality Exhibit G) arrived at a market value estimate of $320,000 as of April 1, 2011 for the Property, which is generally supportive of the assessed value;

(4) the Provencher Appraisal is the best evidence of market value of the Property as it utilized appropriate comparable sales and its adjustments were well supported; and

(5) the appeal should be denied.

The parties agreed the level of assessment in the City was 101.5%, the median ratio as calculated by the department of revenue administration.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove disproportionality and therefore the appeal is denied.

In arriving at a judgment regarding proportionality, the board applies its learning and experience in taxation, real estate appraisal and valuation. See RSA 71-B:1; see also RSA 541-A:33, VI. Arriving at a proper assessment is not an exact science, but a process requiring use of informed judgment and experienced opinion. See, e.g., Brickman v. City of Manchester, 119 N.H. 919, 921 (1979) (use of judgment in selecting valuation methodology and assumptions). 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).

The board finds it can place no weight on the Stoudt CMA for several reasons. Ms. Stoudt utilized the sales of seven (7) properties to arrive at a "recommended price range" of $265,000 to $274,000. The seven comparable properties sold with prices ranging from $260,000

to $289,000 and included descriptions of the properties. However, she did not provide any information about how differences in location and other physical characteristics between the Property and the comparable properties should be adjusted for. For its part, the City provided credible evidence the sale prices of the comparable properties would require significant adjustments to arrive at a credible market value indication for the Property, specifically for location, size and condition. (See Municipality Exhibit D.)

The board placed little weight on the comparable sale properties presented by the Taxpayer (see Taxpayer Exhibit Nos. 3 and 4). The Taxpayer provided on-line assessment-record cards, but there was insufficient information provided that would allow the board to determine how these properties compare to the Property, and what, if any, adjustments should be made. The City provided credible evidence that several of these sales were short sales or sold after a foreclosure, neither of which are generally considered arm's length sales. (See Municipality Exhibit A.)

The board considered, but did not rely upon, the comparable assessments provided by the Taxpayer (see Taxpayer Exhibit Nos. 3 and 4). Again, there was no evidence as to how these properties compare to the Property and what adjustments, if any, should be made to provide any meaningful indication of the appropriate assessment for the Property.

The board finds the Provencher Appraisal is the best evidence of market value for the Property. Ms. Provencher utilized the sales comparison approach to value and selected six comparable sales which sold between July, 2010 and July, 2011 with sale prices that ranged from $280,000 to $375,000. After adjustments for various physical characteristics, she arrived at a range of market value indication of $303,000 to $349,900 and concluded with a market value

opinion of $320,000. On balance, the board finds the adjustments made in the Provencher Appraisal were reasonable, well supported and resulted in a credible estimate of market value.

A market value of $320,000, after adjusting for the 101.5% level of assessment in the City, indicates an assessment of $324,800. The Property's 2011 assessment ($329,700) is a nominal 1.5% higher than this indication, and is within a reasonable range of value. 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 one's Tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979). Thus, the board finds the assessment was supported by the Provencher Appraisal and no abatement is warranted.

Further, the City submitted a neighborhood parcel value extract (see Municipality Exhibit F) which indicated the assessed value per square foot of living area for properties surrounding the Property ranged from $120.95 to $180.80. The Property was assessed near the low end of the range ($125.70 square foot), which is further support of consistent methodology and is evidence of proportionality. See Bedford Development Co. v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

For all 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

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Michele E. LeBrun, Chair

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Theresa M. Walker, Member

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Nicholas J. Lazos, Esq., Stebbins Lazos & Van Der Beken, 66 Hanover St.- Suite 301, Manchester, NH 03101, counsel for the Taxpayer; and Chairman, Board of Assessors, City of Manchester, One City Hall Plaza-West Wing, Manchester, NH 03101.

Date: April 1, 2014

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Anne M. Stelmach, Clerk