

Adeline Gendron

v.

Town of Hudson

Docket No.: 26771-12PT

DECISION

The “Taxpayer” appeals, pursuant to RSA 76:16-a, the “Town’s” 2012 assessment of \$587,500 (land \$574,200; building \$13,300) on Map 128/Lot 10, a single family home on 11.392 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.

The Taxpayer argued the assessment was excessive because:

(1) while assessments in the Town generally declined between 2011 and 2012 (by over 20%) as a result of a Town-wide revaluation, the assessment on the Property increased substantially (by “144%”);

(2) consequently, the assessment should be abated by deducting 20% from the 2011 assessment (\$292,800); and

(3) although the market value of the Property may be higher (based on the listing price for \$1 million and then \$895,000), assessments are different than market values and an abatement is warranted.

At the close of the Taxpayer's presentation, the Town made a motion to dismiss the appeal on the following grounds:

(1) the Taxpayer presented no market value evidence to prove the Property was disproportionately assessed; and

(2) by her own testimony and the exhibits presented (including the signed realtor listing agreements in Municipality Exhibit A and Taxpayer Exhibit No. 1), the Taxpayer acknowledged the market value of the Property is far in excess of the assessed value.

The parties did not dispute the level of assessment in the Town in tax year 2012 was 99.6%, the median ratio calculated by the department of revenue administration.

Board's Rulings

Based on the evidence presented at the close of the Taxpayer's presentation and the Town's motion, the board found the appeal should be dismissed and so ruled at the hearing on July 22, 2014. The board's reasons for granting the motion to dismiss are summarized below.

The Taxpayer presented no market value evidence to prove the Property was disproportionately assessed. In fact, in her own testimony she acknowledged the market value of the Property as of the tax year 2012 assessment date (April 1, 2012) was substantially higher than the equalized value of the assessment under appeal. This equalized value is approximately

\$590,000, calculated by multiplying the assessment under appeal of \$587,500 by the level of assessment in the Town (99.6%).

Her opinion of market value, however, was substantially higher. As noted above, she listed the Property for sale, first at \$1 million and then at \$895,000¹ and opined, at the hearing, that the Property should sell for much more than the equalized value. Thus, even if the \$895,000 listing overstates value to some degree, the ‘cushion’ (margin of error) above the equalized value is sufficiently great (over 50%) to enable the board to find that, in the absence of any market value evidence to the contrary, the Town’s assessment for tax year 2012 was not disproportional.

For all of these reasons, the appeal is dismissed.

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).

¹ The Taxpayer listed the Property for sale on June 21, 2010 with an asking price of \$1,000,000, renewed the listing on May 2, 2011 and reduced the asking price to \$895,000 on October 21, 2013. (See Municipality A.)

Adeline Gendron v. Town of Hudson

Docket No.: 26771-12PT

Page 4 of 4

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Albert F. Shamash, Member

Theresa M. Walker, Member

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Adeline Gendron, 299 Webster St., Hudson, NH 03051, Taxpayer; and Chairman, Board of Selectmen, 12 School Street, Hudson, NH 03051.

Date: 8-12-14

Anne M. Stelmach, Clerk