

Linda A. Ferwerda

v.

Town of Greenland

Docket No.: 27441-13PT

DECISION

The “Taxpayer” appeals, pursuant to RSA 76:16-a, the “Town’s” 2013 assessment of \$566,400 (land \$393,700; building \$172,700) on Map R14/Lot 10, a single family home on 0.42 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.

A hearing in this matter was held at the board’s office on August 19, 2015. At the conclusion of the Taxpayer’s evidence and testimony, the Town filed a verbal motion to dismiss (the “Motion”), arguing the Taxpayer (represented by her husband, Martin Ferwerda) had not carried her burden of proof. In making a decision on value, the board looks at the Property’s value as a whole (i.e., as land and buildings together) because this is how the market views

value. Moreover, the supreme court has held the board must consider a taxpayer's entire estate to determine if an abatement is warranted. See Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). Even if a Taxpayer wishes to challenge only one component of the assessment, such as the land value or the building value, the 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. Appeal of Walsh, 156 N.H. 347, 356 (2007).

Upon deliberation and full consideration of the evidence presented by the Taxpayer, including the Taxpayer's objection to the Motion, the board finds the Taxpayer failed to carry her burden of proving disproportionality and did not provide any evidence of market value that would allow the board to make any findings; thus, dismissal is appropriate. Therefore, the Motion was granted and the appeal was dismissed at the hearing.

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 107).

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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: Martin Ferwerda, 30 Bayridge Road, Greenland, NH 03840, representative for the Taxpayer; Chairman, Board of Selectmen, Town of Greenland, PO Box 100, Greenland, NH 03840; and Granite Hill Municipal Services, PO Box 1484, Concord, NH 03302, Contracted Assessing Firm.

Date: August 24, 2015

Anne M. Stelmach, Clerk