Richard T. Misiaszek and Linda M. Misiaszek
v.
Town of Meredith

Docket No. 3722-87

DECISION

A hearing in this appeal was held, as scheduled, on December 21, 1988. The Taxpayers were represented by Richard T. Misiaszek, one of them. The Town was represented by Paul Loranger, M.M.C. Inc.

The Taxpayer appeals, pursuant to RSA 76:16-a, the assessment of his condominium-cottage at $79,400 (building only; R-09 037 7).

The parties agreed that the equalization ratio for the Town of Meredith for the 1987 tax year was 96 percent.

The Taxpayer submitted the following written statement to the Board of Tax and Land Appeals.

"The assessment may be accurate, however when compared to other adjacent property it is far from being correct in our opinion. This is the main thrust of this appeal - a comparison with other properties within 100 feet of our property. For your convenience, included as Attachment 3 are the comparisons previously transmitted in my request for appeal dated March 16, 1988.

In the fall of 1986, the property located on Map 0R09, Lot 0037, Plot 0003 was sold for $72,000. The present assessment (1987) for

this same property is $75,400. Following is a comparison of this property with our property:

1. Plot 0003 is on the lake while our property is set back in the second row of cottages.

2. Plot 0003 is a two bedroom cottage (6 person occupancy) while our property is a one bedroom cottage (4 person occupancy).

3. Plot 0003 is a larger cottage (712 sq. ft. vs 702 sq. ft.) than our cottage.

If assessments were based on size alone, our property should be assessed at a value similar to Plot 0003. However, the "fair market value" of any property should be based on several factors (location, occupancy rate, size, sewage system appurtenances, etc.). Since our property has a lower permitted occupancy, its fair market value should be less than Plot 0003 even though they are comparable in size.

Furthermore, there are three other two bedroom cottages (Map 0R09, Lot 0037, Plots 0001, 0002 and 0008) which have been assessed at values of $72,200, $72,900 and $72,500. These cottages are smaller in area by 130 square feet. However, they all have a greater maximum occupancy rate (6 vs. 4) which makes them more valuable and would offset their smaller comparative area. This would make our cottage and the three mentioned above equal in value.

Based on all of the above, our property should be assessed at a lower value than the present assessment."

The Taxpayer submitted the following comparables:

Name	Map	Lot	Plot
R. C. & C. R. Wortelboer	0R09	0037	0001
D. M (Mealey) Griffen	0R09	0037	0002
A. & S. Ratta	0R09	0037	0003
D. & G. Schaake	0R09	0037	0008

A letter from Donna Griffin, Secretary, Lake Wicwas Condominium Association said,

"This letter is to inform the Board that Cottage #7 owned by Mr. and Mrs. Richard Misiaszek is a one (1) bedroom cottage per the Wicwas Condominium Association By-Laws. This means a maximum occupancy of only four (4) people is allowed.

Other one bedroom cottages are Cottages #4, 5, 6 and 9. The remaining cottages in the Association (1, 2, 3 and 8) are two (2) bedroom cottages with a maximum occupancy of six (6) people."

The Town's representative, Mr. Paul Loranger of M.M.C., Inc., said all cottages have same amenities, all are in the $70 - 80,000 range and there could be a five percent variation either way on value.

The Board finds there is a minus five percent variance owing to location and occupancy limited to a four persons.

The Board rules the correct 1987 assessment to be $75,000.

If the taxes have been paid, the amount paid on the value in excess of $75,000 is to be refunded with interest at six percent per annum from date of payment to date of refund.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Anne S. Richmond, Esquire, Chairman

Richard T. Misiaszek and Linda M. Misiaszek v. Town of Meredith

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George Twigg, III, Member

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Raymond J. Damour, Member

(Mr. Donahue did not sit.)

Peter J. Donahue, Member

Date: December 30, 1988

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Richard T. & Linda M. Misiaszek, taxpayers; and the Chairman, Selectmen of Meredith.

Michele E. LeBrun, Clerk

Date: December 30, 1988

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