

Barbara Markusson

v.

Town of Rye

Docket Nos. 5203-88 and 7450-89

DECISION

These two appeals, having been consolidated for hearing, were heard, as scheduled, on October 26, 1990. The "Taxpayer" represented herself, assisted by Edward H. Brown, Appraiser. The "Town" was represented by Tom Welch, Appraiser.

The Taxpayer appeals, pursuant to RSA 76:16-a, the Town's 1988 and 1989 assessments of \$296,550 (land, \$134,200; buildings, \$162,350) on her real estate located on La Mer Drive, consisting of a dwelling and attached garage on a lot of approximately one acre (the Property). For the reasons stated below, the appeal for abatement is denied.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry her burden and prove any disproportionality.

The Taxpayer argued:

- (1) when she purchased the property in 1987 for \$420,000 the realtor misrepresented that no building could occur on the adjacent lot;

and

- (2) that the construction of a dwelling on the adjacent lot in April of 1988 caused a \$150,000 to \$270,000 loss in value to her property due to loss of privacy and view of marshes and ocean.

The Town argued:

- (1) that the Taxpayer still maintained a view of the marsh and ocean;
- (2) that the new abutting home was a beautiful home in keeping with the neighborhood; and
- (3) that property of this type had shown substantial appreciation from 1987 to 1988.

The Board finds the Taxpayer failed to prove her assessment was disproportional. The Board also finds the Town supported the Property's assessment.

Further, the Board finds that adequate public knowledge existed and was accessible that the adjoining lot was an existing platted lot approved by the Rye Planning Board and on record at the Rockingham Registry of Deeds since November 14, 1975, and had the potential for building. More importantly, the Board finds that the Town did not assess the Taxpayer at a higher amount due to her view than was the general level of valuation for properties in the general area along Washington Road regardless of view. Consequently, even if there were merit to the Taxpayer's claim of loss of value due to loss of view and privacy, it could not be reduced from an assessment that did not include such a value above the norm of the neighborhood.

The order is, therefore:

Appeal for abatement denied.

January 9, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Peter J. Donahue

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Barbara Markusson, the Taxpayer, and to the Chairman, Board of Selectmen, Town of Rye.

Michele E. LeBrun, Clerk

January 9, 1991