

Marrads Timber Company

v.

Town of Milford

Docket No. 5684-88

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" total 1988 assessment of \$499,400 (land only) on six separately assessed properties, as follows:

<u>Map</u>	<u>Lot</u>	<u>Assessed value</u>	<u>Acreage</u>
50	9	\$152,400	127
55	5	244,000	244
55	4	34,800	29
55	3	24,000	20
55	2	2,200	1
55	1	42,000	35

The parcels are all contiguous and constitute a tract of 456 acres on the east and west side of Judd Hall Road, a class VI road (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 its burden and prove any disproportionality.

The Taxpayer argued it was overassessed based on an appraisal of Roger

MacDonald (Exhibit Tp-1) as of November 10, 1988, that the estimated market

value of the entire tract was \$378,600, or \$830 per acre. Both Mr. MacDonald and Marsha Foster, an owner in Marrads Timber Co., testified that any subdivision or development of the tract was highly speculative given the lengthy and conditional approval obtained by Mr. Thurston Williams, a deceased owner of Marrads Timber Co., from the Planning Board for a 12-lot subdivision in 1987 on a parcel adjoining the Property under appeal.

The Town testified that all sales of large tracts that existed at the time of the revaluation were of more developable and accessible parcels and thus were not comparable to the Taxpayer's property. The Town argued, however, that the \$1,095-per-acre average assessment did recognize the possibility of some limited development of the tract.

On one hand the Board finds that the repeated adjustments by M.M.C., the revaluation firm, from an initial valuation of \$1,773,200 to a valuation of \$499,400, as finally adjusted by the selectmen, surely does not inspire confidence in the final value or in the firm's overall understanding of the market for this type of property. On the other hand, the Taxpayer's appraiser based his valuation largely on one sale (the lowest one) after discounting other higher sales based some on personal knowledge of the transaction or on unverified assumptions of the conditions of the sales. Further, Mr. MacDonald prescribed the highest and best use of the property to be "for growth of timber and enhancement of wildlife" only and did not give any weight in his adjustment or consideration of sales to any value for long-term investment or limited development potential. The board does agree with the Taxpayer that, given the "track record" of the Planning Board in allowing development on Class VI roads as testified to, it is unlikely the Town would allow another

subdivision of the scale (12 lots) granted Mr. Williams in 1987 without substantial road improvements and conditions. However the board is not convinced, based on its own experience and the Town's testimony, that the potential for limited development or long-term investment for future development had been snuffed out. (The board's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V. (b).)

The board rules that the final value as abated by the Town reasonably reflects this marginal, albeit limited or speculative, value for the property.

Arriving at a proper assessment is not a science but is a matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 N.H. 919, 921 (1979); see also Marshall Valuation Service, Section 1, Page 3, March (1989). 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). Based on the evidence, the board rules the Taxpayer has failed to prove that the assessment is unfair, improper, or inequitable or that it represents a tax in excess of the Taxpayer's just share of the common tax burden. The ruling is, therefore:

Request for abatement denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

March 6, 1991

George Twigg, III, Chairman

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within decision have been mailed this date, postage prepaid, to Marsha Foster, representing the Taxpayer, and to the Chairman, Board of Selectmen, Town of Milford.

Michele E. LeBrun, Clerk

March 6, 1991

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