Clayton W. and Jean L. Smith

v.

Town of Sandown

Docket Nos.: 5966-89 and 8444-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of $122,200 (land, $75,700; buildings, $46,500) on a single family residence on 7,841 square feet located on Trues Parkway (the Property). For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing the assessments were disproportionately high or unlawful, resulting in the Taxpayers 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 Taxpayers failed to carry this burden.

The Taxpayers argued the assessments were excessive because:

(1) the Town impacted the value of the Property by classifying it as seasonal when it is in fact a year-round residence; and

(2) the Property was worth approximately $80,000 with the seasonal classification.

The Town indicated there was a lawsuit pending in 1989 and 1990 as to whether this and other properties in Town, classified as seasonal, should have been classified as residential properties. The court ruled that all property owners listed as seasonal were to be sent notification that their properties should be viewed by the Town and a change would be made, if requested by the Taxpayer.

The Town argued the assessments were proper because:

(1) the Property was listed as an average +20 camp and the difference between that category and an average quality ranch is roughly 17 percent on the building value;

(2) the effect of listing as seasonal would be 5 to 10 percent at best and that was already taken into account by the classification of camp;

(3) there were no restrictions to the Taxpayers using the Property as a year-round resident; and

(4) comparable sales submitted by the Town are evidence that the Property was proportionately assessed.

We find the Taxpayers failed to prove the Property's assessments were disproportional. While the Taxpayers raised an interesting argument, there was no evidence to support the contention of a loss in value due to the classification.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Clayton W. and Jean L. Smith, Taxpayers; Chairman, Selectmen of Sandown; and Scott Bartlett, MMC.

Dated: July 29, 1992

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Valerie B. Lanigan, Clerk