

Lawrence Dupont

v.

Town of Belmont

Docket No.: 6025-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the following assessments.

<u>Map #</u>	<u>Lot #</u>	<u>Plot #</u>	<u>Land</u>	<u>Building</u>	<u>Total</u>
2		29	D1	\$32,200	\$ 32,200
229	\$1,446,800	\$50,000	1,496,800		
230	34,900	27,800	62,700		
230 1	24,000	24,000			
230 2	22,800	22,800			
230 3	24,000	24,000			
230 4	24,000		24,000		
230 5	24,000		24,000		
230 6	22,800	22,800			
230 7	24,000	24,000			
230 8	17,800	17,800			
230 9	24,000	24,000			
23010	22,800	22,800			
23011	24,000	24,000			
23012	17,800	17,800			
23013	17,800			17,800	
23014	17,800	17,800			
23015	17,800	17,800			
23016	17,800	17,800			
23017	17,800	17,800			
23018	17,800	17,800			
23019	17,800	17,800			
23020	17,800	17,800			
23021	17,800	17,800			
23022	17,800	17,800			
23023	20,400	20,400			

<u>Map #</u>	<u>Lot #</u>	<u>Plot #</u>	<u>Land</u>	<u>BuildingTotal</u>
23024		17,800	17,800	
23025		20,400	20,400	
23026		17,800	17,800	
23027		18,500	18,500	
23028		18,200	18,200	
23029		18,900	18,900	
23030		18,200	18,200	
23031		18,200	18,200	
23032		18,500	18,500	

For the reasons stated below, the appeal for abatement is granted for lots 29-D1, 30 and 30-1 through 30-32 and denied for lot 29.

The Taxpayer has the burden of showing the assessments were 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 carried this burden and proved disproportionality.

The Taxpayer argued the assessments were excessive because:

Map 2 Lot 29-D1

- (1) the unit is only 12 x 68 feet not 14 x 65 as assessed by the Town;
- (2) the unit was purchased from a tenant in the Taxpayer's manufactured housing park (MHP) in November 1988 for \$8,000;
- (3) the unit was built in 1973, not 1978 as listed by the Town;

Map 2 Lot 29 Manufactured Housing Park

- (4) the land value was excessive -- one acre being assessed at \$110,000 and no acre is worth that much;
- (5) an appraisal done in 1988 estimated the MHP at \$800,500;

(6) the MHP is not as close to Laconia as one of the "Town's" comparables and is on Rte. 140; the park is an older park and of greater density than the Town's comparables;

Map 2 Lot 30

(7) the land is mostly swamp land;

(8) the parcel across the road, Chase property, is assessed similarly and yet is better land;

(9) the front of the parcel cannot be built on as the Town has required that portion be kept as green space;

Map 2 Lots 30-1 through 32

(10) the parcel consists of 32 manufactured housing sites; however only 7 were developed and rented; the road was only graveled to enable construction vehicles to access the remaining sites;

(11) two appraisals of individual sites estimated their values at \$13,500 to \$15,000; and

(12) the lots, on a per-acre basis, are disproportionately assessed relative to adjoining lots that can be sold separately.

The Town argued the assessments were proper because:

Map 2 Lot 29 D1

(1) the Town recommended reducing the value to \$22,200 for correcting the measurements and increasing the physical and functional depreciation;

(2) sales of manufactured homes analyzed at the time of the reassessment support the revised assessment;

Map 2 Lot 29 Manufactured Housing Park

(3) sales of two manufactured housing parks, one in Laconia for \$3,000,000 in March 1989 for 238 sites (\$12,605 per site) and one in Tilton for \$723,000 in April 1990 for 48 sites (\$15,062 per site), support the assessment;

(4) Wil Corcoran, an appraiser/assessor in the area who has had experience in assessing manufactured housing parks, indicated that manufactured housing parks were selling for approximately \$15,000 per site in 1988 to 1989;

(5) the Taxpayer's assessment equates to approximately \$13,000 per site;

Map 2 Lot 30

(6) the Town recommended reducing the assessment to \$59,600 for increased depreciation on the sales building;

Map 2 Lots 30-1 through 32

(7) the Town stated that these lots had been subdivided in 1986 and thus could be sold as separate lots; and

(8) the values were, therefore, greater than the value for rented mobile home sites.

Board's Rulings

Map 2 Lot 29-D1

The board finds the Town's corrections of the size and the adjustments in the physical and functional depreciation to be reasonable based upon the evidence. Further, the resulting value of \$22,200 is supported by the sales between disinterested parties of other manufactured homes in the MHP. The purchase of the unit by the Taxpayer in 1988 is not by itself conclusive evidence of its market value.

Map 2 Lot 29 Manufactured Housing Park

The board finds the Taxpayer did not submit the 1988 appraisal mentioned during the hearing nor did he submit any other credible evidence of the Property's fair market value. The board did not give any weight to the \$800,500 appraisal because we could not review the soundness of the value estimate. To carry his burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18. Therefore, based on the evidence submitted by the Town, including the assessment record card, the board finds the value of \$1,496,800 is proportional.

Map 2 Lot 30 and Lots 30-1 through 30-32

In reviewing the evidence, the board rules these separately assessed parcels should be viewed as one estate. See RSA 75:9. While lots 30-1 through 30-32 received subdivision approval in 1986, the board rules that their highest and best use are as part of, or expansion of, the adjacent rental MHP rather than as separately deedable lots. The board bases this ruling on:

1) a review of the Town's Zoning and Planning Ordinance (which defines mobile home park and mobile home subdivision identically), copies of the planning board's minutes and the letter of September 15, 1992 from Candace L. Daigle, Planning Asst. to Fred Welch, Town Administrator;

2) the fact that these lots are adjacent to the existing MHP and the roads are planned to interconnect and for common usage; and

3) the owner's intended and actual use of the property as an expansion of the adjoining MHP.

As to their value, the board finds, based upon evidence of the per-site value of map 2 lot 29 and the Taxpayer's appraisal of two of the lots (Exhibits TP 4 & 5), each of the completed seven sites should be valued at \$13,300 and each of the 25 remaining unfinished sites should be valued at \$9,750.

Concerning Map 2 Lot 30, the board finds the Taxpayer can use the front "green area" as a sales office during the development of the MHP expansion. See February 18, 1986 planning board minutes. Therefore, the board finds the Town's revised assessment of \$59,600 to be reasonable. In summary, the value for this parcel is:

7 lots @ \$13,000	\$ 91,000
25 lots @ \$13,000 x .75 (undeveloped)	\$243,750
7 lots with paving @ 300	\$ 2,100
land and buildings on "green area"	<u>\$ 59,600</u>
Total	\$396,450

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If the taxes have been paid, the amount paid on the value in excess of:

Map 2 Lot 29-D1 \$22,200

Map 2 Lot 29 Manufactured Housing Park \$1,496,800

Map 2 Lot 30 and Lots 30-1 through 30-32 \$396,450

shall be refunded with interest at six percent per annum from date paid to
refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this
date, postage prepaid, to Lawrence Dupont, Taxpayer; and Chairman, Selectmen
of Belmont.

Dated: November 9, 1992

Valerie B. Lanigan, Clerk

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