

Roberts Cove, Inc.

v.

Town of Alton

Docket No.: 6338-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$1,857,200 (land, \$1,718,700; buildings, \$138,500) on a 1.2-acre lot with a marina (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 this burden.

The Taxpayer argued the assessment was excessive because:

- (1) an April 1988 appraisal appraised the Property with an additional 9+/- acres for \$1,068,000; and
- (2) the Town's assessment of only 1.2 acres with the Property was an error since the marina cannot stand alone without more supporting land. The Taxpayer made various other arguments concerning the condition and potential use of the

marina

that will not be reiterated here because the above arguments were the Taxpayers' main focus.

The Town argued the assessment was proper because an appraisal/assessment report estimated the Property's April 1, 1989 value to be \$2,150,000. The report viewed the Property as having two components:

- 1) the boatslips; and
- 2) the marina.

The Town concluded the Property's highest and best use was as a marina with individually owned boatslips. The reports, therefore, reviewed boatslip sales from 1986 to 1990. The Town asserted the Minge and Glendale properties were the most comparable properties.

Based on the evidence, we find the Taxpayer failed to carry its burden of proof. Since the Taxpayer did not carry its burden of proof, there is no reason to comment on the Town's report.

In reviewing the Property's assessment, the board is required to review the Taxpayer's entire taxable estate in the Town. See Appeal of Town of Sunapee, 126 N.H. at 217. This is especially true where parcels are contiguous and have potential to be developed together. The board finds the Taxpayer did not submit sufficient information from which the board could find overassessment on the Taxpayers' entire taxable estate.

The Taxpayer's taxable estate consists of several properties, at least three of which are contiguous with the marina parcel. The Town erroneously only assessed 1.2 acres with the marina when the marina is not a subdivided parcel. The Taxpayer owns an additional 216+/- acres and 20, 100' by 100' lots

on land

contiguous with the marina land. This taxable estate must be viewed as a whole and its value should be determined as such.

The Taxpayer submitted an appraisal of all of its properties. That appraisal, however, considered each parcel on its own, and thus, it did not consider the marina in conjunction with the contiguous land. (The appraiser allocated 10 acres to the marina property.) The board cannot ignore the development potential the marina and the contiguous land have as a package. Additionally, we did not accept the appraiser's value estimates because the appraiser:

- 1) undervalued the cottage at only \$100,000;
- 2) undervalued the 204 acres of rear land, which value did not correlate with the comparables used in the appraisal; and
- 3) failed to appraise all of the rights in the marina such as the marina's storage capacity and potential development.

For the reasons stated above, the Taxpayer's appeal is denied for failure to prove disproportionality.

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 Irving R. Roberts, President of Roberts Cove, Inc., Taxpayer; and Chairman, Selectmen of Alton.

Dated: December 18, 1992

Valerie B. Lanigan, Clerk

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