Robert F., Robert B., Raymond W. Andrew F. Weigel, Partners

v.

Town of Bristol

Docket Nos.: 6423-89 and 8198-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the Town's 1989 assessment of $491,350 (land, $436,950; building, $54,400) and 1990 assessment of $489,800 (land, $435,400; building $54,400) on 54,440 +/- square-foot lot with 228 feet on Newfound Lake with two small houses (the Property). The Taxpayers and the Town waived a hearing and agreed to allow the board to decide the appeals on written submittals. The board has reviewed the written submittals and issues the following decision. For the reasons stated below, the appeals for abatement are denied, but the adjustments made by the Town are accepted as the new assessments.

The Taxpayers have the burden of showing the assessment was 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 their burden and prove any disproportionality.

The Taxpayers submitted several documents to support their appeal,

including a typed statement, an appraisal and a letter from a realtor. The board carefully read all of this material. Without listing all of the Taxpayers' arguments, the Taxpayers argued the assessments were excessive because:

1) The Town had used incorrect data on certain lot dimensions;

2) the Property cannot be subdivided;

3) they do not use all of the 228 feet of lake frontage;

4) the Property abuts two highly used camps;

5) the Property receives no municipal sewer or water;

6) has no road frontage on a public road; and

7) their appraisal indicates a land value of only $235,000.

The Town argued the assessments were proper because:

1) the lot can support more intense development because of its size;

2) the Taxpayers' arguments -- concerning lack of Town services, and road and proximity to overly intense use of abutting properties -- do not require an adjustment since such are the norm and would have been reflected in sales.

The Town, however, made adjustments to the Property Assessment Card to correct the lot size and to address water and sewer issues. These adjustments resulted in an assessment of $403,700 (land, $349,300; building $54,400). The board concludes these adjustments should be made for 1989 and 1990 but no further adjustments are warranted. The Town's revision addresses Taxpayers issue 1 and 5. Lack of municipal services is not necessarily evidence of disproportionality. As the basis of assessing property is market value, as defined in RSA 75:1, any effect on value due to lack of municipal services is reflected in the selling price of comparables and consequently in the resulting assessment. Thus, issues 5 and 6 have been addressed. The board accepts the Town's evidence on issue 2 and finds Taxpayers' appraisal failed

to recognize the excess land issue.

If the taxes have been paid, the amount paid on the value in excess of $403,700 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

I certify that copies of the foregoing decision have been mailed this date, postage prepaid, to Stephen U. Samaha, Esq., representing Taxpayers and Chairman, Selectmen of Bristol.

Dated: October 29, 1991

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Melanie J. Ekstrom, Deputy Clerk