

**Leroy and Eleanor French**

**v.**

**Town of Northfield**

**Docket No.: 6854-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$91,300 (land, \$33,800; buildings \$57,500) on Map 8 Lot 33 consisting of 8,700 square feet and a camp (the Property). The Taxpayers own, but did not appeal, Map 8 Lot 50 in the amount of \$32,500 consisting of 14,076 square feet of land and a camp. For the reasons stated below, the appeal for abatement is denied.

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 this burden.

The Taxpayers argued the assessment was excessive because:

(1) when comparing the subject to the abutting Quinn property, the subject is overassessed;

(2) the Quinn property has twice as much water frontage and twice as much road frontage as the subject;

(3) the Quinn property has vehicle access to get a boat in the water and the subject does not; and

(4) as of April, 1989, the Property could probably be sold for \$85,000 to \$90,000; and the Quinn property could probably sell for \$100,000.

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The Town argued the assessment was proper because:

- (1) the Town did not have any sales on Sandogardy Pond and utilized single family sales with a 65 percent increase to the land value for properties on the waterfront in arriving at waterfront property assessments;
- (2) the Quinn property has a larger lot and \$4,000 is reflected in the land assessment over the subject's;
- (3) as lot sizes increase, the price per square foot goes down;
- (4) it should be taken into consideration that larger lots should sell for more and based on a comparable property, McGonigle, the Quinn property is probably underassessed; and
- (5) the smaller lots are not overassessed and other properties more similar in size to the subject are similarly assessed.

The board finds the Taxpayers' Property was not overassessed. However, there was evidence indicating certain surrounding properties may have been underassessed. The underassessment of other properties does not prove the overassessment of the Taxpayers' Property. See Appeal of Michael D. Canata, Jr., 129 N.H. 399, 401 (1987). It is obvious to this board that the Quinn property is grossly underassessed. For the board to reduce the Taxpayers' assessment because of underassessment on other properties would be analogous to a weights and measure inspector sawing off the yardstick of one tailor to conform with the shortness of the yardsticks of the other two tailors in town rather than having them

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all conform to the standard yardstick. The courts have held that in measuring tax burden, market value is the proper standard yardstick to determine proportionality, not just comparison to a few other similar properties. E.g., Id.

In answer to a board question, the Taxpayer indicated that his Property would have brought between \$85,000 and \$90,000 if sold in April, 1989. He further estimated that the Quinn property would have brought around \$100,000 in April, 1989.

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We find the Taxpayers failed to prove the Property's assessment was disproportional.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Michele E. LeBrun, Member

#### CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Leroy and Eleanor French, Taxpayers; Scott Bartlett, MMC; and Chairman, Selectmen of Northfield.

Dated: September 1, 1992

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Melanie J. Ekstrom, Deputy Clerk

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