

Edward F. and Catherine T. Murphy

v.

Town of Derry

Docket No.: 6921-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$72,000 (land, \$45,700; buildings, \$26,300) on a seasonal camp with a .149-acre lot (the Property). 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) the assessment increased over the prior year's assessment;
- (2) the Property is located several "rows" back from the lake;
- (3) the Property will not pass a percolation test;
- (4) there are problems with the water after September; and
- (5) there are no Town services.

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The Taxpayer had no supported opinion of the Property's fair market value other than stating he would have sold the Property for \$40,000-\$45,000.

The Town submitted an appraisal report which included estimates of value by the cost and market approaches and an assessment comparison of comparable properties. The Town argued the assessment was proper because it was supported by the report.

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

Increases from past assessments are not evidence that a taxpayer's property is disproportionately assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985).

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.

The Taxpayers did not present any credible evidence of the Property's fair market value. To carry their burden, the Taxpayers must make a showing of the Property's fair market value. This value would then be compared to the Property's assessment and the level of assessments generally in the Town.

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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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Edward F. and Catherine T. Murphy, taxpayers; and Chairman, Selectmen of Derry.

Dated: June 17, 1992

Valerie B. Lanigan, Clerk

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