

Harry J. Eiermann

v.

Town of Conway

Docket No. 7054-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$193,000 (land, \$159,000, buildings, \$33,400) on a cottage on Conway Lake. 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 his burden and prove any disproportionality.

The Taxpayer argued the assessment was excessive because: 1) the water access is limited and poor; 2) there are 2 easements on the property; 3) the assessment and tax increase was substantial; and 4) he had listed the property in 1988 for \$95,000.

The Town argued the assessment was proper because: 1) the concerns about the water access and easements were reflected in treating the basic site as .55 acres rather than the one acre site assessed to other properties on the lake; and 2) the assessment was in line with other assessments in the Town.

We find the Taxpayer failed to prove his assessment was disproportional. While the board struggled with this appeal, we had to conclude the Taxpayer failed to prove his assessment was excessive. The Taxpayer's testimony concerning the Property's listing price raised a question of over assessment, but given the lack of an appraisal or evidence of the Property's value (compared to assessments on comparable properties), the board could not find enough to adjust the assessment.

We note the board inspector recommended an assessment of \$164,850. However, the inspector errs in his report because he adjusted for the easements and topography where the Town's basic value already included these adjustments.

After the hearing, the board sent its inspector back to the Property given the Taxpayer's testimony concerning his unsuccessful attempts to sell the Property for any where close to the assessment. The inspector supplied the board with photos of the Property's waterfront and with cards on sales of the lake. (The board realizes some of the comparables were at the high end of lake values, they none the less indicate the premium value of waterfront properties.) The inspector's report with attachments is attached hereto. While the inspector recommended a reduced assessment, his report supported the board's original conclusion that the Taxpayer had not shown disproportionality.

The inspector's report is only another piece of evidence; it is not conclusive evidence.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

Date: October 1, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Harry J. Eiermann, taxpayer; and the Chairman, Selectmen of Conway.

Brenda L. Tibbetts, Clerk

Date: October 1, 1991

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