

Charles P. Garabedian

v.

Town of Hampton

Docket No.: 7363-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$582,400 (land, \$416,600; buildings, \$165,800) on 45 Dumas Avenue, a 10,375 square foot lot with a 2 story house (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) the taxpayer's purchase of the Property in July 1988 for \$621,000 exceeded market value and in the taxpayer's opinion was actually worth \$475,000;

- (2) the taxpayer submitted a comparable property owned by Richard Wickson that is also on the ocean but was not assessed for ocean frontage; and
- (3) the potential for development of the second lot of the Property is limited by the topography and the Town's sewer moratorium.

The Town argued the assessment was proper because:

- (1) the Department of Revenue Administration's assessment to sales ratio for 1989 was 100 percent;
- (2) a ratio study conducted by the Town concluded the assessment to sales ratio of 100 percent and a coefficient of dispersion of 6.27 percent;
- (3) the property was purchased by the taxpayer in July 1988 for \$621,000;
- (4) the Property consists of two grandfathered lots, one improved with a dwelling and the other with a garage;
- (5) the Property has the potential for development as two separate lots sometime in the future when and if a sewer moratorium is lifted;
- (6) the Town felt the sale in 1988 was above market value and thus the assessment was lower than the sale;
- (7) two factors difficult to quantify are the values of the development potential of the second lot and the contributory value of the 35 foot tall tower erected during World War II;
- (8) sales prior to April 1989 showed no adjustment for the economic considerations that showed up in sales subsequent to the assessment date;
- (9) the land, being two grandfathered lots, has 10,750 square feet and 100 feet of frontage while most lots in the area are approximately 5,000 square feet with 50 feet of frontage; and
- (10) the Property abuts the Pranka property, the best property on Boar's Head.

Board's Rulings

We find the Taxpayer failed to prove the Property's assessment was

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disproportional. We also find the Town supported the Property's assessment.

The Taxpayer did not present any credible evidence of the Property's fair market value. The Taxpayer's opinion of value was not supported by any market data. To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. 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.

The Town recognized the Taxpayer overpaid but presented other evidence of market value to support the assessment.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Charles P. Garabedian, Taxpayer; and Chairman, Selectmen of Hampton.

Dated:

Valerie B. Lanigan, Clerk

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