

Tony and Norma Sousa and Edward and Sharon Cenedella

v.

Town of Hampton

Docket No.: 7367-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$172,400 (land, \$115,400; buildings, \$57,000) on 38 Kings Highway, a 5,336 square foot lot with a two story house (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 valuation of surrounding properties are significantly less than the Taxpayer's Property;
- (2) a realtor estimated an asking price of \$120,000 for the Property in 1989, 1990 and for 1992;

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(3) the dwelling was assessed as finished when actually it was still unfinished inside; and

(4) there is no significant view of the ocean from the Property, contrary to how it was assessed;

The Town argued the assessment was proper because:

(1) one of the Taxpayer's comparables, the Nune property, is more distant from the ocean and in a less desirable neighborhood;

(2) another Taxpayer's comparable, the Schiripo property, is accessed from a rear street and is one row of lots further from the ocean;

(3) the two lots adjacent to the Taxpayers have no view potential whereas the Taxpayers have a limited view down Second Street and yet all are assessed essentially the same for the land value;

(4) six sales of properties in the area that did not have views indicated a residual land value of \$126,200 per lot or \$22.20 per square foot;

(5) the Taxpayer's lot is assessed for \$115,400 or \$21.63 per square foot; and

(6) the building value has been adjusted for the unfinished areas and the lower quality construction.

Board's Rulings

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

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Averaging land values, as done by the taxpayers, does not necessarily prove "disproportionality"; it only proves that the taxpayer's land is assessed more than the average property. Appraisals are not averages; rather they are the correlation of general sales data to the unique characteristics of a specific property.

The Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers 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.

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 Tony and Norma Sousa and Edward and Sharon Cenedella, Taxpayers; and Chairman, Selectmen of Hampton.

Dated: January 20, 1993

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Valerie B. Lanigan, Clerk

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ORDER

On the board's own motion, the earlier decision in this case is rescinded and replaced with the corrected decision enclosed with this order.

This new decision is intended to correct a typographical error and the omission of the clerk's date.

The date on this corrected decision is the date from which any motions under RSA 541:3 will be considered.

SO ORDERED

BOARD OF TAX AND LAND APPEALS

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