

Walter P. Sy and Jeanne M. Sy

v.

Town of Westmoreland

Docket No. 7422-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$105,100 (land only) on their real estate on London Road identified as Map 19, Lot 18, consisting of 56 acres of undeveloped land. The Taxpayers failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board. 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 their burden and prove any disproportionality.

The Taxpayers argued, in their written appeal, the assessment was excessive because:

- (1) they purchased the Property in December 1989 for \$95,000; and
- (2) the difference in value between the sale price and assessment should be abated.

The Town argued the assessment was proper because:

- (1) it has been reduced from its original valuation due to a correction of the amount of frontage;
- (2) the lot has a good view to the Vermont hills and mountains; and
- (3) the assessment is consistent with that of other similar property.

We find the Taxpayers failed to prove the Property's assessment was disproportional. While the Taxpayers' sale is some evidence of market value, it is not conclusive evidence. The difference between the sale price and the assessment is not so great as to cause disproportionality.

The focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one perfect assessment of a property. Rather, there is a range of acceptable assessments for each property. The question is thus whether the assessment falls within a reasonable range from a median ratio as indicated by an acceptable coefficient of dispersion following a good reassessment, considering the property involved and other assessments in the municipality. See Wise Shoe Co. v. Town of Exeter, 1991 N.H. 700, 702 (1979); Brickman v.

City of Manchester, 119 N.H. 919. The board finds this assessment is within a reasonable range for the market value of the property.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

— George Twigg, III, Chairman

Paul B. Franklin, Member

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Walter P. and Jeanne M. Sy, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Westmoreland.

August 13, 1992

— Valerie B. Lanigan, Clerk

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ORDER

The board received a letter on September 19, 1992 from the Taxpayers requesting a rehearing for the following reasons:

A) the Taxpayers' representative, an attorney, was present at the hearing but not called; and

B) the Taxpayers' purchase of the Property is conclusive evidence of market value.

The board denies the Taxpayers' request for a rehearing.

A) The Taxpayers' case was noticed for July 1, 1992 at 9:00 a.m. The Taxpayers' case was the third of six scheduled for that day and was heard at 11:16 to 11:33 a.m. No attorney filed an appearance on the case, no one signed the attendance record and no other individual was present other than the Town representatives and the taxpayer for the remaining two related cases.

A review of the taped record of the hearing confirmed there was no individual present representing the Taxpayers.

B) The board's decision properly stated the burden of proving disproportionality rests with the Taxpayers, and the Taxpayers' single

purchase of the subject Property within 10 percent of the assessment did not tip the scale.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing order has been mailed this date, postage prepaid, to Walter P. and Jeanie M. Sy, Taxpayers; and Chairman, Selectmen of Westmoreland.

Dated: September 23, 1992

Melanie J. Ekstrom, Deputy Clerk

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