

Carmine A. and Waltraud C. Martignetti

v.

Town of Sandown

Docket No.: 7453-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$49,600 (land, \$30,000; buildings, \$19,600) on a camp on 1.40 acres of land (the Property). 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 this burden.

The Taxpayers argued, in their written submission, that the assessment was excessive because, "This building is just a shell with no electricity in the area, no plumbing, no heat, no access to telephone wires. There is no insulation, no potable water, the roof leaks, the stairs have collapsed,

Carmine A. and Waltraud C. Martignetti

v. Town of Sandown

Docket No.: 7453-89

Page 2

chipmunks and rodents move in and out at will, the building has been vandalized and broken into on numerous occasions. The road leading to this camp is very rough and difficult to travel across in good weather and not at all passable during snow season. We feel that we do not benefit from police, fire or school."

The Town argued the assessment was proper because:

- (1) one comparable sale was utilized (Carr) which indicates the Property is fairly assessed;
- (2) access is difficult to the subject but the comparable sale reflects what the market would pay for the Property;
- (3) the Property is on Cub Pond and has a good view; and
- (4) the assessment is fair.

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 will then be compared to the Property's assessment and the level of assessments generally in the Town.

Carminc A. and Waltraud C. Martignetti

v. Town of Sandown

Docket No.: 7453-89

Page 3

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.

Carmine A. and Waltraud C. Martignetti

v. Town of Sandown

Docket No.: 7453-89

Page 4

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

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Carmine A. and Waltraud C. Martignetti, Taxpayers; Chairman, Selectmen of Sandown; and Scott Bartlett, MMC.

Dated: July 29, 1992

Valerie B. Lanigan, Clerk

0007