

**E. John Lownes, III**

**v.**

**Town of Dalton**

**Docket No. 7607-89 and 9988-90**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 and 1990 assessments of \$440,550 (land, \$218,550, buildings, \$222,000) on Dalton Ridge, consisting of a single family residence and 9.57 acres (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 his burden and prove any disproportionality.

The Taxpayer argued in his letter to the Board of Tax and Land Appeals, dated June 11, 1990, "Even though my home was assessed as being of the highest quality and value possible, class 6, and was given no depreciation whatsoever, I have no fault to find with the assessors' valuation of \$222,000." The Taxpayer paid \$500,000 for his property in 1988. He indicated that \$66,000 for personal property and \$45,000 for landscaping and plantings were included and should have been treated as personal property.

The Town argued Dalton Ridge is an exclusive development of mountaintop acreage with spectacular views of the Presidential and Franconia Range, with hundreds of miles of trails, 68 acres with a man made pond, bridges, islands and a very expensive clubhouse - not comparable to any other area in Dalton.

The Town objected to the use of any comparable properties contained in Mr. David MacArthur's appraisal report on the grounds that the Town was not

notified at least 10 days prior to the hearing. The Taxpayer responded that the comparables were part of evidence presented in another appeal in superior court. The Board sustained the Town's objection and ordered the removal of the non-noticed comparables from the MacArthur report.

The Board had many questions for which it could not get satisfactory answers from Mr. Sweeney, Jacqueline McKay, Selectmen. Unfortunately, neither Mr. Louis Jolin nor Mr. Malcolm Call were present to defend their assessments in person. While the Town's presentation was marginally informative, the Taxpayer had no comparable properties in evidence, had no inventory or appraisal of the personal property (alleged to be worth \$66,000) and no evidence to support the argument that the landscaping was of such an insignificant quality and nature that the market wouldn't have reacted favorably to such expenditures as enhancing the land value to any degree.

The Board declines to speculate as to whether the land should have been assessed as 1 acre for a homesite @ \$200,000, with 8.57 acres (rear land) at \$11,550 and \$7,000 well and septic, or whether Mr. MacArthur's allocation of 4 acres for the house lot, and 5.7 acres supplementary land was more appropriate for Dalton Ridge.

The Board's review appraiser's written report, based on his on site inspection on February 28, 1991, shows an "equally assessed, no change in value" conclusion.

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

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

---

George Twigg, III, Chairman

---

Michele E. LeBrun, Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to E. John Lownes, III, taxpayer; and the Chairman, Selectmen of Dalton.

---

Brenda L. Tibbetts, Clerk

Date: November 7, 1991

0009