

Joan N. and William S. Italiano

v.

Town of Goshen

Docket No.: 7632-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$201,300 (land, \$137,650; buildings, \$63,650) on a .49 acre lot with an A-frame home on Rand Pond Road (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 Property has swamps, pits, ledge and slopes;
- (2) only 50-60 feet of waterfront is beach area;
- (3) the remainder of the frontage acts as a dam for water runoff;
- (4) the topography warrants an additional depreciation; and
- (5) the property-assessment card has errors, i.e., there is no concrete patio

or carpeting.

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The Town argued the assessment was proper because:

- (1) the Property's front-foot value is within range of comparable sales;
- (2) in 1990 there were adjustments made, i.e., no fireplace, unfinished areas, and the well;
- (3) this Property has one of the better views to the lake and mountains; and
- (4) the Property has one of the larger lots due to its location.

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.

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.

The Taxpayers' arguments concerning the land values were not supported by any market data and the Town's analysis of waterfront properties supported the land assessment and the adjustments given by the Town during the review. The Town's functional depreciation accounts for the unfinished floor.

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3. The motion must state with specificity the reasons supporting the request, but

generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Gary J. Karp, Representative for the Taxpayers; Department of Revenue Administration; and Chairman, Selectmen of Goshen.

Dated: January 15, 1993

Valerie B. Lanigan, Clerk

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