

Thomas and Trixie L. Gibson

v.

Town of Merrimack

Docket Nos.: 7788-89, 8528-90 and 12060-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989, 1990 and 1991 assessments of \$240,900 (land \$125,000; buildings \$115,900) on a 1-acre lot with a split-entry style house (the Property). While not noticed for hearing with the 1989 and 1990 appeals, the Taxpayers requested during the hearing, with the Town's concurrence, that the 1991 appeal be consolidated with the 1989 and 1990 appeals for hearing. For the reasons stated below, the appeals for abatement are denied.

The Taxpayers have the burden of showing the assessments were 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 assessments were excessive because:

(1) the difference in value between the waterfront properties and the non-waterfront properties is excessive;

(2) the averaging of five abutting, waterfront lots indicates the proper assessment should be approximately \$200,000 to \$206,000; and

(3) the Property could only have sold for approximately for \$200,000 in 1989.

The Town argued the assessments were proper because:

(1) the Town used 604 known sales from 1987, 1988 and 1989 and time adjusted the sales to January 1, 1989 and, using multiple-regression analysis, arrived at models to be used in assessing the properties in Town;

(2) the same methodology was used throughout the Town; and

(3) the direct market approach performed on the Property contained one comparable sale on Baboosic Lake.

#### **Board's Rulings**

We find the Taxpayers failed to prove the Property's assessments were disproportional. We also find the Town supported the Property's assessments.

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.

Averaging lot values, as done by the Taxpayers, does not necessarily prove "disproportionality"; it only proves that the Taxpayers' 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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Thomas and Trixie D. Gibson, Taxpayers; and Board of Assessors of Merrimack.

Dated: February 22, 1993

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Valerie B. Lanigan, Clerk

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