

Michael and Kathleen Duhaime

v.

Town of Merrimack

Docket No.: 7870-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of: \$139,700 (land, \$117,000; buildings, \$22,700) on Map 6A-1, Lot 108, a .20-acre lot with a cottage-style house; and \$5,000 on Map 6A-1, Lot 148, a .20-acre, vacant lot (the Property). The Taxpayers own, but did not appeal, Map 6-A, Lot 018-28 (\$189,400) and Lot 1-148 (\$5,000). For the reasons stated below, the appeal for abatements 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 assessment was excessive because:

- (1) the proper assessment should be \$106,200 based on a comparison between the Property's 1979 assessment and the 1979 assessment on the Draper property and then applying this factor to the Draper, 1987 \$60,000 sale;
- (2) the Property is seasonal with limited septic capacity; and

(3) there are ecological problems with the lake.

The Town argued the assessment was proper because:

- (1) it was based on market data analyzed during the revaluation; and
- (2) it arrived at using the same methodology used through out the Town.

The Town also argued the appeal must be denied because the Taxpayers did not show their other properties were correctly assessed.

Board's Rulings

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

The Taxpayers' argument was based on a ratio comparing the Property's 1979 assessment with Draper's 1979 assessment. The Taxpayers then applied the resulting 1.77 factor to the 1987 Draper sale with time adjustments. The Taxpayers did not make any other adjustments based on the differences between the Property and the Draper property, but they argued the factor took all variables into account. The board rejects the Taxpayers' argument because the analysis is flawed and without any reasonable basis in assessing practices. Specifically, there is a vast difference in lot size and utility between the Property and the Draper property.

The Taxpayers did not present any credible evidence of the Property's fair market value. To carry their 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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Michael and Kathleen Duhaime, Taxpayers; and Office of the Assessor of Merrimack.

Dated: February 22, 1993

Valerie B. Lanigan, Clerk

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