

Frank T. Strzepek

v.

Town of Tilton

Docket No.: 10047-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$147,100 (land \$117,500; building \$29,600) on a .12-acre lot with a cottage (the Property). The Taxpayer and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. The board has reviewed the written submittals and issues the following decision. 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 this burden.

The Taxpayer argued the assessment was excessive because:

1) the 16 x 29 foot cottage is seasonal and not winterized, has only 3 rooms, and the interior has not been redecorated since the camp's construction 50 years ago;

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2) three 1988 appraisals yielded an average market value of \$124,500, and the market began its decline soon thereafter;

3) a neighbor's brand new cottage sold in 1991 for only \$108,500, a market analysis done by Century 21 indicated that larger homes are in the \$80,000 - \$100,000 range, and comparable homes have sold for an average \$86,125 price and listed for an average \$101,575 price;

4) a realtor suggested a \$90,000 listing price, but the Property would never sell for more than \$80,000;

5) the neighboring lot, after constructing a second-story addition and doubling the house size, had only a \$145,200 assessment, and the cottage next door is assessed \$1,000 less than the Property, yet is also twice as large;

6) two comparable properties, one being a year-round residence, were listed for sale for \$72,000 and \$74,000, another comparable property not on the waterfront sold for \$85,000, and a comparable new home with a full basement on the waterfront sold for \$108,500; and

7) the Town's comparable is not comparable because the building is twice the size of the Property.

The Town argued the assessment was proper because:

1) the camp is in good condition with excellent lake views;

2) a comparable virtually identical to the Property except for the quality rating sold in July, 1988 for \$173,000;

3) an interior inspection was not possible, but may have resulted in a higher assessment since the Taxpayer's realtor stated that the camp was in excellent condition; and

4) the Property's seasonal use was addressed with a \$38 base rate instead of the average \$55 base rate used on residential homes.

The board's inspector reviewed the file and the assessment-record card, and filed a report with the board (copy attached). The board reviewed this report but placed no weight on the inspector's report.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove the Property's assessment was disproportional.

The Taxpayer argued the assessment should be reduced because the market for the Property has been declining. Evidence of a declining market alone is not a basis for reducing an assessment no more than evidence of an appreciating market is a valid basis of increasing an assessment. The issue is proportionality. The Taxpayer needs to make a showing that the Property has changed in value to a greater extent than that indicated by the change in the general level of assessment in the Town as a whole to prove his Property is disproportionately assessed.

The board finds the Town consistently assessed the Taxpayer's Property and those in the immediate neighborhood recognizing the differing building sizes pointed out by the Taxpayer.

The Taxpayer referenced some sales and listings in 1991 and 1992 that were less than the 1990 assessments. However, the Taxpayer failed in showing how those sales and listings indicate his 1990 is disproportional because:

1) except for the Dearden property (Map 9, Lot 4) and the Herzberg property

(Map 9, Lot 6), no assessment-record cards or detailed descriptions were
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presented for the board to analyze and compare the sales to the Taxpayer's
Property; and

2) except for the Taxpayer's assertion of an 8-9% annual decline in value,
sales prior or subsequent to April 1, 1990, the assessment date, were not time
trended to April 1, 1990.

An analysis of the two properties for which assessment-record cards
were submitted support the assessment as of April 1, 1990.

The Department of Revenue Administration (DRA) determined the
equalization ratios to be 100%, 114% and 134% for the years 1990, 1991 and
1992 respectively. These ratios indicate that since the reassessment in 1990
values on an average throughout the Town have been declining at 14% to 18% per
year.

The Dearden property sold in July, 1988 for \$130,000 and again in
December, 1991 for \$108,500. December, 1991 sale is within the DRA's
timeframe of sales analyzed for the 1992 ratio. If the 1992 ratio of 134% is
multiplied by the \$108,500 sale price, the \$145,400 indicated value generally
supports its 1990 assessment of \$152,100. The Herzberg sale of \$173,000 in
July, 1988 also supports the Town's assessment. Both parties' evidence
suggest that the purchase price exceeded market value. However, the Town
recognized that by assessing it in 1990 for \$154,900. The primary difference
between the Herzberg assessment and the Taxpayer's is accounted for by the
larger size of the Herzberg cottage.

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 Page 5
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generally new evidence will not be accepted. Filing this motion is a
prerequisite for appealing to the supreme court. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been
mailed this date, postage prepaid, to Frank T. Strzepek, Taxpayer; and
Chairman, Selectmen of Tilton.

Dated: June 3, 1993

Melanie J. Ekstrom, Deputy Clerk

0005/004