

Lewis W. and Esther J. Whiting

v.

Town of Enfield

Docket No.: 10107-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$175,500 on a seasonal camp with a 35,284 square-foot lot and 82 feet on Mascoma Lake (the Property). The Taxpayers 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 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) it had increased proportionally more after the revaluation than the assessments on other properties;

- 2) two realtors estimated the Property's value at \$130,000 - \$145,000;
- 3) certain listings show over assessments; and
- 4) the property-record card had certain errors.

The Town argued the assessment was proper because it was supported by an assessment-comparison analysis. The Town failed to submit any sales to support the assessment. Since the Town was recently revalued, the Town should have submitted sales for the board's consideration. RSA 75:1 requires that assessments be in line with market value. Therefore, providing sales is essential for the board to compare the Property's assessment with fair market value and the general level of assessment in the municipality. See Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986).

While the Town's evidence was not exemplary, the burden rests with the Taxpayers to show disproportionality. To carry this burden, the Taxpayers should have made a showing of the Property's fair market value. This value will then be 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 did not present any credible evidence of the Property's fair market value. The realtors' letters are generally not reliable when written for tax appeals. Moreover, the listings show the value of Mascoma Lake properties.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

I hereby certify that copies of the foregoing decision have been mailed this date, postage prepaid, to Lewis and Esther Whiting, Taxpayers; and Chairman, Selectmen of Enfield.

Dated: July 30, 1992

Melanie J. Ekstrom, Deputy Clerk