

Henry W. Berube and Carol Berube

v.

Town of Washington

Docket No.: 10145-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$50,750 on a .66-acre vacant lot (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) Lake Ashuelot Estates were assessed unfairly compared to other areas, i.e., Millen Pond, Smith Pond, Half Moon and Ashuelot Pond Associates;

2) the Town only revaluated Lake Ashuelot Estates, Washington Lake Estates and Highland Lake in the fall of 1989 as the Town contended these areas were not properly evaluated; and

3) the Property was reassessed differently from other lakefront properties in the Town.

The Town argued the assessment was proper because:

1) the Town was revalued in 1989 and after the bills were mailed, discrepancies were found in three areas of the Town (one of which included the Taxpayers' Property) where sales were taken from 1984 to 1988 and the rest of the Town was based on sales from 1987 to 1989;

2) a corrected sales analysis was completed for the three areas and adjusted figures were applied for the 1990 tax year;

3) sales in the area of the subject were considered during the sales analysis; and

4) adjustments were necessary to make the revaluation equitable for the entire Town.

The board's inspector inspected the property, reviewed the assessment-record card, and filed a report with the board. This report concluded there was no change.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the assessment was excessive.

The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982).

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.

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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Henry W. and Carol Berube, Taxpayers; and Chairman, Selectmen of Washington.

Dated: May 5, 1993

Melanie J. Ekstrom, Deputy Clerk

0004