

Allyn Kall and Martha Kall

v.

Town of Washington

Docket No.: 10146-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$10,900 on a 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 granted.

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 carried this burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) realtors advised that an estimated asking price for the lot should be \$6,500;
- 2) a comparable property sold for \$6,500 on August 16, 1989; and
- 3) the Property has been for sale since 1987 with no buyers.

The Town argued the assessment was proper because:

- 1) the Property is in a private development with rights to a common beach house, beach, and use of tennis courts;
- 2) the Property is one of the more irregular shaped lots within Lake Ashuelot Estates;
- 3) the Taxpayers' comparable is not comparable because it is in another section of the development;
- 4) the assessment was based on an average of the front, rear and side lines to calculate the front footage and average depth;
- 5) comparable sized lots sold for a \$9,500 average price, which is within range of the Taxpayers' assessment;
- 6) the assessment is not unjust, unfair or in excess of other like properties.

The board's inspector inspected the Property, reviewed the assessment-record card, and filed a report with the board. This report concluded no change be made.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$9,800. This assessment is ordered because in reviewing the calculations made by the Town, the board finds that the Town may have understated the figured frontage but overstated the depth. The board took that into consideration and looked at the shape and configuration of the Property which is the more irregularly shaped lot in the subdivision. A 10 percent topography adjustment has been applied for the subjects shape and configuration.

The Town testified the Property's assessment was arrived at using

the same methodology used in assessing other properties in the Town. This

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testimony is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982).

If the taxes have been paid, the amount paid on the value in excess of \$9,800 shall be refunded with interest at six percent per annum from date paid to refund date.

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 Allyn and Martha Kall, Taxpayers; and Chairman, Selectmen of Washington.

Dated: May 5, 1993

Melanie J. Ekstrom, Deputy Clerk

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