

William J. and Marion E. Crowley

v.

Town of Washington

Docket Nos.: 10190-90 and 12187-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$199,100 (land \$72,060; buildings \$127,040) and 1991 assessment of \$202,760 (land \$72,060; building \$130,700) on a 1.10-acre lot with a house (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 appeals for abatement 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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to carry this burden and prove disproportionality.

The Taxpayers argued the assessments were excessive because:

- (1) this Property and others on the lake were spot assessed;
- (2) the figured frontage methodology used by the Town was flawed;

(3) the sales analysis used by the Town was flawed; and

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(4) an additional topographic adjustment should have been made due to a creek being on the Property.

The Town argued the assessments were proper because:

(1) this Property and other lake property were reassessed because the Town discovered the properties were underassessed based on the sales used in a prior revaluation, the Town concluding that correcting these assessments was necessary to make the lake assessments proportional with the remainder of the Town;

(2) the figured frontage methodology was used throughout the Town, which is evidence of proportionality and consistency, and it was based on the department of revenue administration's approach;

(3) the Town's sales analysis was not flawed and was based on the best available market data for qualified sales; and

(4) the assessor inspected the Property and determined the -5% topography adjustment already given was sufficient to account for the creek.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to carry their burden. The major flaw in the Taxpayers' case was their failure to present evidence of the Property's value as a whole. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. Moreover, the supreme court has held the board must consider a taxpayer's entire estate to determine if an abatement is warranted. See Appeal of Town of Sunapee, 126

N.H. 214, 217 (1985). However, the existing assessment process allocates the total value between land value and building value.

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Furthermore, the Taxpayers' arguments and evidence concerning the Town's methodology for assessing the land failed to convince the board that the Town's methodology resulted in the Taxpayers paying a disproportionate share of taxes. First, the Town's reassessment of the Property and the lake properties does not appear to be illegal spot assessing, but rather it was the Town's attempt to correct erroneous assessments, which was consistent with its statutory mandates. See RSA 75:9 (towns required to annually review assessments and make adjustments when appropriate). Second, there was insufficient evidence for the board to conclude the Town's figured frontage methodology and sales analysis were flawed, resulting in the Taxpayers being disproportionately assessed.

Unfortunately, the Town's attempts to correct the lake assessments occurred when there were only a few qualified sales, resulting in a low number of sales in the analysis. While the number of sales may have been few, again, we reiterate that the Taxpayers did not show that their Property was disproportionately assessed.

Finally, 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.

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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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to William J. and Marion E. Crowley, Taxpayers; and Chairman, Selectmen of Washington.

Dated: October 26, 1993

Lynn M. Wheeler, Deputy Clerk

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