

Robert E. Smith

v.

Town of Alexandria

Docket No.: 10219-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 adjusted assessment of \$178,000 (land \$145,000; buildings \$33,000) on a .4-acre lot consisting of a single-family dwelling and a .045-acre lot across the street (the Property). The Taxpayer and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. However, the board held a hearing on April 23, 1993 on the sixteen 1990 Alexandria appeals to receive evidence on the basis of the land valuation and the general assessment methodology employed by the Town. The board has reviewed the written submittals and issues the following decision. For the reasons stated below, the appeal for abatement is granted.

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). While the Taxpayer

failed to carry this burden, we find the Town's 1992 adjusted assessment is proper for the tax year 1990.

The Taxpayer argued the assessment was excessive because:

(1) the cottage is 50 years old with no foundation or working well;

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(2) the main lot rises steeply towards the rear and the lakefront lot has only 50-feet of lake frontage;

(3) at the time of reassessment, the Property's assessment increased four times, yet the market had started to decline;

(4) if the Property's .4-acres is assessed at \$145,000, then one-acre assessments would be \$362,500; yet one-acre lots with buildings are assessed substantially less; and

(5) the proper assessment should be \$80,000.

The Town adjusted the assessment to address the nonworking well and gave a physical and functional depreciation on the building, resulting in the current assessment. In 1992, an adjustment was made to address the state road, resulting in a \$156,900 assessment. The Town failed to submit any arguments to support the assessment. However, at a hearing held by the board on April 23, 1993, the Town explained its general methodology used in assessing property on Newfound Lake.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site

inspection. This report concluded the adjusted 1992 assessment should be applied to tax year 1990. Note: The inspector's report is not an appraisal.

The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation. In this case, the board gave the report no weight.

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Board's Rulings

The board finds the Town's 1992 adjusted assessment of \$156,900, which addresses the state road, should be applied to the tax year 1990. Further a review of several other similar properties indicates the Town adjusted the base value of the rear acreage from \$20,000 to \$2,000. The board finds the \$2,000 base value should also be applied to the subject resulting in the proper assessment of \$153,400 (land \$120,400; building \$33,000).

No further adjustment is warranted based on the Taxpayer's three arguments.

1) 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.

2) Increases from past assessments are not evidence that a taxpayer's property is disproportionally assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985).

3) Differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since the yardstick for determining equitable taxation is market value

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(see RSA 75:1), it is necessary for assessments on a per-square-foot basis to differ to reflect this market phenomenon.

If the taxes have been paid, the amount paid on the value in excess of \$153,400 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

The Board must comment on the Town's appraisers' less than professional reassessment and maintenance of the assessment record cards. The board finds:

- 1) The appraisers' review and analysis of the sales relating to the Alexandria/Newfound Lake market was inadequate. It is clear from the evidence presented at the April 23, 1993 hearing that the appraisers never fully researched the limited number of sales that had occurred. Further, the sales survey submitted at the hearing does not include any verification of the sales used and there are no notations as to the basis of the adjustments made in analyzing the sales and deriving of base value used for waterfront property.
- 2) The Board found, in reviewing the files, that the appraisers' methodology was not always consistently applied either during the reassessment or in

subsequent tax years (e.g., rear land base values were subsequently reduced on some but not all properties from \$20,000 an acre to \$2,000 an acre).

3) During the revaluation process, the appraisers decided to value properties fronting on Newfound Lake and divided by West Shore Rd. in one assessment rather than two. Existing cards for the waterfront portion remained in the Town's file with an assessment on them. Consequently, anyone reviewing the file would inherently be confused by the existence of this "dummy" assessment record card.

4) The notations and calculations of the land valuation on the assessment

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record cards are in many cases illegible, non-existent or so brief that it is difficult to understand the appraisers' reasoning.

Because of these shortcomings, the Board considered initiating the procedure under RSA 71:B-16 of ordering a reassessment of the properties in the Newfound Lake area. However, the Board concluded that, because of the limited area in concern, that equitable assessments could be more efficiently corrected through the abatement process.

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

Paul B. Franklin, Member

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert E. Smith, Taxpayer; and Chairman, Selectmen of Alexandria.

Dated: July 9, 1993
Deputy Clerk
004

Melanie J. Ekstrom,