

Kent T. Weathersby and Mary Ann Weathersby

v.

Town of Wolfeboro

Docket No.: 10241-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$8,100 on a vacant, 2-acre 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 prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) the Property was purchased in 1971 for \$3,000 as part of a subdivision plan which was dropped because the plan did not include a right-of-way to the highway;
- 2) the Property's only access is by a logging trail and the owner of the land

over which the right-of-way passes will allow no activity except logging operations;

3) the Property is not buildable and without a right-of-way, utilities are not available; and

4) a realtor's October, 1990, opinion of value estimated the Property to be worth between \$500 - \$1,000.

The Town argued the assessment was proper because:

1) the Property meets all zoning requirements as a potential house site;

2) if the Property had access, road frontage and utilities, its value would have been \$25,800, therefore, the assessed value adequately addressed the Property's condition in 1990;

3) other similar properties with the same access conditions are assessed equitably with the Property; and

4) the same methodology was used throughout the Town.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove disproportionality. The board notes the only evidence received was a one paragraph "opinion of value" by Realtor George Hutchinson. No market data to support his estimate of value was submitted. 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.

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

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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).

As stated above, the focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one exact, precise or perfect assessment; rather, there is an acceptable range of values which, when adjusted to the Municipality's general level of assessment, represents a reasonable measure of one's tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979). The Taxpayers failed to prove disproportionality.

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.

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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 Kent T. and Mary Ann Weathersby, Taxpayers; and Chairman, Selectmen of Wolfeboro.

Dated: May 5, 1993

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Melanie J. Ekstrom, Deputy Clerk

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