

Helen Merrill, et al.

v.

Town of Jefferson

Docket No.: 10519-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of: \$62,500 on Map 18, Lot 17A, a 16.9-acre, vacant lot; and \$57,000 on Map 18, Lot 17, a 6.2-acre, vacant lot (the Properties). Based on information from the Town, the assessments have been reduced and abatements issued. The new assessments are \$46,700 and \$36,000 respectively. 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 appeal for abatement is denied.

The Taxpayer has the burden of showing the assessments were 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). We find the Taxpayer failed to carry this burden.

The Taxpayer argued the assessments were excessive because:

- 1) a guard rail runs the length of road frontage leaving only one entrance to the Properties;
- 2) the land is steep and a brook crosses the Properties;
- 3) the Properties and a 44.19-acre lot in Carroll were purchased on January 26, 1991, for \$65,000 after being on the market for two years; and
- 4) if a house were built on the Properties, visitors to the scenic vista would be able to look directly into the home.

The Town argued the assessments were proper because:

- 1) both lots offer exceptional views and have a combined 1,500-foot road frontage;
- 2) the purchase was not arm's length because the seller was an estate liquidating its assets;
- 3) the assessments were based on comparable sales with adjustments for topography, location and access;
- 4) the Properties' access is the same as afforded to other lots on Route 115, and the scenic vista is an area designated by the state because of the extraordinary views; and
- 5) the assessment is fair and equitable with other lots in the Town.

Board's Rulings

The Board denies this appeal because the Taxpayer submitted insufficient information to carry their burden. Specifically, the Taxpayer submitted insufficient information concerning the access issue and its affect

on the Properties' values. Additionally, the Taxpayer did not present any credible evidence of the Properties' fair market value. To carry this burden, the Taxpayer should have made a showing of the Properties' fair market values.

These values would then have been compared to the Properties' assessments 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. Concerning the Taxpayer's sale of the Properties in 1991, we find the Taxpayer presented insufficient evidence to overcome the presumption that this estate sale was a qualified market sale.

Finally, we find the Town submitted sufficient evidence to show its consistent methodology throughout the Town along with some of the comparables in setting values. We have some concerns about whether sufficient adjustments were made for access and for the properties' undeveloped state, but it is the Taxpayer's burden to establish that the adjustments that were made were insufficient.

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

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to R. Thomas Gage, Agent for Helen Merrill, et al, Taxpayer; and Chairman, Selectmen of Jefferson.

Dated: April 30, 1993

Melanie J. Ekstrom, Deputy Clerk

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