

George W. Roy

v.

Town of Westmoreland

Docket No.: 10534-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$161,300 (land \$79,100; buildings \$82,200) on Map 17, Lot 5, a 3.14-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 appeal for abatement is denied.

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). We find the Taxpayer failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

- 1) the Property has dangerous access and is located on a blind corner, and the proximity to Route 12 detracts from the value;
- 2) the land is sloping and wet;

- 3) the log house does not have the conventional home appeal;
- 4) the assessment placed a value on the views, which is illegal, yet never considered the negative aspects of the Property;
- 5) the taxes increased 50% in one year's time and 75% of the tax was applied to the school tax, and the Taxpayer had no children;
- 6) a 1989 realtor's comparative market analysis estimated a \$118,000 to \$129,900 fair market value;
- 7) an abutting, 3-acre lot that sold in 1987 for \$40,000-\$50,000 had a \$57,600 land assessment and a vacant, 2.5-acre lot with open views and good access was assessed for only \$31,400, yet the Property, purchased for \$13,000 in 1985 with 2/3 of the view being woods and fields, had a \$79,100 land assessment;
- 8) a similar lot sold in 1991 for \$125,000; and
- 9) the assessed value should be \$131,200.

The Town argued the assessment was proper because:

- 1) the assessment is based on real estate values compiled for the 1989 revaluation;
- 2) the land is nicely sloped, has safe access to Route 12, and affords a scenic view of the Connecticut River Valley;
- 3) the Taxpayer's comparables are not comparables because one does not front on a town road and it's only access is across railroad tracks, one is a swamp and unbuildable, one is not even in the Town, and the 1991 sale for \$125,000 was an older home close to an intersection;
- 4) the view was considered in the Taxpayer's appraised value estimate, confirming that views do enhance the Property's value;

5) the Taxpayer should have been aware of the impact of Route 12 when he purchased the Property; and

6) the same methodology was used throughout the Town.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove the assessment was excessive.

The board finds the Town offset the positive market effect of the good view with the negative affect of the steep driveway. The condition factor on the land was 2.00; the condition factor for a view such as the Taxpayers would be greater than a 2.00 factor if the steep access was not present. The Town adequately rebutted the Taxpayers comparables and comparative market analysis. The sale of the Sandi property for \$125,000 occurred nearly a year after the assessment date and consisted of an older house on a smaller lot nearer Rte. 12. This sale indicates the Taxpayer's comparative market analysis understated the Taxpayer's market value.

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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Roy W. George, Taxpayer; Chairman, Selectmen of Westmoreland.

Dated: May 11, 1993

Melanie J. Ekstrom, Deputy Clerk

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