

Philip E. Nielsen

v.

Town of Tilton

Docket No.: 10582-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$84,500 (land \$45,200; building \$39,300) on a .11-acre lot with a camp (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 and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

1) the camp has substandard construction, small bedrooms, no foundation, only a 3/4 bath, cess-pool sewerage, and the neighbors are only eight to fifteen feet away;

Page 2

Nielsen v. Town of Tilton

Docket No.: 10582-90

2) the Town based the assessment on a July, 1988, \$125,000 sale which was an inflated price and, after review, adjusted the Property's assessment from \$93,900 to \$84,500, but the assessment is still too high;

3) realtors have estimated a \$58,000 to \$63,000 sale price; and

4) a similar cottage assessed at \$86,700 sold in 1991 for only \$55,000 and included a modern septic system and leach field, and another comparable property was sold at foreclosure auction for \$51,500 on April 21, 1992 after being listed for sale for \$75,000 for nine months with no buyers.

The Town argued the assessment was proper because:

1) the condo is of similar size and construction when compared to other condo conversions in the Town; and

2) a review of condo conversion sales in the Town supports the assessment.

The board's inspector reviewed the assessment-record card and 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 assessment was proper. 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.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove the assessment was disproportionate. The board finds the Town adequately supported the assessment.

Page 3
Nielsen v. Town of Tilton
Docket No.: 10582-90

The assessment under appeal is as of April 1, 1990 and the Taxpayer offered no evidence of the market condition as of that date. The Taxpayer argued that a similar unit sold in 1991 for \$55,000, but provided no evidence as to how the 1991 market related to the April 1, 1990 assessment date. The Taxpayer further argued that a comparable property sold at foreclosure auction in 1992 for \$51,500. The sale made by an owner to satisfy delinquent loans is not "arm's length" due to the pressure to sell. Consequently, while these sales will affect the market value of those who choose not to sell, they alone do not define the market. Further, the evidence indicated that the foreclosure sale took place in 1992 and the assessment under appeal is as of April 1, 1990. The Taxpayer argued that realtors estimated a \$58,000 to \$63,000 sale price, but failed to indicate when and how the value was arrived at.

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

Michele E. LeBrun, Member

Page 4
Nielsen v. Town of Tilton
Docket No.: 10582-90

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Philip E. Nielsen, Taxpayer; and Chairman, Selectmen of Tilton.

Dated: June 3, 1993

Melanie J. Ekstrom, Deputy Clerk

0005