

**Russ and Joyce Monbleau**

**v.**

**Town of Alexandria**

**Docket No.: 10584-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$131,600 (land \$84,600; buildings \$47,000) on a .23-acre lot with a single-family dwelling (the Property). The Taxpayers 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 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 carried this burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the Town assessed the Property with legal beach rights when there is only a 50-foot right-of-way to the beach, which is 175 yards down the road;
- (2) the Town assessed the Property as having an unobstructed "lake view," yet

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the view is restricted by lots and houses;

- (3) the Town's comparable (Frongillo) is not really comparable because the lot is 4.8 times larger, has a lake view, and has a deeded, 1/6-interest in the beach;
- (4) the assessment does not adequately reflect the decline in fair market values; and
- (5) the land assessment should be \$34,000.

The Town failed to submit any arguments to support the assessment. However, the Town made an adjustment for the lack of beach rights, resulting in a revised \$114,200 assessment for 1992. 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 revised 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 inspector's report no weight.

### **Board's Rulings**

Based on the evidence, we find the correct assessment should be \$114,200 (land \$67,200 and building \$47,000). This assessment is ordered because the board applied the Town's 1992 assessment, which reflects the Taxpayers only Russ and Joyce Monbleau v. Alexandria  
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have a right-of-way to the lake but no beach rights, to 1990. The Taxpayers evidence was insufficient to warrant further adjustments. Further, we note that the Taxpayers attempted to withhold evidence by blocking out the principal sum of \$108,300 on the mortgage dated April 29, 1987.

In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value.

If the taxes have been paid, the amount paid on the value in excess of \$114,200 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

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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 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

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Russ and Joyce Monbleau, Taxpayers; and Chairman, Selectmen of Alexandria.

Dated: July 9, 1993

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Melanie J. Ekstrom, Deputy Clerk

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