

John and Annette Churchill

v.

Town of Alexandria

Docket No.: 10586-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$247,000 (land \$154,500; building \$92,500) on a one-acre lot with a house and a 1/6 interest to Bourbon Beach on Newfound Lake (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).

The Taxpayers argued the assessments were excessive because:

- 1) the Property was not appraised at the fair market value for 1990;
- 2) the Town has overestimated the value of the waterfront property;
- 3) the Property's lake view is obstructed by a neighbor's house;
- 4) the northern half of the beach has a retaining wall, resulting in that portion of the beach being unusable;
- 5) the beach is narrow, has a steep drop to the lake, lacks privacy and is shared by six other families;
- 6) comparables indicate the Property is overassessed;
- 7) an appraisal dated April, 1990 estimated a \$177,000 value; and
- 8) the assessment should be \$180,000 to \$200,000.

The Town failed to submit any arguments to support the assessment and was finally defaulted. The assessment-record card shows an adjustment was made in 1992 to address map errors, resulting in a \$129,000 land assessment. 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 proper assessment should be \$221,500 (land, \$129,000; buildings, \$92,500). 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.

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Board's Rulings

Based on the evidence, the board finds the correct assessment should be \$221,125 (land, \$128,625; buildings, \$92,500). This assessment is ordered for the following reasons:

- 1) The board applied the Town's 1992 assessment to 1990;
- 2) The board has reviewed the properties appealed which have an interest in the Bourbon Beach and finds that in the Churchill and Rich properties, the Town adjusted the base value of the rear acreage from \$20,000 to \$2,000 and, upon review, the board finds that the \$2,000 base value should be applied to the subject. The board made an adjustment to the rear acreage by applying the topography and quality adjustment that was applied to the main site;
- 3) The Taxpayers' evidence was insufficient to warrant any further adjustments. The realtor's letter and documentation was too broad for the board to scrutinize. 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 Taxpayers failed to carry this burden because the submitted data was not correlated/compared directly to the Property.

If the taxes have been paid, the amount paid on the value in excess

of \$221,125 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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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 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

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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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to John and Annette Churchill, Taxpayers; and Chairman, Selectmen of Alexandria.

Dated: July 9, 1993

Melanie J. Ekstrom, Deputy Clerk

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