

**Souren and Jolene Alexanian**

**v.**

**Town of Alexandria**

**Docket No.: 10590-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of \$320,500 (land \$164,200; buildings \$156,300) on Lot 29, 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). We find the Taxpayers carried this burden.

The Taxpayers argued the assessment was excessive because:

- 1) the Property's lake view is obstructed by neighbor's buildings;
- 2) the Town has overestimated the value of the waterfront property;
- 3) the beach is narrow, has a steep drop to the lake, lacks privacy, and is shared by six other families;
- 4) the retaining wall in the north portion results in only 130 feet of usable beach;
- 5) comparables indicate the Property is overassessed;
- 6) a November, 1990 appraisal estimated a \$177,000 value; and
- 7) the assessment should be between \$180,000 and \$200,000.

The Town failed to submit any arguments to support the assessment and was finally defaulted. The assessment-record card reflects adjustments made in 1992 to address building depreciation and map errors, resulting in a revised \$295,300 assessment (land \$147,300; buildings \$148,000). 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 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.

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### **Board's Rulings**

Based on the evidence, the board finds the correct assessment should be \$276,625 (land \$128,625; buildings \$148,000) for the following reasons:

1) Consistent with the Town's Exhibit C, a 15% adjustment for the state road and a 10% adjustment for the shared beach should be applied to the subject as opposed to the combined 20% adjustment found by the Town;

2) The board has reviewed the properties appealed which have an interest in the Bourbon Beach area 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;

3) The board did not accept the Taxpayers' appraised value because: a) the appraisal was not time adjusted to April 1, 1990, which should have been done in the falling market; b) the appraisal did not make adequate adjustments to the comparables for the superior quality and size of the Property; c) the appraisal's cost approach was flawed, e.g., incorrect square footage compared to Town's figure and inadequate per-square foot price given the high quality of the building; d) the appraisal is suspicious because it is too coincidentally close to the Taxpayers' foreclosure price; and e) the March 3, 1992 letter from Shackett Realty to the Churchills stated not one of the comparables used in the appraisal was valid.

4) The Taxpayers' foreclosure purchase was not for a market-value price because it was a forced sale with the Taxpayers paying outstanding property taxes; and

5) the Taxpayers' did not submit sufficient evidence to show the building was

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overassessed. The one picture of the Property was a poor photocopy of a photograph.

If the taxes have been paid, the amount paid on the value in excess of \$276,625 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 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.

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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

CERTIFICATION

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

Dated: July 9, 1993

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Melanie J. Ekstrom, Deputy Clerk

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