

Arnold W. and Marilyn D. Piquette

v.

Town of Tilton

Docket No.: 10620-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 twice-adjusted assessment of \$221,300 (land, \$114,500; buildings, \$106,800) on 1.20-acres with building (the Property). The Taxpayers 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 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 failed to carry this burden.

The Taxpayers argued the assessment was excessive because:

- (1) the Property has only 139.60 feet of waterfront;
- (2) the Property consists of unusable wetland;

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- (3) the Property was assessed higher per acre than the neighbors;
- (4) the property assessment card has errors, i.e., finished porch, floor covering, heat source, bathrooms; and
- (5) a neighbor's property is much larger, yet the Taxpayers' taxes went up \$735.00 more.

The Town argued the twice-adjusted assessment was proper because:

- (1) Taxpayers' original assessment was reduced by \$18,800 due to basement, floor covering and land condition;
- (2) a temporary depreciation was given on the home by 3% for the unfinished state;
- (3) the number of bathrooms listed on the assessment-record card is correct;
- (4) the Taxpayers' primary heat source is typically accepted on the market and has been correctly noted on the assessment-record card, the fact the Taxpayers choose to heat by wood is their choice;
- (5) the Taxpayers' comparable is not comparable because the comparable is larger, has two detached garages, carport, patio area, and has the potential to be subdivided;
- (6) comparable sales indicated the Taxpayers' Property was assessed within established guidelines and parameters;
- (7) the land schedule used throughout the Town indicated the Taxpayers' land valuation was consistent with neighboring values;

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- (8) the methodology used was fair and equally applied throughout the Town; and  
(9) it was fair and equitable.

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 assessment was proper as adjusted.

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 Findings

Based on the evidence, we find the Town's twice-adjusted assessment of \$221,300 to be proper because the Taxpayers failed to carry their burden of proof.

The Taxpayers did not present any credible evidence of the Property's fair market value. 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.

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The Taxpayers also argued that their lot was assessed at a higher per-acre value than their neighbors, but differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for assessments on a per-square-foot basis to differ to reflect this market phenomenon.

To the extent the Taxpayers relied on other comparables, the board was unable to review that analysis since the assessment-record cards were not submitted and since the Taxpayers did not supply sufficient data from which the board could review the comparables. However, generally the Taxpayers' argument concerned the per-acre value, which was discussed above.

Finally, to the extent the Taxpayers claimed there were errors on the assessment-record card, the Town has reduced the assessment to reflect those problems.

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.

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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 forgoing decision has been mailed this date, postage prepaid, to Arnold W. and Marilyn D. Piquette, Taxpayers; and Chairman, Selectmen of Tilton.

Dated: June 21, 1993

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0008/0004

Melanie J. Ekstrom, Deputy Clerk