

Paul Buffum and E. Bevan Buffum

v.

Town of Jefferson

Docket No.: 10635-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of: \$60,500 (land \$16,200; building \$44,300) on Map 10, Lot 21, a 1-acre lot with a house; and \$25,400 on Map 10, Lot 20A, a 5.35-acre, vacant lot. 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 assessments were 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 on Lot 21 was excessive because:

- 1) Lot 21 was purchased in November, 1986 for \$35,000, and since that time \$7,567 was expended for repairs (labor not included);
- 2) an October, 1986 appraisal estimated a \$38,500 value;

- 3) the assessor did not inspect the building's interior to find a dirt cellar, plywood floors in the kitchen, old plumbing fixtures, and no shower, dishwasher, washer, dryer or garage;
- 4) the well water was not drinkable and the well is frequently dry;
- 5) a similar property (Kennison) with three more acres sold for \$45,000 in March, 1991, had been listed since 1987, and was an arm's length sale;
- 6) the Town's comparables are above-average neighborhoods while the Property is in a below-average neighborhood; and
- 7) the assessed value should be \$40,000 to \$45,000.

The Town argued the assessment on Lot 21 was proper because:

- 1) the property has excellent southern exposure and an unobstructed view;
- 2) the Taxpayers' comparable (Kennison) was an estate sale and not an arm's length transaction;
- 3) the Taxpayers failed to prove the purchase of the property was arm's length and the market did not decline until 1989; and
- 4) physical and functional depreciation was given to the building assessment to address the needed renovations.

The Taxpayers argued the assessment on Lot 20A was excessive because:

- 1) the property was purchased in October, 1987 for \$16,000;
- 2) the land is entirely a field; and
- 3) the assessed value should be \$16,000 to \$19,000.

The Town argued the assessment on Lot 20A was proper because:

- 1) the property enhances the house lot; and

2) the value is within range of comparable 1989 sales.

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Board's Rulings

The board denies this appeal because under RSA 75:1 assessment must be based on market value. Therefore, to carry their burden, the Taxpayers should have made a showing of the properties fair market value. This value would then have been compared to the properties 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 provided information concerning their 1986 and 1987 purchase prices and they provided the Kennison sale as a comparable. Unfortunately, for the Taxpayers, the 1986 and 1987 information is too remote in time to the 1990 assessment date, especially since the market went through dramatic changes between 1986 and 1990. Therefore, we did not give any weight to the 1986 and 1987 data. Concerning the Kennison sale, we were unable to rely upon that sale for two reasons. First, the Town asserted the Kennison sale was not a fair market sale but was an estate sale. The Taxpayers disagreed, but they did not submit sufficient information to overcome the Town's assertion. Secondly, even if the Kennison sale were a market sale, the Taxpayers did not provide sufficient information from which the board could compare the two properties. If the Taxpayers reviewed their appraisal, they will see how appraisers compare properties with a comparison grid so that features can be given the weight and adjustments that are necessary. This was not done, and simply stating a property is similar and sold for a certain

value does not allow the board to draw a conclusion concerning the value of another property.

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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

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Paul and E. Bevan Buffum, Taxpayers; and Chairman, Selectmen of Jefferson.

Dated: May 7, 1993

Melanie J. Ekstrom, Deputy Clerk

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