

Joseph A. and Therese R. Belanger

v.

Town of Weare

Docket No.: 10684-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$99,100 (land \$70,000; building \$29,100) on a .25-acre lot with a camp (the Property). The Taxpayers and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. After reviewing all Lake Horace appeals, the board decided to hold a hearing to gather further information. The board has reviewed the written submittals and the evidence from the hearing 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 and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

1) the camp sits on pilings and has no heating system, no basement, and no septic system;

- 2) the Property receives no Town services such as sewer and trash pickup;
- 3) water must be pumped in from the lake, and is not drinkable;
- 4) an April 1, 1990 appraisal estimated a \$63,000 value; and
- 5) the assessment increased from \$20,830 in 1989, to \$99,100 in 1990, yet there have been no improvements to the Property to warrant the increase.

At the start of the hearing, the Town explained the assessment methodology that was applied to all Town properties and the detail of that methodology as applied to Lake Horace properties. The Town submitted a sales book with photographs and sales and assessment information. The Town argued the assessment was proper because:

- 1) the Taxpayers' comparables are not comparable because one included two additional lots that were purchased to make a 1-acre waterfront lot, one included a house lot and a vacant, waterfront lot which was later improved with a year-round residence and sold in August, 1990, for \$133,000, and one was not used as a benchmark sale to determine the values used in the revaluation;
- 2) comparable properties sold in December, 1988 for \$118,000; September, 1989 for \$134,000; August, 1989 for \$110,000; and May, 1990 for \$135,000 -- all of which support the Property's assessment; and
- 3) the same methodology was used throughout the Town.

The board's inspector reviewed the assessment-record card and 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. Note: The inspector's report is not an appraisal. The board reviews the report and

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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 Rulings

Based on the evidence, the board finds the Taxpayers did not carry their burden of proving disproportionality. The board finds that the Town used consistent methodology. The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

Further, the Town adequately rebutted the appraisal presented by the Taxpayers by stating that comparable sale number one was not a waterfront property as compared to the Taxpayers, comparable number two was a transfer of a partial lot and a three-way sale, and comparable number three was an atypically low sale as evidenced by the other lake sales the Town analyzed.

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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Joseph A. and Therese R. Belanger, Taxpayers; and Chairman, Selectmen of Weare.

Dated: September 15, 1993

Valerie B. Lanigan, Clerk

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