

Edward P. Lawson and James A. Lawson

v.

Town of Temple

Docket No.: 10721-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$135,150 on a vacant, 20-acre lot (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) Century 21 appraised the Property and estimated a \$53,000 market value;
- 2) the poor soil test resulted in a buyer declining his \$65,000 offer; and
- 3) the assessment is at least two to three times the Property's actual value.

The Town argued the assessment was proper because:

- 1) the economic conditions prevented the Property from being sold and not the soil conditions; and
- 2) the Property is assessed equitably with other similar properties based on the 1988 revaluation.

The board's inspector inspected the property, reviewed the assessment-record card, and filed a report with the board. This report concluded that there was no change.

Board's Rulings

The board denies this appeal because the Taxpayers submitted insufficient evidence to carry their burden.

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 did submit information concerning their attempts to market the Property, but the board found the information insufficient to base a decision upon. Specifically, the board would have preferred to receive more information from the realtor concerning how the listing price was arrived at, what other properties have sold in the area, the steps being taken to market the Property, and such other similar information. Without such information, it is impossible to determine whether the Taxpayers are taking reasonable

steps to market the 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 Edward P. and James A. Lawson, Taxpayers; and Chairman, Selectmen of Temple.

Dated: May 7, 1993

Melanie J. Ekstrom, Deputy Clerk

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