

Richard and Clara S. Marsh

v.

Town of Wolfeboro

Docket No.: 10741-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of: \$99,500 (land \$79,500; building \$20,000) on Sublot 3, a .75-acre lot with a building on Mink Island; and \$3,600 on Sublot 4, a vacant, .03-acre lot known as West Jockey Cap Island (the Properties). 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 abatements 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 and prove disproportionality.

The Taxpayers argued the assessments were excessive because:

1) there were errors on Sublot 3's assessment-record card, i.e., there are only 2 bedrooms and 1 outhouse, the interior walls are unfinished, there is no detached deck, and the acreage was incorrect;

Page 2

Marsh v. Town of Wolfeboro

Docket No.: 10741-90

- 2) Sublot 4 is unbuildable and too small to conform to the Town's 30-foot setback requirement;
- 3) Sublot 4 has no beach or boat access;
- 4) the Properties' only access is by a 2-1/2 mile boat trip;
- 5) the Properties received no Town services;
- 6) the Taxpayers received no veteran's exemption or senior citizen exemption, yet they qualify;
- 7) a neighboring lot is 1/3 larger than Sublot 3, yet was assessed less; and
- 8) Sublot 3's assessed value should be \$87,586.

The Town did a complete inspection of the Properties in June, 1992, and met with the Taxpayers to explain the factors involved in assessing the Properties, resulting in the current abatements. The Town argued the revised assessments were proper because:

- 1) the Properties' accessibility and lack of services were considered in the assessments, and the errors on the assessment-record card were corrected and taxes abated accordingly;
- 2) the house lot has panoramic views and is one of only 3 private, spacious lots on Mink Island, and the island's remaining two lots are assessed at \$165,000 and \$120,000;
- 3) the vacant lot's camping and mooring use enhanced the Properties value, and comparable vacant islands are assessed at \$14,100 and \$14,800; and
- 4) the Town's valuation methods were consistent for all island properties with adjustments made for size, topography, and access, etc.

Board's Rulings

Based on the evidence, the board finds the Town made the necessary corrections and adjustments to the original assessments and that the assessments as appealed to this board are fair, equitable and proportionate. The board notes paragraph 2 of the Town's Exhibit B, a letter from the Taxpayers to the Town which states, "We commend you for the professional manner in which you have addressed our appeal and have responded to our questions. However, we plan to avail ourselves of the opportunity to appeal to the state for a further reduction since we feel that island property should be assessed mindful of the lack of services for which we pay taxes."

Lack of municipal services is not necessarily evidence of disproportionality. As the basis of assessing property is market value, as defined in RSA 75:1, any effect on value due to lack of municipal services is reflected in the selling price of comparables and consequently in the resulting assessment. Barksdale v. Epping, ___ N.H. ___ (December 23, 1992).

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

Michele E. LeBrun, Member

Page 4
Marsh v. Town of Wolfeboro
Docket No.: 10741-90

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Richard and Clara S. Marsh, Taxpayers; and Chairman, Selectmen of Wolfeboro.

Dated: May 3, 1993

Melanie J. Ekstrom, Deputy Clerk

0005