

Bradford W. and Emily Hume Gile

v.

Town of Wolfeboro

Docket No.: 10757-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$622,300 (land \$349,300; buildings \$273,000) on a 1-acre lot with a house (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 and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) comparable properties in Jockey Cove with large, private lots, docks and paved roads are assessed less than the Property;
- 2) the \$700 per-front-foot price difference between the abutting lot's shorefront and the Property's shorefront proves disproportionality;

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3) the land assessment should be \$326,600 and the building value is not contested; and

4) the Town's comparables are not comparable because some of them are located in Embassy Estates and have 300-foot shore frontage and views of the Winnepesaukee Broads where the Property's section has smaller lots with far less shore frontage.

The Town argued the assessment was proper because:

1) the Property is in an exclusive subdivision known as Embassy Estates and is protected by covenants to ensure that only luxury homes are built in the area;

2) the Property's neighborhood attains the highest price paid in Wolfeboro and the subdivision is the former Chiang-Kai-Shek estate, which adds historical value;

3) the site is improved with extensive landscaping, lawn sprinkler system, and a private sandy beach area and has 151 feet of water frontage;

4) a 6 x 36 dock was missing on the 1990 assessment and will be assessed in future years;

5) the Taxpayers' comparables do not support overassessment due to various inferior factors, i.e., access, location, building or site improvements, and only one comparable is located within Embassy Estates and the other comparables are located in an adjacent neighborhood which is developed mainly with seasonal cottages with narrow seasonal road access, no protective covenants and minimal site improvements;

6) comparable sales in Embassy Estates and Wyanoke Harbor support the assessment; and

7) the Property's assessment of both land and buildings is consistent with similar properties that offer similar marketability.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the assessment was disproportional. We also find the Town supported the Property's assessment. 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. Although the Taxpayers compared the assessment to comparable properties in the vicinity of the subject, recent sales within Embassy Estates are more indicative of the value of the Property. Fewer adjustments are required to be made for properties in the development because of its unique qualities. The sales reflect the marketability of the neighborhood.

The Taxpayers argued that the land was overassessed but did not quarrel with the assessment of the improvements. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value.

The focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the Property is assessed at a higher level

than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one

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exact, precise or perfect assessment; rather, there is an acceptable range of values which, when adjusted to the Municipality's general level of assessment, represents a reasonable measure of one's tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979).

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

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Bradford W. and Emily Hume Gile, Taxpayers; and Chairman, Selectmen of Wolfeboro.

Dated: May 10, 1993

Melanie J. Ekstrom, Deputy Clerk