

Mary L. Heald

v.

Town of Deerfield

Docket No.: 10780-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$222,300 (land \$74,000; building \$148,300) on a three-acre lot with a house (the Property). The Taxpayer 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 Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer failed to carry this burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) the five-acre lot across the street has a garage, barn, septic system, well and more road frontage on Route 107, yet had only a \$49,400 land assessment;
- 2) other buildings in the area were assessed between \$57,600 and \$113,000, yet the Property's building was assessed at \$162,900; and

3) properties are not selling for their assessed values.

The Town argued the assessment was proper because:

- 1) the Property is an above-average ranch built in 1985 on a three-acre lot close to Pleasant Lake, and properties closer to the lake have higher land assessments;
- 2) the lot across the street is unimproved and is further from the lake than the Property; and
- 3) it was well within range of comparable properties with the same proximity to the lake.

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. The inspector made no adjustments to the Town's assessment.

Note: The inspector's report is not an appraisal. The board reviews the report and 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 Taxpayer did not carry her burden of proof. The Taxpayer's case depended on the board accepting the Topouzoglou land assessment as a comparable to the Taxpayer's land assessment.

The board does not accept the Topouzoglou's property as a comparable because the Topouzoglou lot did not include a dwelling and was further away from the lake. Therefore, the assessment on that lot generally would be lower than a developed lot in closer proximity to the lake. Additionally, a taxpayer cannot carry his/her burden by comparing his/her assessment to only one other

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lot. Rather, the taxpayer must look at several assessments. In this case, the Town demonstrated that they used a consistent methodology throughout the Town. 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). The Taxpayer's comparison to one lot could not overcome the Town's showing.

In addition to failing to submit sufficient assessment data, the Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer 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 board also reviewed the Taxpayer's 1988 appeal (docket no.: 5217-88), and we noted that the Taxpayer testified in that hearing that the Property was worth between \$200,000 and \$250,000.

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.

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Differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for assessments on a per-square-foot basis to differ to reflect this market phenomenon.

Averaging property values, as done by the Taxpayer, does not necessarily prove "disproportionality"; it only proves that the Taxpayer's Property is assessed more than the average property. Appraisals are not averages; rather they are the correlation of general sales data to the unique characteristics of a specific property.

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 Mary L. Heald, Taxpayer; and Chairman, Selectmen of Deerfield.

Dated: June 24, 1993

Melanie J. Ekstrom, Deputy Clerk

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