

Russell W. Ball, Sr.

v.

Town of Troy

Docket No.: 10815-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$49,050 (land \$32,500; building \$16,550) on a 3.44-acre lot with a mobile home (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) similar properties are assessed \$5,820 per-acre, while the Property is \$9,447 per-acre; and
- 2) compared to neighboring properties, the Property had the oldest and smallest mobile home, but the highest assessment.

The Town argued the assessment was proper because:

- 1) an adjustment was made to address the age and condition of the mobile home;
- 2) subject appears to be a better overall property considering topography adjustments; and
- 3) the building's per-square-foot price was within range of comparable properties.

The board's inspector reviewed the assessment-record card and filed a report with the board. This report concluded the assessment was proper and no adjustment was warranted.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

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.

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.

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

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Russell W. Ball, Sr., Taxpayer; and Chairman, Selectmen of Troy.

Dated: April 22, 1993

Melanie J. Ekstrom, Deputy Clerk

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