

**Alice Ring LeBlanc**

**v.**

**Town of Weare**

**Docket Nos.: 10829-90 and 11164-91 PT**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 and 1991 assessments of \$106,400 (land \$70,70; buildings \$35,700) on a .26-acre lot with a camp (the Property). The Taxpayer and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. After reviewing all Lake Horace appeals, the board decided to hold a hearing to gather further information. The board has reviewed the written submittals and the evidence from the hearing and issues the following decision. For the reasons stated below, the appeal for abatements is denied.

The Taxpayer has the burden of showing the assessments were 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.

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The Taxpayer argued the assessments were excessive because:

- (1) the camp is seasonal and has no well, running water or insulation and sits on concrete piers, and neither the storage shed nor the dock are permanent fixtures;
- (2) a January 21, 1991 appraisal estimated an \$80,000 value;
- (3) the assessed value increased from \$27,250 in 1989, to \$106,400 in 1990;
- (4) the market values have decreased since 1989, yet the assessment has increased;
- (5) other properties with more acreage had much lower land values than the Property, e.g., an 8.05-acre lot had only a \$59,500 land assessment, and a 4.4-acre lot had only a \$45,400 land assessment;
- (6) the 1989 assessment at 32% was \$27,250, equating to an \$85,150, 100% value, which is more reasonable;
- (7) comparable properties had market values of \$71,200, \$78,000 and \$85,800;
- (8) the Town's comparable number one is comparable to the Property whether or not it sold prior to May, 1990; and
- (9) the Town's sale number six is not comparable because it is an elaborate, year-round residence where the Property is not.

At the start of the hearings, the Town explained the assessment methodology that was applied to all Town properties and the detail of that methodology as applied to Lake Horace properties. The Town submitted a sales book with photographs and sales and assessment information. The Town argued the assessments were proper because:

- (1) the Taxpayer's \$80,000 appraisal estimate was low because the appraiser

selected poor comparables without appropriate adjustments;

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- (2) Taxpayer's comparable number one is not comparable because it was determined to be unusually low as compared to other sales;
- (3) a comparable property sold in December, 1988, for \$118,000 and was assessed at \$105,800, and another comparable property sold in August, 1989, for \$110,000;
- (4) the Taxpayer's other comparable is not comparable because it included a 1/17th interest in another lot and had a winterized camp;
- (5) waterfront properties appreciated at a greater rate than other properties, and the Taxpayer's 1989, \$85,150 equalized value was not the Property's true value because of the 36.49 coefficient of dispersion;
- (6) the declining real estate values were considered in the April 1, 1990 assessment date because the Town used sales that occurred from April, 1988, through the first half of 1990;
- (7) the Property has greater utility, desirability, and a higher market value than nonwaterfront properties, yet the Taxpayer compared the Property to nonwaterfront properties;
- (8) the Property's assessment was based on the sales of other seasonal camps with access by roads not maintained by the Town on Horace Lake;
- (9) the dock and shed are not seasonal nor temporary and are assessed as realty; and
- (10) the assessment was supported by Town's sales 3, 5, 8, 14, and 15.

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

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inspection. This report concluded the assessment was proper. 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 failed to prove the assessment was disproportional. A greater percentage increase in an assessment following a town-wide reassessment is not a ground for an abatement, since unequal percentage increases are inevitable following a reassessment. Reassessments are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property.

The Taxpayer argued the assessment should be reduced because the market for the Property has been declining. Evidence of a declining market alone is not a basis for reducing an assessment no more than evidence of an appreciating market is a valid basis of increasing an assessment. The issue is proportionality. The Taxpayer needs to make a showing that the Property has changed in value to a greater extent than that indicated by the change in the general level of assessment in the Town as a whole to prove her Property is disproportionately assessed.

The Taxpayer compared her assessment, equated to a per-acre value, with

other larger parcels, also equated to a per-acre value. This methodology does not prove disproportionate assessment. Differing square-foot assessment values are not necessarily probative evidence of inequitable or

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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 Town adequately rebutted the Taxpayer's appraisal's comparables. The Town found comparable number one was an atypically low sale compared to other lake sales. Comparable number two was a nonwaterfront parcel having only a shared, 1/17th interest in a waterfront parcel. Comparable number three, while on Lake Horace, was situated on the point of a peninsula where access to the property could only be gained by water and, therefore, was similar in utility to an island 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

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Alice Ring LeBlanc, Taxpayer; and Chairman, Selectmen of Weare.

Dated: September 15, 1993

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Valerie B. Lanigan, Clerk

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