

**Coles Realty Trust and
Robert and Linda Coles**

v.

Town of Weare

Docket No.: 10830-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$83,000 (land \$32,000; buildings \$51,000) on a .1-acre lot with a camp (the Property). The Taxpayers 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 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) the assessment increased excessively from the prior assessment;

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- (2) the Property shares an electric line and a well and is near a dam with the part of the dam located on the Property, resulting in the Property being subject to a flowage easement;
- (3) lots with water access across the road from the lake, but not directly on the lake, were not assessed as high as the Property;
- (4) the Property was assessed higher than other lake properties;
- (5) the Property was worth \$60,000, which is supported by a \$55,000 sale (foreclosure) in June, 1993; and
- (6) the assessment-record card had some errors concerning construction materials.

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 Taxpayers' comparables were not comparable because the Property is on the lake and some comparables are not, and the lakefront camps are larger than the Property;
- (2) the Town determined the shared well did not affect the Property's value since most lots simply drew water from the lake;
- (3) the sale next door was not a qualified sale since it was a foreclosure sale;
- (4) the Town acknowledged the deficiencies with the Property's location near the dam, resulting in a condition factor of only 2 when the Property would

have been assessed significantly higher if elsewhere on the lake; and

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(5) sales 1, 3, 5, 8, 9, 10, 11, 12, 14 and 15 support the assessment.

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. This report concluded the proper assessment should be \$75,600 (land \$28,000; buildings \$47,600). The inspector adjusted the land assessment to address the rocky topography. 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 Taxpayers failed to prove the Property's assessment was disproportional.

Concerning the Taxpayers' arguments about increases in the assessment, 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. Increases from past assessments are not evidence that a taxpayer's property is disproportionately assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985).

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Additionally, the Town demonstrated 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). Lastly, the Town adjusted the assessment to reflect the deficiencies raised by the Taxpayers.

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

Concurred, Unavailable for Signature
Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert and Linda Coles, Taxpayers; and Chairman, Selectmen of Weare.

Dated: September 10, 1993

Valerie B. Lanigan, Clerk

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