

Gerald H. and Cynthia M. Esty

v.

Town of Cornish

Docket No.: 10841-90

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$233,950 (land \$63,700; buildings \$170,250) on a 22.2-acre lot with a single-family home (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.

The Taxpayers argued the assessment was excessive because:

- 1) the land portion was assessed at \$63,700, yet it was purchased in 1987 for \$28,000;
- 2) the land is mostly ledge, steep, and has no view;

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- 3) two of the Town's comparables (Ziegler and Gage) either sold or are listed for substantially less than the Property; and
- 4) the assessed value should be \$28,000.

The Town argued the assessment was proper because:

- 1) the front-foot values are comparable to other similar properties in the area, and calculated in a similar method;
- 2) at the revaluation reviews, an additional adjustment was given to both the frontage and the rear land to address the ledge, outcropping, and steepness; and
- 3) the \$28,000 purchase price in 1987 was for land only -- presently the lot is improved as a building site and is more valuable.

The board's inspector reviewed the assessment-record card and filed a report with the board. This report concluded that no adjustments were warranted.

#### Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove their assessment was disproportional for the following reasons:

- 1) the Taxpayers argued the land assessment alone was excessive -- 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 Taxpayers did not submit any evidence of market value for the whole Property;
- 2) the Taxpayers made the assertion that property values were declining from 1987 to 1990 but submitted no market evidence of a declining market for that

time period; (The board would note that the change in the equalization ratios

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for Cornish from 1987 to 1989 indicate that, in general, the real estate market in Town increased nearly 24 percent during that time period);

3) the Taxpayers' reference to the Gage and Ziegler properties being listed substantially below the assessed value is not conclusive evidence of the Taxpayers' overassessment because (a) these two listings are for undeveloped lots; (b) no evidence was submitted as to the extent of the properties' exposure to the market; and (c) the listings were in 1992; and

4) the Taxpayers did not submit any evidence as to the proper value of another property they own (Map 7, Lot 75A), but did not appeal; the board, in determining whether an assessment of one property is proper, must consider the assessment of any other property owned by the Taxpayers in the Town. Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985).

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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Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Gerald H. and Cynthia M. Esty, Taxpayers; and Chairman, Selectmen of Cornish.

Dated: February 18, 1993

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Melanie J. Ekstrom, Deputy Clerk

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