

Roger and Lorraine LeBlanc

v.

Town of Weare

Docket Nos.: 10845-90 and 11411-91 PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 and 1991 assessments of \$118,900 (land \$66,300; buildings \$52,600) on a .27-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. The board has reviewed the written submittals and issues the following decision. For the reasons stated below, the appeals for abatements are denied.

The Taxpayers have the burden of showing the assessments were 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 assessments were excessive because:

(1) the camp sits close to abutting camps preventing privacy, the lot size prevents any further expansion, the noise level is always high, and the private road detracts from the value;

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- (2) the Property does not have the proportional services of year-round properties and residents that have lake privileges;
- (3) the Town discriminated against nonresidents;
- (4) the Town's comparables disregarded lower-valued sales and used atypical sales;
- (5) two-acre lots in the Town were assessed at only \$32,000, yet the Property's one-quarter acre was assessed at \$66,300; and
- (6) larger lots have lower assessments.

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 of differences in acreage, topography, building size, road and water frontage, and view, and some of the Taxpayers' sales were not arm's length transactions;
- (2) the assessment is supported by the Town's sales 3, 5, 8, 9 and 14; and
- (3) the same methodology was used throughout the Town.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the Property was disproportionately assessed. The Taxpayers' main complaint was that the Town had discriminated against them in assessing their Property and other waterfront properties. The board concludes that the Town appeared to approach waterfront assessments in the same manner and using the same

methodology used throughout the Town. In other words, the board concludes

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there was no bias as asserted by the Taxpayers. Furthermore, the Town submitted sufficient evidence demonstrating the value on seasonal waterfront properties, many of which had the same asserted deficiencies as this Property.

Concerning the Taxpayers' per-acre analysis, 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. Furthermore, with the exception of the Moulton property, the Taxpayers did not introduce any evidence concerning the Property's market value.

The Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers 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.

Averaging sales, as done by the Taxpayers, is not a conclusive method of establishing market value since averaging ignores the unique characteristics of properties. Rather, analyzing, comparing, and weighing sales data and then correlating the most pertinent aspects of the sales to the subject property

arrives at the best indication of market value.

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Finally, while the Taxpayers raised several supposed issues that affected the Property's value, and while they raised issues concerning whether lakefront property was overassessed, the Taxpayers did not submit any comparative market data to demonstrate that their Property was overassessed. Based on the Town sales, the Property was not overassessed.

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 Roger and Lorraine LeBlanc, Taxpayers; and Chairman, Selectmen of Weare.

Dated: September 15, 1993

Valerie B. Lanigan, Clerk

