

**Francis and Dorothy Cullen**

**v.**

**Town of Seabrook**

**Docket No.: 10851-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$264,400 on Lot 19, an 8,560 square-foot lot with a cottage (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 assessment increased 61% in one year's time;
- 2) the lot is burdened by two separate rights-of-way, one of which is the only means of access to the Property and three other lots;

- 3) the cottage is seasonal and has no central heating;
- 4) the assessed values over the years have been inconsistent -- \$114,250 in 1987, \$348,750 in 1988, \$241,100 in 1989, \$296,400 in 1990, and \$264,400 in 1991; and
- 5) the assessed value should be \$215,000.

The Town argued the assessment was proper because:

- 1) the assessment was based on a comparative market analysis using sales from 1986 to 1991 that were time adjusted to April 1, 1990;
- 2) the Property is within range of comparable sales; and
- 3) rights-of-way are common for properties in waterfront area and thus are reflected in the basic land value.

The board's inspector reviewed the assessment-record card and filed a report with the board. This report concluded the proper assessment should be \$264,400, as was adjusted by the Town (copy attached).

#### Board's Rulings

Based on the evidence, we find the Town's abated assessment is reasonable. No further adjustment is warranted as 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.

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While the Taxpayers failed to show disproportionality, the Town supported the assessment. Specifically, the Town submitted sales of improved properties and lots that support the assessment.

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

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Francis and Dorothy Cullen, Taxpayers; and Chairman, Selectmen of Seabrook.

Dated: May 27, 1993

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Melanie J. Ekstrom, Deputy Clerk