

Dianne M. and Earl A. Pike, Jr.

v.

Town of Weare

Docket Nos.: 10857-90 and 11188-91 PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 and 1991 assessments of \$93,100 (land \$62,200; buildings \$30,900) on a .166-acre lot with a camp (the Property). The Taxpayers also own, but did not appeal, Map 101, Lot 8. For the reasons stated below, the appeal for abatements is granted as to the Town's recommended adjustment.

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).

The Taxpayers argued the assessments were excessive because:

- (1) they were excessive compared to recent lakefront sales and other lakefront assessments;
- (2) the Property was assessed as if on a Class V road instead of the actual Class VI road; and

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(3) a regression analysis of eleven Lake Horace sales comparing lot size, building size, and extra features, indicated a proper assessment of \$78,000 for 1990 and \$65,000 for 1991.

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. At the hearing, the Town recommended a reduction in the assessment to \$89,900 to correct for a dock that was improperly assessed to the Taxpayers. The Town argued this revised assessment was proper because:

- (1) the Town used 367 sales between April, 1988, and April, 1990, to set the standards used for the valuation of all Town property;
- (2) two comparable sales of Lake Horace properties indicate that the assessments were proper;
- (3) the sales utilized by the Town on Lake Horace were all on Class VI or unmaintained roads and, therefore, no adjustment was necessary to assess the Taxpayers' Property, which is also on a Class VI road;
- (4) the Taxpayers' regression analysis developed a straightline relationship between the size of the lot and the house; however, sales utilized during the reassessment indicate that the relationship is not a straightline; and
- (5) Town sales 2 and 11 support the assessment.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to carry their burden of proof. The Taxpayers' regression analysis does not properly

analyze the raw market data in relationship to market phenomenon.

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Specifically, the market generally indicates higher per-square-foot prices for smaller lots and buildings than for larger lots and buildings, and since the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for any analysis to also recognize this market phenomenon. Therefore, the board finds that the proper assessment for 1990 and 1991 is that as recommended by the Town of \$89,900.

If the taxes have been paid, the amount paid on the value in excess of \$89,900 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Dianne M. and Earl A. Pike, Jr., Taxpayers; and Chairman, Selectmen of Weare.

Dated: September 15, 1993

Valerie B. Lanigan, Clerk

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