

1876 Ossipee Corp./Camp Ossipee Corporation

v.

Town of Wolfeboro

Docket No.: 10869-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of: \$1,341,300 (land \$1,250,800; buildings \$90,500) on Lot 35, a 7.3-acre camping lot with buildings; and \$485,600 (land \$474,300; building \$11,300) on Lot 19, a 14-acre camping lot with buildings (the Properties). The Taxpayer 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 abatements are denied.

The Taxpayer has the burden of showing the assessments were disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer failed to carry this burden.

The Taxpayer argued the assessments were excessive because:

1) improving the Properties would require obtaining easements from 8 property owners to expand the access road, and road construction would cost \$250,000;

- 2) if the Property were subdivided, roads servicing the lots would cost \$100,000 to construct, and septic systems would need to be installed if approval could be obtained;
- 3) the 125-foot setback would allow only one house on Lot 19, which abuts an airport runway strip;
- 4) the buildings on the Properties are over 100 years old, set on piers and have no interior finish;
- 5) the cost to reconstruct the buildings on Lot 35 would be \$65,000 to \$70,000 and the buildings on Lot 19 would cost only \$2,000 to reconstruct, yet are assessed at \$11,300;
- 6) a stream flows through Lot 19, limiting any improvements; and
- 7) an October, 1990 appraisal estimated a \$1,125,000 value for the Properties.

The Town argued the assessments were proper because:

- 1) the Properties are located on Wolfeboro Neck, a private and desirable location, with a panoramic view of "the Broads;"
- 2) the abutting airport services small planes only and the majority of the lot is wooded, and an economic adjustment was given to all abutting lots to address the airport's location;
- 3) the Properties have electricity which enhances their value, and the 50-foot right-of-way access road services all the lots in the area;
- 4) easements to widen the camp's road were not necessary because the camp owned the road, and any easements would only serve to increase the right-of-way lots' access;

- 5) subdivision is possible, but was not considered in the assessment;
- 6) Lot 19 has 322 feet of waterfront with some sandy beach and is a private, wooded lot which is very desirable, and the stream's location still allows for a house site;
- 7) Lot 19 has 12 tent sites with attached decks and Lot 35 has 35 tent platforms, most with decks, and numerous other buildings including a recreation hall, kitchen, shower/bath house and tennis courts; and
- 8) the Properties are assessed equitably with similar properties in the Town.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to sustain the burden of proof and to show disproportionality. The Taxpayer based his appeal on the theory that subdivision of the subject property would not be financially feasible for a number of reasons. A two page opinion of value (letter dated October 26, 1990) submitted by the Taxpayer contained no comparable sales or assessments of similar property. The issue of potential development is somewhat moot since the Town did not attribute any value to the possibility of subdivision. The Town submitted a nine page report with six comparable properties with 22 photos of the properties under appeal. In addition, the board's review appraiser found "no change in value." The two page "explanation of basis of appeal" submitted by attorney Erland C. L. McLetchie lacks the necessary specificity to show disproportionality with similar properties based on actual sales or comparison with assessments on like properties in the taxing jurisdiction.

The Taxpayer did not present any credible evidence of the Property's

fair market value. To carry this burden, the Taxpayer should have made a  
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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.

The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b).

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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George Twigg, III, Chairman

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Erland C. L. McLetchie, Esq., Agent for Taxpayer; and Chairman, Selectmen of Wolfeboro.

Dated: May 5, 1993

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Melanie J. Ekstrom, Deputy Clerk