

Olga M. Currier

v.

Town of Weare

Docket No.: 10874-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$132,200 (land \$42,100; building \$90,100) on a 1.23-acre lot with a house containing an apartment unit (the Property). 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 abatement is denied.

The Taxpayer has the burden of showing the assessment was 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 and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

1) the Property has no view, is steeply sloped, and is covered with poison ivy and sumac, yet properties with landscaped lawns and views have lower land assessments;

- 2) the Property has the least acreage and the highest land assessment of all the neighboring lots; and
- 3) the building is small and modest compared to neighboring homes, yet the assessment is higher.

The Town argued the assessment was proper because:

- 1) 367 sales between April 1, 1988, and April 1, 1990, were used to set the values for the 1990 revaluation and the same methodology was used throughout the Town;
- 2) the Property contains a two-family home, yet the Taxpayer compares her Property to single-family homes in the neighborhood;
- 3) the land values for two-family lots are 25% higher than single-family lots; and
- 4) the Property's assessment is well within range of comparable properties in the Town.

The board's inspector reviewed the assessment-record card and the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report concluded the assessment was proper. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation. In this case, the board did not rely on the inspector's report.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove the Property was disproportionally assessed.

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 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 Taxpayer compared her assessment to neighboring properties. The Taxpayer may have intended to use these properties as comparables but did not present any charts or photographs to allow the board to draw any conclusions. It is the Taxpayer's job to organize and present the case.

Increases from past assessments are not evidence that a taxpayer's property is disproportionally assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985). The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

Page 4  
Currier v. Town of Weare  
Docket No.: 10874-90

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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Ignatius MacLellan, Esq., Member

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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 Olga M. Currier, Taxpayer; and Chairman, Selectmen of Weare.

Dated: October 21, 1993

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Lynn M. Wheeler, Deputy Clerk

0005