

Timothy G. Farmer

v.

Town of Weare

Docket No.: 10877-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$37,400 (land \$33,000; buildings \$4,400) on a .07-acre lot with a camp (the Property). The Taxpayer owns, but did not appeal, two other lots that adjoin the Property. The Taxpayer and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. After reviewing all Lake Horace appeals, the board decided to hold a hearing to gather further information. The board has reviewed the written submittals and the evidence from the hearing 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.

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The Taxpayer argued the assessment was excessive because:

- (1) the Property is the smallest lot on the cove, which on a per-acre basis, was assessed excessively;
- (2) the assessment was excessive for only 30' of frontage on a cove; and
- (3) the Taxpayer's adjoining two lots should not be considered in the Property's assessment, and the Property should be viewed as if the Taxpayer did not own the other two lots.

At the start of the hearing, 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 Taxpayer's purchases were market purchases;
- (2) lot 60 was not assessed as having water access; and
- (3) the three lots' total purchase price supports the assessment on the entire estate.

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.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove the Property's assessment was disproportional. The Town certainly demonstrated that it used a consistent methodology throughout the Town based on sales, and the Taxpayer did not overcome that showing. Specifically, the Taxpayer purchased lots 54 and 53 in 1989 for \$45,000, and he purchased lot 60 in 1990 for \$115,000, totalling \$160,000. This compares with the total assessments of \$141,900. Whether one views the Taxpayer's Properties as a group or individually, the Taxpayer did not prove that he was disproportionately assessed, especially in view of the Town's evidence concerning a consistent methodology that was based on and supported by market sales.

Concerning the Taxpayer's 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.

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.

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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 Timothy G. Farmer, Taxpayer; and Chairman, Selectmen of Weare.

Dated: September 14, 1993

Valerie M. Lanigan, Clerk

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