

Lazar and Mary Lou Sion

v.

Town of Weare

Docket No.: 10880-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$34,500 on a vacant, 5.70-acre lot (the Property). 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 and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the land is not accessible from the main road because it has a drainage ditch running along the frontage;
- (2) there is a swamp in the back;
- (3) a culvert would have to be installed to provide access in order to sell the Property;
- (4) the Property was advertised for sale in the newspaper in 1989 for \$5,000

and it didn't sell; and

Page 2

Sion v. Town of Weare

Docket No.: 10880-90

(5) the value of the Property is about half what it is assessed for.

The Town argued the assessment was proper because:

(1) only the rear 15% of the lot is wet and, only a culvert will be required to provide access from Route 77;

(2) the stream on the lot is intermittent and the lot could be developed as a residential lot; and

(3) a 5% deduction to the site was taken to address the culvert issue.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the Property's assessment was disproportional. The board also finds the Town supported the Property's assessment.

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.

Further, the Taxpayers failed to provide any evidence as to the cost to cure the access problem by installing a culvert and fill.

Given the fact that adjoining parcels with similar topography have been developed, and since the Taxpayers did not provide any market data relative to their lot, the board finds the Taxpayers failed to prove the Property was

assessed disproportionately.

Page 3
Sion v. Town of Weare
Docket No.: 10880-90

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Lazar and Mary Lou Sion, Taxpayers; and Chairman, Selectmen of Weare.

Dated: September 15, 1993

Valerie B. Lanigan, Clerk

0005