

Harold A. Johnson and Alice M. Johnson
Peter O'Leary and Jacob O'Leary

v.

Town of Weare

Docket No.: 10888-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$122,500 (land \$72,100; buildings \$50,400) on a .28-acre lot with a camp (the Property). The Taxpayers 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 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) an assessment report concluded the assessment should be \$109,500;

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(2) the assessment increased excessively from the past assessment; and
(3) the status of the road changed after April 1, 1990 to a Class VI, nonmaintained road.

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. The Town argued the assessment was proper because:

(1) the road was treated as a nonmaintained road as of April 1, 1990;
(2) the Property has better topography than most;
(3) the Emerton report should not be accepted because of the flawed methodology; and
(4) the assessment was consistent with Town sales 3, 5, 8, 9 and 14.

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 that the Taxpayers failed to prove the Property's assessment was disproportional.

Concerning the Taxpayers' arguments about increases in the assessment, a greater percentage increase in an assessment following a town-wide reassessment is not a ground for an abatement, since unequal percentage increases are inevitable following a reassessment. Reassessments are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property. Increases from past assessments are not evidence that a taxpayer's property is disproportionately 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).

Concerning the status of the road, the Taxpayers' position does not hold any merit because the Town treated the road as if it were a Class VI, nonmaintained road as of April 1, 1990. Therefore, the Town has already made an adjustment for this argument.

Concerning the Taxpayers' valuation analysis, the board did not accept that analysis because it did not compare and correlate the comparables with the Property, but it merely took square-foot averages and then applied them to the Property without any adjustments for differences between the Property and the comparables.

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 Harold A. and Alice M. Johnson, Taxpayers; and Chairman, Selectmen of Weare.

Dated: September 15, 1993

Valerie B. Lanigan, Clerk

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