

Eldon J. and Carol Townes

v.

Town of Weare

Docket No.: 10903-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of:

\$163,654 (land \$70,346; buildings \$104,000) on Lot 16-1, a 2.35-acre lot with a store; and

\$41,400 on Lot 220-3, a mobile home (the Properties).

For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing the assessments were 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 on Lot 16-1 was excessive because:

- (1) the lot is located on Route 77, which is a commuter road;
- (2) prime commercial land is selling for much higher than the value of the subject and the Town is assessing disproportionately to the sales; and

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(3) the soils of the lot have a high water table, which makes construction of a septic system expensive and, thus, the land is not as desirable as prime commercial land with better soils.

The Taxpayers argued the assessment on Lot 220-3 was excessive because:

- (1) the trailer was purchased in 1987 for \$32,000;
 - (2) the home is located at the entrance of the mobile home park, which is not a desirable location;
 - (3) the park influence factor of \$9,600 is too high for the home's location;
- and
- (4) the fair market value of the property is \$32,000 as of April, 1990.

The Town argued the assessment on Lot 16-1 was proper because:

- (1) sales of commercial property during the reassessment indicated commercial values were approximately twice that of residential values; and
- (2) lots such as the Taxpayers with good exposure on Route 77 were consistently assessed for \$64,000 for the first two-acre site.

The Town argued the assessment on Lot 220-3 was proper because:

- (1) the assessment was derived from the analysis of twelve other sales between May, 1988, and June, 1990;
 - (2) the market influence factor is attributable to intangible property rights or interests such as situs or location with any of its associated amenities;
- and
- (3) the assessment is equitable and supported by market data.

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Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the Properties' assessments were disproportional. The board also finds the Town supported the Properties' assessments.

Lot 16-1

The Taxpayers did not present any credible evidence of the lot's fair market value. To carry this burden, the Taxpayers should have made a showing of the lot's fair market value. This value would then have been compared to the lot'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 Town testified the lot'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).

Lot 220-3

The board reviewed all the assessment cards of the eleven sales of mobile homes at Sugar Hill Manor Mobile Home Park and compared the photographs of many of the sites supplied by the Taxpayers and concludes there is no consistent market evidence to support the Taxpayers' claim that there should be a different park influence factor for their unit located near the entrance of the park. The Town used consistent methodology in arriving at the

replacement cost and depreciation for the units and applied a flat \$9,500 park influence factor to all the units. The two sales that are closest in location

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to the Taxpayers are on Lot 9 (Robert and Patricia Chandonnet) and Lot 11 (Shawn Walsh and Mary Schweizer). The sales and the assessments of these two properties, which also are near the entrance and would have similar amounts of traffic going by them, do not indicate any measurable difference in the market as it relates to their location. Therefore, the board concludes the Taxpayers did not carry their burden of proving disproportionate assessment.

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 Eldon J. and Carol Townes, Taxpayers; and Chairman, Selectmen of Weare.

Dated: September 13, 1993

Valerie B. Lanigan, Clerk

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