

Mary Ann Currie

v.

Town of Weare

Docket No.: 10910-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of \$15,200 on Lot 31, a vacant, .53-acre lot; and \$15,400 on Lot 32, a vacant, .55-acre lot (the Properties). 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 Taxpayer failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayer was not defaulted. This decision is based on the evidence presented to the board. 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 assessments were 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 assessments were excessive because:

- (1) the Properties are wooded and receive no Town services;
- (2) the Properties' only access is by a dirt road that is not maintained by the Town;
- (3) the Properties are unbuildable because the Town will not issue building permits to properties on private roads;
- (4) the assessments on Lake Horace properties have increased while assessments in the rest of the Town have decreased; and
- (5) a realtor estimated a \$30,000 value on the Properties if building permits could be obtained.

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 assessments were proper because:

- (1) the Town used 367 sales between April, 1988 and April, 1990, to set the standards used for the valuation of all Town property;
- (2) the Properties have gently sloping topography, a combined 201-foot road frontage, and a deeded right-of-way to Lake Horace;
- (3) the Properties are considered two, single-family building lots, and both lots meet zoning ordinance requirements for construction;
- (4) the Taxpayer was misinformed about the building permits because with zoning board approval, the Town will issue building permits for private-road properties; and

(5) the assessments considered the Town's building permit approval process by reducing the assessments by 50%, i.e., if the Properties were located on Town roads, the assessments would have been \$30,400 and \$30,800.

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 assessments were 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 carry her burden of proof. The Taxpayer's appeal was premised on the Properties being nonbuildable because the lots are located on private roads. The board, however, concludes the Town presented sufficient evidence to establish that building permits can be issued on private roads by obtaining zoning board approval. On the valuation issue, the Town considered the requirements for zoning board approval by reducing the assessments by approximately 50%. Finally, the Taxpayer's own realtor stated the Properties would be worth approximately \$30,000 if building permits could be obtained. The evidence established that building permits could be obtained.

Concerning the Taxpayer's arguments about increases in the assessments,

a greater percentage increase in an assessment following a town-wide reassessment is not a ground for an abatement, since unequal percentage

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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 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).

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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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 Mary Ann Currie, Taxpayer; and Chairman, Selectmen of Weare.

Dated: September 15, 1993

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Valerie B. Lanigan, Clerk

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