

Dominic and Dorothy Renda

v.

Town of Tilton

Docket No.: 8333-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessments totalling \$130,500:

Map/Lot R9-10 \$16,300 (land only - access to lake for Lot 20);

Map/Lot R9-20 \$113,700 (land \$113,700; building \$27,900); and

Map/Lot R9-21 \$500.00 (land only) (collectively the "Property").

The Taxpayers and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. The board has reviewed the written submittals and issues the following decision. For the reasons stated below, the appeal for abatement is granted.

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 carried this burden and proved they were disproportionately taxed.

The Taxpayers argued the assessment was excessive because:

- 1) the assessed value is too high, as recent comparables do not come close to Town's appraised values;
- 2) the Property is a wood frame structure with no foundation;
- 3) the Property is located one lot back from the actual lake with a "view" that is partially obstructed by residences on the waterfront;
- 4) their lake front is shared with five other homeowners; and
- 5) an error on their tax card represents the Property has a full bath and oil heat when the Property has a three-quarter bath and electric heat.

The Town argued the assessment was proper because:

- 1) values for "water access" property in Winnisquam Lake range from \$90,000 to \$130,000. The Taxpayers' Property is at the upper end of the range because it is "actually water front property with a semi-private beach and boat facilities, as well as a nice view";
- 2) Taxpayers' comparables failed to prove they were disproportionate in comparison to other assessments -- Taxpayers' comparables were condominium units, "not all that comparable, in that there is no land ownership and association fees must be paid annuall[y]," and the comparables were 1988 sales from Belmont, Sanbornton and only one from Tilton; and
- 3) the tax card correctly shows one bathroom, (i.e. "a shower, sink and commode is listed as a full bath, not a 3/4 bath"), and the electric heating system was corrected based on Taxpayers' information.

Based on the evidence, the board finds the correct assessment should be \$128,350 because the Property has electric heat rather than oil, forced hot air. The board further finds:

- 1) no additional abatement is warranted as the Taxpayers comparables were 1988 sales, and thus they were not good evidence of 1990 market values; and

2) the Town's recent comparables established a range supporting the assessment.

If the taxes have been paid, the amount paid on the value in excess of \$128,350 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esquire

Michele E. LeBrun, Member

Dated: August 23, 1991

I certify that copies of the within decision have been mailed, postage prepaid, to Dominic and Dorothy Renda, Taxpayers; Gary J. Roberge, representing the Town of Tilton.

Dated: August 23, 1991

Melanie J. Ekstrom, Deputy Clerk