

Helen Vinikoor

v.

Town of Canaan

Docket No.: 8555-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$57,000 on a 3.88-acre vacant lot on Goose Pond Road (the Property). The Taxpayer 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 denied.

The Taxpayer has the burden of showing the assessment was 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.

The Taxpayer argued the assessment was excessive because:

- 1) the land is undeveloped and of no commercial value;
- 2) all the surrounding properties received abatements except the Taxpayer; and
- 3) if she developed the Property, she would need a percolation test and would have to give the purchaser water access through her lakefront land.

The Town argued the assessment was proper because:

- 1) the Property compliments the Taxpayer's waterfront lot across the street;
- 2) the Property is much larger than most of Taxpayer's neighbors; and
- 3) the assessment reflects the limited view potential of the Property, as well as topographic considerations.

The board's inspector reviewed the file and property tax card, and filed a report with the board. This report concluded the Town's assessment was proper.

Board's Rulings

Based on the evidence, we find the Taxpayer failed to prove the Property's assessment was disproportional.

The Taxpayer did not present any credible evidence of the Property's fair market value. To carry her burden, the Taxpayer 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.

Additionally, the Taxpayer failed to provide any information on the waterfront lot and its assessment. The board is required to review the Taxpayer's entire estate. In this case as the Town points out, the Property's highest and best use must at least be looked at in connection with the waterfront lot.

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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

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Helen Vinikoor, Taxpayer, and Chairman, Selectmen of Canaan.

Dated: December 1, 1992

Melanie J. Ekstrom, Deputy Clerk