

Leonard T. Pass and Kathleen M. Pass

v.

Town of Jefferson

Docket No.: 8582-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$181,700 (land \$77,100; buildings \$104,600) on a 44-acre lot with a 4-family home and 3 sheds (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 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.

The Taxpayers argued the assessment was excessive because:

- 1) the Property is located in a flood zone;
- 2) an April 12, 1988 appraisal estimated a \$140,000 value;

- 3) one wing of the building has stones, wood and some concrete as a foundation, and the crawl space is dirt;
- 4) the main house has a dirt cellar and all the windows need replacing;
- 5) only 2.5 acres were usable because the river causes yearround flooding; and
- 6) one portion of the Property has its only access through the river, and another portion has no access.

The Town argued the assessment was proper because:

- 1) two abatements were already given on September 12, 1990 and December 17, 1990, to address the Taxpayers' concerns;
- 2) a functional depreciation factor was given to address the dirt basement and crawl space;
- 3) the land was assessed equitably with comparable properties in the Town, and the assessment is within range of comparable sales;
- 4) the proximity to the river increases the land's value; and
- 5) the Taxpayers' comparables are not comparable because they are smaller, located in another Town, do not have water access, and the sales were three years prior to the revaluation.

The board's inspector reviewed the assessment-record card and filed a report with the board. This report concluded the proper assessment should be \$179,600 (land \$77,100; buildings \$102,500). The inspector only applied an additional 3% depreciation factor to address the ceilings. Otherwise, the inspector found the assessment to be proper.

Board's Rulings

This appeal is denied because the Taxpayers failed to present sufficient evidence to allow the board to find disproportional assessment and to make any adjustment.

To carry this burden, the Taxpayers 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.

The board was unable to rely on the Taxpayers' 1988 appraisal because it was not time adjusted to 1990. As pointed out by the Town, the market went through dramatic changes between 1988 and 1990. Moreover, two of the sales in the appraisal were 1987 sales. Additionally, the Taxpayers did not provide information concerning the actual rents being charged and the market rents for this type of property. Finally, concerning the land, the Town appears to have made adjustments for every issue raised by the Taxpayers.

Specifically, the Town assessed the forty acres not attributable to the primary site at \$506 per acre. Based on the information, the Town appropriately assessed this Property and has made adjustments for the Taxpayers' concerns.

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,

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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

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Leonard T. and Kathleen M. Pass, Taxpayers; and Chairman, Selectmen of Jefferson.

Dated: April 30, 1993

Melanie J. Ekstrom, Deputy Clerk

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