

Priscilla Stoddard Sargent

v.

Town of Freedom

Docket No.: 8731-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$118,800 (land, \$90,000; building, \$28,800) on Map 37, Lot 10-02, .25-acre lot with a cabin (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).

The Taxpayer argued the assessment was excessive because:

- 1) adjoining lots are twice the size (Lots 10 and 10-1);
- 2) the lot offers only half the amount of beach and area for outdoor activities, i.e., parking, woodstacking; and

3) assessed value seems grossly unfair compared to Lots 10 and 10-1.

The Town argued the assessment was proper because:

- 1) Taxpayer's land was assessed at \$120,000 base price, as were all water front buildable lots in that area;
- 2) a \$30,000 reduction was given to the lot's base price due to its shape and size; and
- 3) the Property has been assessed properly in accordance with the Town's regulations.

Board's Ruling

Taxpayer appears to make the argument that her lot was one-half the size of adjoining lots and therefore should be proportionately assessed. However, differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for assessments on a per-square-foot basis to differ to reflect this market phenomenon.

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

The Town testified the Property'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).

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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Priscilla Stoddard Sargent, Taxpayer; and Chairman, Selectmen of Freedom.

Dated: December 2, 1992

Melanie J. Ekstrom, Deputy Clerk