

Murray J. Dickenson

v.

Town of Plaistow

Docket Nos.: 6041-89 and 8823-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$99,300 on Lot 21 Cifre Lane, a 7.50-acre wood lot. After the Taxpayer filed an appeal, the Property was subdivided into three lots. The Taxpayer also appeals the Town's 1990 assessments of the three subdivided lots: \$63,850 on Lot 18, a 3.07-acre lot; \$59,750 on Lot 18A, a 3.11-acre lot; and \$50,800 on Lot 18B, a .99-acre lot (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 Property is landlocked;
- 2) the road is Class VI, and the Taxpayer must pay extra for maintenance;
- 3) commercial property in Town is assessed at \$2,800 less per-acre than his;

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- 4) a realtor estimated the three lots to be worth \$80,000 as a whole;
- 5) comparable properties sold for a \$47,800 average;
- 6) there was a verbal agreement to buy Lot 18 for \$70,000, but the buyer wanted to renegotiate the price after learning the Town would not maintain the road; and
- 7) the Property was being assessed as buildable property, even though the Class VI Road prevents this from happening.

The Town argued the assessment was proper on the three subdivided lots because:

- 1) two properties that abut the Taxpayer sold at auction for \$50,500 combined price, they were assessed at \$66,300, and both properties are less than one acre;
- 2) a .63-acre lot sold at auction for \$40,000 plus back taxes, and the assessed value was \$83,800 with a septic tank that needed replacing;
- 3) four lots that have owner-maintained roads are assessed at \$65,800 average;
- 4) the Taxpayer had a buyer for Lot 18 at a proposed \$70,000 sale price.

Board's Rulings

As stated above, the focus of our inquiry is proportionality, requiring a review of the assessment to determine whether the property is assessed at a higher level than the level generally prevailing. Appeal of Town of Sunapee, 126 N.H. at 219; Stevens v. City of Lebanon, 122 N.H. 29, 32 (1982). There is never one perfect assessment of a property. Rather, there is a range of acceptable assessments for each property. The question is thus whether the assessment falls within a reasonable range from a median ratio as indicated by an acceptable coefficient of dispersion following a good reassessment, considering the property involved and other assessments in the municipality. See Wise Shoe Co. v. Town of Exeter, 1991 N.H. 700, 702 (1979); Brickman v. City of Manchester, 119 N.H. 919.

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
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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 only market data submitted by the Taxpayer was the October 1, 1991 realtors letter estimating values of \$30,000 to \$35,000 and \$40,000 to \$50,000. These are late 1991 values. The market in Plaistow, based on the 1990 (1.03) and 1991 (1.35) equalized ratios fell approximately 32 percent. Thus, these prices would have to be adjusted upwards by 32 percent to reflect the 1989 and 1990 market conditions, which puts the values in line with the assessments.

We reviewed the property tax cards and find the Town adequately adjusted (-10 percent) for the Class VI road.

Based on the evidence, we find the assessments are correct. The board's inspector reviewed the files and property tax cards, and filed a report with the board. This report concluded that no adjustment was necessary.

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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

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I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Murray J. Dickenson, Taxpayer, and Chairman, Selectmen of Plaistow.

Dated: October 27, 1992

Melanie J. Ekstrom, Deputy Clerk

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