

Walter and Jane Serbent

v.

Town of Stoddard

Docket No.: 8994-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of:

<u>Lot No.</u>	<u>Assessment</u>	<u>Description</u>
Lot 21 (336)	\$51,000	a vacant, 2.93-acre lot
Lot 22 (339)	\$12,700	a vacant, 2.50-acre lot
Lot 23 (340)	\$114,250	a 2.70-acre lot with a house

For the reasons stated below, the appeal for abatements is denied.

The Taxpayers have the burden of showing the assessments were disproportionately high or unlawful, resulting in the Taxpayers paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to prove the property was disproportionately assessed.

The Taxpayers argued the assessments were excessive because:

(1) all three lots are basically the same with ridges, slopes and glacial debris;

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(2) Lot 340 does not have NH Water Supply and Pollution Control Commission approval for septic tank installation;

(3) Lots 339 and 340 are subject to a flood control easement and have standing water on them;

(4) the shelter on Lot 340 is an open space concept with a loft, has no running water, a compost toilet, no electricity and no basement; and

(5) the sales in Stoddard Development recognized differences in prime land and location but the assessments do not.

The Town argued the assessments were proper because:

(1) the Department of Revenue Administration (DRA) did a survey of off-water sales in the area and found a front foot value of \$125, and sales on Highland Lake correlated to a water-front foot value of \$875;

(2) Lot 339 has physical characteristics that are less than desirable for building and a .55 topography adjustment was arrived at to account for its physical deficiencies;

(3) Lot 336 has rocks and boulders along the frontage on Highland Lake and the unit price was adjusted by a .65 for its topography; there is standing water on the northeast corner of the road frontage and a .55 topography adjustment was made; and

(4) Lot 340 has steep access along the road, there are giant sized boulders along the water-frontage, and wooden walking bridges were built to have access

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to most of the land; topography adjustments were applied to the land (.40) and to the water frontage (.45); adjustments were made to the building for its unconventional plumbing, lack of electricity, etc.

Board's Rulings

We find the Taxpayers failed to prove the Properties' assessments were disproportional. The Property has a unique rustic charm that would not necessarily appeal to everyone, and while the Taxpayers mentioned a number of factors that may affect the value of the Property, they did not present any credible evidence of the Property's fair market value. 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 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).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Walter and Jane Serbent, Taxpayers; and Chairman, Selectmen of Stoddard.

Dated: October 21, 1993

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Valerie B. Lanigan, Clerk