

Rocco A. Morcone

v.

Town of Cornish

Docket No. 9420-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$40,600 (land only) on 20 acres of unimproved land on, the class VI portion of Root Hill 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 his burden and prove any disproportionality.

The Taxpayer argued the assessment was excessive because:

1) of the increase in value from \$2,800 to \$40,600 in one year in a declining real estate market.

The Town argued the assessment was proper because:

1) it was based upon a rear acre base price determined from six sales in Cornish adjusted for their size and quality; and

2) other parcels on Class VI roads were similarly assessed.

We find the Taxpayer failed to prove his assessment was disproportional.

We also find the Town supported the Property's assessment.

The Taxpayer complained about the high amount of taxes he must pay. The amount of property taxes paid by the Taxpayer was determined by two factors: 1) the Property's assessment; and 2) the municipality's budget. See gen., International Association of Assessing Officers, Property Assessment Valuation 4-6 (1977). The board's jurisdiction is limited to the first factor i.e., the board will decide if the Property was overassessed, resulting in the Taxpayer paying a disproportionate share of taxes. Appeal of Town of Sunapee, 120 N.H. at 217. The board, however, has no jurisdiction over the second factor, i.e., the municipality's budget. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's jurisdiction limited to those stated in statute).

The Taxpayer did not present any credible evidence of the Property's fair market value. To carry his burden, the Taxpayer must make a showing of the Property's fair market value. This value will then be 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Rocco A. Morcone, taxpayer; and Chairman, Selectmen of Cornish.

Melanie J. Ekstrom, Deputy Clerk

Date: April 9, 1992

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