

Henry U. Harris, Jr.

v.

Town of Holderness

Docket No.: 9509-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$1,752,100 (land, \$1,372,000; buildings, \$380,100) for Map 10, Lot 25, subplot 18 ("Lot 18") and \$230,000 (land only) for Map 10, Lot 25, subplot 17 ("Lot 17"). Lot 18 consists of a 2.9-acre lot with approximately 600 feet of frontage on Squam Lake improved with two dwellings, a foundation, garage, docks and a tennis court. Lot 17 consists of 1.5-acres of unimproved land abutting Lot 18 on the opposite side of Algonquin Road. The Taxpayer also owned, but did not appeal Map 10, Lot 25, subplot 37, a 2.69 acre unimproved lot abutting Lot 17 assessed for \$41,200. 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);

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Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry this burden.

Initially, the Taxpayer argued that the land value of Lot 18 (originally assessed at \$1,480,000) was excessive relative to an appraisal done for the Taxpayer on Lot 18 which estimated the total value at \$1,750,000 as of June 1989. The Town subsequently abated Lot 18's assessment to \$1,752,100 and the Taxpayer in its brief of January 22, 1992, stated that while they still believe the land assessment is too high, they are willing to drop the appeal of Lot 18.

As to Lot 17, the Taxpayer argued the assessment was excessive because:

- 1) the Town used a higher base value in appraising Lot 17 than the abutting Lot 37; yet, both have ledge restricting development, have a restricted view of Squam Lake and have no access to the lake;
- 2) the inclusion of Lot 17 in the Squam Lake value zone is unreasonable and arbitrary given the lot's limitations; and
- 3) Lots 17 and 18 are separate lots of record and their values should be determined separately.

The Town argued the assessments were proper because:

- 1) the Property is one of the most exceptional on Squam Lake;
- 2) the Taxpayer's appraisal of Lot 18 supports the assessment;
- 3) the Taxpayer's three lots would most likely be sold as a group to preserve the secluded nature of the Property; and

4) an abutting property consisting of several lots of record with similar improvements sold in September, 1990 for \$2,300,000.

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The board's inspector reviewed the assessment-record card and file, and filed a report with the board (copy attached). The board reviewed this report but placed no weight on the report.

Board's Rulings

Based on the evidence, we find the Taxpayer failed to prove the Property's assessment was disproportional. In determining whether the appealed portion of a Taxpayer's entire estate is properly assessed, the board must consider the assessments of other property owned by the Taxpayer in town but not appealed. Appeal of Town of Sunapee, 116 N.H. at 214, 217 (1985)

states:

"When a taxpayer challenges an assessment on a given parcel of land, the board must consider assessments on any other of the taxpayer's properties, for a taxpayer is not entitled to an abatement on any given parcel unless the aggregate valuation placed on all of his property is unfavorably disproportionate to the assessment of property generally in the town. Bemis &c. Bag Co. v. Claremont, 98 N.H. 446, 449, 102 A.2d 512, 516 (1954). "Justice does not require the correction of errors of valuation whose joint effect is not injurious to the appellant." Amoskeag Mfg. Co. v. Manchester, 70 N.H. 200, 205, 46 A.470, 473 (1899)(citations omitted)."

In this case the Taxpayer owns three adjoining parcels, Lots 17, 18, and 37. The Taxpayer initially appealed Lots 17 and 18 but not 37. The Taxpayer, after receiving an abatement on Lot 18, withdrew his appeal on Lot 18 and focused his arguments on Lot 17.

The board finds sufficient evidence, that while the lots may be separate legal lots of record, they presently have a highest and best use as one economic unit. First, the 1991 sale of the several abutting lots as one group for \$2,300,000 supports both the Taxpayer's total assessed value and the Town's argument that properties in the immediate neighborhood are likely to be

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sold in larger tracts to protect the privacy and seclusion. Second, notations on the assessment record card for Lot 17 indicates the Taxpayer was issued a building permit on January 22, 1990 for a "guest cottage" on Lot 17. This building permit and the description of the building indicates that a septic system could be designed for the Lot despite its ledge and that the owner was envisioning adding a "guest cottage" as an accessory building to the two existing dwellings on Lot 18.

Further, the Taxpayer's argument that the Town has created several arbitrary classes of property due to differing base land unit values is without any merit because:

- 1) the lots are all owned by the same Taxpayer; and
- 2) the total value of the lots is supported by market data.

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

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 Dennis N. Perreault, Esq., representing the Taxpayer; and Chairman, Selectmen of Holderness.

Dated: June 3, 1993

Melanie J. Ekstrom, Deputy Clerk

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