

Neil R. and Eileen S. Underwood

v.

Town of Greenland

Docket No.: 9542-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$178,612 (land, \$169,912; buildings, \$8,700) on Map R15, Lot 19, a 63.2-acre lot with a building (the Property). The Taxpayers own, but did not appeal, the following lots.

Map\Lot	Assessment
R-15-15	\$119.00
R-15-17	\$96,000
R-16-17	\$314.00
R-16-18	\$355.00
R-17-21	\$384,100
U-6-5	\$310,600

While the Taxpayers and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals, the board scheduled a hearing due to the issues in the appeal. The board has reviewed the written

submittals and the evidence and issues the following decision. For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers 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 Taxpayers failed to carry this burden.

The Taxpayers argued the assessment was excessive because:

- (1) the Property was purchased in 1978 for \$125,000 and from 1986 to 1989 the assessment increased to \$214,412;
- (2) 10 acres was put into current use without Taxpayers' knowledge or permission;
- (3) the land has no utilities, has marsh and woodlands, and has only 50-feet of road frontage;
- (4) the 5 acres not in current use should be assessed for \$84,000;
- (5) the Town's comparables are not comparable because the comparables have roads, full utilities, and are located in a more affluent part of Town;
- (6) a comparable was assessed for \$324,000 and sold for \$220,000 (no date provided); and
- (7) the land assessment should be consistent with two purchase and sales agreements and a value opinion on lot 17.

The Town argued the assessment was proper because:

- (1) of the 63.2 acres, 58.2 are in current use;
- (2) it reflected the building's 30% completion on April 1, 1990;

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- (3) the Property is a waterfront lot and the building sits on a small hill with a panoramic view of Great Bay;
- (4) it was consistent with six sales between 1988-91;
- (5) it was significantly reduced to account for access, utilities and marshes;
and
- (6) it was equitable with and supported by comparable properties in Town.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board, which was disclosed at the hearing. In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report concluded the assessment was proper and no change was warranted. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it deserves. Thus, the board may accept or reject the inspector's recommendation. The board did not consider the inspector's report.

Board Findings

Based on the evidence, the board finds the Taxpayers failed to carry their burden of proof because:

- (1) the Taxpayers did not present reliable market evidence with proper quantified comparisons between the comparables and the Property;
- (2) the 1970's sale prices are too remote in time for a 1990 assessment;

(3) Lot 17 and the Taxpayers' home lot are not waterfront lots and thus not comparable;

(4) the Town's adjustments appear more than adequate to reflect the various

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problems with the Property, e.g., access, lack of utilities and topography;
and

(5) the Town's increase of the assessment was proper because the lot was being converted from a vacant lot to a developed lot.

Concerning the current-use issue, the board finds no merit with the Taxpayers' argument because:

(1) the Taxpayers requested the Town to put all but 5-acres in current use;

(2) the Town followed this request;

(3) the Town later discovered an error -- 10 acres had not been assessed or properly placed in current use;

(4) the Town then placed the 10 acres in current use consistent with the Taxpayers' original request;

(5) the ad valorem assessment increased not because of the current use correction but because of development to the Property, which was formerly a vacant lot; and

(6) the only issue before the board is the actual assessment upon which taxes were based.

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

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

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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

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Neil and Eileen Underwood, Taxpayers; and Chairman, Selectmen of Greenland.

Dated: June 16, 1993

Melanie J. Ekstrom, Deputy Clerk

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ORDER

This order relates to the "Taxpayers'" rehearing motion. The motion fails to state any "good reason" or any issue of law or fact for granting a rehearing. See RSA 541:3.

The information submitted by the Taxpayers was either already reviewed by the board at the hearing or is new information that cannot be submitted at this time. This case was a clear case of failure to prove, and nothing that the Taxpayers have submitted with this motion can resurrect the Taxpayers' failure to prove.

Motion denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

I certify that copies of the within Order have this date been mailed, postage prepaid, to Neil & Eileen Underwood, taxpayers; and the Chairman, Selectmen of Greenland.

Melanie J. Ekstrom, Deputy Clerk

Date:

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