

Ellen F.D. Bennett/William W. Dunnell, III/Jacob Dunnell

v.

Town of Holderness

Docket No.: 9544-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$1,367,960 (land \$1,251,000; buildings \$116,960) on a 66-acre island on Squam Lake with three camps (the Property). 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 Town did not make an adjustment for the Property being located on an island, accessed only by boat;
- (2) island properties normally sell for 1/3 to 1/2 the mainland values;
- (3) the original assessment was increased by 32% due to the enhancement value of granting a conservation easement;

(4) an appraisal in 1990 done by George Lamprey for the conservation easement estimated the enhancement value at 10%;

(5) Bowman Island of 23 acres sold in December 1992 for \$975,000 to the Conservation Trust of Virginia with the hope that the Squam Lake Assoc. would repurchase it for conservation purposes; it was assessed for \$1,234,300;

(6) this sale indicates that the Town's base values were too high;

The Town argued the assessment was proper because:

(1) the best evidence of market value of the Taxpayers' market value is the sale of Morrison Island for \$350,000 in July 1991;

(2) Morrison Island is only a third of an acre, and if an island of that size would sell for \$350,000, then an island containing three developed sites of two acres each surrounded by 60 acres of undeveloped land would have a value of the assessed value;

(3) the increase from the original assessment to the one under appeal was not due to the granting of the conservation easement but rather due to a general revision of all island properties after the informal reviews by Apple Appraisal, Inc.; and

(4) the sales of property on islands on Squam Lake do not support a reduction of the base value from mainland property for the conditions related to islands.

Board's Rulings

For the following reasons, we find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

Enhancement Value

Based on the evidence the board finds that the issue of enhancement value did not pertain to the 1990 tax year. The Town testified that the revision to the original assessment was not related at all to any enhancement value due to a conservation easement being granted later in the year but rather was due to a general revision of all island properties on Squam Lake. Therefore, the issue of enhancement value for the 1990 tax year is moot.

Market Value-Island v. Mainland

The board finds that the market evidence presented in this case does not support the normal contention that island properties sell for less than mainland properties. The board is aware of the inconveniences of island ownership that could potentially affect their market value (e.g. seasonal access only by boat, limited fire protection, higher cost to obtain utilities, etc.). However, these inconveniences are to some extent often offset by such things as increased privacy and protection, and the general uniqueness of an island situation. For these pluses and minuses of island ownership to be quantified, sales of islands comparable to the subject are the best measurement of how the market views this interplay of the conditions of island ownership.

In this case the parties presented primarily two sales that occurred on Squam Lake that provided an indication of the market for islands on Squam Lake. The board finds that both the Bowman Island sale as introduced by the Taxpayers and the Morrison Island sale as introduced by the Town generally

support the base values used in deriving the Taxpayers' assessment. The Bowman Island sale occurred in December of 1992 and sold for \$975,000, while

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being assessed for \$1,234,300. The only evidence available as to the change in market from the appeal date of 1990 and the sale date of 1992 is the Department of Revenue Administration's equalization ratio for 1992 of 1.20. By equalizing the sale price of \$975,000 the resulting value of \$1,170,000 generally supports the Town's assessment for that property. The board finds that the Bowman Island sale was generally an arms-length transaction. The Town's contention that personal income tax considerations may have affected the transfer price was not supported by the Taxpayers' testimony that the sale price did not include such income tax or gift considerations.

The Morrison Island sale for \$350,000 in 1991 also supports the Town's assessed values. If the sale price is equalized by the 1991 ratio of 1.05 the indicated 1990 value of \$367,500 ($\$350,000 \times 1.05$) supports the Town's assessment of \$370,900.

The Town also submitted several assessment-record cards for other island properties on Squam Lake which shows that the Town consistently applied the base prices and the condition factors in a uniform and consistent manner. This evidence of consistent methodology based on market data of islands on Squam Lake is good evidence of proportionality. See Bedford Dev. Co. v. Town of Bedford, 122 N.H. 187, 189-190 (1982).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Concurred, unavailable for signature
Paul B. Franklin, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Ellen F.D. Bennett, William W. Dunnell, III, and Jacob Dunnell, Taxpayers; and Chairman, Selectmen of Holderness.

Dated: July 23, 1993

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Clerk

Valerie B. Lanigan,