Maurice G. and Theresa D. Mayo

v.

Town of Greenland

Docket No.: 9660-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of $96,900 (land, $82,900; buildings, $14,000) on 1.79-acres (the Property). The Taxpayers 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 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 land assessment is higher when compared to similar land assessments in the Town;

(2) the assessor was influenced by the extreme property values occurring

during late 1987 and early 1988 without regard to equalization to similar

property valuations; and

(3) the Town's three sales indicated a fair sales to assessment ratio; however those sales were at the top of the market and subsequent lots have sold in a falling market for $38,000 - $25,500, being re-offered for $49,900.

The Town argued the assessment was proper because:

(1) Taxpayers' comparables (Cortland Drive) are developed lots with a road condition of good to excellent. Comparing three assessments-to-sales ratios indicate assessments are higher than actual selling prices;

(2) Taxpayers' comparables (Allen Farm Lane) are vacant lots. Comparing vacant land sales with Cortland Drives's improved sales indicate Taxpayers' Property location is slightly superior to Cortland Drive;

(3) Taxpayers' comparables (Caswell Drive) was developed in early 1980's, with a road condition of fair to poor. Due to no recent sales and based on a physical inspection, Caswell Drive is inferior to Taxpayers' Property;

(4) Both the Mayo and Tarazewich property, have been developed since they were sold. The site, which is priced on the first land line of the property record card, for vacant land is priced 10% lower than improved land to account for site preparation costs. At the time of the sale, the assessment for the Mayo property would have been $75,000, and $77,800 for the Tarazewich property; and

(5) the assessed value of $96,900 is fair and equitable.

Board's Rulings

Based on the evidence, we find that although assessments exceed 100%

market value in 1990, the Taxpayers failed to prove inequity or disproportionality. The Board's Review Appraiser observed in his written report, "Lots assessed equally before the falling market."

In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. (The board has not allocated the value between land and building, and the Town shall make this allocation in accordance with its assessing practices.)

The Taxpayers argued the assessment should be reduced because the market for the property has been declining. Evidence of a declining market alone is not a basis for reducing an assessment no more than evidence of an appreciating market is a valid basis of increasing an assessment. The issue is proportionality. The Taxpayers need to make a showing that the Property has changed in value to a greater extent than that indicated by the change in the general level of assessment in the Town as a whole to prove their property is disproportionately assessed.

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

SO ORDERED

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Maurice G. and Theresa D. Mayo, Taxpayers; and Chairman, Selectmen of Greenland.

Dated: April 30, 1993

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Melanie J. Ekstrom, Deputy Clerk

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