

Rose C. Doucet

v.

Town of Tilton

Docket No.: 9737-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$134,600 (land \$109,200; building \$25,400) on an .11-acre lot with a mobile home (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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry this burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because surrounding properties had more acreage and water frontage than the Property, yet the land assessments were less than the Property, i.e., a .20-acre lot was assessed at only \$104,300 and a .23-acre lot was assessed at only \$65,200.

Doucet v. Town of Tilton

Docket No.: 9737-90

The Town argued the assessment was proper because:

- 1) acreage was not the only factor considered in determining the land value, i.e., topography, size, shape, water frontage, road frontage and zoning were all factors that contributed to the land assessment; the land assessment was not calculated on a per-acre basis, but rather on a site basis modified by the various factors;
- 2) the Property's neighborhood is in a general business zone which permits both commercial and residential properties;
- 3) the Property is in a prime commercial area, has municipal sewer, is on a major state route, and all the lots in the area have some frontage on Winnisquam Lake, resulting in a 50% above-average rating;
- 4) similar properties sold in 1989 for \$178,000 and \$199,000, a similar lot on a private road sold for \$150,000, and a vacant, 1-acre lot sold for \$125,000; and
- 5) the same methodology was used throughout the Town.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy enclosed). In this case, the inspector only reviewed the file; he did not perform an on-site inspection. This report concluded the assessment is proper. 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.

Page 3

Doucet v. Town of Tilton

Docket No.: 9737-90

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove disproportionality.

The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

The Taxpayer's arguments seem to center on the difference in assessments between her lot and neighboring lots relative to their differing sizes. The Taxpayer argued that the different size of these lots were not adequately recognized by the Town. Differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for assessments on a per-square-foot basis to differ to reflect this market phenomenon.

The board finds that the Town properly considered all factors relevant to assessing the Taxpayer's Property and adjoining properties and through their methodology attempted to adjust for them in the assessed values. See Paras v. City of Portsmouth, 115 N.H. 63, 66-67 (1975) (all relevant factors should be considered in valuing property).

The Taxpayer did not present any credible evidence of the Property's

Page 4

Doucet v. Town of Tilton

Docket No.: 9737-90

fair market value. To carry this burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been 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. The Town did reference sales of similar Lake Winnisquam cottages which generally support the 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 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

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Rose C. Doucet, Taxpayer, and Chairman, Selectmen of Tilton.

Dated: December 16, 1993

0008/0004

Melanie J. Ekstrom, Deputy Clerk