

Cinda McKinney

v.

Town of Alexandria

Docket No.: 9786-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the 1990 assessment on Map 9, Lot 436 and Lot 437 of \$217,900 (land \$149,300; buildings \$68,600) on a .40-acre lot with a single-family home and a .09 acre lot on Newfound Lake (the Property). The Taxpayer and the "Town" waived a hearing and agreed to allow the board to decide the appeal on written submittals. However, the board held a hearing on April 23, 1993 on the sixteen 1990 Alexandria appeals to receive evidence on the basis of the land valuation and the general assessment methodology employed by the Town. The board has reviewed the written submittals and issues the following decision. For the reasons stated below, the appeal for abatement is granted.

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); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer

carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

(1) a July, 1987 appraisal estimated a \$180,000 fair market value on the house lot and a \$25,000 fair market value on the vacant lot;

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(2) in a two-year period, the house-lot assessment increased by 20% and the vacant-lot assessment increased by 6%;

(3) in 1988, a comparable property (Callahan) sold for its \$285,600 assessed value which indicates fair market values have not increased the same as assessed values;

(4) the Property is steep and the lake frontage has boulders in and out of the water; and

(5) a state road separates the beach and the house lot.

The Town was in final default. In 1992, the Property's assessment-record card was adjusted to address the state road and beach, resulting in a \$193,400 assessment. At a hearing held by the board on April 23, 1993, the Town explained its general methodology used in assessing property on Newfound Lake.

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 1992 assessment should be applied to the 1990 tax year. 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.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$189,100 (land, \$120,500; and building, \$68,600). This assessment is ordered because the Board discovered that the adjustments made on the property-record card by #9786-90, McKinney v. Alexandria

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the town on the rear acreage should have been $.15 \times 2000 = 300$ and $.09 \times 2000 = 200$ (rounded). The Board adopts the Town's 1992 site value and has applied it to the 1990 assessment.

If the taxes have been paid, the amount paid on the value in excess of \$189,100 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

The Board must comment on the Town's appraisers' less than professional reassessment and maintenance of the assessment record cards. The board finds:

- 1) The appraisers' review and analysis of the sales relating to the Alexandria/Newfound Lake market was inadequate. It is clear from the evidence presented at the April 23, 1993 hearing that the appraisers never fully researched the limited number of sales that had occurred. Further, the sales survey submitted at the hearing does not include any verification of the sales used and there are no notations as to the basis of the adjustments made in analyzing the sales and deriving of base value used for waterfront property.
- 2) The Board found, in reviewing the files, that the appraisers' methodology was not always consistently applied either during the reassessment or in subsequent tax years (e.g., rear land base values were subsequently reduced on some but not all properties from \$20,000 an acre to \$2,000 an acre).
- 3) During the revaluation process, the appraisers decided to value properties fronting on Newfound Lake and divided by West Shore Rd. in one assessment

rather than two. Existing cards for the waterfront portion remained in the Town's file with an assessment on them. Consequently, anyone reviewing the file would inherently be confused by the existence of this "dummy" assessment record card. 4) The notations and calculations of the land valuation on the assessment record cards are in many cases illegible, non-existent or so brief

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that it is difficult to understand the appraisers' reasoning.

Because of these shortcomings, the Board considered initiating the procedure under RSA 71:B-16 of ordering a reassessment of the properties in the Newfound Lake area. However, the Board concluded that, because of the limited area in concern, that equitable assessments could be more efficiently corrected through the abatement process.

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

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Cinda McKinney, Taxpayer; and Chairman, Selectmen of Alexandria.

Melanie J. Ekstrom, Deputy Clerk

Date: June 16, 1993

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