

Dennis McElhiney

v.

Town of Alexandria

Docket No.: 9787-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$139,600 (land - \$91,600, buildings - \$48,000) on a single-family house with a .22-acre lot on West Shore Road, (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 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

1) a 1989 appraisal estimated a \$127,000 value;

- 2) he estimated a \$123,553 value;
- 3) the bank's comparables had a \$129,500 mean value;
- 4) thirteen families share the beach and when you multiply the beach-lot assessment (\$6,100) by 13 the total assessment on the beach lot is \$79,300, which is excessive;
- 5) a busy street runs between the cottage and the beach site; and

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6) the cottage is seasonal, on a private road not maintained by Town, and the Taxpayer does not use Town services.

The Town argued the assessment was proper because the land assessment was adjusted from \$119,800 to \$91,600, which adequately addresses the Taxpayer's concerns as they relate to market value.

Board's Rulings

Lack of municipal services is not necessarily evidence of disproportionality. As the basis of assessing property is market value, as defined in RSA 75:1, any effect on value due to lack of municipal services is reflected in the selling price of comparables and consequently in the resulting assessment.

The right to use the common beach certainly enhances the Property's value by providing water access. A common waterfront lot can increase the value of the benefitting lots more than the value of the common lot if it were owned by only one person. The Taxpayer's appraisal does not show the assessment is in error. The 10 percent difference between the assessment and appraisal is an acceptable range between opinions of market value.

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

Ignatius MacLellan, Esq., Member

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

Dated: October 21, 1992

Melanie J. Ekstrom, Deputy Clerk

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