

Robert E. Robinson and Doris A. Robinson

v.

Town of Alexandria

Docket No.: 9812-90

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of: \$169,000 (land \$119,800; buildings \$49,200) on a .22-acre lot with a house and a 1/13th interest in Follansbee Cove on Newfound Lake (the Property). The Taxpayers 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 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

carried this burden, and the 1990 assessment should be reduced to the level abated by the Town in 1992.

The Taxpayers argued the assessments were excessive because:

1) comparable properties sold on January 26, 1990 for \$136,900, November 21,

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1988 for \$129,500, and a comparable appraisal estimated a \$125,000 value;

2) the taxes had increased 83% in one year's time, and the beach taxes were excessive considering their share is only 840 square feet;

3) a state road separates the house lot from the beach lot; and

4) the appraiser appeared to be more concerned with the square footage of the building than with its condition or state of finish.

The Town failed to submit any arguments. However, 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 assessment was 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. In this case, the board gives the inspector's report no weight.

**Board's Rulings**

Based on the evidence, the board finds the Taxpayers' sales generally support the assessment as revised by the Town in 1992. Therefore, the proper assessment is \$128,600. However, no further adjustment is warranted because:

1) The Taxpayers complained about the high amount of taxes they must pay.

The amount of property taxes paid by the Taxpayers were determined by two factors: A) the Property's assessment; and B) the municipality's budget. See

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gen., International Association of Assessing Officers, Property Assessment Valuation 4-6 (1977). The board's jurisdiction is limited to the first factor i.e., the board will decide if the Property was overassessed, resulting in the Taxpayers paying a disproportionate share of taxes. Appeal of Town of Sunapee, 126 N.H. at 217. The board, however, has no jurisdiction over the second factor, i.e., the municipality's budget. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's jurisdiction limited to those stated in statute).

2) The Town did note and made adjustments for the differing aspects of the building (e.g. partial basement, number of bathrooms, unfinished area in bedroom, loft area, etc.).

If the taxes have been paid, the amount paid on the value in excess of \$128,600 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

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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 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

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George Twigg, III, Chairman

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Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert E. & Doris A. Robinson, Taxpayers; and Chairman, Selectmen of Alexandria.

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Melanie J. Ekstrom, Deputy Clerk

Date: July 9, 1993  
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