

Charles A. and Mabel Owen

v.

Town of Freedom

Docket No.: 9821-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of \$317,527 (land \$48,433; buildings \$266,600; current use \$2,494) on Lot 8-41, a single-family home with barn and smithy on 49.3 acres; and \$78,200 on Lot 45-26, a .60-acre vacant lot (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 relative to Lot 45-26 by not providing any evidence that the lot was unbuildable, therefore the remainder of this decision will focus on Lot 8-41.

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The Taxpayers argued the assessment on Lot 8-41 was excessive because:

- 1) the house has no insulation or storm windows, poor heating system, and needs complete renovation;
- 2) the market value is less than half the assessed value; and
- 3) a completely renovated comparable has an assessed value of \$154,800.

The Town argued the assessment was proper because:

- 1) 39.3 acres was put into current use in 1990 which resulted in the land being assessed as \$48,433 instead of \$81,300;
- 2) the house lot has two residences and a barn in an exceptional location; and
- 3) the Taxpayer is not being taxed for the dam on Loon Pond even though he owns it.

Board's Rulings

While the Taxpayer described and documented various physical problems with the buildings, he did not provide any evidence on how those aspects affected fair market value, nor did he show that the Town's depreciation in its assessment did not adequately account for the problems cited.

Further, the Taxpayer stated he had no problem with the land or smithy values; however, the Taxpayers did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayers 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 board finds no conclusive market evidence that the value of the Property as a whole is excessive.

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

Ignatius MacLellan, Esq., Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Charles A. and Mabel Owen, Taxpayers, and Chairman, Selectmen of Freedom.

Dated: October 29, 1992

Melanie J. Ekstrom, Deputy Clerk