John C. and Charles W. Hurlin

v.

Town of Jackson

Docket No.: 9827-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessments of: $142,700 (land $130,750; building $11,950) on "Lot 41," a .45-acre lot with a log cabin and shed; $80,050 on "Lot 39," a vacant 14.5-acre lot; and $29,250 on "Lot 29," a vacant 3.9-acre lot (collectively the "Properties"). The Taxpayers own another lot (Lot 31), which was not appealed. 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, except the Town's adjustment to Lot 41 is accepted.

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.

The Taxpayers argued Lot 41's assessment was excessive because the tax card erroneously stated Lot 41 had 860 feet of footage when Lot 41 only has 692.2 feet of frontage.

The Town addressed this concern, revising the frontage on the tax card and reducing the assessment by $550.

The Taxpayers argued the Lot 39's assessment was excessive because:

1) the frontage is floodlands; and

2) the Property is not buildable.

The Town argued the assessment on Lot 39 was proper because:

1) only an engineer's report or state denial would prove the lot is unbuildable;

2) the Property is in the White Mountain National Forest, and private, buildable lots are more valuable; and

3) the scenic land and views have an impact on the value.

Lastly, the Taxpayers argued the depreciation factors for the poor classification on Lots 29 and 39 were 50% and 60% respectively. The Taxpayers argued these factors were inconsistent with Taxpayers' other lots.

The Town argued the depreciation factors were dependant upon the condition of each lot as well as acreage, and therefore, unless the lots are identical, the factors should be different.

Board's Rulings

Other than the minor adjustment to Lot 41's assessment, this appeal is denied. Basically, the Taxpayers failed to submit sufficient data to support their claims. Taxpayers that raise deficiencies in the assessment

must do more than merely make assertions -- they must supply substantiation,

which these Taxpayers did not do. Specifically, this conclusion applies to the assertion that Lot 39 was unbuildable and that the land classification was erroneous. The other major deficiency was the lack of market data from the Taxpayers.

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 Properties fair market value. These values would then have been compared to the Properties 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.

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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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to John C. and Charles W. Hurlin, Taxpayers, and Chairman, Selectmen of Jackson.

Dated: March 16, 1993

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Melanie J. Ekstrom, Deputy Clerk