

Frank M. Albrizio

v.

Town of Troy

Docket No.: 10934-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$8,050 (land only) on 1.6 acres (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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayer failed to carry this burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) due to the Town's zoning regulations the lot was considered non-buildable;
- 2) a letter dated April, 1986 estimated the market value to be \$2,000;
- 3) no offers had been received on the Property; and
- 4) a proper assessment would be between \$2,000 and \$3,000.

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As a rebuttal to the Town's submission, the Taxpayer argued the Town's comparables were not comparable due to size, location, and one being in the process of constructing a dwelling.

The Town argued the assessment was proper because:

- 1) the nonbuildable issue had been addressed by giving a 50% deduction;
- 2) taking into consideration the amount of front feet and acreage, the Property had been assessed properly with similar properties; and
- 3) the Taxpayer's letter estimating the Property's value at \$2,000 was not valid as it was too dated.

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 did not rely on the inspector's report.

Board Findings

Based on the evidence, the board finds the Taxpayer failed to prove the Property was disproportionately assessed. The Taxpayer submitted a realtor's letter estimating the market value of the Property to be \$2,000. The Taxpayer asked the board to base its decision on the realtor's letter.

The board, however, was not able to rely on the letter because it did not

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include the basis for the value conclusion. Specifically, the realtor did not indicate what sales were used or what adjustments were made to the sales to arrive at the value conclusion. Further, the assessment under appeal is for the April 1, 1991 tax year and no evidence of market trends was submitted in order to time adjust the value conclusion. Without such information, the board and the municipality are unable to review the soundness of the value conclusion.

Further, the Taxpayer stated the Property was considered nonbuildable due to zoning regulations. The board finds the issue is not whether the Property is nonbuildable due to the land condition, but due to the dimensional requirements in the zoning ordinance. The Town adequately adjusted the Property by a factor of 50% for nonbuildability.

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

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Frank M. Albrizio, Taxpayer; and Chairman, Selectmen of Troy.

Dated: January 17, 1994

Melanie J. Ekstrom, Deputy Clerk