

Andrew N. Thomson

v.

Town of Troy

Docket No.: 10983-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$38,550 (land \$23,000; building \$15,550) on a .036-acre lot with a house (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) prior to the revaluation, the Property was assessed at \$1,700, which was appropriate for less than .05 acres; and
- 2) using the new assessment figure, an acre would be assessed at over \$400,000.

The Town argued the assessment was proper because:

- 1) minimum lot values, verified by sales, were established for small lots because front-foot valuation was not appropriate; and
- 2) the Taxpayer's Property was assessed equitably with similar properties.

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.

Board Findings

Based on the evidence, the board finds the Taxpayer did not carry his burden. None of the Taxpayer's arguments warrant an adjustment.

Concerning the increase in the assessment, increases from past assessments are not evidence that a taxpayer's property is disproportionately assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985).

Concerning the Taxpayer's comparison of his lot on a per-acre basis to other lots, differing per-acre assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-acre prices for smaller lots than for larger lots, and since the yardstick for determining equitable taxation is market

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value (see RSA 75:1), it is necessary for assessments on a per-acre basis to differ to reflect this market phenomenon.

Finally, the Taxpayer did not present any credible evidence of the Property's fair market value. To carry this burden, the Taxpayer 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.

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

CERTIFICATION

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

Dated: January 4, 1994

Melanie J. Ekstrom, Deputy Clerk

