

Charles E. and Shirley B. Hall

v.

Town of Moultonborough

Docket No.: 11020-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$20,000 on an 18-foot boatslip (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 granted to the Town's recommended assessment.

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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers carried this burden and proved disproportionality.

The Taxpayers argued the assessment was excessive because:

- 1) the boatslip was purchased for \$7,350 on August 14, 1991;
- 2) only three out of fourteen 1991 sales exceeded the assessment;
- 3) examination of tax records indicated all boatslips, regardless of size and location, were assessed for \$20,000; and

Page 2

Hall v. Town of Moultonborough

Docket No.: 11020-91PT

4) an adjustment should be made to reflect the price paid and the size of the boatslip.

The Town argued the assessment should be adjusted because:

- 1) the Town was revalued in 1986 and made no distinction between the size and location of the slips;
- 2) a review of sales indicated location and size were determining factors of market value;
- 3) a sales analysis was done to correct the level of assessments for the slips, which indicated the value would be between \$12,300 and \$14,800; and
- 3) the Town would recommend adjusting the Taxpayers assessment to \$12,000.

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 Town's recommended adjustment would be 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 Town's recommended assessment of \$12,000 to be appropriate based upon the sales data provided by the Town. The board finds no further adjustments are warranted for the following reasons:

- 1) although the Taxpayers purchased the Property for \$7,350 in August, 1991, the Taxpayers gave no evidence regarding the nature of the sale (i.e. listed by a broker, how long on the market, asking price, etc.); and
- 2) the Town stated the Taxpayers purchased the slip from the developer who was liquidating the remainder of his slips at 50% to 60% less than sales of other slips. (Note: The Taxpayers did not refute this statement.)

If the taxes have been paid, the amount paid on the value in excess of \$12,000 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, the Town shall also refund any overpayment for 1992 and 1993. Until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

A motion for rehearing, reconsideration or clarification (collectively "reconsideration motion") of this decision must be filed within twenty (20) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The reconsideration motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A reconsideration motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or in law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a

reconsideration motion is a prerequisite for appealing to the supreme court,

Page 4
Hall v. Town of Moultonborough
Docket No.: 11020-91PT

and the grounds on appeal are limited to those stated in the reconsideration motion. 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 Charles E. and Shirley B. Hall, Taxpayers; and Chairman, Selectmen of Moultonborough.

Dated: July 8, 1994

Melanie J. Ekstrom, Deputy Clerk