

William Blais

v.

Town of Alton

Docket No.: 11077-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$312,900 (land \$225,000; buildings \$87,900) on a cottage on Lake Winnepesaukee (the Property). For the reasons stated below, the appeal for abatement is granted.

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 carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) an April, 1991 appraisal estimated a \$245,000 value, however, based on listings and offers of property in the same neighborhood, this appraisal is high; and
- (2) a review of sales of non-waterfront property in one subdivision indicated the Town's 120% ratio is not being equitably applied.

The Town argued the assessment was proper because:

- (1) an analysis of waterfront and non-waterfront sales in 1991 indicated ratios of 1.20 and 1.19 respectively; and
- (2) applying the Town's 1991 ratio to the assessment provides an indicated market value within 6% of the Taxpayer's appraised value.

Board's Rulings

Based on the evidence, we find the correct assessment should be \$294,000.

This assessment is ordered for the following reasons.

- 1) The best evidence of market value is the appraisal submitted by the Taxpayer; equalizing the market value of \$245,000 by the Town's 1991 ratio indicates a proper assessment of \$294,000 ($\$245,000 \times 1.20$).
- 2) The Taxpayer's appraisal is based on comparable sales close to the assessment date and was unrebutted by the Town.
- 3) The Taxpayer's testimony to subsequent listings and offers did not show his own appraisal was high; most of the offers and listings were for time periods subsequent to the 1991 assessment year and they were only listings and offers, not sales as relied upon in the Taxpayer's own appraisal.
- 4) The board finds the Town did not adequately account for the steepness of the lot and the water supply from the lake; the revised assessment of \$294,000 adequately accounts for these factors. (In arriving at an assessment, the Town must look at all relevant factors. Paras v. City of Portsmouth, 115 N.H. 63, 67-68 (1975)).

If the taxes have been paid, the amount paid on the value in excess of \$294,000 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 Page 3
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TAX 203.05, the Town shall also refund any overpayment for 1992, 1993 and 1994. 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 "rehearing motion") of this decision must be filed within thirty (30) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing 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 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 rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Emanuel Krasner, Esq., Counsel for William Blais, Taxpayer; and Chairman, Board of Selectmen of Alton.

Dated: January 17, 1995

Valerie B. Lanigan, Clerk

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