

Lloyd G. Reynolds, Inc.

v.

Town of Peterborough

Docket No.: 11087-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 adjusted assessment of \$105,590 (land only) on Map R5, Lot 17, consisting of 32.54 acres (the Property). The Taxpayer also owns an abutting lot that provides access to 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.

The Taxpayer argued the assessment was excessive because:

- 1) the Property was purchased for \$80,000 in February, 1991;
- 2) it had been assessed for only a few hundred dollars, but since the

revaluation was increased to \$125,000;

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- 3) the Property had been landlocked until it was purchased;
- 4) the Property was for sale for two years with no offers;
- 5) a real estate company estimated the fair market value to be \$75,000; and
- 6) a proper assessment would be \$80,000.

The Town argued the assessment was proper because:

- 1) the Taxpayer's assessment was reduced from \$125,800 to \$105,590 to address the wetland; and

- 2) the Taxpayer does not own Map U6, Lot 15, which was stated in his appeal.

The correct designation for the parcel under appeal is Map 12-5, Lot 17.

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 adjusted 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 failed to carry his burden.

The Taxpayer did not include a copy of the Peterson Appraisal which estimated a value in the amount of \$75,000.

The Taxpayer fails to indicate the contributory value of the previously owned 50-foot strip of land between Reynolds Drive and the subject

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31-acre parcel, which eliminates the landlocked limitation which pre-existed the purchase of Map R-5, Lot 17. The question which the Taxpayer has not answered is, "How much is the 31 acre parcel worth, with a 50' wide, fee owned access to Reynolds Drive?"

The Property was no longer landlocked, and the board is required to review the Property as such.

Differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for assessments on a per-square-foot basis to differ to reflect this market phenomenon.

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

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

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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 Lloyd G. Reynolds, taxpayer; and the Chairman, Selectmen of Peterborough.

Dated: April 13, 1994

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Melanie J. Ekstrom, Deputy Clerk