

David C. Hoadley, Ronald P. Hoadley and Janet H. Simpson

v.

Town of Northwood

Docket No.: 11144-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 adjusted assessment of \$207,200 (land \$145,100; buildings \$62,100) on a .97-acre lot with a house (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.

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 building has a wet basement, drainage problems, the interior is in poor condition, and the Town used the wrong grade and square footage when

assessing its value;

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(2) the land has a marshy lagoon and poor lake access;

(3) the Property's lot size is triangular with most of its frontage on the road, yet the Town assessed the Property with having more lake frontage;

(4) the Property was listed for sale in March, 1990 for \$192,000 and has since dropped to its current, \$99,900 listing price, and there have been no interested buyers;

(5) an appraisal dated April, 1989 estimated a \$133,700 value, and the local cost multiplier was used in determining the value;

(6) the Town corrected their tax maps to show the lot's irregular shape, but they did not adjust the assessment accordingly and they never inspected the building's interior; and

(7) the assessment exceeds fair market value.

The Town argued the assessment was proper because:

(1) the assessment was based on sales used during the Town's 1989 revaluation and is consistent with other properties in the Town;

(2) the land assessment was reduced by \$19,600 to address the lagoon;

(3) the Taxpayers' appraiser did not use the local cost multiplier when determining the Property's value;

(4) the appraiser's comparables are not comparable because two are non-buildable lots and the third has no lake frontage;

(5) the figured frontage was calculated as accurately as possible, and the Taxpayers' appraiser's adjustments were not supported;

(6) the Property has year-round access, which increases value;

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(7) the building's interior was inspected and found to be assessed consistently; and

(8) the Town's tax maps were corrected to reflect the Property's shape, but the corrections did not warrant an adjustment to the assessment.

The board's inspector reviewed the assessment-record card and 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 proper assessment should be \$169,900 (land \$110,000; buildings \$59,900). The inspector adjusted the building value to address the age and physical condition, and applied additional depreciation to the land value to address the lagoon. 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's Rulings

Based on the evidence, the board finds the assessment to be \$177,500 (land, \$115,600; buildings, \$61,900). This assessment is ordered because:

1) the board finds the best evidence as to the description in valuation of the house is the inspection and recalculation performed by Northwood's appraiser on October 7, 1992; the revised assessment of the buildings and the depreciation given are supported by the house inspection report submitted by

the Taxpayers;

2) the lot appears to be quite unique due to its triangular shape and due to the marshy frontage on Northwood Lake accessed only by a channel to the Taxpayers' dock;

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3) the lot has more value than simply fronting on Lakeshore Drive, as the Taxpayers' appraiser argues;

4) however, due to the limited utility of the waterfront, the board finds a greater adjustment for the configuration and swamp land is appropriate; and

5) an undeveloped adjustment of x .55 results in a proper assessment for the land of \$115,600;

If the taxes have been paid, the amount paid on the value in excess of \$177,500 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.

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

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Paul B. Franklin, Member

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Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Ralph J. Cutting, Agent for David C. Hoadley, Ronald P. Hoadley, and Janet H. Simpson, Taxpayers; and the Chairman, Selectmen of Northwood.

Dated: January 31, 1994

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Lynn M. Wheeler, Deputy Clerk

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