

Scott P. Martin

v.

Town of Northwood

Docket No.: 11149-91PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$200,200 (land \$84,700; buildings \$115,500) on a 48-acre lot consisting of a 2-acre house lot with a single-family home and the remaining 46 acres in current use (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) a portion of the lot is under water eight months per year and the State Wetlands Board recently approved a pond site that will occupy 25% of the

Property's frontage;

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(2) the two-acre, house-lot assessment was excessive and would never sell for the assessed value;

(3) other two-acre house lots had land assessments considerably lower than the Property;

(4) the Town assessed only 200 feet of the abutting lot's 400 feet of road frontage; and

(5) the Town assessed 400 of the Property's 472 feet of frontage, yet other landowners with considerably more road frontage had only a fraction of their actual frontage assessed.

The Town argued the assessment was proper because:

(1) the frontage values were based on sales used during the 1989 revaluation and were applied consistently throughout the Town;

(2) the Property's wet land was considered in the assessment;

(3) the Taxpayer's comparables do not have the same road frontage as the Property, and therefore, the assessments varied; and

(4) the assessment is equitable with other properties in the Town.

Board's Rulings

Based on the evidence, the board finds the Taxpayer failed to prove his total assessment, and in particular, the assessment of the land not in current use, was excessive and disproportional.

The Taxpayer's argument in his brief focused on the disproportionate assessment of his 400' x 200' lot not in current use compared to other lots not in current use. This comparison does indicate differences in assessments,

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but does not necessarily indicate disproportionate assessment. All the lots are of different size, configuration, and location -- all of which affect market value.

The Town established different, front-foot prices during the recent reassessment, presumably based on the market influences of the different neighborhoods. These base rates were then applied to frontage area of land not in current use. The Taxpayer's lot not in current use is assessed on 400' along Green Street to a depth of 200'.

The Taxpayer's comparables all have current-use lots with less frontage, some with less acreage, and some with additional adjustments for reasons not stated in the current-use cards submitted.

In his rebuttal, the Taxpayer stated that he was being taxed on more frontage than what was usable and that the Town had refused to change the area assessed. However, the Taxpayer did not submit a copy of a revised map detailing the area not in current use as required by the current-use rules Rev. 1201.01 (d) (2) and (6) (1991), nor did he submit any photographs to support his contention. Therefore, due to the limited evidence as to the size of the land not in current use (the Town's photographs and copy of original, current-use maps), we find the Taxpayer did not fulfill his burden of proving disproportionate assessment.

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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Scott P. Martin, Taxpayer; and Chairman, Selectmen of Northwood.

Dated: January 20, 1994

Lynn M. Wheeler, Deputy Clerk

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ORDER

This order relates to the "Taxpayer's" rehearing motion. The motion fails to state any "good reason" or any issue of law or fact for granting a rehearing. See RSA 541:3.

Motion denied.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

I certify that copies of the within Order have this date been mailed, postage prepaid, to Scott P. Martin; and Chairman, Selectmen of Northwood.

Date: March 9, 1994

Valerie B. Lanigan, Clerk

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