

Frederick E. and Catherine M. Thomas

v.

Town of Tilton

Docket No.: 11176-91

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$36,400 on a mobile home, Map R-16, Lot 3-8 (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 denied.

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 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to carry this burden.

The Taxpayers argued the assessment was excessive because:

(1) the mobile home is 22 years old and could never be sold for the assessed value;

(2) the land is rented from the park owner who is taxed for the land, and the

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assessment for park influence is double taxation;

(3) no town services are provided, i.e., plowing, trash and road maintenance are included in the lot rent;

(4) a larger and newer home was assessed at \$49,000 but sold for only \$25,048 in June 1992, and a similar home assessed for \$43,000 sold for \$19,500;

(5) the park is no longer a retirement community which is what attracted Taxpayers to it;

(6) the influence factor exceeds or is equal to the actual selling price of the home itself; and

(7) the monthly rental is \$217.00 not \$173.00 as stated on the property-assessment card.

The Town argued the assessment was proper because:

(1) the values are based on proximity to the main road, size and location in the park (old or new section);

(2) the influence factor is high because the Town has limited mobile home sites, thereby increasing the value of established sites;

(3) Jensen's Park is the most desirable mobile home park in the Town;

(4) a sales analysis concluded that mobile homes in Jensen's Park sold for more than the cost of a unit on a dealer's sales lot; this difference established the mobile home influence factors used during the revaluation;

(5) the influence factor is consistent with the Property's neighborhood and the

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methodology throughout the Park; and

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(6) the Taxpayers' comparable is not comparable because it sold in 1992, and the one remaining sale is not enough to base an assessment on.

Board Findings

We find the Taxpayers' failed to prove disproportionality for the following reasons:

- 1) of the Taxpayers' four comparable sales, three transferred in 1992;
- 2) the Taxpayer provided no evidence as to how the 1992 market of the comparables related to the April 1, 1991 assessment date;
- 3) one of the three 1992 sales was from the owner's estate to the owner of the park; such a sale does not meet the qualifications of an arms length transaction;
- 4) the fourth comparable, Inman, sold in April 1990 for the \$19,500 and then resold from the Inman estate in April of 1991 for \$19,500; the second sale being a year later in a declining market and from an individual's estate casts doubt on the credibility of the 1990 sale;
- 5) the Town submitted assessment cards that indicated consistent assessment methodology and that the values were based on sales of units in 1988 and 1989; consistent analysis and methodology is some evidence of proportionality; see Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982); and
- 6) the Department of Revenue Administration's 1991 equalization ratio for

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Tilton of 114 indicates that all real estate was assessed 14% above market value in 1991.

While the Taxpayers' failed in proving their 1991 assessment was disproportionate, the board notes a possible trend in the sales, especially those in 1992, indicating that manufactured housing may be declining in value at a greater rate than property in general in Tilton. Because of the board's authority under RSA 71-B:16 III to investigate and determine if "any or all of the property in a taxing district should be reassessed", the Town shall respond to the board within 20 days of the clerk's date on this decision as to what actions or plans are in place for the Town to review assessments (RSA 75:8) and make periodic adjustments to maintain assessment equity.

Depending on the response, the board may initiate an investigation on its own (RSA 71-B:5 I) to determine if there could be a need for a reassessment pursuant to RSA 71-B:16 and 16-a.

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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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 Frederick E. and Catherine M. Thomas, Taxpayers; and Chairman, Selectmen of Tilton.

Dated: May 14, 1993

Melanie J. Ekstrom, Deputy Clerk

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ORDER RE MOTION FOR RECONSIDERATION

On June 2, 1993, the "Taxpayers" filed a motion for reconsideration of the board's "decision" of May 14, 1993.

The board denies the Taxpayers' motion as they raise no basis in fact or law to grant the motion.

To clarify the last portion of the decision, the board's order of the Town to respond as to their plans of periodic assessment review and adjustments relates to the board's broad authority, pursuant to RSA 71-B:16, to review assessment equity throughout the town as opposed to its authority under 76:16-a to determine proportional assessment on an individual basis. The board in the decision determined that the taxpayer had not met their individual burden of

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proof under RSA 76:16-a; however, the board is inquiring under 71-B:16 if the
Town is fulfilling its assessing responsibilities under RSA 75:1 and 75:8.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

I hereby certify that copies of the within Order have this date been
mailed, postage prepaid, to Frederick E. and Catherine M. Thomas; and the
Chairman, Selectmen of Tilton.

Date: June 24, 1993

Valerie B. Lanigan, Clerk

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