

Harold and Betty Yeaton

v.

Town of Washington

Docket No.: 11178-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$109,580 (land \$25,220; buildings \$84,360) on a 9-acre lot with a house and mill (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 203.09(a); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to carry this burden and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) most of the land is swampy and unusable; and
- (2) a December, 1991 appraisal estimated a \$75,000 value.

The Town argued the assessment was proper because:

- (1) 3.7 acres were assessed as road frontage with 5% topography depreciation and the remaining 5.3 acres were assessed as poor backland with a 55% acreage adjustment;
- (2) the house was assessed as average construction and according to the New Hampshire Property Appraisal Manual;
- (3) the assessment increased from tax year 1990 because a fireplace was not previously assessed, and the building's depreciation was reduced because repairs were completed;
- (4) comparable sales support the Property's assessment; and
- (5) the assessment was based on information compiled for the 1989 revaluation, which is a truer reflection of the Property's 1991 value than the Taxpayers' appraisal.

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. 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. The board did not rely on the inspector's report because he did not make an on-site inspection of the Property and is no longer employed by the board. Therefore, the board relied on the evidence and photographs submitted by the parties.

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the assessment was disproportionate for the following reasons.

- (1) The Taxpayers' appraisal utilized sales of properties in three other towns and made no locational adjustments.
- (2) The Taxpayers' appraisal assigned a value of \$5,000 for the mill building without any market evidence to show how the value was arrived at. Further, the appraiser noted that the cost approach was not utilized because of the age of the Property, yet he noted the mill building was constructed within the last 10 years and was "in very good condition."
- (3) No adjustments were made in the Taxpayers' appraisal for the 14' x 30' attached shed.

Motions for reconsideration of this decision must be filed within thirty (30) 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

Paul B. Franklin, Member

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 Harold and Betty Yeaton, Taxpayers; and Chairman, Selectmen of Washington.

Dated: 1/24/94

Lynn M. Wheeler, Deputy Clerk

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