

Roger G. and Rita D. Beliveau

v.

Town of Northwood

Docket No.: 11300-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$100,050 (land \$76,050; buildings \$24,000) on a .22-acre lot with a camp (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 their burden and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the camp is seasonal, is not fully insulated or completed, has no well or central-heating system;
- (2) the Property is on a private dirt road not maintained by the Town;

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(3) Northwood Lake is polluted with milfoil, which detracts from the Property's value and marketability;

(4) one broker estimated a \$49,900 value, and another estimated a \$52,000 to \$57,000 value, both as of October, 1992; and

(5) comparable properties were assessed well within range of their market values, yet the Property is well beyond that range.

The Town argued the assessment was proper because:

(1) the realtors' value opinions deserve little weight because they were not supported by comparable sales;

(2) the Property's assessment was established during the 1989 revaluation but was later reduced due to the topography of the land;

(3) the Property was inspected in February, 1992, and found to be assessed equitably with comparable lots; and

(4) subsequent, sales-ratio studies calculated by the department of revenue administration support the Town's finding that the Property's assessment is fair and equitable.

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 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's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove this assessment was disproportional.

The Property had an equalized value of \$78,700 (\$100,050 assessment ÷ 1.27 equalization ratio). Given the Property's location and condition, this equalized value does not seem excessive.

The board did not rely upon the realtors' letters because they were written in 1992, not as of the April 1, 1991 assessment date. Moreover, the letters did not provide any backup data or analysis that the board could review. Having not rejected the realtors' letters, the Taxpayers did not submit any other data of the Property's fair market value. To carry their burden, the Taxpayers should have made a showing of the Property's fair market value. This value would then have been compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

Finally, the comparable properties submitted by the Taxpayers could not be used by the board at all because the Taxpayers did not submit any backup data for the board to review. The board does not know, for instance, where these properties were located and when these sales occurred. Lacking that basic information, the Taxpayers' market comparison could not be relied upon at all.

A motion for rehearing, reconsideration or clarification (collectively "reconsideration motion") of this decision must be filed within twenty (20)

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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 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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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Roger G. and Rita D. Beliveau, Taxpayers; and Chairman, Selectmen of Northwood.

Dated: June 30, 1994

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Lynn M. Wheeler, Deputy Clerk

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