

Richard and Mary Shapleigh

v.

Town of Milton

Docket No.: 11308-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 adjusted assessment of \$39,200 on a vacant, .88-acre lot (the Property). The Taxpayers also own, but did not appeal, a vacant, 25-acre woodlot assessed at \$600 in current use. 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) the Property is located on a side channel of the Branch River and at high water, the channel is only 7-feet deep;

(2) the Property does not abut a Town road, and is located in a flood zone;

Page 2

Shapleigh v. Town of Milton

Docket No.: 11308-91PT

(3) a tornado devastated the Property in 1983, and the Property has since had debris, lack of tree growth, and erosion problems;

(4) abutting lots detract from the Property's value, i.e., mobile homes;

(5) the assessment increased 700% in one year's time;

(6) in 1991, a bank denied an equity loan because the appraiser estimated only a \$30,000 value on the Property;

(7) a realtor stated that the Branch River neighborhood has no marketability because of the river location, i.e., buyers want lakefront lots; and

(8) the Property has been listed for sale for \$27,500 since January, 1992 with no serious offers.

The Town argued the assessment was proper because:

(1) the unpaved road was already considered in the assessment;

(2) the assessment was reduced to address, among other things, the tornado damage; and

(3) the Taxpayers' realtor stated the Property was listed for \$39,900 FIRM, not \$27,500, and the listing price supports the Property's 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 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.

Page 3
Shapleigh v. Town of Milton
Docket No.: 11308-91PT

Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to prove the Property's assessment was disproportionate.

The board finds the abatement granted by the selectmen accounted for many of the arguments raised by the Taxpayers as to why the assessment was excessive. The board finds that the department of revenue administration determined the 1991 equalization ratio for the Town of Milton was 1.12%. Applying that ratio to the assessment of 39,200 indicates a market value of \$35,000 ($\$39,200 \div 1.12\% = \$35,000$). This indicated market value is supported by the listing price of 39,900 as stated by the Town and unrebutted by the Taxpayers.

Further, the Taxpayers did not present any credible evidence of the Property's fair market value. To carry this 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.

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.

Page 4
Shapleigh v. Town of Milton
Docket No.: 11308-91PT

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Richard and Mary Shapleigh, Taxpayers; and Chairman, Selectmen of Tilton.

Dated: July 13, 1994

Lynn M. Wheeler, Deputy Clerk

0006