

WB&A Construction Group, Inc.

v.

Town of Epsom

Docket No.: 11353-91PT

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1991 adjusted assessment of \$68,100 (land \$14,100; building \$54,000) on a 2.11-acre lot with a house (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 its burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) the Property is on a state highway, which detracts from the value;
- (2) the Property was purchased in February, 1991 for \$107,500;
- (3) the assessment was inconsistent with other comparable properties;

- (4) two vacant-lot sales with superior, waterfront locations had an average, \$7,550 assessment;
- (5) based on comparable homes, the building assessment should be \$36,750;
- (6) the total assessment should be \$42,310; and
- (7) the Town failed to support their assessment.

The Town argued the assessment was proper because:

- (1) the assessment was already reduced from \$71,600 to \$68,100 to address the Taxpayer's concerns;
  - (2) the Property is 350 feet from a state road, sits on the Suncook River, has landscaping and privacy, and the building is above-average construction;
  - (3) the Property was assessed equitably with comparable properties;
- and the assessment was supported by recent sales;
- (4) a potential purchaser would prefer being on a state maintained road; and
  - (5) the Taxpayer's comparables were not comparable because they were depreciated for being incomplete, and the construction is standard quality.

#### Board's Findings

Based on the evidence, the board finds the Taxpayer did not prove the Property was disproportionally assessed. The Taxpayer requested an assessment of \$42,310, which when equalized by the department of revenue administration's equalization ratio (49%) equates to an equalized value of \$86,350. This \$86,350 figure is less than the Taxpayer's \$107,500 purchase price. Additionally, the Taxpayer's \$107,500 purchase price would need to be adjusted for the condition of sale, namely a foreclosure sale. Based on the board's experience foreclosure properties sell for less than market value. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b); see

also Petition of Grimm, 138 N.H. 42, 53 (1993) (administrative board may use expertise and experience to evaluate evidence). Additionally, the Taxpayer's methodology included averaging of values and employed the wrong percentage of completion as a basis for the per-square foot costs. Finally, the Property is well screened from the highway, and any effect from being located near the highway would be minimal.

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

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Todd B. Zona, President of WB&A Construction Group, Inc., Taxpayer; and Chairman, Selectmen of Epsom.

Dated: May 31, 1994

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Melanie J. Ekstrom, Deputy Clerk

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