

Robert and Marsha Ramalho

v.

Town of Bow

Docket No.: 11487-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 adjusted assessment of \$39,450 (land only) on 2.04 acres (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. The board notes that the parties had apparently reached a settlement at \$39,450, but the Taxpayers continued the appeal to express their reservations concerning the Town's methodology. For the reasons stated below, the appeal for abatement is granted based on the Town's recommended adjustment.

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).

The Taxpayers argued the assessment was excessive because:

1) when compared to abutting and comparable lots in the area;

Page 2

Ramalho v. Town of Bow
Docket No.: 11487-91PT

- 2) an adjoining lot has been for sale for over a year without a buyer;
- 3) it increased 1200 percent since 1990 and the 1991 revaluation; and
- 4) a proper assessment for 1991 and 1992 would be between \$35,000 and \$40,000.

The Town argued the adjusted assessment was proper because:

- 1) Taxpayers' Property is the highest in elevation and has good views;
 - 2) sales during 1989 and 1990 indicated a front foot price of \$275;
 - 3) an adjustment from \$40,600 to \$39,450 was made to address the lots shape;
- and
- 4) the 1991 adjusted figure is fair.

The board's inspector reviewed the assessment-record card, reviewed 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 adjusted 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 Findings

The board rules the correct assessment for 1991 is the Town's adjusted figure of \$39,450 on 2.04 acres unimproved.

The Taxpayers argued their assessment increased following the

reassessment. A greater percentage increase in an assessment following a town-wide reassessment is not a ground for an abatement, since unequal percentage increases are inevitable following a reassessment. Reassessments

Page 3

Ramalho v. Town of Bow
Docket No.: 11487-91PT

are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property.

Increases from past assessments are not evidence that a taxpayer's property is disproportionally assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985).

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.

If the taxes have been paid, the amount paid on the value in excess of \$39,450 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, the Town shall also refund any overpayment for 1992 and 1993. Until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

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

Page 4
Ramalho v. Town of Bow
Docket No.: 11487-91PT

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

George Twigg, III, Chairman

Paul B. Franklin, Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert and Marsha Ramalho, Taxpayers; and Chairman, Selectmen of Bow.

Dated: January 4, 1994

Melanie J. Ekstrom, Deputy Clerk