

**Robert and Barbara Marier**

**v.**

**Town of Allenstown**

**Docket No.: 11550-91 PT**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$111,050 (land \$28,300; building \$82,750) on a .41-acre lot with a house (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) certain factors detracted from the Property's value, e.g., its location on a private, unmaintained road only 1,500 feet from the Town dump; its lack of Town water or sewer; and the neighboring mobile-home park and construction business;

Page 2

Marier v. Town of Allenstown

Docket No.: 11550-91 PT

- 2) a November, 1992 appraisal estimated an \$80,000 value;
- 3) the Property was assessed at \$53,000 in 1982 and the assessment has more than doubled in less than 10 year's time, resulting in the highest assessment in the neighborhood;
- 4) the land was assessed at twice the rate per-square-foot than larger, neighboring lots;
- 5) a comparable property on River Road was assessed at only \$83,000, yet had 1.65 acres, 225 feet frontage on a paved, Town-maintained road, and had Town water and sewer;
- 6) there were errors on the assessment-record card, i.e., the barn is one story and there is no deck, and the 7' x 10' shed was assessed at \$50, which is excessive; and
- 7) the Town included items in the Property's assessment, yet failed to include those same items in similar properties' assessments.

The Town argued the assessment was proper because:

- 1) the house was assessed as a 2-story, grade 3 house on slab with the built in garage section assessed as 1-story with a basement. Upon review, its various components and outbuildings were physically and functionally depreciated to arrive at a revised building assessment of \$82,750;
- 2) the basement consists of a finished, in-law apartment with a 3-piece bathroom and kitchen, and the Taxpayers neglected to include the apartment value when determining the value of the Property;
- 3) the bathroom information was incorrect, i.e., there is one 4-piece bath and one 3-piece bath, and not only 1.5 baths as originally assessed;

4) the land was depreciated -5% to address the private road;

Page 3

Marier v. Town of Allenstown

Docket No.: 11550-91 PT

5) the same methodology was used throughout the Town;

6) the River Road property is not comparable because the building is older and is a 2.5-story house, and if comparable properties were not assessed certain items, it is because the owners failed to obtain building permits;

7) the Taxpayers were told a developed lot (with water and sewer) was worth more than an undeveloped lot, not that the Property was worth more because it had its own water and sewer;

8) the Taxpayers' comparable was not comparable because it is a 20' x 51' manufactured home on a 12,090, square-foot lot, and smaller lots have higher per-square-foot prices; and

9) the appraiser's comparables were not comparable in neighborhood or location and the appraiser failed to disclose the basis for the land value adjustments, nor did he provide the land's per-square-foot price.

#### Board's Rulings

Based on the evidence, the board finds the Taxpayers failed to carry their burden of proof. Initially, the board notes that the equalized assessment (the assessment divided by the department of revenue administration's equalization ratio) was \$98,275. This number would be compared to the Taxpayers' time-adjusted appraisal, which would be \$85,760 when time-adjusted to the April 1, 1991 assessment date.

The Taxpayers' appraisal was not accepted by the board because the Town raised sufficient arguments about the appraisal, making the appraisal questionable. The Town's arguments were presented above.

Page 4  
Marier v. Town of Allenstown  
Docket No.: 11550-91 PT

Concerning the Taxpayers' argument about the square-foot land assessments, differing square-foot assessment values are not necessarily probative evidence of inequitable or disproportionate assessment. The market generally indicates higher per-square-foot prices for smaller lots than for larger lots, and since the yardstick for determining equitable taxation is market value (see RSA 75:1), it is necessary for assessments on a per-square-foot basis to differ to reflect this market phenomenon.

Concerning the Taxpayers' argument about lack of municipal services, lack of municipal services is not necessarily evidence of disproportionality. As the basis of assessing property is market value, as defined in RSA 75:1, any effect on value due to lack of municipal services is reflected in the selling price of comparables and consequently in the resulting assessment. See Barksdale v. Epping, 136 N.H. 511, 514 (1992).

Concerning the Taxpayers' argument about the increase in assessment, increases from past assessments are not evidence that a taxpayer's property is disproportionately 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).

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 5  
Marier v. Town of Allenstown  
Docket No.: 11550-91 PT

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 Robert and Barbara Marier, Taxpayers; and Chairman, Selectmen of Allenstown.

Dated: January 20, 1994

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Lynn M. Wheeler, Deputy Clerk

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