

Delbert A. and Suzanne S. Laliberte

v.

Town of Enfield

Docket No.: 12073-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessments of:
\$71,400 (land \$63,300; building \$8,100) on Lot 66, a 20.23-acre lot with a garage;
\$37,600 (land \$37,400; building \$200) on Lot 66-1, a 5.01-acre lot with a storage shed;
\$83,800 (land \$48,300; building \$35,500) on Lot 66-2, a 5.01-acre lot with a mobile home;
and
\$37,400 on Lot 66-3, a vacant, 5.01-acre lot (the Properties).

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 abatements is denied.

The Taxpayers have the burden of showing the assessments were disproportionately high or unlawful, resulting in the Taxpayers paying an unfair and disproportionate share of taxes. See RSA 76:16-a; TAX 203.09; Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to carry this burden and prove disproportionality.

Page 2
Laliberte v. Town of Enfield
Docket No.: 12073-91PT

The Taxpayers argued the assessments were excessive because:

(1) following the 1990 revaluation, the Properties were subdivided into four parcels, resulting in a \$91,000

increase in the assessments in one year's time;

(2) the Properties do not have Town water or sewer;

(3) the Properties are 9 miles from Town services;

(4) the five drains which run on the Properties, as well as the ledge and sloping conditions, restrict further development of the Properties; culverts may be required at driveway access points to each undeveloped 5 acre lot;

(5) the Properties' land values were assessed at a higher percentage of fair market value than other properties within the Town, and the Properties were assessed 250% higher than the actual fair market value;

(6) a February, 1993 opinion of value estimated the value on Lot 66 to be \$29,500; Lot 66.1, \$16,000; Lot 66.3, \$15,000; and Lot 66.2, \$50,000; and

(7) we did not know, nor were we informed that after the subdivision was approved "that we would be revalued for 4 lots. We thought there would be a revaluation if and when we decided to sell."

The Town argued the assessments were proper because:

(1) similar properties with the same land use and proximity as the Properties support the Taxpayers' assessment; and

(2) the per-square-foot land value was well within the range of comparable properties.

Board's Findings

Based on the evidence, the board finds the Town supported the assessments by comparing the subject Properties with other similar properties

in the neighborhood with respect to size and the assessed land value per- square foot. Some of the properties used in the Taxpayers' appraisal as comparables were located in Canaan, others had right-of-way access only and no time adjustments were made to dates of sale of the comparables nor were any time adjustments made between the date of the appraised value and the valuation date of April 1st of the tax year under appeal.

The board also notes that the Taxpayers labored under a misapprehension regarding the basic appraisal fundamental that as the size of a parcel is reduced (subdivided), the unit value (per acre or square foot) becomes larger. The law of supply and demand says that there are more prospective buyers who can afford to buy a 5-acre buildable lot than there are who are looking to acquire a 20-acre parcel.

With regard to proximity of town services to the subject Properties, the board notes that the impact of availability of services would be similar or the same to all properties in the same neighborhood.

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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Richard J. de Seve, Esquire, Agent for Delbert A. and Suzanne S. Laliberte, Taxpayers; and Chairman, Selectmen of Enfield.

Dated: September 30, 1994

Melanie J. Ekstrom, Deputy Clerk

0007