

Susan J. and David Searah

v.

Town of Boscawen

Docket No.: 12162-91 PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$100,400 (land \$23,500; buildings \$76,900) on a .18-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). While the Taxpayers failed to carry this burden and prove disproportionality, we find the Town's recommended adjusted value of \$97,300 to be reasonable.

The Taxpayers argued the assessment was excessive because:

1) the land has two easements -- one for a storm drain under the driveway, which prevents construction of a garage, and one for the hydroelectric dam at the rear of the Property which prevents swimming and boating in the river;

Page 2

Searah v. Town of Boscawen

Docket No.: 12162-91 PT

- 2) the abutting properties had a negative impact on the Property's value; one is a tannery in severe disrepair with trash and old equipment everywhere, and the other is a two-story garage also in severe disrepair;
- 3) the Property was purchased in 1986 for \$65,000, and values have steadily declined since 1988; and
- 4) the Property would never sell for the assessed value.

The Town made a 15% downward adjustment in the land value to address the drainage easement and the substantial cost to cure if the Taxpayers were to construct a garage. This adjustment resulted in a new land assessment of \$20,400 and total assessment of \$97,300. The Town argued the adjusted assessment was proper because:

- 1) the Town already reduced the assessment by \$4,100 to address the Taxpayers' concerns regarding the abutting properties;
- 2) the land assessment was based on values established during the 1988 revaluation;
- 3) the Property sits on the river and boating and swimming are permissible from the bridge east of the Property to the dam west of the Property; and
- 4) the hydroelectric dam is a normal condition for riverfront properties, however, riverfront condition factors in the Town range from 115 to 125, and the Property's condition factor is 115.

Board's Rulings

The Board finds that the Town's recommended assessment of \$97,300 is reasonable.

Page 3
Searah v. Town of Boscawen
Docket No.: 12162-91PT

The Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

The Taxpayers raised several factors that definitely could affect market value. However, the Town adjusted for all those factors in arriving at their revised assessment of \$97,300.

The Town, through its adjustments and methodology, considered all relative factors that could affect the Property's value. See Paras v. Portsmouth, 115 N.H. 63 (1975). The board notes that the indicated market value of \$85,350 ($\$97,300 \div 1.14$) appears reasonable based on the evidence submitted by the parties. 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

Page 3
Searah v. Town of Boscawen
Docket No.: 12162-91PT

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

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Susan J. and David Searah, Taxpayers; and Chairman, Selectmen of Boscawen.

Dated: December 9, 1993

Lynn M. Wheeler, Deputy Clerk

0009

Susan J. Searah and David Searah

v.

Town of Boscawen

Docket No. 12162-91 PT

ORDER

This order relates to the "Taxpayers'" rehearing motion. The motion fails to state any "good reason" or any issue of law or fact for granting a rehearing. See RSA 541:3.

Motion denied.

SO ORDERED.

BOARD OF TAX AND

LAND APPEALS

Paul B.

Franklin, Member

Ignatius

MacLellan, Esq., Member

I certify that copies of the within Order have this date been mailed, postage prepaid, to Susan J. and David Searah; and the Chairman, Selectmen of Boscawen.

Valerie B.

Lanigan, Clerk

Date:

0003