

Robert A. and Barbara A. Johnson

v.

Town of Exeter

Docket No.: 12354-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$85,500 on a vacant, .90-acre lot (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) the Property was purchased at auction for \$44,500 in 1990;
- (2) another owner of 13 lots in the development received abatements because "he was a developer"; and
- (3) the assessment was higher than comparable lots in the development.

The Town argued the assessment was proper:

- (1) although another owner in the development received a 30%, "developer's discount," he purchased 13 buildable lots and is a developer;
- (2) the Taxpayers are not entitled to the "quantity discount" because they purchased a single lot only; and
- (3) the Taxpayers' assessment was equitable with other comparables, individually owned single-lots in the development.

Board's Finding

Based on the evidence, the board finds that a so-called developer's discount is a legitimate term used by assessors to recognize and quantify the concept often expressed as "cheaper by the dozen." The quantity theory being that buyers in the market place expect to receive a discount for purchasing a quantity of building lots versus the price for a single unit. The greater time required to liquidate a quantity of lots compared with finding a buyer for a single lot creates additional carrying costs as well as financing and marketing risks for the developer which exceed the normal cost of ownership to a single lot owner.

The board, therefore, rules that the Taxpayer has been treated fairly, equitably consistent with recognized factors which impact market value. 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 agency's experience, technical competence, and specialized

knowledge may be utilized in the evaluation of the evidence. See RSA 541-

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A:18, V(b); see also Petition of Guimm, ___ N.H. ___ (December 17, 1993)
(administrative board may use expertise and experience to evaluate evidence).

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 Robert A. and Barbara A. Johnson,
Taxpayers; and the Chairman, Selectmen of Exeter.

Dated: March 31, 1994

Melanie J. Ekstrom, Deputy Clerk

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