

Arthur C. and Gerd Stewart

v.

Town of Belmont

Docket No.: 12395-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$59,700 on 7.19 acres of land known as Map 8, Lot 6-2 (the Property). The Taxpayers own, but did not appeal two other properties in the Town. 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 in June, 1991 for \$16,000;
- 2) there is not enough road frontage to allow subdivision; and
- 3) there are two culverts draining water on the Property affecting the quality of the land.

The Town argued the assessment was proper because:

- 1) following a review, the assessment was adjusted to \$59,700;
- 2) the June, 1991 sale was not an arms-length transaction as it was a result of a foreclosure;
- 3) the Property is subdividable;
- 4) the Town concurs there are two drainage culverts; and
- 5) the Taxpayers failed to show disproportionality.

Board Findings

Based on the evidence, we find the Taxpayers failed to prove the Property was disproportionately assessed. 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.

The Taxpayers testified the Property's purchase price was \$16,000 in June, 1991. While this is some evidence of the Property's market value, it is not necessarily conclusive evidence. See Appeal of Town of Peterborough, 120 N.H. 325, 329 (1980). However, where it is demonstrated that the sale was an arms-length market sale, the sales price is one of the "best indicators of the

property's value." Appeal of Lake Shore Estates, 130 N.H. 504, 508 (1988).

The Taxpayers own evidence indicates the purchase of the Property was through

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a foreclosure deed. The sales made by an owner to satisfy delinquent loans are not "arms-length" due to the pressure of the owner to sell; consequently, while these accelerated sales will affect the market value of those who choose not to sell, they alone do not define the market.

The board must comment on the Town's brief. The Town failed to submit any sales to support the assessment. Since the Town was recently revalued, the Town should have submitted sales for the board's consideration.

RSA 75:1 requires that assessments be in line with market value. Therefore, providing sales is essential for the board to compare the Property's assessment with fair market value and the general level of assessment in the municipality. See Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986).

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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Arthur C. and Gerd Stewart, Taxpayers; and Chairman, Selectmen of Belmont.

Dated:

Melanie J. Ekstrom, Deputy Clerk

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