

John and Mary B. Nazzaro

v.

Town of Durham

Docket No.: 12424-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$304,900 (land, \$90,100; building, \$214,800) on 1.8 acres with building located in a 39 lot cluster subdivision (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 lot was purchased in April, 1990 for \$55,000;
- 2) the building was completed in October, 1990 for \$198,647;
- 3) other lots have sold since April, 1990 for \$55,000 or less;

4) since the 1990 revaluation the Property has increased \$16,600; and
5) at \$55.00 per square foot, adding garage, porch and deck, the cost would be \$184,000.

The Town argued the assessment was proper because:

- 1) the increase in the land value represented the site's improvements;
- 2) four of the five sales which were in the proximity of the Taxpayers' Property indicated the assessment is within the range of other assessments;
and
- 3) the Taxpayers total cost in 1990 including improvements and land of \$253,647 indicates a ratio of 120% which is below the DRA's equalization ratio of 1.24%.

Board's Findings

The Taxpayers are only adding \$10,000 for garage, porch and deck which is not adequate;

In the Taxpayers' calculations it appears that no value is added for the basement area.

The Board finds that the Taxpayers paid:

\$ 55,000 for an unimproved 1.8 acre lot in April, 1990
\$200,000 (rounded) cost of house construction October, 1990
\$255,000 total 1990

The real estate market declined in value between October, 1990 and April 1, 1991 at the rate of 1% per month.

The equalized value for Durham as determined by the Department of Revenue Administration in 1990 was 1.11 and 1.24 in 1991, (13/111 = 1%). This

equates to an 11.7%, rounded to 12%, decline over 12 months or 1% per month.

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The land value as of April, 1990 of \$55,000 would be reduced for time trending (-12%) and the building value by (-5%) as of October, 1990.

\$ 55,000 x .88 = \$ 48,400
\$198,650 x .95 = \$188,720

\$237,120 cost adjusted to 1991

The 1991 cost adjusted value of \$237,120 compares favorably and is consistent with the 1991 equalized value of $\$304,900 \div 1.24 = \$245,890$.

The Taxpayers have included the cost of the septic and well in the house while the Town includes the well and septic value in the land.

The Board rules the 1990 assessment is fair, equitable and proportionate to the general level of assessment in the community as supported by comparable sales in the neighborhood.

The Taxpayers failed to meet their burden of proof.

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

Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to John and Mary B. Nazzaro, Taxpayers; and Chairman, Board of Selectmen.

Dated:

Melanie J. Ekstrom, Deputy Clerk

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