

Harold S. Geneen and William Hjelm

v.

Town of Wentworth

Docket No.: 12498-91PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1991 assessment of \$150,100 on a vacant, 124.30-acre lot (the Property). The Taxpayers also own, but did not appeal, a vacant, 62-acre lot assessed at \$24,300. 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 the land should have a \$400 per-acre assessment and not a \$1,207 per-acre assessment.

The Town argued the assessment was proper because:

(1) similar vacant lots sold for between \$972 and \$3,180 per-acre;

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(2) the Property abuts Route 25A and has approximately 3,340 to 3,425 feet of road frontage, which provides good subdivision potential; and

(3) the Taxpayers provided no market data to prove overassessment.

Board's Rulings

Based on the evidence, the board finds the correct 1991 assessment on Map 4, Lot 2, Plot 6 to be \$150,100 (as assessed). 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).

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment with the submission of market data on unimproved parcels, which were comparable to the subject.

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

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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 a copy of the foregoing decision has been mailed this date, postage prepaid, to Jeffrey T. Coombs, President of Ossipee Mountain Land Company, Agent for Harold S. Geneen and William Hjelm, Taxpayers; and Chairman, Selectmen of Wentworth.

Dated: June 30, 1994

Lynn M. Wheeler, Deputy Clerk

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