

Judith L. Wolf
c/o The Wolf Corporation

v.

Town of Boscawen

Docket No.: 14072-93PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessments of:

\$26,400 (land only) on Map 79, Lot 31, a .93-acre lot; and

\$25,400 (land only) on Map 79, Lot 32, a .82-acre lot (the Property).

The Taxpayer 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 Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer failed to carry this burden.

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The Taxpayer argued the assessment was excessive because:

- 1) the Property's assessment exceeds the general level of assessment compared to other properties in the Town;
- 2) a January 1994 opinion of value by Schroeder Real Estate indicated a value of \$18,500 for lot 31 and \$17,800 for lot 32;
- 3) a January 1993 opinion of value by Century 21 indicated a value of \$14,000 each for both lots;
- 4) the Property was offered for sale on several occasions but without success;
and
- 5) the Property had a fair market value of \$16,000 for lot 31 and \$15,000 for lot 32 as of April 1993.

The Town argued the assessment was proper because:

- 1) land values have been fairly, equitably and consistently assessed throughout the Town;
- 2) the Town was updated in 1994 establishing 1994 values of \$19,500 for lot 31 and \$18,800 for lot 32; and
- 3) three comparable sales support the Taxpayer's assessments.

BOARD FINDINGS

Based on the evidence, the board finds the Taxpayer failed to prove the Property was disproportionately assessed.

The Taxpayer submitted two realtors' letters. The Taxpayer asked the board to base its decision on these value opinions. The board, however, was unable to rely upon the opinions because they did not include the bases for the value conclusions. Specifically, the realtors did not indicate what sales were used or what adjustments were made to the sales to arrive at the value

conclusions. Page 3
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Without such information, the board and the municipality are unable to review the soundness of the value conclusions. Further, the Schroeder letter was dated January 1994 and the date of assessment is April 1993. No time adjustments were made to trend the values to the date of assessment. The Century 21 letter considered each lot as having acreage of .7 of an acre when in fact lot 31 consists of .93 of an acre and lot 32 consists of .82 of an acre.

Neither party challenged the Department of Revenue Administration's equalization ratio of 137% for the 1993 tax year for the Town of Boscawen. The Property's equalized values were \$19,270 for lot 31 ($26,400 \div 1.37$) and \$18,540 for lot 32 ($\$25,400 \div 1.37$). The equalized values come very close to the Schroeder opinion of value and without any basis for the estimates of fair market value, the board is unable to make any adjustments to the assessments.

A motion for rehearing, reconsideration or clarification (collectively "reconsideration motion") of this decision must be filed within thirty (30) 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. This, 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.

Generally, if the board denies the

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rehearing motion, an appeal to the supreme court must be filed within thirty

(30) days of the date on the board's denial.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

Certification

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to S.R. Wolf, Taxpayer's representative; and Chairman, Selectmen of Boscawen.

Dated: July 11, 1995

Clerk

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Melanie J. Ekstrom, Deputy