

Joseph E. & J. Wolf Bennett

v.

Town of Boscawen

Docket No.: 14317-93PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$20,700 on lot 79/6 a .178-acre lot and \$6,700 on lot 45/10 a .71-acre lot. 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 their burden and prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) based on 2 realtors' opinions lot 79/6 was worth \$14,250 and lot 45/10 was worth \$2,750;
- (2) the general market has declined for land with very little activity;
- (3) the Town lowered the assessment in 1994; and

(4) they attempted to sell the lots for less than the assessment without any success.

The Town argued the assessment was proper because:

- (1) the sales demonstrated the assessments were proportional;
- (2) the Town adjusted assessments in 1994 to lower the equalization ratio; and
- (3) the Town's assessment included adjustments as warranted.

**Board's Rulings**

Based on the evidence, the board finds the Taxpayers did not show overassessment for the following reasons.

1) The Taxpayers failed to consider the effect of the revenue department's 1.37 equalization ratio on these assessments. The 1.37 equalization ratio indicates that the assessments greatly exceeded market value. Specifically, lot 79/6 had an equalized assessment of \$15,110 ( $\$20,700 \div 1.37$ ), and lot 45/10 had a \$4,890 equalized value ( $\$6,700 \div 1.37$ ). These equalized values should approximate market value. For lot 79/6 the realtors' opinions of \$14,500 and \$14,000 are relatively close to the equalized value. For lot 45/10 one of the realtors estimated a \$4,700 while the other estimated an \$800 value. For lot 45/10 the Taxpayers' \$2,750 estimate was based on an average of the 2 realtors' opinions.

2) The board was not presented with any back up material from the realtors or the Taxpayers, and thus the board was unable to review the opinions and conclude whether any further reduction was warranted. However, as discussed in the previous paragraph, the opinions were relatively close to the equalized assessments.

3) The Taxpayers did not explain what efforts they had made to sell the Properties, and thus the board draws no conclusions from their failure to sell these lots. Specifically, we do not know whether the lots were listed with realtors, what marketing attempts were made, and whether the asking prices were reflective of the market values.

4) the Town submitted 2 sales that indicated the equalized assessments were proportional.

We find the Taxpayers failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment.

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.

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. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

**Certification**

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Joseph E. & J. Wolf Bennett, Taxpayers; and Chairman, Selectmen of Boscawen.

Date: September 25, 1995

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Valerie B. Lanigan, Clerk

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