

David J. Parisi

v.

Town of Gilford

Docket No.: 14650-93-PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1993 assessment of \$151,300 (land \$47,600; buildings \$103,700) on 0.91 of an acre of land and a house (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 his burden and prove disproportionality.

The Taxpayer argued the assessment was excessive because:

(1) a July 1993 appraisal estimated the fair market value to be \$127,000;

- (2) based on the opinion of two realtors, \$5,000 should be added to the appraised value to account for the contributory value of the subject's private beach access which was not considered by the appraiser; and
- (3) the fair market value as of April 1993 was \$132,000.

The Town argued the assessment was proper because:

- (1) the Taxpayer's appraiser did not factor in the Property's location in a high-priced protected subdivision or its private beach access;
- (2) the Taxpayer's agent submitted remarks by local realtors regarding a value for beach access, which were unsupported by any analysis or market evidence;
- (3) based upon vacant lot sales, the subject lot had a market value of \$55,000;
- (4) the Taxpayer's appraiser did not properly adjust comparables 1 & 2 for locational differences which can be quantified by direct market evidence; when properly adjusted, the appraisal supports the assessment; and
- (5) recent sales of developed properties in the general neighborhood as well as an October 1994 sale within the subject's subdivision support the assessment.

Board's Rulings

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

The board finds that the Taxpayer's appraisal did not properly arrive at an estimate for value of the Property. The board generally concurs with the Town's arguments contained in its brief.

In short, the board finds that the Taxpayer's appraiser did not account for: 1) the general location of the Property in a restricted and covenanted development known as Dockham Shore Estates; 2) the Property's access to a common beach lot; and 3) the Property's more specific location fronting on Dockham Shore Road adjacent to Lake Winnepesaukee. The board finds the Town's comparative sales analysis which arrived at an approximate \$25,000 differential for lots within Dockham Shore Estates and those outside the development without beach access is reasonable and if applied to the Taxpayer's appraisal supports the Town's assessment.

Lastly, the board notes that the expedited procedure adopted by the board (TAX 207) allows for rebuttal by the Taxpayer to the Town's brief. In this case, none was submitted.

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.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Michele E. LeBrun, Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Kathy Schaefer, Agent for the Taxpayer; and Chairman, Selectmen of Gilford.

Date: April 23, 1996

Valerie B. Lanigan, Clerk

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