

Justin E. Rinfret

v.

Town of Bristol

Docket No.: 15013-94PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1994 assessments of \$25,750 on Lot 24, a vacant .45-acre lot and \$19,350 on Lot 22, a vacant 1.01-acre lot (the Properties). For the reasons stated below, the appeal for abatements is granted.

The Taxpayer has the burden of showing the assessments were 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 carried his burden and proved disproportionality.

The Taxpayer argued the assessments were excessive because:

- (1) in 1993, the developer went under, and the FDIC took over the project;
- (2) the water for the lots and fire hydrants had not been extended and the road had not been paved due to the developer's financial problems (The water was to be a community water system, but the community system for the subdivision was incomplete, e.g., lacking a community water tower.);
- (3) the assessment should have included a larger undeveloped factor;

- (4) he purchased Lot 22 for a septic system because if the septic were located on Lot 24, it would obstruct the view; and
- (5) the lots were worth \$10,000 to \$15,000 each.

The Town argued the assessments were proper because:

- (1) the Town was required to assess the lots separately because the lots were legally two lots;
- (2) combining the lots would have reduced the assessment; and
- (3) the undeveloped factor was adjusted upon the Taxpayer's purchase because the adjustment was for the developer's ownership of many lots.

Board's Rulings

Based on the evidence, the board finds the proper assessments to be: Lot 22 - \$16,550; Lot 24 - \$15,450.

Little market evidence was submitted in this appeal due to the bankrupt and unfinished nature of the subdivision in which the Taxpayer's lots are located. However, based on the board's experience and knowledge¹, the board finds any prospective purchaser of these lots would heavily discount their value due to the unfinished infrastructure of the development (adequate water system, unfinished roads and utilities). The Town's assessment did not recognize any of these issues.²

Based on the board's experience, we find

¹ The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:33 VI; Appeal of Nashua, 138 N.H. 261, 264-65 (1994); see also Petition of Grimm, 138 N.H. 42, 53 (1993) (administrative board may use expertise and experience to evaluate evidence).

² It appeared as if Lot 22 had received a 50% reduction in its assessment referencing a board of tax and land appeals decision. However, the board was unable to find any earlier decision relative to this Property nor did the parties know of any appeal. Therefore, the board was unable to determine the basis of the 50% reduction in the value of Lot 22.

that a negative 40% factor should be applied to the two lots to recognize the unfinished state of the infrastructure of the development and the uncertainty of it being completed in any certain or short period of time. Obviously, in subsequent tax years if the development improves and the infrastructure is further developed, the Town pursuant to RSA 75:8 should review the assessments and make appropriate adjustments.

Further in reviewing the assessment of Lot 22, the board notes the topography adjustment was not revised when Lots 22 and 23 were combined. Testimony was that Lot 23 was mostly a ravine. Therefore, the board finds the topography adjustment should be reduced from x .70 to x .50.

Based on the above findings, the board finds the values should be calculated as follows.

<u>Lot 22</u>	
Basic Value	\$125,280
Topography Factor	x .50
Excess Frontage Factor	x .84
Undeveloped Factor	x .8
Unfinished Condition of Road and Utilities	<u>x .60</u>
	\$ 25,250
1993 Ratio Study Adjustment Factor	<u>÷ 1.525</u>
	\$ 16,550

<u>Lot 24</u>	
Basic Value	\$ 54,500
Topography Factor	x .8
Excess Frontage Factor	x 1.00
Undeveloped Factor	x .90
Unfinished Condition of Road and Utilities	<u>x .60</u>
	\$ 23,550
1993 Ratio Study Adjustment Factor	<u>÷ 1.525</u>
	\$ 15,450

If the taxes have been paid, the amount paid on the value in excess of \$16,550 for Lot 22 and \$15,450 for Lot 24 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a. Pursuant to RSA 76:17-c II, and board rule TAX 203.05, unless the Town has undergone a general reassessment, the Town shall also refund any overpayment for 1995. Until the Town undergoes a general reassessment, the Town shall use the ordered assessment for subsequent years with good-faith adjustments under RSA 75:8. RSA 76:17-c I.

A motion for rehearing, reconsideration or clarification (collectively "rehearing 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 rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing 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 rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing 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

Paul B. Franklin, Chairman

Ignatius MacLellan, Esq., Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Justin E. Rinfret, Taxpayer; and Chairman, Selectmen of Bristol.

Date: September 27, 1996

Valerie B. Lanigan, Clerk

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ORDER

This order responds to the "Taxpayer's" rehearing motion, which is denied and the "Town's" rehearing motion, which is denied. The motions did not demonstrate that the board erred in its decision, and thus, the motions failed to show any "good reason" to grant a rehearing. See RSA 541:3.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

Certification

I certify that copies of the within Order have this date been mailed, postage prepaid, to Justin E. Rinfret, Taxpayer; and Chairman, Selectmen of Bristol.

Date: October 25, 1996

Valerie B. Lanigan, Clerk