

Glennes Weekes

v.

Town of Meredith

Docket No.: 15444-94PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1994 assessments of: \$128,622 (land \$109,902; buildings \$18,720) on Lot 28, a 2.52-acre lot with a cottage; and \$66,534 (adjusted) on Lot 29, a vacant, 15,150 square-foot lot (the Properties). 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 abatements is denied.

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 failed to carry her burden.

The Taxpayer argued the assessments were excessive because:

(1) the cottage on Lot 28 was constructed in 1940 as a winter fishing camp, using substandard materials obtained from a 100-year old barn;

- (2) the cottage is seasonal and has no insulation, heat or full bath;
- (3) Lot 29 cannot be improved with a building;
- (4) a March 29, 1991 appraisal estimated a \$90,000 value for Lot 28 and a \$40,000 value for Lot 29; and
- (5) on April 1, 1994, Lot 28 had a \$95,000-\$100,000 fair market value, and Lot 29 had a \$45,000-\$50,000 fair market value.

The Town argued the assessments were proper because:

- (1) comparable lakefront sales, when adjusted for differences, supported the Properties' assessments;
- (2) the assessment on Lot 29 adequately addressed the topography, rocky shoreline and unimproved nature;
- (3) the Taxpayer provided only one comparable property, which was not adjusted for lot size and waterfrontage;
- (4) the Taxpayer's appraisal is over 4 years old and has no bearing on the 1994 assessments; and
- (5) the Town has allowed construction on nonconforming lots.

BOARD'S RULINGS

Based on the evidence, the board finds the Taxpayer did not show the Properties were overassessed. To show overassessment, the Taxpayer was required to show that Lot 28 was worth less than its \$116,900 equalized value (with considerations for the land in current use) ($\$128,622 \text{ assessment} \div 1.10 \text{ equalization ratio}$) and to show that Lot 29 was worth less than its \$60,500 equalized value ($\$66,534 \text{ assessment} \div 1.10 \text{ equalization ratio}$). The Taxpayer did not do this. The Taxpayer's appraisal was very weak because: 1) the appraiser did not adjust comparable 1 or 2

because of differences in building size or number of baths as compared to the building on Lot 28; and 2)

most island properties are seasonal, and if a seasonal use is the Properties' highest and best use, no adjustment should be made.

Concerning Lot 29: 1) the appraisal assumed the lot was not buildable; and 2) the appraisal did not provide the sizes of the comparable properties. Overall, the board had no confidence in the appraiser's conclusions.

Concerning whether Lot 29 is buildable or not, the board finds the Taxpayer did not show it was an unbuildable lot. The Town stated that variances can be obtained, and the Town submitted copies of similar variances. Moreover, because of the common ownership of Lot 28 and Lot 29 it is possible that a septic system for Lot 29, could be placed, by easement, on Lot 28 even with the deed restrictions that affect the Lot 28's back portion.

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.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Douglas S. Ricard, Member

Certification

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to
Glennes Weekes, Taxpayer; and Chairman, Selectmen of Meredith.

Date: November 15, 1996

Valerie B. Lanigan, Clerk

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