

Alberta L. and Christian Roesch

v.

Town of Meredith

Docket No.: 15526-94PT

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1994 assessment of \$90,800 on a single-family home on 26 acres with outbuildings (the Property). The Taxpayers also own, but did not appeal, Lot R36 0026 assessed at \$60,800. 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 this burden.

The Taxpayers argued the assessment was excessive because:

- 1) the building needs substantial repairs;
- 2) the Property is seasonal, has no central heat, no storm windows, and the road is not maintained year round;
- 3) a December 1994 appraisal estimated a \$42,000 fair market value;
- 4) a December 1995 update to the appraisal estimated a \$40,000 to \$45,000 market value; and
- 5) a similar property, having been on the market for several months, has an asking price of \$58,900.

The Town argued the assessment was proper because:

- 1) the Property was given sufficient physical depreciation to account for the foundation and outside walls of the porch;
- 2) other assessments in the area are comparable;
- 3) the Taxpayers' appraisal was flawed because excessive adjustments were made, two comparables were located in different towns, comparable 3 has a smaller land area, and the view was not considered; and
- 4) Taxpayers have failed to prove any disproportionality.

BOARD FINDINGS

Based on the evidence, the board finds the Taxpayers did not show the Property was overassessed.

The Property's equalized value was \$82,550 (\$90,800 assessment ÷ 1.10 equalization ratio.) Therefore, to prove overassessment, the Taxpayers were required to show that the Property was worth less than \$82,550. The Taxpayers failed to do this.

The Town's photographs of the Property show a well-sited house and outbuildings, nice grounds and a good view. The board's initial impression was that the \$82,550 equalized value was not excessive for this Property. The board then reviewed the Taxpayers' "real estate valuation report" (technically not an appraisal) and its update. The board does not accept the appraiser's \$40,000 to \$45,000 market value

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because: 1) the chosen comparables required substantial gross adjustments (comparable 1 gross adjustments

were 49% of sales price; comparable 2 gross adjustments were 110% of sales price; and comparable 3 gross adjustments were 117% of the sales price); and 2) based on the photographs of the comparables, the comparables are far inferior to the Property in terms of market appeal such as siting, landscaping and outbuildings. The board also questions the \$8,000 heat-and-insulation adjustment because the Property's highest and best use may be a seasonal dwelling, which would reduce the magnitude of the adjustment.

The board also does not accept the Taxpayers' information concerning a listing on a similar property as being probative of the Property's market value because insufficient information was presented.

The Taxpayers, therefore, have failed to establish an appropriate value for the Property, and thus, they have failed to show overassessment.

Finally, the Town made adjustments to the assessment-record card to reflect the physical condition of the Taxpayers' house (total 41% depreciation).

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 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 that a copy of the foregoing decision has been mailed this date, postage prepaid, to Alberta L. and Christian Roesch, Taxpayers; and Chairman, Board of Selectmen.

Date: November 14, 1996

Valerie B. Lanigan, Clerk

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