

Peter K. Wuehrmann

v.

Town of Tuftonboro

Docket No.: 16332-95PT

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1995 adjusted assessment of \$81,150 (land \$39,850; buildings \$41,300) on a 2.0-acre lot with a single-family home (the Property). 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 a disproportionate share of taxes. See RSA 76:16-a; TAX 203.09(a); Appeal of City of Nashua, 138 N.H. 261, 265 (1994). To establish disproportionality, the Taxpayer must show that the Property's assessment was higher than the general level of assessment in the municipality. Id. The Taxpayer failed to carry this burden.

The Taxpayer argued the assessment was excessive because:

- (1) the Property has no deeded lake rights;
- (2) the Property is surrounded on three sides by Camp Belknap, a youth camp;

- (3) two realtors' opinions estimated the value at between \$55,000 and \$60,000;
- and
- (4) the value should have been \$55,000 on April 1, 1995.

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The Town argued the assessment was proper because:

- (1) Chase's Point is a very nice neighborhood;
- (2) Camp Belknap does not use the land near the Property and thus, provides privacy to the Taxpayer;
- (3) the comparable sales used by the realtors were not similar to the Property due to their location on or near smaller ponds; and
- (4) \$76,300 was the correct assessment.

Board's Rulings

Based on the evidence, the board finds the Taxpayer did not show overassessment.

The Taxpayer presented several arguments concerning why the assessment should be lower, but the Taxpayer failed to tether those arguments to a supportable market value for the Property.

The Taxpayer provided two realtors' opinions, but the board could not rely upon those opinions. The realtors' opinions presented properties that the realtors considered to be comparable. The opinions, however, did not provide sufficient information about the comparables nor did the opinions perform any analysis to specifically compare the Property to the comparables.

For example, the board was not provided with any location maps for the

comparables. The Property is in a good location even though the Property does not have water rights. The Property is located on Chase Point, which the parties agreed was an excellent neighborhood with very nice properties. The Property is surrounded by large undeveloped tracts of land, which give the Property privacy and a back-to-nature appeal. Furthermore, the Town beach is located a short drive from the Property. Thus, without supporting information, the board could not determine whether the comparables were similar to the Property in location, and location is certainly a key factor concerning the Property's value.

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In addition to the location issue, the realtors did not present any comparison grids whereby the Property would have been compared to the comparables with specific factors (e.g., size, location and condition) being compared and then adjusted. Without this information, the board could not analyze whether the realtors' opinions were consistent with the Property's fair market value.

The board must determine whether the assessment has resulted in the Taxpayer paying an unfair share of taxes. See Appeal of Public Service Company of New Hampshire, 120 N.H. 830, 833 (1980). Arriving at a proper assessment is not a science but is a matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 N.H. 919, 921 (1979). This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975); see also Petition of Grimm, 138 N.H. 42,

53 (1993) (administrative board may use expertise and experience to evaluate evidence). Based on the board's review of the evidence, the board finds the assessment was not unreasonable.

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

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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.

SO ORDERED.

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 Peter K. Wuehrmann, Taxpayer; and Chairman, Selectmen of Tuftonboro.

Date: May 20, 1997

Valerie B. Lanigan, Clerk

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ORDER

This order responds to the "Taxpayer's" rehearing motion, which is denied, except the board agrees the assessment was to be lowered based on the "Town's" statements. Otherwise, the motion did not demonstrate that the board erred in its decision, and thus, the motion failed to show any "good reason" to grant a rehearing. See RSA 541:3.

The board amends the decision to show the proper assessment to be \$76,300. At the hearing, the Town testified the assessment should be reduced from \$81,150 to \$76,300. Although the board did not specifically address this issue, it was the board's intent that \$76,300 be used as the corrected assessed value and that the appropriate refund be made.

If the taxes have been paid, the amount paid on the value in excess of \$76,300 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 1996. 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.

For the Taxpayer to appeal this matter, an appeal must be filed with the supreme court within thirty (30) days of the clerk's date below. RSA 541:6.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq., Member

Douglas S. Ricard, Member

Certification

I certify that copies of the within Order have this date been mailed, postage prepaid, to Peter K. Wuehrmann, Taxpayer; and Chairman, Selectmen of Tuftonboro.

Date: July 8, 1997

Valerie B. Lanigan, Clerk

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