

Thomas Michel and Sara M. Lewis

v.

Town of Holderness

Docket No.: 1997-03PT

DECISION

The “Taxpayers” appeal, pursuant to RSA 76:16-a, the “Town’s” 2003 assessment of \$1,127,100 (land \$1,034,000; buildings \$93,100) on a 0.78-acre parcel on Squam Lake with a single-family home (the “Property”). For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing, by a preponderance of the evidence, the assessment was disproportionately high or unlawful, resulting in the Taxpayers paying a disproportionate share of taxes. See RSA 76:16-a; TAX 201.27(f); TAX 203.09(a); Appeal of City of Nashua, 138 N.H. 261, 265 (1994). To establish disproportionality, the Taxpayers must show the Property’s assessment was higher than the general level of assessment in the municipality. Id. We find the Taxpayers failed to prove disproportionality.

The Taxpayers argued the assessment was excessive because:

- (1) the truest estimate of a property’s full market value is its sales price;
- (2) they purchased the Property in December 2000 for \$850,000;

- (3) a review of eight sales of Squam Lake properties that transferred between November 2000 and November 2002 indicates an appreciation rate of 4% per annum during this time period; and
- (4) applying the 4% per annum rate to the December 2000 purchase price of \$850,000 results in the 2003 value of \$956,134 for the Property.

The Town argued the assessment was proper because:

- (1) the Town performed a Town-wide revaluation in 2003;
- (2) more than the eight waterfront properties identified by the Taxpayers transferred in Town between November 2000 and November 2002;
- (3) property values in the Town were appreciating at a rate of 1% per month prior to January 1, 2002 and 1½% per month after January 1, 2002; and
- (4) the assessment has been twice revised and reduced, first to correct for the lot size, and second, by increasing the adjustment to the land from -5% to -10% for an easement crossing the lot.

Board's Rulings

Based on the evidence submitted, the board finds the Taxpayers failed to carry their burden that the abated assessment of \$1,127,100 was excessive.

The Taxpayers' sole argument that the Property's assessed value should be \$956,134 was based on applying a 4% per annum rate of appreciation to their purchase price of \$850,000 on December 1, 2000. The Taxpayers' estimate of 4% per annum appreciation was based on comparing the sale price and assessed value of eight Holderness/Squam Lake properties that sold from November 2000 through November 2002. The Taxpayers represented that, to the best of their knowledge, these were all the waterfront sales on Squam Lake based on information the Town had posted on its assessing website and other information obtained from a realtor.

Certainly, the sale of the Property is good evidence of the Property's market value if it is an arm's-length transaction. Appeal of Lakeshore Estates, 130 N.H. 504, 508 (1988). Here, while no evidence was submitted that the Taxpayers' purchase was not an arm's-length transaction, the fact that it occurred 28 months prior to the April 1, 2003 assessment date makes the sale less probative of the general market as of April 1, 2003 and also makes the necessary time adjustment to make it indicative of April 1, 2003 all the more critical.

For the following reasons, the board finds the Taxpayers' estimate of 4% annual appreciation from late 2000 to the end of 2002 significantly understates the actual market appreciation that occurred both in the Town generally, and specifically, for waterfront property. While the board is unable, due to the paucity of detailed evidence submitted by either the Taxpayers or the Town, to determine why the sales submitted by the Taxpayers indicate such a low appreciation rate, the board concludes that other market observations as testified to by the Town, general market data and analyses available through public documents of the department of revenue administration's ("DRA") equalization survey and the board's general knowledge and experience,¹ indicate a significantly higher appreciation rate during that time period.

Comparing the Town's assessment of \$1,127,100, equalized by the 2003 level of assessment to equate it to a market value, with the Taxpayers' purchase for \$850,000 in December 2000 indicates an approximate annual appreciation rate of 15.72%.² The board finds this indicated appreciation more in line with the testimony of Mr. Corcoran, the Town's

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 City 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 Assessed value \$1,127,100 ÷ .97 (2000 equalization ratio) = indicated market value \$1,161,959. \$1,161,959 – purchase price \$850,000 = \$311,959 ÷ \$850,000 = 36.7% appreciation from December 1, 2000 to April 1, 2003. 36.7% ÷ 28 months = indicated monthly appreciation of 1.31% x 12 months = indicated annual appreciation 15.72%.

assessing contractor, and Mr. Francesco, selectman and realtor. They testified that during this time period, annual appreciation rates were more in the 12% to 24% range depending on the exact time period and the type of property.

Further, a comparison of the DRA's 2001 and 2002 equalization summaries (included at Addendum A) also indicates an appreciation rate for that period, on either a Town-wide basis or for waterfront properties, more in line with that testified to by the Town representatives than the 4% argued by the Taxpayers. The Town testified it had performed no overall assessment update or reassessment in either tax year 2001 or 2002, and thus, a comparison can be made of the median ratios for both years to get an indicated market appreciation rate.³ Generally, the median ratio is the best ratio for estimating the general level of assessment within a community.⁴

Comparing the relative change of the median ratios between 2001 and 2002 for the overall ("full report") study indicates approximately a 10.3% appreciation for all types of properties in Holderness ($82.2\% - 73.7\% = 8.5\% \div 82.2\% = 10.3\%$). Focusing on the waterfront strata, the median ratio change from 2001 to 2002 indicates an annual appreciation rate of 31% ($70\% - 48.3\% = 21.7\% \div 70\% = 31\%$). These calculations provide general indications, but nonetheless supportive indications, of appreciation rates higher than the Taxpayers' 4%.

Consequently, the board concludes the evidence supports a finding of a significantly higher annual appreciation rate than that argued by the Taxpayers. As stated earlier, because the appreciation rate is key to equating the Taxpayers' 2000 sale to an indicated market value as of

³ In its equalization process, the DRA routinely analyzes valid sales that occur six months before and six months after the assessment date of April 1. Thus, the 2001 and 2002 equalization surveys analyze sales that occurred between October 1, 2000 and September 30, 2002, approximately the same time period of the sales submitted by the Taxpayers.

⁴ "[T]he median is the generally preferred measure of central tendency for direct equalization, monitoring appraisal performance, determining reappraisal priorities, or evaluating the need for a reappraisal." International Association of Assessing Officers, The Standard on Ratio Studies 41 (July 1999).

April 1, 2003, we find the Taxpayers failed to carry their burden. Also, the assessed value's indicated rate of appreciation of 15.72% is generally supported by the balance of the evidence. As stated from the bench during the hearing, there is no one perfect estimate of market value or assessment, but, in this case, the evidence submitted by the Taxpayers does not carry their burden in showing the Town's estimate of \$1,127,100 is unreasonable or disproportionate.

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(f). 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Douglas S. Ricard, Member

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Thomas Michel and Sara M. Lewis, 66 Beaver Pond Road, Lincoln, Massachusetts 01773, Taxpayers; and Chairman, Board of Selectmen, Post Office Box 203, Holderness, New Hampshire 03245.

Date: May 2, 2005

Anne M. Stelmach, Clerk

Addendum A