

**Beverly and Emerson White**

**v.**

**Town of Meredith**

**Docket No.: 26157-11PT**

**DECISION**

The “Taxpayers” appeal, pursuant to RSA 76:16-a, the “Town’s” 2011 abated assessment of \$623,700 (land \$510,500; building \$113,200) on Map U29, Lot 11, 10 Quimby Road, a waterfront, single family residence (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. The board finds the Taxpayers failed to meet their burden of proving disproportionality.

The Taxpayers requested and were granted leave not to attend the hearing. (See their May 15 and June 1, 2013 letters and the Clerk’s May 29, 2013 letter.)

The Taxpayers argued, through their submittals to the board, that the assessment was excessive because:

- (1) an appraisal prepared by Susan Walker of Moulton Appraisal Group (the “Moulton Appraisal,” Taxpayer Exhibit No. 1) estimated the market value of the Property was \$563,000 as of January 11, 2012; and
- (2) the assessment should be abated accordingly based on this estimate.

The Town argued the assessment, as already abated, was proper because:

- (1) after reviewing the Taxpayers’ claims and the Moulton Appraisal, the Town abated the assessment from \$647,800 to \$623,700 at the municipal level;
- (2) one questionable area in the Moulton Appraisal concerns the adjustment made for water frontage (\$300 per square foot), which the Town finds is too low and does not result in a credible indication of market value for the Property;
- (3) the evidence presented in Municipality Exhibits A and B supports the proportionality of the abated assessment; and
- (4) the Taxpayers did not meet their burden of proof and the appeal should be denied.

The Town stated the level of assessment in tax year 2011 was 105.7%, the median ratio calculated by the department of revenue administration.

### **Board’s Rulings**

Based on the evidence presented, the board finds the Taxpayers failed to prove the Property was disproportionately assessed in tax year 2011. The appeal for a further abatement is therefore denied.

To determine whether the Taxpayers met their burden of proof, the board considered and weighed all of the evidence presented, utilizing its “experience, technical competence and

specialized knowledge.” See former RSA 541-A:18, V(b), now RSA 541-A:33, VI, quoted in Appeal of City of Nashua, 138 N.H. 261, 265 (1994) (the board must employ its statutorily countenanced ability to utilize its “experience, technical competence and specialized knowledge in evaluating the evidence before it.”)

The Property consists of a 1.1 acre waterfront lot with a residence situated on a cove in a channel on Lake Winnepesaukee (facing Stone Dam Island). The Taxpayers rely on the Moulton Appraisal, which was prepared for a financing transaction (involving Meredith Village Savings Bank). The appraiser’s estimate of value (\$563,000 as of January 11, 2012) was based on three comparable waterfront sales and she made various adjustments to each sale to arrive at this value.

One critical adjustment in the Moulton Appraisal (at pp. 2 and 3), which the Town questioned, was for the amount of waterfront (at \$300 per square foot). The Town presented credible, unrefuted evidence that market sales support an adjustment of a minimum of \$500 per square foot (and possibly as much as \$1,000 per square foot). In Municipality Exhibit A, for example, the Town’s assessor (James Commerford) did a “paired sales analysis” and calculated an indicated waterfront value adjustment of \$765 per square foot. As further demonstrated in Municipality Exhibit A and in Mr. Commerford’s testimony at the hearing, applying a \$500 per square foot adjustment to the three comparables in the Moulton Appraisal results in a value indication (an “average” of \$593,800, giving equal weight to each sale) “very close to the revised equalized assessment.” [The “equalized assessment” in this analysis is \$590,100, rounded, calculated by applying the level of assessment (105.7% for tax year 2011) to the abated assessment under appeal (\$623,700).]

As prescribed in RSA 75:1, ad valorem assessments must be based on market value. Proportionality is determined by arriving at a reasonable estimate of market value adjusted by the level of assessment in the Town. See, e.g., Porter v. Town of Sanbornton, 150 N.H. 363, 367 (2003.); see also Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); and Appeal of Town of Sunapee, 126 N.H. 214, 217-18 (1985). The board therefore finds Mr. Commerford's "equalized assessment" analysis to be persuasive in concluding the abated assessment (\$623,700) was not disproportional.

The Town presented additional evidence to support the proportionality of the assessment. This evidence included a comparison of the assessed land values for the Property and other properties in the same neighborhood which indicates the Town applied a consistent methodology. (See Municipality Exhibit B.) A consistent assessment methodology is some evidence of proportionality. See Bedford Development Co. v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

Further, there is never one exact, precise or perfect assessment; rather, there is an acceptable range of values which, when adjusted to the municipality's general level of assessment, represents a reasonable measure of proportionality and the resulting tax burden. See Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979). The Town's assessor explained at the hearing he concluded a further abatement was not warranted because, even if the \$563,000 market value estimate in the Moulton Appraisal is accepted at face value, it is reasonably close to the \$590,700 value indicated by the abated assessment of \$623,700.

In summary, and in the absence of other evidence to support the Taxpayers' arguments, the board finds they did not meet their burden of proving disproportionality. The appeal is therefore denied.

Any party seeking a rehearing, reconsideration or clarification of this Decision must file a motion (collectively "rehearing motion") 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(g). 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 with a copy provided to the board in accordance with Supreme Court Rule 10(7).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Michele E. LeBrun, Chair

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Albert F. Shamash, Esq., Member

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**Certification**

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Emerson and Beverly White, 46 Miscoe Road, Mendon, MA 01756, Taxpayers; and Chairman, Board of Selectmen, 41 Main Street, Meredith, NH 03253.

Date: 8/12/13

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Anne M. Stelmach, Clerk