

**Francis J. Burke and Mary J. Burke**

**v.**

**Town of Freedom**

**Docket Nos. 4326-88 and 6315-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 and 1989 assessment of \$3,750 (land, \$750, buildings, \$3,000) on a single-family home (the Property). 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 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to carry their burden and prove any disproportionality.

The Taxpayers argued the assessment was excessive because the Town had increased the building's assessment by \$1,000 from 1987 to 1988 with the higher figure being also used for 1989. The Taxpayers argued this constituted spot assessing. However, the Taxpayers did not present any evidence concerning (i) the Property's value in 1988 or 1989 or (ii) the assessments on comparable properties.

The Taxpayer, Mr. Burke, testified the land was purchased in 1984 for \$11,000 and the house was built for \$47,000, totalling \$58,000. The Taxpayer also expressed agreement with the 1990 reassessment of \$105,600.

Because of the death of the selectman who had supervised the Town's 1988 and 1989 assessments, the Town was unable to explain why the building's assessment had been increased. The Town also testified that the Town had the authority to correct this assessment if it was in error. Finally, the Town testified the prior selectman annually reviewed the properties in the Town.

The board reviewed the evidence and has decided the increase of \$1,000 in the building's assessment was not illegal "spot assessing," but rather it was the Town's attempt to address an incorrect assessment so as to ensure the Taxpayers were proportionately assessed.

To ensure proportionality of taxation, the Town was obligated to assess all properties at the same percentage of fair market value. See Appeal of Town of Sunapee, 126 N.H. 214, 219 (1985). This is consistent with the Town's obligation to annually assess properties under RSA 75:1 and RSA 74:1. "Spot assessing" occurs when certain assessments are increased so their proportionality is higher than others. See Duval v. City of Manchester, 111 N.H. 375, 376 (1971). The Taxpayers have failed to show the revised assessments resulted in any disproportionality.

We find the Taxpayers failed to prove their assessment was disproportional.

April 1, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin

Ignatius MacLellan

I certify that copies of the within decision have been mailed this date, postage prepaid, to Francis J. and Mary J. Burke, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Freedom.

April 1, 1991

Michele E. LeBrun, Clerk