

Theodore Onufrak and Earlene Onufrak

v.

Town of Newmarket

Docket No. 5039-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$57,200 (land, \$18,600; buildings, \$38,600) on their real estate at 79 Packers Falls Road, consisting of a dwelling with outbuildings on 8.13 acres (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 failed to appear, but consistent with our rule, TAX 102.03(g), the Taxpayers were not defaulted. This decision is based on the evidence presented to the board.

The Taxpayers stated in their application for abatement that they were overassessed in comparison to other properties in the area.

The Town stated:

(1) that 7.2 acres were assessed in current use (the Taxpayers owned additional acreage abutting in Durham) and a .93-acre homesite was assessed at ad valorem value; and

(2) that both the Town's appraiser and administrative assistant had several times had lengthy discussions with the Taxpayers explaining that the property was equitably assessed.

We find the Taxpayers failed to prove their assessment was disproportional. We also find the Town supported the Property's assessment.

The board finds that the property was correctly assessed. Further, the board finds, based on the testimony and documentation on the assessment cards, that town officials and employees had thoroughly and repeatedly reviewed and discussed the assessment with the Taxpayers. The board finds that the Town's explanation should have been understandable and convincing to any prudent person.

Therefore, the board rules the case was frivolously filed and/or not properly withdrawn by the Taxpayers once the issues were reviewed and addressed by the Town. Therefore, the board awards costs in the amount of \$50 to the Town of Newmarket for its appraiser's time at the hearing. The Taxpayers are to submit the sum of \$50 to the Town of Newmarket, Main Street, Newmarket, NH 03857, within 10 days of the date of this decision, with a certification to this board of payment to the Town.

If this payment is not made within the prescribed time, the board will file a certified abstract of the decision to the Merrimack County Superior Court for enforcement.

February 5, 1991

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within decision have been mailed this date, postage prepaid, to Theodore and Earlene Onufrak, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Newmarket.

February 5, 1991

Michele E. LeBrun, Clerk