

**Erle T. MacDonald and Joan MacDonald**

**v.**

**Town of Newport**

**Docket No. 5714-88**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$106,700 (land, \$9,400; buildings, \$97,300) on their property located at the corner of Oak Street and Corbin Road consisting of a dwelling and garage on .348 acre lot (the Property).

The Taxpayers indicated they would not attend the hearing. As stated in our rules, neither party is defaulted for lack of appearance and we will decide the case based on the record. 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 in their request for abatement to the selectmen that they were overassessed based on an overestimation of the renovation costs; that the dwelling had no basement; and that the land was overassessed on a per acre basis in comparison to larger nearby properties.

The Town argued the appeal was frivolous due to: the property being renovated first prior to April 1, 1988, except for access to the attic; that the property was sold in September of 1989 for \$119,600 after access to attic was completed. The Town's representative requests costs be assessed against the Taxpayers at \$90 for representatives hearing time and preparation and the amount billed the Town for the Board of Tax and Land Appeal's review inspectors time.

We find the Taxpayers failed to prove the 1988 assessment was

disproportional. We also find the Town supported the Property's assessment.

The property sold for more than what it was assessed for over a year after the assessment date in a falling real estate market. The assessment correctly reflects the property's lack of access to the attic and lack of basement. The Board finds that the Taxpayers arguments of lack of services and increase from the previous years taxes have no bearing on whether a tax is reasonable and proportional. RSA 75:1 establishes market value as the basis for determining a person's appropriate tax burden. The Board finds, if anything, based on the evidence the property may be underassessed, but not to the extent to justify an increase in the assessment. The Board rules that it is common in the market for smaller parcels to sell far more than larger parcels on an acre basis.

The Board rules the case was frivolously filed and/or not properly withdrawn by the Taxpayer once the issues were reviewed and addressed by the Town. Therefore, the Board awards costs in the amount of \$140 to the Town of Newport for their appraisers time at the hearing and the cost of this Board's investigator's time that was billed to the Town. The Taxpayers are to submit the sum of \$140 to the Town of Newport, 15 Sunapee St., Newport, N.H. 03773 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.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Peter J. Donahue, Member

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Paul B. Franklin, Member

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Ignatius MacLellan, Member

Date: January 18, 1991



I certify that copies of the within Decision have this date been mailed, postage prepaid, to Erle T. & Joan MacDonald, taxpayers; and Chairman, Selectmen of Newport.

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Michele E. LeBrun, Clerk

Date: January 18, 1991

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