

Calvin Rushforth

v.

Town of Atkinson

Docket No.: 5998-89

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$129,400 on a camp on Sheep Island (the Property). The Taxpayer failed to appear, but consistent with our Rule, TAX 102.03(g), the Taxpayer was not defaulted. This decision is based on the evidence presented to the board. For the reasons stated below, the appeal for abatement is denied, but we are lowering the assessment consistent with the Town's presentation.

The Taxpayer has the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayer 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 Taxpayer failed to carry this burden.

The Taxpayer's position was included in his February 21, 1990 letter, which the board and Town reviewed.

The Town admitted it had corrected the Taxpayer's property-record card for 1990, which reduced the assessment by \$7,570.

The Town argued the adjusted assessment was proper because it was based on the analysis done during the revaluation.

Based on the evidence, we find the correct assessment should be \$121,830. This assessment is ordered for the following reasons.

- (1) Taxpayer did not present any credible evidence of the Property's fair market value. To carry his burden, the Taxpayer must make a showing of the Property's fair market value. This value will then be compared to the Property's assessment and the level of assessments generally in the Town. See, e.g., Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.
- (2) Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982).

If the taxes have been paid, the amount paid on the value in excess of \$121,830 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Calvin Rushforth, Taxpayer; and Chairman, Selectmen of Atkinson.

Dated: May 5, 1992

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Valerie B. Lanigan, Clerk

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