

**Joseph Cunha**

**v.**

**Town of Hampton**

**Docket No.: 6049-89**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$34,500 (building only) on a mobile home (the Property). For the reasons stated below, the appeal for abatement is denied.

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 argued the assessment was excessive because:

- (1) the Property is in a seasonal park, meaning he only has access to the Property for the summer months;
- (2) the Property only has a \$2,000 replacement cost and a \$24,000 insurable value, which included the furniture, etc.;
- (3) he does not use any Town services, except trash pickup;
- (4) he does not own the land but only leases the site; and
- (5) two homes in the park sold in 1992 for \$19,000 and \$25,000.

Joseph Cunha

v.

Town of Hampton

Docket No. 6049-89

Page 2

The Town argued the assessment was proper because:

- (1) the 1992 sales are irrelevant to the 1989 values;
- (2) the appealed assessment is an adjusted assessment, arrived at after reviewing the Property;
- (3) the Property is located near the state beach; and
- (4) it is supported by a sales analysis of homes sold in the park from 1987-89.

**Board's Rulings**

We find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment. The main reason for this decision is the Town's sales analysis demonstrated the assessment was equitable.

The Taxpayer argued he did not use any town services, except trash removal. Lack of municipal services is not necessarily evidence of disproportionality. As the basis of assessing property is market value, as defined in RSA 75:1, any effect on value due to lack of municipal services is reflected in the selling price of comparables and consequently in the resulting assessment.

The Taxpayer did not present any credible evidence of the Property's fair market value. To carry his burden, the Taxpayer should have made a showing of the Property's fair market value. This value would then have been

Joseph Cunha

v.

Town of Hampton

Docket No. 6049-89

Page 3

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. Moreover, the Town's evidence demonstrated the Property's market value.

Finally, the Taxpayer argued he should have only been assessed for the replacement cost of the home because he only leases the site. The Town asserted the assessment reflects all of the Taxpayer's rights, including the right to lease the site. Interestingly, while the Taxpayer argued his lease right should not be assessed, he admitted he would sell the Property for more than the home's replacement cost. The board finds the assessment must include all of the Taxpayer's rights. See RSA RSA 72:6. The rights include the home itself and the right to occupy and lease the site. These rights, while intangible, are valued by the market and assessable. The Town's evidence of sales exceeding replacement, the Taxpayer's admission that he would sell for more than the replacement cost, and the board's experience on this market phenomenon, all show the right to occupy the site is taxable under RSA 72:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

Joseph Cunha

v.

Town of Hampton

Docket No. 6049-89

Page 4

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Ignatius MacLellan, Esq., Member

Joseph Cunha

v.

Town of Hampton

Docket No. 6049-89

Page 5

CERTIFICATION

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

Dated: December 11, 1992

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Valerie B. Lanigan, Clerk

0008