

Francis E. and Frances J. Gallien

v.

Town of Derry

Docket Nos.: 6948-89 and 9505-90

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessments of:  
64 E. Derry Road\$189,800(single-family home);  
139 Rockingham Road\$483,400(mobile-home park);  
139 Rockingham Road, Lot 1\$ 25,100(mobile home);  
139 Rockingham Road, Lot 2\$ 47,100(mobile home);  
139 Rockingham Road, Lot 5\$ 46,700(mobile home); and  
139 Rockingham Road, Lot 18\$ 20,100(mobile home)

(the Properties). The Taxpayers appeared at the call of the list and listened to the board's opening remarks. However, they did not appear at the hearing, but they did not file a withdrawal. Therefore, this decision is based on the Taxpayers' written submittals. For the reasons stated below, the appeal for abatement is denied.

The Taxpayers have the burden of showing the assessments were 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 this burden.

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The Taxpayers argued the assessment was excessive because:

- (1) all -- the assessments and taxes have increased significantly from prior years;
- (2) park -- the park cannot be expanded;
- (3) park -- the park tenants do not use many Town services, including schools;
- (4) house -- purchased for \$160,000 in August, 1989 at an auction; and
- (5) mobile-homes -- taxes have decreased the values.

The Town submitted an appraisal report which included estimates of value by the cost, income and market approaches and an assessment comparison of comparable properties.

The Town argued the assessments were proper because:

- (1) park -- the Town did not assess for any expansion potential;
- (2) mobile homes -- the Taxpayers admitted in 1989 they could have sold them for the assessments;
- (3) house -- it was reasonable and consistent with purchase price; and
- (4) all -- they were supported by the report.

We find the Taxpayers failed to prove the Properties' assessments were disproportional. We also find the Town supported the Properties' assessments.

The Taxpayers did not present any credible evidence of the Properties' fair market value. To carry their burden, the Taxpayers must make a showing of the Property's fair market value. This value will then be compared to the

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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);

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Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

Increases from past assessments are not evidence that a taxpayer's property is disproportionally assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Francis E. and Frances J. Gallien, taxpayers; and Chairman, Selectmen of Derry.

Dated: June 26, 1992

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Valerie B. Lanigan, Clerk

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