

**John P. and Jeanette H. Mulligan**

**v.**

**Town of Derry**

**Docket No.: 7074-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$133,700 (land, \$55,000; buildings, \$78,700) on their real estate at 11 Hubbard Hill Road, consisting of a dwelling on an acre lot (the Property). 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. 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 this burden.

The Taxpayers did not submit any explanation for their appeal other than that they were "overassessed."

John P. and Jeanette H. Mulligan

v. Town of Derry

Docket No.: 7074-89

Page 2

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

The Town argued the assessment was proper because the Town had reviewed the assessment and abated the 1989-1991 taxes based on lowering the grade of the house.

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

The board is authorized to award costs as in the superior court. RSA 71-B:9; TAX 201.05(c). Cost are awarded where an appeal was frivolously filed or maintained. We find the Taxpayers appeal was frivolously filed and maintained. The original appeal only stated "overassessed." The Taxpayers did not submit any additional arguments or any supporting documents. Therefore, pursuant to RSA 71-B:9, the Taxpayers are ordered to pay the Town \$50.00 for costs incurred in prosecuting this frivolously maintained appeal. These costs cover expenses and witness fees for the hearing day. The Taxpayers shall pay the Town this \$50.00 within 10 days of the clerk's date below, sending a copy of the payment letter to the board. If the Taxpayers fail to so comply, the Town may file an enforcement motion with the board, and then the board may file an enforcement action in the Merrimack County Superior Court.

John P. and Jeanette H. Mulligan

v. Town of Derry

Docket No.: 7074-89

Page 3

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to John P. and Jeanette H. Mulligan, taxpayers; and Chairman, Selectmen of Derry.

Dated:

---

Valerie B. Lanigan, Clerk

0007