

Alexandra C. Moffat

v.

Town of Orford

Docket No. 7320-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$79,330 (land, \$7,130, buildings, \$72,200) on his real estate at Stonehouse Mountain Road, consisting of a dwelling and 20.2 acres of which 18.05 are in current use (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 her burden and prove any disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) other buildings were assessed for less or inconsistently in relationship to the Taxpayers buildings; and
- 2) newer buildings were shouldering a greater share of the tax burden than older nicely renovated ones.

The Town argued the assessment was proper because the buildings of similar age, style and story height were assessed comparably.

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

The board finds the Taxpayer's Property was not overassessed. However, there was evidence indicating certain surrounding properties may have been underassessed. The underassessment of other properties does not prove the

overassessment of the Taxpayer's Property. See Appeal of Michael D. Canata, Jr., 129 N.H. 399, 401 (1987). For the board to reduce the Taxpayer's assessment because of underassessment on other properties would be analogous to a weights and measure inspector sawing off the yardstick of one tailor to conform with the shortness of the yardsticks of the other two tailors in town rather than having them all conform to the standard yardstick. The courts have held that in measuring tax burden, market value is the proper standard yardstick to determine proportionality, not just comparison to a few other similar properties. E.g., Id.

The Taxpayer did not present any credible evidence of the Property's fair market value. To carry her 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.

In fact the taxpayer conceded that she would most likely have listed the Property for more than its 1989 equalized value of \$207,730 (\$91,400 [ad valorem value]/44 % [equalization ratio]).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Alexandra Moffat, taxpayer; and Chairman, Selectmen of Orford.

Valerie B. Lanigan, Clerk

Date: April 9, 1992

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