

**Emmett T. Jeffers**

**v.**

**Town of Rindge**

**Docket No.: 7418-89**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$212,700 (land, \$152,050; buildings, \$60,650) on a .42-acre lot with a two-story cottage (the Property). For the reasons stated below, the appeal for abatement is granted.

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 carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- (1) it was arrived at using prices established during an inflated market;
- (2) the assessment and taxes increased significantly from the prior years;
- (3) the land assessment was excessive;
- (4) the Property was worth approximately \$180,000 to \$175,000 in April 1989;
- (5) the lake properties were assessed disproportionately higher than nonlakefront

properties; and

(6) it exceeded two appraisals--August 1991 \$160,000 and October 1992 \$155,000.

The Town argued the assessment was proper because:

(1) the land assessment was arrived at based on a sales survey; and

(2) it was consistent with two sales and the assessments on two abutting lots.

### **Board's Rulings**

Based on the evidence, we find the correct assessment should be \$200,000. In making a decision on value, the board looks at the Property's value as a whole (i.e., as land and buildings together) because this is how the market views value. However, the existing assessment process allocates the total value between land value and building value. The board has not allocated the value between land and building, and the municipality shall make this allocation in accordance with its assessing practices.

The board is not obligated or empowered to establish a fair market value of the Property. Appeal of Public Service Company of New Hampshire, 120 N.H. 830, 833 (1980). Rather, we must determine whether the assessment has resulted in the Taxpayer paying an unfair share of taxes. See Id. Arriving at a proper assessment is not a science but is a matter of informed judgment and experienced opinion. See Brickman v. City of Manchester, 119 N.H. 919, 921 (1979). This board, as a quasi-judicial body, must weigh the evidence and apply its judgment in deciding upon a proper assessment. Paras v. City of Portsmouth, 115 N.H. 63, 68 (1975). Based on the Board's judgment, the assessment was disproportional. Time trending the Taxpayer's appraisal to April 1, 1989 supports this conclusion as does the Taxpayer's attempts to sell the property. The Taxpayer's other argument concerned the increase in assessment and taxes. Increases from past assessments are not evidence that a taxpayer's property is disproportionately assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126

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N.H. 214 (1985). Concerning the high amount of taxes he must pay, the amount of property taxes paid by the Taxpayer was determined by two factors: 1) the Property's assessment; and 2) the municipality's budget. See gen., International Association of Assessing Officers, Property Assessment Valuation 4-6 (1977). The board's jurisdiction is limited to the first factor i.e., the board will decide if the Property was overassessed, resulting in the Taxpayer paying a disproportionate share of taxes. Appeal of Town of Sunapee, 126 N.H. at 217. The board, however, has no jurisdiction over the second factor, i.e., the municipality's budget. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's jurisdiction limited to those stated in statute).

If the taxes have been paid, the amount paid on the value in excess of \$200,000 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

\_\_\_\_\_  
George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Emmett T. Jeffers, Taxpayer; Department of Revenue Administration; and Chairman, Selectmen of Rindge.

Dated: November 24, 1992

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Valerie B. Lanigan, Clerk

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