

**Fred A. Bogart**  
**v.**  
**Town of Hinsdale**

**Docket No. 7558-89**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$266,200 on a 3,600 (plus) square-foot house on 47.40 acres (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 his burden and prove any disproportionality.

The Taxpayer submitted a voluminous report (TP-1) and spent well over 1 1/2 hours presenting his appeal. The board will not reiterate the specifics of his arguments but will recite the general positions.

The Taxpayer argued the assessment was excessive because:

- (1)Hinsdale is not a good market for higher-priced homes;
- (2)the cost approach should be used;
- (3)the Town's cost approach was flawed;
- (4)the actual costs were significantly less than the Town's building cost;
- (5)the building was not completed in 1989; and
- (6)the rear land should be assessed at \$625/acre.

The Town argued the revised assessment (\$247,800) was proper because:

- (1)it was arrived at using the same methodology as was used throughout the Town;

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- (2)the Taxpayer's arguments fail because the Taxpayer is misusing the Town's methodology, resulting in the Taxpayer arriving at erroneous numbers;
- (3) a 10% uncompleted adjustment was given;
- (4)the Hodge sale (July 1987) supports the assessment; and
- (5)the Property had been inspected at least 3 times for the Town.

Before addressing the specifics of this case the board must set forth certain guiding principles.

- (1)The Taxpayer did not present any credible evidence of the Property's fair market value. To carry his 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.
- (2)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).  
The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. See RSA 541-A:18, V(b).
- (3)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.

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(4) In using the cost approach, the market value of the final product, i.e., land and building, must be reviewed. The cost approach is nothing more than a method to arrive at a value. The actual cost is not necessarily determinative of the market value.

The board, as trier of fact, must listen to, review and give weight to all evidence. In performing this duty, the board pays close attention to the reasonableness and supportability of positions. One reason the Taxpayer's appeal has been denied is because his positions lacked support mainly because he did not present any evidence of the Property's fair market value or the proportionality of the assessment. Lacking such a showing, the Taxpayer's appeal must be denied. We make note of the Taxpayer's assertion that the Property should be assessed at \$151,450. This figure is unreasonable given the sales presented by the Town. There is no way the Property is worth only \$150,000 when the Berry property sold in December, 1988 for \$147,900.

Subject Berry

3,600 square feet living area 2,000 square feet living area  
105 square feet porch 576 square feet garage  
47.5 acres 1.49 acres

Additionally, the Taxpayer's actual building costs are both incomplete and not evidence of the market because the figures:

- (1) did not include profit;
- (2) did not include architectural fees;
- (3) did not adequately adjust for inflation; and
- (4) did not fully account for "sweat equity."

We also find the Town adequately addressed the Taxpayer's legitimate concerns and assessed the Property proportionally with other properties in the Town.

To the extent the Town has agreed to revise the assessment to \$247,800, the Town shall refund any taxes paid on an assessment above \$247,800 with 6% interest from the date paid to the refund date.

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SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Fred A. Bogart, taxpayer; and Chairman, Selectmen of Hinsdale.

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Valerie B. Lanigan, Clerk

Date: April 3, 1992

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