

Salvatore P. and Lorraine A. Faro

v.

Town of Rindge

Docket No.: 7563-89

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$204,700 (land, \$122,550; buildings, \$82,150) on a .25-acre lot with a 2-story house (the Property). 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 argued the assessment was excessive because:

- (1) the land assessment was excessive;
- (2) the Property is on a cove with problems due to this location, e.g., cannot dock a boat, water is shallow and swampy, there are rocks and an island nearby;
- (3) they estimated the value of \$130,000 to \$150,000;
- (4) the assessment should not be based on what other people paid in the

Salvatore P. and Lorraine A. Faro

v. Town of Rindge

Docket No.: 7563-89

Page 2

speculative market; and

(5) the taxes are too high.

The Town argued the assessment was proper because:

(1) it was consistent with other assessments, including an abutting lot with similar topography;

(2) the Property had boat access and maybe even a docking area;

(3) the water frontage was calculated on the lake frontage and did not include the cove frontage; and

(4) it was supported by sales used in the revaluation.

#### **Board's Rulings**

We find the Taxpayers failed to prove the Property's assessment was disproportional. 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 Taxpayer only argued with the land assessment. The Taxpayers did not present any credible evidence of the Property's fair market value. To carry their burden, the Taxpayers should have made a showing of the Property's fair market value.

This value would then have been 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

Salvatore P. and Lorraine A. Faro

v. Town of Rindge

Docket No.: 7563-89

Page 3

217-18. Furthermore, the Taxpayer did not present any photographs to assist the board in reviewing the problems with the waterfront.

The Taxpayers complained about the high amount of taxes they must pay.

Salvatore P. and Lorraine A. Faro

v. Town of Rindge

Docket No.: 7563-89

Page 4

The amount of property taxes paid by the Taxpayers were 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 Taxpayers 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).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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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 Salvatore P. and Lorraine A. Faro, Taxpayers; Department of Revenue Administration; and Chairman, Selectmen of Rindge.

Dated: NOVEMBER 19, 1992

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Valerie B. Lanigan, Clerk

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