

Ronald S. (deceased) and May O. Newell

v.

Town of Goshen

Docket No.: 7622-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$137,750 (land, \$109,300; buildings, \$28,450) on a .28-acre lot with a cabin on Rand Pond Road (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 this burden.

The Taxpayer argued the assessment was excessive because:

- (1) the \$1,000 front-foot price is too high, and Lake Sunapee residents pay only \$750 per-front-foot price;
- (2) the taxes went from \$588 in 1988 to over \$2,000 in 1989;
- (3) a neighboring property with 100-foot frontage pays only \$200 in taxes;
- (4) the Property was bought in 1973 to retire; and

(5) properties are selling for far below the assessment, and the assessment should be half what it is.

The Town argued the assessment was proper because:

- (1) the land value was adjusted to conform with other lots, and adjustments were also made to the building, i.e., physical and functional depreciation;
- (2) the topography was given a 10% depreciation; and
- (3) the front-foot price is within range of comparable sales.

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

We find the Taxpayer failed to prove the Property's assessment was disproportional. We also find the Town supported the Property's assessment. The Taxpayer complained about the high amount of taxes she 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).

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

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(1986); Appeal of Great Lakes Container Corporation, 126 N.H. 167, 169 (1985); Appeal of Town of Sunapee, 126 N.H. at 217-18.

The Taxpayer's arguments concerning the land value were not supported by any market data and the Town's sales analysis of waterfront properties supported the land assessment and the adjustments given by the Town during the review.

Motions for reconsideration of this decision must be filed within twenty (20) days of the clerk's date below, not the date received. RSA 541:3. The motion must state with specificity the reasons supporting the request, but generally new evidence will not be accepted. Filing this motion is a prerequisite for appealing to the supreme court. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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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 May O. Newell, Taxpayers; Department of Revenue Administration; and Chairman, Selectmen of Goshen.

Dated: January 15, 1993

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Valerie B. Lanigan, Clerk

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