

Mark R. Burns

v.

Town of Goshen

Docket No.: 7640-89

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$119,500 (land, \$98,600; buildings, \$20,900) on a .25-acre lot with a log 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 Property is rocky with heavy undergrowth and culverts near the shore;
- (2) the Property has no beach;
- (3) the Property is at the lower end of the lake, and has 2 drainage ditches;
- (4) the Property has flooding and sand deposits;
- (5) the topography warrants an additional depreciation; and

(6) a 1987-1988 appraisal estimated a \$79,000 value.

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The Town argued the assessment was proper because:

- (1) the Property's front-foot value is within range of comparable sales;
- (2) a 10% topography depreciation was already applied to the assessment; and
- (3) the Property has direct water access which increases the value despite the shore footage.

#### **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 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 (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.

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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 Gary J. Karp, Representative for the Taxpayer; 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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