

**Paul J. Fredyma and Marie-Louise Fredyma**

**v.**

**Town of Hanover**

**Docket No. 7679-89**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1989 assessment of \$270,100 (land, \$131,200; buildings, \$138,900) on their real estate on Route 10, consisting of a dwelling, garage, antique shop and several outbuildings (the Property). For the reasons stated below, the appeal for abatement is granted.

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 carried this burden and proved they were disproportionally taxed.

The Taxpayers argued the assessment was excessive because:

1) the equalized 1988 assessment indicated a true and full value of around \$210,000, significantly lower than the 1989 revaluation value;

2) the antique shop use of one of the buildings does not justify the additional land value of \$18,600 for that site;

3) the 1991 zoning board of adjustment's granting or validation of a second residential building lot should have no bearing on the 1989 valuation as such decision was not feasible in 1989;

4) a subsequent 1991 appraisal (TP's Exhibit 3) of the dwelling with 1.1 acres estimate the value of \$173,000 if, to which an estimate for the remaining land and buildings is added, a total value of \$213,000 is estimated; and

5) over 50 percent of the land is in the flood plain.

The Town argued the assessment was proper based upon an assessment analysis submitted (TN Exhibit A) comparing the taxpayer's property to both sales and assessments of similar properties.

The Town stated the Taxpayer's Property enjoyed access to the Connecticut River and views of the Vermont hills.

Based on the evidence we find the correct assessment should be \$250,000.

This assessment is ordered because:

1) any second lot value in 1989 was fairly speculative;  
2) the grandfather antique shop accrued some value to the land but not as much as assessed by the Town;

3) the access to and view of the river is not as good as some of the comparable properties submitted by the Town, however, is of more value than that recognized by the Taxpayers' appraiser;

4) the Taxpayers' argument of an increase from a past assessment is not evidence. Increases from past assessments are not evidence that a taxpayer's property is disproportionally assessed compared to that of other properties in general in the taxing district in a given year. See Appeal of Sunapee, 126 N.H. 214 (1985). Reassessments are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property;

5) 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 taxpayers 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); and

6) 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 Town shall make this allocation in accordance with its assessing practices.) We note that in making a judgment of the proper assessment, the value of the entire property, i.e., land and building, must be established.

If the taxes have been paid, the amount paid on the value in excess of \$250,000 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Member

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Ignatius MacLellan, Esq., Member

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Paul J. & Marie-Louise Fredyma, taxpayers; and the Chairman, Selectmen of Hanover.

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Valerie B. Lanigan, Clerk

Date: April 9, 1992

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**Paul J. and Marie-Louise Fredyma**

**v.**

**Town of Hanover**

**Docket No.: 7679-89**

**ORDER**

The board denies the "Taxpayers'" May 19, 1992 rehearing motion (copy attached). The board only has jurisdiction over the appealed 1989 tax year. See Appeal of Town of Sunapee, 126 N.H. 214 (1985). The board, however, would hope the "Town" would treat all taxpayers fairly and correct past errors consistently. The legislature has recently closed this loophole to ensure that municipalities use ordered assessments until a revaluation or until a good faith reason to change the assessment exists. SB 180 (1991); HB 1405 (1992).  
SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Esq., Member

I certify that copies of the within Order have this date been mailed, postage prepaid, to Paul J. and Marie-Louise Fredyma, taxpayers; and Chairman, Selectmen of Hanover.

Date: June 15, 1992

Valerie B. Lanigan, Clerk

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