

Robert J. St. Germain

v.

Town of Tilton

Docket No.: 10116-90

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$49,000 on a mobile home, R-16, L-3-25, located in Foothills Way, a mobile home park (the Property). The Taxpayer and the Town waived a hearing and agreed to allow the board to decide the appeal on written submittals. The board has reviewed the written submittals and issues the following decision. 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 was purchased on September 26, 1986 for \$28,000 when real estate prices were at their highest peak;
- 2) no improvements have been made to the Property;

- 3) the mobile home is 10 years old and has never sold for more than \$28,000;
- 4) the home is on the market; and
- 5) a realistic sales price would be between \$15,000 and \$18,000.

The Town argued the assessment was proper because:

- 1) the Property is improved with a well, on site septic system, landscaping, paved roads and driveway;
- 2) the Property shows no deferred maintenance;
- 3) the market did not show signs of sustained decline until after April 1, 1989; 4) the assessment is based on sales which occurred between April 1, 1988 and April 1, 1990; and
- 5) the value of the Property is comparable to properties with similar site improvements and amenities (mobile home park influence factor) as of April 1 1990;
- 6) the methodology used was fairly and equitably applied throughout the Town as well as mobile home parks.

#### **Board 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 Town testified the Property's assessment was arrived at using the same methodology used in assessing other properties in the Town. This testimony is evidence of proportionality. See Bedford Development Company v Town of Bedford, 122 N.H. 187, 189-90 (1982).

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

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

The Taxpayer argued the assessment should be reduced because the market for the Property has been declining. Evidence of a declining market alone is not a basis for reducing an assessment no more than evidence of an appreciating market is a valid basis of increasing an assessment. The issue is proportionality. The Taxpayer needs to make a showing that the Property has changed in value to a greater extent than that indicated by the change in the general level of assessment in the Town as a whole to prove his property is disproportionately assessed.

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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Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Robert J. St. Germain, Taxpayer; and Chairman, Selectmen of Tilton.

Dated:

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Melanie J. Ekstrom, Deputy Clerk

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