

**Mary Jane Anderson**

**v.**

**Town of Epping**

**Docket No.: 10172-90**

**DECISION**

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$36,500 (building only) on a cottage in the Camp Hedding Campground (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 granted.

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 carried this burden and proved disproportionality.

The Taxpayer argued the assessment was excessive because:

- 1) the front porch was replaced for \$3,500, yet the assessment increased by \$15,900;
- 2) the Property is a summer cottage and has no insulation, heat, or foundation; and

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3) a "general opinion of value" by Roberta Ritchings (effective date March 9, 1992) estimated a \$23,900 value "as is."

The Town argued the assessment was proper because:

- 1) the new porch increased the house value; and
- 2) the new porch is a wrap-around porch and is much bigger than the old one.

The board's inspector reviewed the file and property tax card, and filed a report with the board. This report concluded the proper assessment should be \$29,300. The inspector concluded the building's replacement cost new should be depreciated by 50% given the building's poor shape.

#### Board's Rulings

Based on the evidence, we find the correct assessment should be \$29,300. We find the inspector's report to be the best evidence.

Concerning the Town's argument, we find the Town failed to submit any sales to support the assessment. The Town should have submitted sales for the board's consideration. RSA 75:1 requires that assessments be consistent with market value. Therefore, providing sales data is essential for the board to compare the Property's assessment with fair market value and the general level of assessment in the municipality. See Appeal of NET Realty Holding Trust, 128 N.H. 795, 796 (1986). We also find the increase due to the new porch was excessive.

Concerning the Taxpayer's argument, the board concludes the porch added value to the Property well beyond the porch's \$3,500 costs. Additionally, we did not give great weight to the Taxpayer's \$23,900 value opinion because it failed to trend the 1992 value to April 1, 1990, the tax

year under appeal. (We note that based on the 1990 and 1991 equalization

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ratios, the market fell approximately 21% from 1990-91. This 21%, however, does not reflect the market from 1991 to 1992.)

If the taxes have been paid, the amount paid on the value in excess of \$29,300 shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

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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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

I hereby certify that a copy of the foregoing decision has been mailed this date, postage prepaid, to Mary Jane Anderson, Taxpayer, and Chairman, Selectmen of Epping.

Dated: December 1, 1992

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Melanie J. Ekstrom, Deputy Clerk