

**Erwin Niesyn and Rosemary Niesyn**

**v.**

**Town of Sunapee**

**Docket No. 10611-90**

**DECISION**

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1990 assessment of \$399,800 (land, \$318,200; buildings, \$81,600) on (Map 15, Lot 13) 41 Westwood Road consisting of .42-acres and building (the Property). The Taxpayers 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 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 failed to carry this burden.

The Taxpayers argued the assessment was excessive because:

(1) the Property's assessed value in 1987 was \$55,400 with no major improvements except a deck;

- (2) the Property's value has increased 7.2 times;
- (3) the cottage doesn't have a cellar; and
- (4) the Property's value was placed at the peak of the market.

The Town argued the assessment was proper because:

- (1) it was derived from sales of similar property between April 1, 1987 and November 1, 1989; and
- (2) comparable sales indicate Taxpayers' Property assessment is proper.

The board's inspector inspected the property, reviewed the assessment-record card, and filed a report with the board. This report concluded the assessment is proper.

#### Board Findings

We find the Taxpayer failed to prove the Property's assessment was disproportional. The Taxpayers argued that while the grand list of the Town increased 500% as a result of the 1989 revaluation, their assessed value increased 720%. A greater percentage increase in an assessment following a town-wide reassessment is not a ground for an abatement, since unequal percentage increases are inevitable following a reassessment. Reassessments are implemented to remedy past inequities and adjustments will vary, both in absolute numbers and in percentages, from property to property.

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

Further, the Town supported the assessment with market data in their brief.

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 Erwin & Rosemary Niesyn, Taxpayers; and Chairman, Board of Selectmen, Town of Sunapee.

Dated: May 10, 1993

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Melanie J. Ekstrom, Deputy Clerk