

Lucy H. Myers

v.

Town of Deerfield

Docket No. 10693-90

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:16-a, the following 1990 assessments: (1) Lot 3/60 \$155,600 (land, \$48,200; buildings, \$107,400), consisting of a house with a 2.2-acre lot; and (2) Lot 3/60B \$34,200, a vacant two-acre lot. 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.

Lot 03, Map 060

The Taxpayer argued the assessment was excessive because:

1) there are several physical problems with the building, including lack of insulation, below-standard wiring, rotting sills and beams, and antiquated

heating system;

2) the well is undependable;

3) the building was appraised at \$86,000 (copy not provided);

4) the assessment increased from 1989 even though no improvements had been made; and

5) the Property will not be affordable due to the unfair assessment and high taxes.

Lot 003, Map 060-B

The Taxpayer argued the assessment was excessive because:

1) the lot is unimproved and used as a pasture;

2) the lot could not be sold separately due to location and sight distances; and

3) the assessment increased from 1989 even though no improvements had been made.

Lot 03-060

The Town argued the assessment was proper because:

1) four comparables indicated the Taxpayer's Property was assessed equally; and

2) it was fair and equitable.

Lot 003, Lot 060-B

The Town argued the assessment was proper because:

1) the Property is a buildable lot;

2) four comparables indicated the Taxpayer's Property was assessed equally; and

3) it was fair and equitable.

The board's inspector reviewed the assessment-record card, reviewed the parties' briefs and filed a report with the board (copy attached). In this

case, the inspector only reviewed the file; he did not perform an on-site inspection. Note: The inspector's report is not an appraisal. The board reviews the report and treats the report as it would other evidence, giving it the weight it

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deserves. Thus, the board may accept or reject the inspector's recommendation.

### **Board's Rulings**

We find the Taxpayer failed to carry her burden, and therefore, the appeal is denied for the following reasons.

While the Taxpayer asserted there were several physical defects in the Property, she did not show what adjustments were warranted due to the defects.

The Town made adjustments for depreciation, and the Taxpayer did not show that such adjustments were insufficient.

The major flaw in the Taxpayer's presentation was the lack of market evidence. 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.

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).

The Taxpayer complained about the high assessment increases from 1989 and

the amount of taxes she must pay. The amount of property taxes paid by the Taxpayer was determined by two factors: 1) the property's assessment; and 2) the municipality's budget. See gen., International Association of Assessing Officers, Property Assessment Valuation 4-6 (1977). The board's jurisdiction is limited to the first factor i.e., the board will decide if the property was overassessed, resulting in the Taxpayer paying a disproportionate share of taxes. 10693-90, Myers v. Deerfield

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Appeal of Town of Sunapee, 126 N.H. at 217. The board, however, has no jurisdiction over the second factor, i.e., the municipality's budget. See Appeal of Gillin, 132 N.H. 311, 313 (1989) (board's jurisdiction limited to those stated in statute).

The board did not accept the inspector's report because the lots are legally separate, and there was no evidence to support a merger of the two lots.

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

CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Lucy H. Myers, Taxpayer; and the Chairman, Selectmen of Deerfield.

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Melanie J. Ekstrom, Deputy Clerk

Date: June 16, 1993

009/004